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SHOULD THE CRIMINALLY INSANE BE HOUSED IN PRISONS?

F. LEGRANDE MAGLEBY

Dr. Magleby's training and experience in both social work and sociology gives him a unique background for research in the field of criminology (M.S.W. in social work and Ph.D. in sociology). For the past four years he has been director of training in corrections at the Graduate School of Social Work, University of Utah, where students are provided field work training at the state prison and industrial school and in county juvenile courts. Dr. Magleby is primarily interested in training social workers for employment in the field of corrections and in the study of personality development and its disorders. His publications include "The Salt Lake County Detention Home," Utah Academy of Sciences, Arts, and Letters, 1954-55.—EDITOR.

Data from a study recently completed by the writer¹ indicate that on July 1; 1955, 39 state hospitals housing criminally insane patients² did not have the facilities to provide maximum secure custody.³ Only three of these hospitals (in Iowa, Colorado and Nevada) reported the occasional transfer of some of their criminally insane to penal institutions.⁴

Should additional state hospitals make use of prisons in providing maximum secure custody for some of their criminally insane? What percent of the criminally insane patients in state hospitals need maximum secure custody? The writer attempted to answer these questions in a doctoral thesis completed in June, 1956. Some of the findings are given in this paper.

METHODOLOGY

In the summer of 1954 the writer visited eight state hospitals, three federal prisons and four state prisons to evaluate the use of these institutions for housing the criminally insane. The personnel of these institutions, experienced in the institutional treatment of the criminally insane, were interviewed. Questionnaires were then mailed to the superintendents of each state hospital in the United States. The following was requested from each superintendent: (1) the number and some of the characteristics of criminally insane patients in his hospital on July 1, 1955, and the types of custody and treatment provided for them; (2) his opinion concerning the types of custody and treatment which should be provided for these patients; and (3) the

¹ FRANK LEGRANDE MAGLEBY. *Institutional Treatment of the Criminally Insane in the United States*. Unpublished Doctor's Thesis, Department of Sociology, University of Utah, May, 1956.

² The criminally insane includes persons legally classified as insane who (1) had been convicted of a felony, (2) were awaiting trial for a felony, or (3) were charged with a felony but considered to be insane at the time of the act or at the time of the trial and were exempt from trial or punishment by reason of insanity.

³ Maximum secure custody refers to "escape-proof" wards surrounded by a secure wall or fence.

⁴ On July 1, 1955, 5 of the inmates at the Colorado State Prison, 23 inmates at the Iowa State Reformatory, and 1 inmate at the Nevada State Prison who were classified as criminally insane, had been transferred from state hospitals.

names of the prisons in his state which housed the criminally insane. Questionnaires were mailed to the wardens of each of these prisons.

The superintendents of 71 state hospitals reported they housed criminally insane patients and the questionnaires were completed and returned to the writer.⁵ Seventy-two superintendents completed and returned the opinion questionnaires.⁶ The wardens of five penal institutions reported housing criminally insane inmates.

CURRENT USE OF PRISONS FOR THE CRIMINALLY INSANE

The 71 state hospitals and 5 penal institutions, reporting the requested information, housed a total of 13,160 criminally insane on July 1, 1955. Only 353 of these persons (2.6 percent) were housed in federal and state prisons.⁷ All male federal prisoners, legally classified as insane, were transferred to the Medical Center for Federal Prisoners at Springfield, Missouri. Insane female federal prisoners were transferred to St. Elizabeth's Hospital, Washington, D. C.⁸ Four state prisons (in Colorado, Nevada, Iowa and Washington) reported housing inmates who were legally classified as insane.

Harms reported that in 1924 61 state hospitals and 3 penal institutions housed 7,686 criminally insane, and only 132 of these persons (1.7 percent) were housed in prisons.⁹

The above data show that during the past 30 years there has been an increase of only about 1 percent in the total number of persons legally classified as criminally insane, housed in prisons.

RECOMMENDATIONS OF THE SUPERINTENDENTS

The replies of the superintendents of state hospitals indicate conflicting opinions. However, the majority believed state hospitals are superior to prisons for housing the criminally insane. Fifty-two of the superintendents (72.2 percent) reported that in their opinions all of the criminally insane should be housed in state hospitals.¹⁰ One of these superintendents made the following comment:

Any psychotic patient, whether criminal or non-criminal, should be given medical and psychiatric treatment in a hospital. The fact that he has a criminal record should not be grounds for discrimination in the provision of medical and psychiatric treatment in the best facilities available.

⁵ The questionnaires were not returned from four hospitals believed to house criminally insane patients.

⁶ These superintendents reported an average of 20.3 years experience in providing institutional treatment for the mentally ill. Seventy of the superintendents reported they were eligible for membership in the American Psychiatric Association.

⁷ Mentally ill inmates of state prisons who had not been legally classified as insane were not included in this study.

⁸ Information obtained from an unpublished letter received by the writer from the Warden of the Federal Reformatory for Women at Alderson, West Virginia, dated February 14, 1956.

⁹ MARY HARMS. *Institutional Care of the Criminal Insane in the United States*, MENTAL HYGIENE, XV: 140, January, 1931.

¹⁰ Ten of these 52 superintendents believed the criminally insane should be housed in separate buildings (1) on the grounds and under the general administration of the state hospitals, or (2) in locations separate from the usual state hospital.

Seven of the superintendents (9.7 percent) indicated that they believed all criminally insane patients should be housed in prisons which are equipped to provide adequate medical and psychiatric treatment. The following comment was made by one of these superintendents:

Some criminals are antisocial and dangerous and when they become psychotic, these tendencies remain, or may even become exaggerated. The criminally insane should therefore be given the same secure custody provided for other criminals.

Hospitals are not constructed to provide maximum security for criminals. If hospitals should employ armed guards and develop maximum security units, they would tend to develop the atmosphere and the reputation of a prison. A state hospital is a treatment center for the mentally ill and not a prison for abnormal offenders.

It was the opinion of 13 superintendents (18.1 percent) that the criminally insane in need of maximally secure custody and those who will not respond to the treatment available at state hospitals should be transferred to prisons. The comments of three of these superintendents are given as follows:

Most of the patients should be in the state hospital but any patient whether criminal or non-criminal, who is exceptionally dangerous and such an escape risk that he disrupts the hospital routine, and who is not able to profit from the hospital treatment program, should be confined in the state prison, an institution well equipped to provide maximum security.

Treatment can be individualized since some with mental illness can adjust well in penal institutions.

All but the insane psychopathic personalities should be in state hospitals.

One of the superintendents reported that a state hospital, with enough criminally insane patients to make it economically feasible, should house them in separate maximum security buildings. He believed that hospitals with small numbers of criminally insane should transfer these patients to state prisons. He said, "The type of maximum security these individuals require is too much like a prison to contaminate a hospital."

THE SITUATION IN COLORADO

Perhaps states with a small criminally insane population and no maximum security should follow the example of Colorado. When the writer visited that state in August, 1954, both Superintendent F. H. Zimmerman of the Colorado State Hospital and Warden Harry G. Tinsley of the Colorado State Prison pointed out that the Colorado law, which permits the inter-transfer of patients and/or inmates between the state hospital and the state prison, is a benefit to both institutions. Patients transferred from the Colorado State Hospital to the prison are those considered exceptionally dangerous and such escape risks that they disrupt the hospital routine. These patients are also considered unable to profit from the hospital treatment program. An average of only one patient every two or three years has been transferred from the Colorado State Hospital to the state prison for custody.

The insane inmates at the Colorado State Prison are under the general supervision

of the medical personnel of the state hospital. A psychiatrist and psychologist from the hospital visit the prison at regular intervals, examine the insane inmates and provide treatment when it is indicated.

WHAT PERCENT OF THE CRIMINALLY INSANE NEED MAXIMUM SECURITY

What percent of the criminally insane patients in state hospitals are in need of maximum security and are therefore good prospects for transfer to state prisons? The writer attempted to answer this question through (1) obtaining the opinions of the superintendents on selected questions and (2) evaluating current practices in state hospitals.

The superintendents disagreed on the percent of the criminally insane who should be housed in maximally secure custody. Thirteen superintendents (18 percent) believed none of these patients should be so housed, and 37 superintendents (51 percent) believed that from 26 to 100 percent of the criminally insane should be housed in maximum security.¹¹

More than 50 percent of the superintendents indicated that in their opinions less than 26 percent of the criminally insane are more violent or dangerous and are more apt to attempt to escape, than average non-criminal patients. Only five superintendents (8.6 percent) believed that all of the criminally insane should be in this classification.

Fifty-one superintendents reported that of the total criminally insane population in their hospitals only 1,251 (19.1 percent) were classified as guilty of or awaiting trial for murder and ten superintendents listed no patients in this classification. Only one hospital (with 14 criminally insane patients) reported that more than 50 percent of their patients were classified as guilty of murder or awaiting trial on charge of murder. The relatively small percentage in this category may indicate that many of the criminally insane are not as dangerous as they have sometimes been considered.

Only seven state hospitals reported housing all of their criminally insane in maximally secure custody and seventeen hospitals housed from 1 to 99 percent of these patients in maximum security. Of 12,173 criminally insane patients reported in the 63 state hospitals, which reported the types of security provided for these patients, a total of 4,811 patients (39.5 percent) were housed in maximum security.

CONCLUSIONS

Data in June, 1956, indicate that state hospitals, or prisons which provide specialized treatment facilities (such as the Medical Center for Federal Prisoners at Springfield, Missouri) offer the most satisfactory types of custody and treatment for the criminally insane. The data further indicate that a small percentage of the criminally insane in most state hospitals may need maximally secure custody during some periods of their institutionalization. State hospitals which do not have maximum security available (usually the hospitals in the smaller states) might profit by

¹¹ It is interesting to note that while 21 superintendents (29 percent) were of the opinion that all the criminally insane patients should be housed in maximum security only one superintendent indicated that all of the non-criminal patients should be housed in this manner.

transferring to state prisons their criminally insane who are (1) exceptionally dangerous, (2) who disrupt the hospital treatment program, and (3) whose rehabilitation will progress just as rapidly while in a penal institution. :

All prisons housing the criminally insane should provide adequate medical, psychiatric and social treatment for these patients. Such treatment may be provided by the staff from a state hospital (as in the state of Colorado) or by a mental health service unit established to diagnose and treat acutely disturbed inmates, whether sane or insane.¹²

Suggested alternatives to transferring some of the criminally insane to state prisons are: (1) for small states to combine resources and provide regional maximally secure hospitals, or sections of hospitals, for the institutional treatment of patients in need of this type of custody, or (2) maximum security should be provided in all state hospitals for the small percent of the patients, both criminal and non-criminal, who may need this type of security.

¹² Such a unit has been in operation at the Utah State Prison since January, 1956. The personnel includes a full time social worker and a part time psychiatrist and psychologist.