

BOOK REVIEW

Steve Miller,¹ M.D.; Paul Hebig,¹ M.D.; and Wade Myers,¹ M.D.

Review of: *The Mentally Disordered Inmate and the Law, 2nd Edition*

REFERENCE: Cohen F. *The mentally disordered inmate and the law*, 2nd edn. Kingston, NJ: The Civic Research Institute, 2008.

Author Fred Cohen, LL.B., LL.M., is a leading expert in the field of correctional mental health law. His breadth of experience in correctional mental health research and his record of holding leadership positions regarding governmental and judicial oversight of the care of mentally disordered inmates, make him eminently qualified to have written this informative, readable text, *The Mentally Disordered Inmate and the Law, 2nd Edition*.

Mental illness in prison and jail inmates is a well-recognized and growing concern. Studies show more than half of all inmates have a diagnosable psychiatric condition. This volume is an essential read for anyone who needs an in-depth understanding of legal issues surrounding the supervision and treatment of inmates. Mr. Cohen has created a highly readable narrative of the area, and included in these two volumes are comprehensive references on associated case law, consent decrees, and settlements that form the pertinent legal boundaries.

The first two chapters conveniently provide the reader with background knowledge on the scope of rights held by the mentally disordered inmate and how they evolved. Subsequent chapters expound these topics and can be read selectively depending on one's interest or need for detailed information.

As those involved in correctional mental health are acutely aware, systemic and individual factors exist that can make timely identification and effective treatment of those inmates in need of care difficult. For the providers who are liable for such care, e.g., nurses, counselors, therapists, and doctors, as well as for those who serve gatekeeper roles such as intake personnel and correctional officers, these factors cause perennial anxiety. One of the consequences of reading this book likely will be a reduction in these anxieties. This book clearly delineates what is expected of professionals working with inmates based on a scrutiny of similar actions as viewed under the court's microscope. Armed with this particular knowledge, corrections and health care personnel will feel emboldened to focus their time and energy on those inmates most in need of care, while also being more confident in their ability to discern which inmates may not have a legal claim of a right to care.

Someone who would benefit from reading this volume may avoid doing so out of a mistaken belief that "ignorance is bliss." Refutation of this idea is, in fact, a central theme of the book. First, the author has observed that corrections and clinical personnel tend to overestimate the burdensomeness of the law in regard to their professional practices. For example, correctional health workers may believe they are expected by law to provide prisoners exactly the same care available to persons in the community. However, Cohen explains that in decisions like *Estelle v. Gamble* and *Bowring v. Godwin*, the Supreme Court has ruled an inmate has no constitutional right to treatment for anything less than "serious" medical and psychological illness, leaving such minor ailments as anxiety and mild depression outside the purview of courts. He further clarifies, through decisions made in such cases as *Estelle v. Gamble* and *Farmer v. Brennan*, that a constitutional violation occurs only if there is "deliberate indifference" to an inmate's serious medical need. Readers will come to appreciate this is a much more difficult standard for a plaintiff to prove than the analogous negligence or malpractice standard used in tort law.

Readers may find especially useful a section outlining in detail the minimally required components of a mental health care program in a correctional setting, along with a longer list of desirable components. Individual chapters cover the important topics of intake screening and classification of inmates, treatment, consent, confidentiality, recordkeeping, use of isolation and restraint, disciplinary proceedings, and suicide. There are also chapters addressing special populations including pretrial detainees, substance abusers, juveniles, the mentally retarded, and sexually violent predators. All are augmented with case law and research literature.

A few of many important clinical points made by the author will be mentioned here. First, decent mental health care contributes to an institution's primary goal of security and a better work environment for those charged with maintaining it. Second, it may be poorly understood that the law governing health care in correctional settings is and will be formed more by the courts than by the legislature or the executive branch, making it a constantly evolving area of the law. For instance, just within the last decade, courts in two states (*Wakefield v. Thompson* in CA and *Brad H. v. City of New York*) ruled that outgoing prisoners must be supplied with discharge medications (in CA) and continuing community treatment (in NY). To keep abreast of evolving standards, Cohen's new edition will prove invaluable.

¹Forensic Psychiatry Program, University of South Florida, 3515 E. Fletcher Avenue, Tampa, FL.