

PRAMS: A Systematic Method for Evaluating Penal Institutions Under Litigation

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Forensic psychiatrists serve as expert witnesses in litigation involving the impact of conditions of confinement, including mental health care delivery, on the emotional well-being of institutionalized persons. Experts review volumes of data before formulating opinions and preparing reports. The author has developed PRAMS, a method for systematically reviewing and presenting data during mental health litigation involving detention and corrections facilities. The PRAMS method divides the examination process into five stages: paper review, real-world view, aggravating circumstances, mitigating circumstances, and supplemental information. PRAMS provides the scaffolding on which a compelling picture of an institution's system of care may be constructed and disseminated in reports and during courtroom testimony. Also, PRAMS enhances the organization, analysis, publication, and presentation of salient findings, thereby coordinating the forensic psychiatrist's efforts to provide expert opinions regarding complex systems of mental health care.

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Penal institutions have the fiduciary obligation of providing humane living conditions for persons remanded to reside in them. Humane conditions include adequate living space, security, sanitation, medical care, and mental health care. However, there are many reasons (such as inadequate funding) why an institution may fail to attain these standards. When institutions fail to maintain basic conditions, inmates and others are at risk of physical and emotional harm, and remediation may be sought by petitioning for injunctive relief from the court.¹

When the concerns of such litigation involve mental health care, psychiatric experts are likely to become involved. The psychiatric expert will have to review large volumes of information and to condense the material into a manageable database that will become the basis for formulating an opinion regarding adequacy of the system's living conditions. No comprehensive set of guidelines seems to exist for accomplishing the potentially overwhelming task of data management for corrections litigation cases. To address this deficit, PRAMS (an effective method for organizing and conceptualizing data) was developed

by the author. PRAMS also provides a useful framework for documenting, presenting, and explaining relevant information to attorneys, court personnel, and other interested lay persons.

Legal Rights of Detained Individuals

Although institutionalized offenders have fewer rights than do other individuals, certain guaranteed legal rights protect incarcerated individuals. First, they are assured of due process under the Fourteenth Amendment of the U.S. Constitution.^{2,3} In addition, case law, federal law, and the U.S. Constitution address the civil rights of confined persons, as well as the mechanisms by which corrective action may be sought. Among other things, the courts have ruled that inmates have the right of reasonable access to medical and mental health care.^{3–5} It should be noted, however, that the legal standard for civil rights violations in penal institutions differs from that of the general population. "Deliberate indifference," the act of consciously disregarding the results of one's actions or inactions, has been defined as the legal threshold in cases involving the rights of and protections for inmates.^{3,4,6} For example, if institution staff had knowledge of a substantial risk of serious harm to an inmate, and staff chose to ignore that risk which

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resulted in injury to the inmate, the deliberate-indifference threshold could be met or proven in court. Case law provides an example of an action that meets the deliberate-indifference standard. In *Gregg v. Georgia*, deliberate-indifference is described as the “unnecessary and wanton infliction of pain,”⁵ a situation that is precluded by the Eighth Amendment of the U.S. Constitution because it constitutes cruel and unusual punishment.^{4,6,7}

While case law offers institutionalized offenders protection from harm, federal law amplifies constitutional safeguards by outlining mechanisms by which these offenders may petition federal courts for injunctive relief. Two significant sections within Title 42 of the United States Code, § 1983 and § 1997, specify circumstances under which civil rights actions may be filed.^{8,9} The first of these, § 1983, permits inmates and their counsel to file federal lawsuits alleging deprivation of civil rights.⁸ The second, § 1997, is the Civil Rights of Institutionalized Persons Act (CRIPA), which empowers the U.S. Attorney General to file a federal civil rights action on behalf of a class of institutionalized persons when there is evidence of civil rights deprivation.⁹

Forensic Psychiatry and Penal Litigation

Forensic psychiatrists may be called on to render opinions regarding a penal institution’s psychiatric care and provision of inmate safety, as well as how these and other conditions affect the mental health of detainees. The report submitted to the retaining attorney will include these opinions. When presented, these opinions must address the legal question(s) at hand and should be predicated on professional standards as they relate to mental health and psychiatric care.^{10,11} The standards applied should be similar to those that apply in the community.^{10–12}

Litigation involving institutionalized individuals presents myriad challenges for the psychiatric expert. Large volumes of data must be reviewed before valid, coherent, and understandable professional opinions can be drawn and a report presented to lawyers, judges, and other interested individuals. As the pool of data being reviewed expands, the likelihood of the expert’s losing focus or objectivity significantly increases.¹³ An organized approach would help the forensic psychiatrist marshal data and formulate an opinion that may have a crucial impact on the system and/or life-altering consequences for residents.^{10,11}

The existence of these challenges motivated me to develop PRAMS, a methodological approach to organizing and scrutinizing the volumes of data reviewed during an institutional litigation case. By providing a defined procedure, PRAMS adds consistency and balance to data gathering, analysis, formulating opinions using marshaled evidence, and reporting these findings. It also helps the expert explain to others the process by which the opinions in the report were derived, including how the volumes of data were examined, collated, and refined.

The Components of PRAMS

The PRAMS system assumes that the psychiatric expert has experience in working within institutions that confine prisoners, pretrial detainees, and (in juvenile justice litigation cases) youthful offenders. PRAM(S) consists of five components or stages:

1. Paper Review
2. Real-World View
3. Aggravating Circumstances
4. Mitigating Circumstances
5. Supplemental Information

Paper Review

The PRAMS system starts the examination with a paper review of the facility or system.¹⁰ The paper review is an organizational tool used by the expert to gather and tabulate data that will be used to formulate checklists (to be used in the real-world view), opinions, and a final report. The paper review is most economical and efficient if completed well before the expert arrives at the facility. Early preparation permits the reviewer to identify and request missing documents in advance of visiting the institution. The psychiatric expert examines documents related to institutional structure, resources, and practices, especially those that may influence mental health care. This process familiarizes the reviewer with the philosophy, organization, expectations, and protocols for a particular facility or system of care (Table 1). During the paper review, all policies (written, spoken, and tacit) or situations that may contribute to an inmate’s emotional distress and exacerbation of mental illness should be noted (Table 2).

At times, the psychiatric expert may use published guidelines for community or institutionally based mental health care delivery, to focus the review.¹⁰ These guidelines, however, do not present a single coherent model of mental health care delivery for

Table 1 Paper Review

| Items for Examination |
|---|
| Policies and procedures for mental health screenings and services |
| Psychoactive medication distribution and monitoring protocols |
| Suicide prevention policy |
| Medical records policy |
| Policies and procedures for security classification |
| Disciplinary practices |
| Policies for staffing ratios |
| Orientation manual for residents |
| Staff training manuals |
| Staff training records |
| Disciplinary reports of mentally ill individuals |
| Serious-incident reports |
| Log sheets |
| Recruitment and retention policies |
| Safety protocols |
| Program descriptions |

institutions. Also, established guidelines may actually exceed the minimally acceptable standards of care, thereby setting the bar too high to meet the deliberate-indifference standard.^{4,6} Thus, professional judgment must be exercised when comparing standards and protocols established by the institution undergoing the paper review.

As the conception of the system is focused by the paper review, the expert may develop a practical appreciation of the rehabilitative potential of the institution and formulate suggestions of how improvements, if necessary, may reasonably be achieved. For example, knowledge of the inmate security classification system and how inmates move through the facility helps in identifying potential systemic barriers to mental health care delivery, such as access to suitable housing arrangements or the need for special accommodations.

By the end of the paper review, the expert should have developed an organizational and cultural blueprint of the institution, including its mental health policies, protocols, caseloads, and staffing patterns. These data are used to prepare for a walking tour of the facility during the real-world view stage. The

Table 2 Situations Exacerbating Emotional Distress

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|-------------------------------|
| Overcrowding ¹⁴ |
| Sanitation |
| Violence |
| Temperature control |
| Insufficient security |
| Lack of structured activities |
| Access to health care |

knowledge gained will help the forensic psychiatrist develop an accurate, unbiased description of the system that will be presented in a comprehensive report that is understandable by individuals who are unfamiliar with the institution or its culture.

Precise procedures followed during the paper review will depend on the specific questions the expert is expected to address. For example, if the litigation question involves the effect of overcrowding on the mental health of offenders with serious mental illness, some areas of greater scrutiny would include census, population control, staffing, climate control, security, and sanitation patterns.

The paper review will help the psychiatric expert formulate questions for the next step in the PRAMS protocol: the real-world view.

Real-World View

The psychiatric expert must visit an institution to develop a real-world view of how paper plans of action have been implemented, what obstacles to implementation exist, and how effective the written management plan is for running the institution(s). The expert may be accompanied by the retaining attorneys during the examination of the institution and its system.

Data gathered during the paper review will prepare the expert to understand the scope of staff roles and to address staff with their appropriate titles. Knowledge of and sensitivity to these details will reduce tension or animosity from an institutional staff that may view the psychiatric expert as an unwelcome intruder. The expert's visit to an institution will flow more smoothly if the expert is viewed as an objective fact-finder rather than as someone looking for a scapegoat and/or seeking to demean the staff.

During the real-world review, the psychiatric expert will acquire data to determine how actual institutional practices enhance or obstruct mental health care service delivery within the facility. Therefore, answers should be sought to the specific questions of whether conditions of confinement (1) impede access to mental health care, (2) accelerate the onset of mental illness, or (3) exacerbate the severity of mental illness. In addition, the expert should look for evidence of whether existing conditions meet the criteria of the deliberate-indifference standard, thereby violating the civil rights of the residents.^{4,6}

It is helpful to request that the institutional tour be conducted from the vantage point of a new offender.

Table 3 Intake and Orientation Tour

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| Screening for mental illness |
| Crisis services for mentally ill newcomers |
| Security checks for contraband |
| Suicide prevention |
| Restriction of access to items that may be used to harm self or others |
| Intake paperwork generated and received |
| Classification protocol |
| Orientation: how residents access mental health services |
| Orientation: how residents access emergency health services |

That is, the initial facility walkthrough begins in the area where the offenders are placed when they first arrive at the institution. Staff working in the initial processing area are asked to walk the visiting expert through or describe intake and orientation protocols. The expert obtains a packet of all documents received by new residents. At each stage of the tour, data obtained from the paper review are compared with actual observation.

During the review of intake and orientation protocols with staff that participate in these activities, the expert asks many questions. A list of the specific topics addressed is given in Table 3. Protocols for screening for and identifying mentally ill residents are reviewed with the members of the orientation team.¹⁵ Safety concerns, including how closely new residents are monitored during the intake process, are noted, along with strengths and weaknesses of the intake system. If present, conditions that facilitate self-harm and harm to others are noted by the expert.

The tour moves from intake processing and orientation to classification and residential assignment. The team that determines a resident's permanent living assignment is asked to discuss the methods by which security concerns, as well as the physical and mental health limitations of inmates, are factored into the classification process.^{15,16}

As the tour progresses, the psychiatric expert attends to special population areas where acutely mentally ill and emotionally debilitated offenders may spend significant time. These areas include mental health residential and clinic areas, administrative segregation, medical clinic and infirmaries, and residential areas. Dining and bathing areas are also significant, since safety while eating and promotion of hygienic self-care may contribute substantially to the self-image and emotional well-being of detained individuals. Also, dining and bathing areas may serve as an avenue for direct care staff to identify emotionally

debilitated detainees who have poor self-care habits. The psychiatric expert notes how institution staff adheres to resident privacy policies in special population areas.

Familiarity with the described areas of the facility helps the psychiatric expert to appreciate the significance of descriptive reports and concerns presented by staff and residents. Inquiries about institution programming and activities are important since structure serves a critical function in penal institutions, and idle time may increase the likelihood that offenders will engage in destructive behavior.

When an expert is interviewing staff, administrators, and detainees, it is helpful for the interviewees to come from more than one source, to reduce bias and to provide a more comprehensive picture of the institution. Institution administrators and litigants' attorneys each select interviewees, including offenders with mental illness, those without immediate psychiatric concerns but who live with mentally ill peers, direct care staff (including dormitory or pod counselors, work site supervisors, and health care staff), and security staff (corrections officers). It is useful to ask interviewees if there is anyone they believe should be interviewed and why. At times, staff and residents repeatedly identify the same parties. The difference or convergence of opinions and perspectives provides valuable information.

Random informal interviews occur with staff and offenders during the walk-through tour, to provide additional detail to the real-world picture. Unscheduled interviews reduce the likelihood that the person has practiced what he or she intends to say, thereby reducing skewing of the data set due to rehearsed responses. Interviewing minors may require parental consent, especially during tours that occur before adjudication. The retaining attorneys can clarify this matter and facilitate obtaining the requisite consent.

Aggravating Circumstances

After completion of comparisons between data acquired during the paper review and the real-world view, the expert begins to identify a list of aggravating circumstances (i.e., situations that deter the institution's efforts to meet minimally acceptable conditions of confinement). Aggravating circumstances include situations and practices that are not conducive to the rehabilitation, safety, and emotional well-being of detainees. Each opinion that identifies an aggravating circumstance is accompanied by sup-

porting evidence that enhances the credibility of the expert's opinion. The expert also illuminates the degree to which each adverse or aggravating circumstance has become an institutional barrier to humane conditions of confinement and how it deprives detained offenders of their civil rights.

Mitigating Circumstances

The paper review and the real-world view examinations of systems and institutions enhance the psychiatric expert's capacity to identify mitigating circumstances: institutional practices and policies that promote safety, mental health care, and civil rights protections for detainees. Mitigating circumstances also provide the expert reviewer an opportunity to identify interventions, protocols, and practices used by the institution that enhance the emotional well-being and safety of detainees. This is of particular importance when the reviewer is retained by the plaintiffs' or class' attorney. Constructive feedback may aid the defending system or institution in synthesizing a rehabilitative foundation predicated on protocols and practices that seem to work fairly well within the institution or system. If opinions regarding an institution's strengths are not included in the psychiatric expert's report, the expert should be prepared to concede these matters on cross-examination, especially if the expert has not been retained by the residential institution.

Supplemental Information

At times, there is relevant information that does not really fit into the four essential categories described thus far. When compelling data may aid the psychiatric expert with formulating substantially more solid opinions, those resources should be requested and examined. Such case-specific data may include resources such as interviews with former detainees, injured staff, former administrators and staff members and family members of detainees. It may also include records such as autopsy reports and police records, among others. Although such data are not collected during either the institutional paper review or real-world view, they may buttress critical opinions, as well as aid in identifying aggravating circumstances and mitigating circumstances. Thus, at times, supplemental information may represent a critical component of the psychiatric expert's database.

Discussion

Evaluating institutional mental health care and related civil rights concerns for offenders (and alleged offenders) may be challenging. The PRAMS method provides a structural framework that permits one to organize data and make comprehensive evaluations of psychiatric care for institutionalized offenders. This process facilitates the marshaling of compelling evidence that supports opinions regarding conditions of confinement. Safeguards are built into the PRAMS method to help ensure the evaluator's neutrality while requisite matters and areas of concern are being explored. The systematic approach facilitates court testimony. Consideration of mitigating circumstances may enhance the expert's credibility because the findings represent a balanced perspective. The PRAMS method encourages the use of professional standards and legal definitions while performing the review, formulating opinions, and writing the report.

Objective experts will identify a protocol for evaluating institutional systems before they commence the examination. PRAMS is one method that I use to accomplish this task. The PRAMS methodology is predefined; it conveys impartiality and avoids the appearance that the expert is on a witch hunt sanctioned by an attorney, court, or government agency. The author has found PRAMS useful in prison and juvenile justice litigation, as it provides a scaffold on which data are tabulated and opinions are formulated. The systematic approach to data gathering and analysis adds consistency and reliability to the examination process, thereby reducing the likelihood of random errors. Lists and notes developed during the paper review aid the expert when he or she tours the institution.

PRAMS actually facilitates the report-writing process as it sets a structure for the report that permits the psychiatry expert to tell a compelling story about the institution being examined. Walking the reader through the examination process paints a picture of what the institution is like in theory and in practice. Furthermore, the facility tour makes it possible to give an accurate report of a new detainee's experience during the intake and classification processes.

Not all parts of the evaluation will be conducted during every evaluation, due to the absence of available data. The evaluator may need to make minor modifications to some or all sections of PRAMS de-

pending on the population of the institution or a particular facility within an institutional system. For example, in a corrections facility for adult female offenders, gender-specific concerns, such as pregnancy, motherhood, menopause, menarche, back pain, and breast cancer may have a significant but different impact on the emotional well-being of female detainees. An expert surveying a residential program or facility for youthful offenders should review concerns related to child development and education, as well as the evolution of gender differences in mental illness during adolescence.¹⁷ The expert should determine how each program incorporates training that equips staff to serve the unique needs of the identified population.

PRAMS is a predefined systematic approach to conducting an institutional review that involves analyzing large amounts of data. The PRAMS methodology aids the expert in developing a blueprint of, and formulating opinions about, an institution's protocols, practices, problems, and rehabilitative programs, in litigation involving the violation of rights of detained individuals and offenders.

References

1. Metzner JL: Class action litigation in correctional psychiatry. *J Am Acad Psychiatry Law* 30:19–29, 2002
2. U.S. Const. Amend. 14. Available at <http://caselaw.lp.findlaw.com/data/constitution/amendments.html>. Accessed May 31, 2006
3. *Cooper v. Pate*, 378 U.S. 546, 1964
4. *Estelle v. Gamble*, 429 U.S. 97, 1976
5. *Bell v. Wolfish*, 441 U.S. 520, 1979
6. *Gregg v. Georgia*, 428 U.S. 153, 1976
7. U.S. Const. Amend 8. Available at <http://caselaw.lp.findlaw.com/data/constitution/amendments.html>. Accessed May 31, 2006
8. 42 U.S.C. § 1983. Available at <http://www.findlaw.com>. Accessed June 1, 2006
9. 42 U.S.C. § 1997. Available at <http://caselaw.lp.findlaw.com>. Accessed June 2, 2006
10. Metzner JL, Dubovsky SL: The role of the psychiatrist in evaluating a prison mental health system in litigation. *Bull Am Acad Psychiatry Law* 14:89–95, 1986
11. Metzner JL: An introduction to correctional psychiatry: part I. *J Am Acad Psychiatry Law* 25:375–81, 1997
12. Metzner JL: An introduction to correctional psychiatry: part III. *J Am Acad Psychiatry Law* 26:107–15, 1998
13. AAPL Ethics Guidelines for the Practice of Forensic Psychiatry. Available at <http://www.aapl.org>. Accessed June 1, 2006
14. Cox V, Paulus P, McCain G: Prison crowding research: the relevance of prison housing standards and a general approach regarding crowding phenomena. *Am Psychologist* 39:1148–60, 1984
15. Metzner JL: An introduction to correctional psychiatry: part II. *J Am Acad Psychiatry Law* 25:571–9, 1997
16. North Carolina Department of Corrections: Assigning Inmates to Prison. Available at <http://www.doc.state.nc.us>. Accessed June 23, 2006
17. Cyranowski JM, Frank E, Young E, *et al*: Adolescent onset of the gender differences in lifetime rates of major depression: a theoretical model. *Arch Gen Psychiatry* 57:21–7, 2000