

# *Improving Conditions of Confinement* Through ACA Accreditation

By Michael Hamden

**G**raphic accounts of the most horrendous crimes parade across the headlines and scroll continuously on TV screens in homes across the country. The media create an unshakable fear of victimization among the public and imply that the government should be able to protect citizens from harm. With an electorate driven by fear and with safety as an emotional imperative, the leaders at every level of government advocate ever harsher sentences and a more punitive approach to criminal justice.

As a result, burgeoning prison admissions overburden already strained correctional facilities, tax available resources and test the creative limits of corrections professionals who labor to provide safe and humane living conditions for inmates in their custody. By now, it is old news that the United States incarcerates a higher percentage of its population than any other country in the history of the world (including the totalitarian regimes in China, the former Union of Soviet Socialist Republics and South Africa's apartheid government). Today, more than 2 million Americans are in prison, many in overcrowded facilities. To make matters worse, a downturn in the economy has resulted in budgetary deficits at all levels of government and dramatic reductions in appropriations for correctional agencies. So how can responsible corrections professionals deal with these challenges and fulfill their legal obligation to provide humane living conditions in the facilities they operate?

## **The Law Governing Conditions Of Confinement**

In general, the law requires that people who are incarcerated be treated humanely and that they be provided the basic necessities of life such as food, shelter, health care

and personal security.<sup>1</sup> The deprivation of life's basic necessities may violate the Constitution when it results from "wanton" conduct. Corrections officials act "wanton" when they have been "deliberately indifferent" to the deprivation of life's basic necessities.<sup>2</sup> There is arguably a somewhat less demanding standard for pretrial detainees, who may not be subjected to punishment at all without due process of law.<sup>3</sup> Under such a standard, a court might not require proof that officials acted wantonly or with deliberate indifference. Although there are no cases to support this proposition, it might be enough simply to show that conditions adversely affected the basic necessities of life, caused actual injury and amounted to punishment.

A claim that conditions violate the Constitution requires proof of two elements: an objective determination that the deprivation of a basic necessity is serious; and a subjective determination that the responsible officials were deliberately indifferent to the existence of the condition.<sup>4</sup> As a practical matter, however, it is also necessary to show that actual injury resulted from substandard conditions in cases where an inmate brings an individual claim for monetary damages.<sup>5</sup>

This legal standard is remarkable in its rigor. Under the law, it is not enough to show that an inmate has been physically harmed by the deprivation of food, water or any other basic necessities. To get help from a court, the inmate must also show that responsible officials were aware of the deprivation, but did nothing to alleviate the suffering.

Corrections professionals may not have complete control over all of the factors that contribute to inhumane prison conditions. Often, there is no mechanism by which to limit the number of offenders committed to an agency or to any particular facility, despite the fact that virtually every

facility has an established housing capacity. And many facilities are poorly designed or badly in need of renovation or repair. Budgets are typically set by governing authorities, so there may be no funding to improve the physical plant and no resources to allocate for enhanced programs or services.

But, notwithstanding these constraints, corrections professionals can take action to demonstrate a genuine concern for the welfare of people in their charge, and by doing so, effectively rebut allegations of deliberate indifference.

## ACA Accreditation and Standards

The American Correctional Association promulgates and enforces standards that reflect “best correctional practices” for all types of facilities. Through those agencies and facilities that achieve and maintain ACA accreditation, the corrections community has dramatically improved living conditions for staff and inmates, earned respect and deference from courts and legislatures, garnered ever-increasing resources to meet the correctional mission and gained recognition as a profession. ACA accreditation has played a central role in the achievement of those advances, and it will be critical in meeting the challenges of the future.

ACA standards are developed by the Standards Committee through a deliberative process that draws upon the expertise of professionals from all parts of the country and at all levels and facets of corrections and criminal justice. The process affords a mechanism through which every standard can be carefully considered (and continuously re-examined) in the light of a vast body of literature (including health and social science studies and applicable law), the opinions of experts (including line officers and staff) and the comments of a wide array of advocacy groups. Standards that emerge from this rigorous and exacting process reflect the considered judgement of the corrections profession as to those measures, policies and procedures that constitute the best practices for correctional facilities of all types.

## Standards Enforcement And Accreditation

The Commission on Accreditation for Corrections (CAC) serves as the body that measures the commitment of candidate agencies and the extent of their compliance with ACA standards. It also rules on applications for ACA accreditation and enforces ACA standards nationwide. Since its inception, the CAC has operated on the foundational principle that accreditation requires a demonstrated commitment to correctional excellence through compliance with all applicable standards. Successful participants in the accreditation process embrace the collective and considered judgement of their peers regarding best practices, work in good faith to fully comply with all applicable standards and avail themselves of an open process to suggest new or revised standards.

Accreditation by the CAC denotes a high level of professional accomplishment. Participation in the accreditation process requires a continuous effort to achieve and maintain compliance with standards that reflect the best correctional practices.

## The Integrity of ACA Accreditation

Integrity is the cornerstone of any meaningful accreditation process. Without it, accreditation is an empty exercise that lacks substance, connotes nothing positive and confers no benefit. Yet, legitimate and conflicting interests are inherent in any system of accreditation. Those interests must be addressed and carefully balanced.

For example, a rigid and inflexible approach to the enforcement standards would be unrealistic and impractical. Correctional facilities vary by mission, inmate population and cultural setting. An unbending assessment of standards compliance that fails to account for such considerations could not be viewed as credible by the professionals who must deal with those realities. Conversely, a process that measures compliance solely by good intentions or unique characteristics would be given no credence by others in the profession, by the courts or by the public. Thus, the standards (and compliance with the standards) should always be viewed in light of their underlying purpose, as well as practical considerations in their application.

Reaching a proper balance between competing interests entails the exercise of discretion and good judgement. Of course, the exercise of discretion and judgement is informed by education, training and experience. The diversity of the membership of both the ACA Standards Committee and the Commission on Accreditation ensures that the process will be informed by the broadest possible range of experience, grounded in professional discipline and practical application.

But, to maintain balance and the integrity of ACA accreditation, the exercise of discretion and good judgement must be guided by a shared understanding of the purpose and intent of the standards. In order to develop and maintain that understanding, several steps have been taken. For instance, seven members of the Commission on Accreditation, including the commission chair, also serve on the Standards Committee. These commissioners serve as liaisons to the committee. They are involved in the promulgation of new standards, ensuring firsthand knowledge of the standards’ intent, and they can directly raise and seek clarification of any questions that may emerge concerning the interpretation of existing standards. To further ensure the integrity of ACA accreditation, the CAC constantly monitors the process and is developing a quality improvement plan that will provide continuous oversight.

## Improving Conditions of Confinement

How can responsible corrections professionals deal with the challenges of ever-increasing inmate numbers and diminishing resources and, yet, fulfill their legal obligation to provide humane living conditions in the facilities they operate? The answer to that question can be found in the implementation of those policies, procedures and practices that comprise ACA standards. The best correctional practices can be instituted independently of the accreditation process, but the wealth of resources, expertise and support available through ACA make accreditation the most efficient and cost-effective way to achieve that objective.

ACA accreditation denotes professional achievement and the commitment of an agency or facility to correctional excellence in a dynamic and ongoing process. Corrections professionals who undertake that commitment and facilities that achieve that distinction, can point to objective criteria by which their accomplishments can be measured.

But even the best-intentioned corrections professional who employs state-of-the art learning and institutes the best practices of the profession in operating a facility, may eventually face the constraints of limited resources, either in terms of the physical plant, the necessary financial resources, or both. Again, ACA standards provide objective criteria by which resource needs can be measured. Such criteria provide persuasive support for budgetary proposals and a powerful defense to claims of deliberate indifference. If inhumane prison conditions are permitted to prevail, responsibility will lie not with the corrections professional, but with those who were aware that inmates were deprived of life's basic necessities yet failed to act.

For the overwhelming majority of people, institutions and agencies involved in accreditation, the process is voluntary. Participation grows out of a genuine commitment to professionalism and to correctional excellence. Accreditation has many benefits, not the least of which is the dramatic and positive effect standards compliance can have on the lives of corrections professionals and inmates. Accreditation builds pride and enhances the reputation of the facility and its staff throughout the community and beyond. "Pro-

fessionalizing" a correctional operation through accreditation also carries a certain cache that builds credibility with offenders, governing bodies, the courts and the broader public. A serious and lasting commitment to ACA accreditation is the most important step toward meeting the daunting challenges facing corrections professionals today.

#### ENDNOTES

<sup>1</sup>*Rhodes v. Chapman*, 452 U.S. 337 (1981)

<sup>2</sup>*Wilson v. Seiter*, 501 U.S. 294 (1991).

<sup>3</sup>*Bell v. Wolfish*, 441 U.S. 520 (1979).

<sup>4</sup>*Wilson v. Seiter*, 111 S.Ct. 2321 (1991).

<sup>5</sup>See, for example, *Sweet v. South Carolina Dept. of Corrections*, 529 F. 2d 854 (4th Cir. 1975); Prison Litigation Reform Act, 42 U.S.C. § 1997e (1996).

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