

GENDER EQUIVALENCE

In the Provision of Health Services In Juvenile Justice Residential Facilities



By Anne S. Douds, Catherine Gallagher and Adam Dobrin

Since Congress passed Title IX in 1972, society has grown increasingly familiar with the idea of gender equity in education and related endeavors.¹ The 1972 legislation

bans discrimination on the basis of sex for any educational program or activity receiving federal aid. Title IX has endured impassioned debate since its inception, with recent controversy revolving around college and high school sports.² The national conversation was stoked again with the Supreme Court opinion in *Roderick Jackson v. Birmingham Board of Education*, 125 S. Ct. 1497 (2005), which expanded litigants' rights under Title IX and allowed a basketball coach to sue for being fired after he complained about lack of funding for a girls high school basketball program. Regardless of public opinions on the subject, gender equity in sports is here to stay. These principles of gender equity extend beyond the classroom and related sports and into almost every facet of society, including health care.³

Whether gender equity has been embraced by correctional institutions or imposed upon them is not clear, primarily because the courts are split on this issue. The Eighth Circuit has ruled that, because women do not constitute a substantial portion of the inmate population and because they are accordingly housed in less amenable conditions, prisons should not be required to suffer the undue burden of providing comparable services to men and women.⁴ Other courts have decided differently, ruling that Title IX does apply and that it should govern services provided to "similarly situated" inmates.⁵ This latter line of cases also establishes that men and women are similarly situated simply by virtue of being incarcerated.⁶ However, neither of these lines of cases, nor any related cases, consider gender equity in the context of inmate health care. They focus instead on vocational and educational opportunities that are inequitably provided to men more frequently than women. Analogously, these lines of cases may be used to analyze gender inequity in inmate health care. This article explores the possibility of gender inequity in juvenile health care. More specifically, it considers the scope and quality of health care offered to juveniles in residential placement and examines whether gender impacts the quality or scope of services provided.

Historically, young women's health needs were discounted because they had not achieved critical mass. There simply were not enough young female offenders in corrections to warrant female-oriented health services.⁷ And because serious female offenders were perceived to be anomalies and thus unworthy of serious health care consideration, very little attention was paid to young women's health needs in the institutional setting.⁸

In reality, young women in residential placement pose the "most acute small number problem."⁹ They have complicated biology and often require reproductive health services that young men simply do not need. And research indicates that young women have gender-specific developmental and psychological needs that may go unattended due to institutional gender bias.¹⁰ Finally, because females have the ability to become pregnant and have children, they present a significant public health concern to society in general.

With a dearth of legal guidance, one must use scientific measures in the search for evidence of gender inequity. This study begins to explore the issue of gender differences in service provision in juvenile justice residential facilities (JJRFs) in the context of health care. The bivariate analyses presented here should be viewed as the first of several steps in examining this issue.

data

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the United States Department of Justice sponsors two censuses of all public and private JJRFs in the United States: The Juvenile Residential Facilities Census (JRFC) and the Census of Juveniles in Residential Placement (CJRP). To meet the inclusion criteria for these censuses, facilities must house young people under the age of 21 who have been charged with or adjudicated for an offense and are in the facility because of that offense. The JRFC and CJRP are rotated so that one census is conducted every October. The JRFC collects data on characteristics of the facilities and the services provided to young people, including information about health care. The CJRP collects data on each young person housed on a specific reference night in these same facilities.

The health care module of the JRFC was designed in part to answer questions about whether and under what conditions basic and specialized health care services are provided to young people. The health care module has been fielded twice, once in 2000 and again in 2004. This study primarily

uses data from the 2004 JRFC. However, facility-level data from the 2003 CJRP on the sex of residents were matched to the 2004 JRFC data to provide an indicator of whether the facility population is all-male, all-female or mixed-sex.

description of study sample

Of the approximately 3,500 JJRFs in operation in the United States, 2,494 had complete responses for all fields of interest for both the 2003 CJRP and 2004 JRFC. All-male facilities made up about one-half of the sample for this analysis, while mixed-sex and all-female facilities accounted for 38 percent and 13 percent, respectively (see Table 1).

There are notable differences between the same- and mixed-sex facilities. The majority of mixed-sex facilities are detention centers, government owned and operated, and have larger population sizes. Same-sex facilities in this sample (regardless of whether the facility populations were all-male or all-female) are more frequently group homes/halfway houses or residential treatment centers. The same-sex facilities were more likely to be smaller and privately owned and operated.

Given the diverse nature of facilities comprising the juvenile justice system, different characteristics were anticipated. Because detention is the gateway facility to other more specialized and long-term placements, it is no surprise that these facilities are more likely to house both sexes during the adjudication and placement process, to have larger population sizes, and to be owned and operated by local government agencies.

analysis

With the exception of an intake health screening, the relationship between gender composition and health services consistently favored same-sex facilities over mixed-sex facilities, with no discernible differences between

facilities that are all-male or all-female (Table 2). This finding is in contrast to any hypothesis suggesting that young women receive lesser health care. In terms of whether, where and to what proportion of the facility population physical, dental and vision examinations are provided, same-sex facilities were associated with a higher likelihood of providing these services to the full population of young people assigned beds and of providing them at a location outside the facility (presumably from community health centers and private practitioners in the community). While mixed-sex facilities were significantly more likely to supply these same services inside the facility (i.e., in a health center on-site), they were less likely to provide the services at all. When they did offer these services, they were less likely to provide them to the full scope of young people housed within.

Whether and to whom a facility provides a physical examination is an example of the pattern described above. Physical exams are defined for respondents as involving "... a nurse, nurse practitioner, doctor or physician assistant examining such things as eyes, ears, nose, throat, blood pressure and pulse; collecting blood; or taking medical histories." About 45 percent of mixed-sex facilities with this service provide the service on-site (compared with about 19 percent and 13 percent for all-male and all-female facilities). Just 8.6 percent of respondents at mixed-sex facilities reported that physical examinations are not provided to any young people. Of those providing this service, however, only 57.2 percent indicated that the full population of young people received an exam, in comparison to 77 percent and 80 percent at all-male and all-female facilities, respectively.

discussion

These results indicate fairly clearly that there are no patent gender inequities in the provision of health care within JJRFs. The results do, however, highlight that mixed-sex facilities are comparatively underserved relative to same-sex facilities. It is highly likely, however, that this finding is merely capturing some confounding between the type of facility, sex composition and health services. Specifically, because mixed-sex facilities are more often detention centers, and because detention centers more often have much shorter windows of opportunity for supplying health care, it may be that it is not the mixed-sex status of the facility producing lower service coverage but rather the fact that mixed-sex facilities are disproportionately detention centers.

These results indicate fairly clearly that there are no patent gender inequities in the provision of health care within JJRFs, using the general indicators of health services captured in the JRFC. This does not rule out the possibility that there are inequities in terms of the quality

Table 1. Type of Facilities by the Proportion of the Facility Population That Are Female and Male, 2004

Facility Characteristics reported in the 2004 JFRC		Percentage		
		Male only (n=1,239)	Male and Female (n=936)	Female only (n=319)
Type of Facility	Detention center	5.7	61.2	5.3
	Training school/long-term secure facility	11.0	6.0	6.0
	Reception or diagnostic center	2.5	3.7	3.1
	Group home/halfway house	41.9	11.2	47.6
	Boot camp	2.5	1.4	0.0
	Residential treatment center	42.4	20.9	43.3
Facility ownership	Ranch, forestry camp, wilderness or marine program, or farm	6.2	2.2	2.8
	A private nonprofit or for-profit agency	65.5	30.2	75.9
	A government agency	34.4	69.8	24.1
	State	25.3	16.9	17.2
	County	9.1	51.1	6.6
Facility operation	Municipal	0.6	3.2	0.6
	A private nonprofit or for-profit agency	68.8	33.1	78.1
Facility population size	A government agency	31.2	66.9	21.9
	Under 25	66.2	49.4	77.7
	26-50	16.2	24.0	14.7
	51-100	8.2	17.4	6.0
	100-200	5.5	7.1	1.3
200 plus	3.9	2.1	0.3	

Table 2. Health Care Services by the Proportion of the Facility Population That Are Female and Male, 2004

Health Services Measure			Percentage		
Services	2004 JRFC Item	Response options	Male only (n=1,239)	Male and Female (n=936)	Female only (n=319)
Intake screening	After arrival in this facility, are ANY young people asked questions or administered a form, which asks questions about the current status of their physical health?				
		Yes	91.6	96.3	94.0
	No	8.4	3.7	6.0	
	Are ALL young people administered an intake screening?				
		Yes	90.6	95.6	94.1
No	9.4	4.4	5.9		
Physical examination	Is it facility policy to have ANY young people who are assigned beds here receive a physical examination at a location either INSIDE or OUTSIDE of this facility?*	Yes, provided both INSIDE and OUTSIDE this facility	28.7	26.2	29.5
		Yes, provided INSIDE this facility	18.8	45.1	13.2
		Yes, provided OUTSIDE this facility	46.2	20.1	53.6
		No, a physical examination is not provided	6.3	8.7	3.8
	After arrival in this facility, do ALL young people receive a physical health examination?*				
		Yes	77.2	57.2	79.9
No	22.8	42.8	20.1		
Dental examination	Do ANY young people who are assigned beds here receive a dental examination at a location either INSIDE or OUTSIDE of this facility? *	Yes, provided both INSIDE and OUTSIDE this facility	14.8	14.2	11.6
		Yes, provided INSIDE this facility	9.1	11.6	5.3
		Yes, provided OUTSIDE this facility	74.1	58.2	81.2
		No, a dental exam is not provided	2.0	15.9	1.9
	After arrival in this facility, do ALL young people receive a physical health examination?*				
		Yes	60.6	26.1	63.3
No	39.4	73.6	36.7		
Vision examination	Do ANY young people who are assigned beds here receive a vision examination at a location either INSIDE or OUTSIDE of this facility? An ophthalmologist or optometrist may provide a vision exam*	Yes, provided both INSIDE and OUTSIDE this facility	19.9	15.7	15.7
		Yes, provided INSIDE this facility	7.9	14.5	4.7
		Yes, provided OUTSIDE this facility	68.7	46.7	75.2
		No, a vision exam is not provided	3.9	23.1	4.4
	After arrival in this facility, do ALL young people receive a vision examination?*				
		Yes	47.5	24.8	50.5
No	52.5	75.2	49.5		

*There is a significant association between the service provision and gender composition at the $p < .001$ level.

or the actual implementation of the service. However, the results do highlight that mixed-sex facilities underserve their residents in comparison to same-sex facilities.

Future work will address the confounding issues between facility type and mixed-sex status for analytical purposes. Regardless of these issues, the results of these preliminary analyses suggest that health care professionals are systematically missing opportunities to serve mixed-sex facilities. Even if the assumption is made that the service gap is largely attributable to detention facilities, there is no rationale for the lower level of service, regardless of the length of stay. In fact, it has been argued that detention may be the most important time for providing needed services because these high-risk young people may be released back into the community or may spread infectious diseases within the facility.

Of course, increasing health services in these facilities is more easily said than done. Future priorities for those concerned with health care within the JJRF system must work toward a better system of care that simultaneously balances the resources and parameters of the JJRF system with the compelling need to tend to the public health of this population.

ENDNOTES

- ¹ Title IX, 20 USCS §§ 1681-1688.
- ² Watts, Angela. 2006. Title IX ruling makes girls' sports a tough draw; boys' games affect crowds, practice time. *The Washington Post*, (Feb. 21).
- ³ Braithwaite, Ronald L., Henrie M. Treadwell and Kimberly R.J. Arriola. 2005. Health disparities and incarcerated women: A population ignored. *American Journal of Public Health*, 95(10):679-681.
- ⁴ *Klinger v. Dep't of Corr.*, 31 F.3d 727, 733 (8th Cir. 1994); cert. denied, 1995.
- ⁵ *Jeldness v. Pearce*, 30 F.3d 1220 (9th Cir.1995).
- ⁶ *Jeldness v. Pearce*, 30 F.3d 1220 (9th Cir.1995).
- ⁷ Kempf-Leonard, Kimberly and Lisa L. Sample. 2000. Disparity based on sex: Is gender specific treatment warranted? *Justice Quarterly*. 17(1):89-138.

⁸ Braithwaite, Ronald L., Henrie M. Treadwell and Kimberly R.J. Arriola. 2005.

⁹ Kempf-Leonard, Kimberly and Lisa L. Sample. 2000.

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