

Improving Health in Pretrial Detention: Pilot Interventions and the Need for Evaluation

One-third of incarcerated persons globally are pretrial detainees who have not been convicted of the crime charged, and nearly 10 million people worldwide annually spend some time in pretrial detention. While pretrial detention is meant to be temporary, detainees are frequently held for months or years. Those detained are subjected to severe overcrowding, delays in receiving basic and necessary medical care, and exposure to infectious diseases such as HIV and tuberculosis. The health risks of pretrial detention, and mechanisms to reduce them, are excluded from most examinations of prison health, despite the fact that conditions in pretrial detention are typically significantly inferior to those in prisons and often fail to meet international covenants and norms related to the health and rights of those in custody.

Recognizing the urgent need for improvements in pretrial conditions, the Open Society Foundations have piloted a variety of interventions as part of its Global Campaign for Pretrial Justice. The campaign seeks to increase the evidence base for promotion of health protection for pretrial detainees, and to expand interventions such as medical-legal collaborations to secure release on health grounds or deliver urgent treatment to detainees remaining in detention. The following models offer examples of successful interventions. Despite their accomplishments, these interventions do not nearly meet the demand and therefore need to be evaluated and scaled up.

Use of Medical Experts to Secure Release in Russia

Russian law requires that pretrial detainees be provided provisional release for a range of health conditions, but in most cases detainees are never provided with medical examinations necessary for such release. Humanitarian Action, a non-governmental organization working with people who use drugs in St. Petersburg, has piloted a mechanism for obtaining release for people with serious health conditions by coupling a lawyer with a forensic medical

expert to conduct and review medical examinations of detainees. In cases when the authorities do not permit the doctor to enter the pretrial facilities, the lawyer asks detainees a set of questions formulated by the doctor, who then draws up approximate conclusions about detainees' health. These conclusions are then presented at court hearings to obtain early release or to improve existing conditions of detention. Unfortunately, the availability of such medical-legal assistance for pretrial detainees in Russia does not nearly meet the national demand, leaving many detainees vulnerable to sickness or even death in custody.

Case Management and Delivery of Opioid Substitution Therapy in Ukraine

For patients receiving methadone or buprenorphine, medications used to relieve cravings for and reduce injection of illicit opiates, treatment interruption triggers painful withdrawal symptoms. Law enforcement officials in many countries have used threat of these symptoms to coerce confessions from those detained, and detainees have reported sharing needles and other risky behaviors to avoid the onset of withdrawal. Despite regulations requiring continuity of methadone and buprenorphine treatment in Ukraine, the medications are generally unavailable in pretrial detention facilities. Two Ukrainian NGOs, Time of Life in Nikolaev and Light of Hope in Poltava, work with lawyers to create an informal case management system to ensure delivery of medication to those in pretrial detention, either by supplying methadone to pretrial detainees directly or, with the accompaniment of the police, taking the detainees to clinics for treatment. Lawyers also provide consultations and legal representation to patients in methadone clinics, and families, friends or treatment providers notify the lawyers in the event of someone's detention. Though informal, this system has assisted a number of detainees in both cities to obtain methadone and has also helped build awareness among police and prison officials about opioid substitution therapy.

Use of Paralegals in Kenya and Indonesia

Kenya and Indonesia are both countries with large numbers of pretrial detainees with serious health conditions, including HIV and drug dependence. By intervening at the early stages of detention, Muslims for Human Rights (MUHURI) in Mombasa, Kenya, and Lembaga Bantuan Hukum Masyarakat in Jakarta, Indonesia, use paralegals to obtain provisional release for people who are awaiting trial. In what is referred to by the Indonesian project as “legal first aid,” community representatives trained in due process and other legal issues visit detainees at the initial stages of detention to prevent abuses or, if these abuses nonetheless occur, to document them. Project paralegals frequently take testimony from detainees, document conditions of detention, negotiate with local police, contact families and help them navigate the complex bail systems and supply medications to those in detention.

Projects and detainees consistently report that these interventions shorten length of detention and help those not convicted of a crime to avoid adverse impact of pretrial detention on health. More formal evaluation should be undertaken to assess best measures of improving access to justice and health outcomes, and to reform policies that contribute to the spread of infectious disease in closed settings and the community at large.

The Campaign for Pretrial Justice is a project of the Open Society Public Health Program and the Open Society Justice Initiative. For more information, see: www.soros.org