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**U.S.**  
**HOW OBAMACARE MAY LOWER THE PRISON  
POPULATION MORE THAN ANY REFORM IN A  
GENERATION**

BY **ELIJAH WOLFSON** ON 3/3/14 AT 3:56 PM



Proponents of the Affordable Care Act believe that it will lower rates of incarceration and recidivism, and save the country millions

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U.S. OBAMACARE PRISONS

While many have focused on the individual mandate, and the online (and glitchy) insurance exchanges, one of the most potentially impactful elements of the Patient Protection and Affordable Care Act (ACA) has flown more or less under the radar. It may be the biggest piece of prison reform the U.S. will see in this generation.

On the face of it, there's no direct connection between the ACA and what experts refer to as the "justice-involved population." There's no mention of prisons or jails or even crime in the language of the law. However, in what proponents of the act are considering a happy public policy accident, the ACA may inadvertently change the makeup of the U.S. prison population by getting early help to those with mental health and drug abuse issues, ultimately reducing recidivism rates and saving states millions, if not billions, of dollars annually.

For years, the prison population in the United States stayed more or less the same, hovering between 150,000 and 200,000 total incarcerated in either state or federal correctional facilities. In the early 1980s that number began to skyrocket, and by 2010, 1.57 million Americans were incarcerated.

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There's very little argument why. The "epidemic of incarceration over the last four decades," as Josiah Rich, a professor of medicine and epidemiology at Brown University, and co-founder of The Center for Prisoner Health and Human Rights at The Miriam Hospital, puts it, can be mostly attributed to two diseases: addiction and mental illness. "The natural history of these diseases, when not treated, leads to behaviors that, in our society, result in incarceration," Rich tells *Newsweek*.

History backs Rich up. In 1980, the number of Americans incarcerated for drug-related offenses was around 41,000. Then, in 1982, the country's "War on Drugs" officially commenced, and by 2011, that number had shot up to 500,000. In conjunction with funding the front on drug users, President Ronald Reagan defunded federal mental health programs, dropping total mental health spending by over 30 percent. As a result, many of the nation's mentally ill lost what was essentially their home and place of work, and many ended up on the street.

Today, a good portion of those make their beds in prisons and jails. The last major [study on mental health in prisons](#), conducted by the Bureau of Justice Statistics, found that 64 percent of inmates in state and federal prisons met the criteria for mental illness at the time of their booking or during the twelve months leading up to their arrest. For comparison, the rate of mental disorders among U.S. citizens stands at around 25 percent, [according to the NIMH](#). Sixty-nine percent of the country's prison population was addicted to drugs or alcohol prior to incarceration.

When mental institutions closed a few decades back, the process was "not accompanied by sufficient outpatient support," Rich tells *Newsweek*. "As a result, too many fell through the cracks and got picked up by the criminal justice system, which has limited options to deal with them." Instead of seeing these people as sick, the country began to see them as criminal. As Rich puts it, if all you have is a hammer, pretty soon, everything looks like a nail.

Health and crime have become inextricable in the U.S. Health issues such as drug addiction and severe mental health disorders directly lead to illegal activities and eventual imprisonment. A high percentage of those incarcerated are guilty of crimes directly related to medical issues, such as illegal drug use or theft to support an addiction.

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This population – the poor, homeless, addicted, and mentally ill – has never had any health safety net. With no jobs or income, they are highly unlikely to have private insurance, and Medicaid – the federally-funded health coverage option meant to protect the poorest Americans – is actually only available to a select group of individuals. Though it varies state by state, eligibility is always categorical, which means besides having a low income, Medicaid is only available to five types of people: pregnant women, children below a certain age, parents of Medicaid-eligible children, the disabled, and seniors.

Essentially, Medicaid left out poor, single, male adults without dependant children. – the same demographic most likely to end up arrested and incarcerated. Starting in January 2014, however, the categories have been eliminated (at least in the states that have chosen to take the Medicaid expansion – it is an optional aspect of the ACA).

“That means that a lot of people who are going to jail for mental illness or substance abuse related crimes could potentially avoid jail,” says Marsha Regenstein, a professor of health policy at George Washington University.

Of course, these people are hard to reach, and eligibility doesn’t ensure coverage or healthier behavior. That’s why the bigger opportunity, according to many health and justice policy experts, is to reach and help this population at the points where they do become involved with the justice system. Regenstein and Rich argue in a pair of papers published this week in the journal *Health Affairs* that better access to health care could not only keep people from committing crime in the first place, but could keep former inmates from repeat offenses.

That’s because the criminalization of mental illness and addiction has created an interesting contradiction: while the mandate of the correctional system is to rehabilitate criminals, it also has a constitutional obligation to provide all inmates with health care – the Supreme Court ruled that to deny health care services constituted a form of cruel and unusual punishment. As a result, the U.S. prison system has become a de facto public health care provider.

And while the quality of care varies from institution to institution, some prisoners end up receiving the best health care of their lives. For example, studies have shown that 40 percent of inmates are first diagnosed with a chronic medical condition while in prison. And Alex Sonriente, who worked for the [Prison University Project](#) at San Quentin Prison in California, tells *Newsweek* that in her experience “prisoners had more access to health care than they did on the streets.”

However, the right to health care only applies to the length of a person’s sentence. “We take them to the end of incarceration and just drop them off a cliff and say ‘good luck,’” Rich tells *Newsweek*. “The transitions are the most dangerous time from a health perspective.” The problem is pervasive; a [2013 report in California](#), for example, found that 90 percent of prisoners had no health care upon release. Once released, prisoners are likely to discontinue their meds, delay seeing primary care doctors (out of concern for costs), and, as a result, end up in

emergency rooms — where high treatment costs are passed on to everyone else via insurance premiums.

This is not just a public health issue; it's a public safety concern. Lack of care for chronic conditions creates additional long-term problems, like being physically or mentally unfit for employment. In conjunction with a lack of appropriate care for their drug problems and an inability to effectively medicate their mental health disorders, the formerly incarcerated are likely to return to a life of crime.

Many hope and believe that change is on its way. The Justice Department estimates suggest that with the expansion of Medicaid, 5.4 million ex-offenders currently on parole or probation could get the health care they need. (It's important to note that 25 states plus Washington, D.C. have implemented the Medicaid expansion as of 2014. However, many policy experts expect the remaining states to fall in line, citing the historical example of how CHIP was initially rejected by many states when it rolled out in 1997, but is now utilized in every state in the country.)

Even with coverage, those ex-offenders will still need to actually *utilize* those health benefits, and the key will be making the connection at the time of release. The biggest challenge will be getting state justice systems and health systems — not exactly happy bedfellows in past years — to work together to create coordinated discharge planning between jails and community healthcare. Currently, there are very few incentives in place to facilitate that cooperation, but Regenstein believes the new health care climate under the ACA is an evolutionary step in the right direction. "As the greater healthcare system figures out ways to communicate better," she tells *Newsweek*, "there will be models for jail communities to provide care better."

A pilot program started in 2006 called The Transitions Clinic is a great example. The clinic, operating in a number of locations across the country, acts as a liaison for newly released prisoners, placing them into the immediate care of a health care provider who knew that they had been in prison, and understood the risks related to being incarcerated. The results are encouraging: those who had gone through the clinic had 50 percent fewer ER visits than those who didn't.

Visits to the ER are a huge financial burden on states; the National Institutes of Health recently found that the average emergency visit is billed at an amount equalling 40 percent more than an average American's month's rent. But keeping people locked up is an ever bigger cost. A 2012 study by the Vera Institute calculated an annual \$39 billion hit to taxpayers to keep corrections facilities running country-wide.

Tracie Gardner, whose advocacy group the Legal Action Center has been a key driver in developing coordination of criminal justice and health in New York, agrees. "We see, over and over again, that wonderful moment of 'a-ha!' on the faces of everyone involved at every level in both systems," she tells *Newsweek*. "There is recognition that the landscape has aligned to reap major benefits for improving public safety, improving health and savings millions of dollars."

The cost savings associated with keeping former prisoners out of the ER and out of prisons will likely lead leadership at the highest levels — state governors, for example — to push for the types of collaboration that will keep ex-offenders healthy and out of trouble. And Regenstein believes that on a smaller scale, local jail personnel will *want* to make sure there is a smooth transition into health care. After all, these are the people who actually see the inextricable health/crime

cycle. They see the same faces over and over again, back behind bars for the same crimes committed months or years earlier. If they believe they can break the pattern, Regenstein says, they will.

Ultimately, because there is no precise directive in the ACA, the choice on how to handle these issues will be made independently in every state, and in every county. In some cases, reform will be swift; in others, life may go on as though Obamacare never happened. "I think it depends on the system," Rich tells *Newsweek*. "If you know one jail, you know one jail."

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Preckwinkle responds to Newsweek Magazine's March 4, 2014

article: "[How Obamacare May Lower the Prison Population More Than Any Reform in a Generation](#)".

To the Editor:

Cook County, home to 130 municipalities including the City of Chicago, is the second largest county in the United States. As President of Cook County's Board of Commissioners, I am charged with overseeing an overburdened criminal justice system which includes one of the nation's largest jails.

I commend Newsweek for recognizing the vital connection between Obamacare and safer communities ("[How Obamacare May Lower the Prison Population More Than Any Reform in a Generation](#)," [March 4, 2014](#).) In November 2012, Cook County was granted a Medicaid waiver that has already allowed us to provide health insurance to over 86,000 low income residents, including 2,600 formerly detained individuals.

For the first time, many of these people are now receiving mental health and substance abuse treatment supported by preventive physical health care in their communities. These efforts mean those with criminal records are less likely to return to our jail, while others will never make that first trip into detention. When a young person struggling with depression gets treatment instead of access to street drugs, it puts him or her on the path to a productive life. We can realize lower rates of incarceration and recidivism in 2014 by seizing the opportunity Obamacare has created.

Toni Preckwinkle  
President, Cook County Board of Commissioners

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