

Drug Policy Alliance

Criminal Justice Issues and Prisoners' Rights

<https://drugpolicy.org/resource/dpa-podcast-episode-29-imprisonment-and-public-health-age-covid-19-dpas-mary-sylla>

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In her previous work as a civil rights attorney during the HIV/AIDS epidemic, DPA Senior Staff Attorney Mary Sylla saw firsthand the lack of adequate healthcare available to people who are incarcerated. To better understand how to solve the problem, she went back to school for a Masters in Public Health. On today's episode, Mary talks about the current reality of health injustice in prisons and jails through the lens of COVID-19.

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Welcome to Drugs and Stuff, a podcast from the Drug Policy Alliance.

(Jazzy intro music out)

Gabriella Miyares (0:11)

Hello and welcome to a new episode of Drugs and Stuff. I'm your host, Gabriella Miyares. COVID-19 has made the world a very different place than it was when we last released an episode. We're thinking about things in different ways. We're living our lives in different ways than we're used to, but a lot of the work that DPA has done for many years connects to this crisis in ways that you might not expect. Today I'm welcoming senior staff attorney Mary Sylla, who works in our California office to talk about her background in public health and incarceration, and how those things intersect in often harmful ways. Mary, I'm so happy to have you on the podcast. Thanks so much for joining us. I'm gonna kick it off by asking you to tell us a bit about your role at DPA and the background that brought you to DPA.

Mary Sylla (1:04)

Great, thanks a lot, Gabriella. So I'm a new senior staff attorney at DPA and I'm in the Oakland office. I'm assigned to public health and harm reduction issues. And I work with Lindsay LaSalle, who's the managing director of those issues. And I'm getting to focus on things like opioid agonist treatment and just generally bringing a harm reduction, evidence-based perspectives to drug policy. But my background is as a civil rights attorney, and as someone who in 1997, was working at AIDS Project Los Angeles, as a relatively young staff attorney. At that time HIV medications, the protease inhibitors were just starting to save people's lives. And so I had a really great job providing free legal services to people living with HIV. And my main assignments were to work with people on reasonable accommodation and employment issues. Previously, you know, people were dying of HIV and AIDS, we didn't really have a good treatment. And so as people started to live, they started to have to deal with the, with the issues that everybody has to deal with in life. And many of them had spent a lot of their money or run up their credit cards, not anticipating living, but then getting to live they faced the realities of, of a lot of folks who are poor and looking to maintain their housing and employment and such. And it was in this context that one day my phone rang at my desk in Hollywood, and I answered it and what the call said -- it was a recording -- it said, you have a collect call from the LA county jails, press five to accept. So I pressed five and what I heard was that people in the LA county jails, one of the largest jail systems in the world, didn't have access to the common HIV medications that people in the community had access to, and they were being told in the community: "Be sure to take your meds, be sure to take your meds!" Because as we all know, if you don't take your HIV meds, your virus may become resistant to it. And at that time, we didn't have many treatment options. And so people really needed to adhere to their medications. So as the result of that call, I got involved in prisoner health advocacy. And pretty much ever since then that's been a big component of my work. It's really, really, almost unconscionable what we do to people who are incarcerated in this country. It really is like, I think our dirty little secret. We have people incarcerated all over the country in jails and prisons, who don't actually have access to community-level standard of care -- of medical care. And you know, at the time, HIV was the issue, right, like getting people their HIV meds, now it's opioid treatment. And now, you know, it's COVID-19. And so, my work really has focused on this subset of people. You know, I never thought about being a criminal defense attorney once I went to law school. I ended up going back to get a degree in public health because I really wanted to understand how to do the research. And, and how to determine and promote evidence-based practices. But our jails and prisons are really this unfortunate overlap of a public health crisis and a mass incarceration crisis. It's where law and public health intersect, and unfortunately, just just to like the detriment of literally millions of people who come in and out of our jails and prisons in our society. So that's how I got here.

Gabriella Miyares (4:29)

Absolutely. I mean, we're obviously undergoing, as you mentioned, like a very significant public health crisis right now with COVID-19. Can you talk a little more about the public health risks, the public health lapses, that have occurred in the US prison system and what we should be particularly paying attention to in this moment?

Mary Sylla (4:50)

Sure. So I mean, it's ironic that prisoners in the US are the only people with a constitutional right to medical care. In the 70s, the Supreme Court said, if you lock people up, you need to provide them with medical care. Ultimately, that was interpreted to be medical care that is, quote, "not deliberately indifferent to people's serious medical needs." So it means if somebody has, like, a broken arm and they're lying there, you can't just ignore them. But our prisons and jails are supposed to provide competent medical care, but we also have a system that just puts people into our jails and prisons without regard for how much space there is or what their quality of life is like. I mean, I've been saying for years, in the US, we love to lock people up. We love to spend money locking people up, policing, and incarcerating. But we don't like to spend money on folks once they're incarcerated. And what goes on in jails and prisons is largely unseen by the general public. So we have almost universally an impacted system, overcrowding, and then a constitutional right to medical care that's pretty much meaningless, because the only way that somebody can get it enforced is to bring a lawsuit. And we have many, many barriers that prisoners have to bringing lawsuits, to bringing Eighth Amendment claims. So we have like a perfect storm. And I was looking at this years ago in the context of HIV transmission, which you know, people have to do something with each other in order to get HIV, there is some action, and we've put in some harm reduction tools and interventions to try to reduce transmission, at least in California. Condom access is the one I worked on a lot. But if you think about it, COVID-19 is spreading like wildfire. We're supposed to have people six feet apart. I've never been in a jail or prison where anybody has remotely like six feet of space from folks. You know, I was providing paralleled education programs in San Quentin up until about a year ago, and there's no way that those folks are six feet apart. So this is kind of the perfect storm; we have a disease that is easily spread in locked facilities, where medical care is probably not going to be able to keep up. Even the CDC, which has put out guidelines that say what should happen in jails and prisons, part of it focuses on the prisoners, the people who are incarcerated, and part of it -- a big part of it -- focuses on the staff. So that's an additional problem. Our correctional staff going in and out of facilities also is going to get ill. The difference is they're going to have access to community resources for care, while the people who are left inside will probably have reduced ability to move about the jail or prison, because often movement is determined by how much staff there is to unlock the gates and unlock the doors and supervise people. Those people are going to be left inside with probably reduced correctional staff and even correctional medical staff to provide them care. So it's just truly a nightmare scenario in my mind.

Gabriella Miyares (7:53)

Yeah, it's, it's beyond unfortunate, as you said, and you know, as you also mentioned earlier, like these, these spaces, these buildings, are not built to, you know, from a public health perspective.

Mary Sylla (8:10)

Yeah, not only that, I mean, yes, they're not built to take people's health or the prisoner health into account. Also, there's a crazy rule in California where a jail or prison built has to comply with the sort of impacted orders of when it was built. So there's part of the jail in Los Angeles County that's called Men's Central Jail, that was built in the 70s. So the amount of square feet per prisoner in that jail is allowed to be the standard that was set up in the 70s. As the standards got sort of more humane and allowing prisoners more square feet per person, the newer buildings are required to have that kind of space per person, but not the older ones. And in any other system, we wouldn't let that happen. We wouldn't say, oh, if you built a building before the earthquake rules went into effect, you get to leave it there even if you renovate it, or even if you build another story. So there are just many ways in which we turn a blind eye to the folks who we're incarcerating.

Gabriella Miyares (9:13)

Yeah. It's it's really tragic, especially over the weekend, you know, we had our first, the first death in a federal facility of someone from COVID-19. So, I mean, there have been, as you said, throughout history, a lot of failures, and there's a lot of failures still happening now, what would you say, needs to change? What would your recommendations be, and how is DPA working to kind of help the situation on the ground?

Mary Sylla (9:47)

A lot of things need to change. And I mean, I think that's pretty much the only silver lining I can see in this COVID-19 situation, is that it is making everybody look around and say, wait a minute, what have we been doing and what can we do differently? So we need to reduce the jail and prisons populations. You know, the prisoner who died over the weekend was in federal prison. Well, if you look at the data, the number of people incarcerated in federal prison, it's about a quarter of a million. Most people who are incarcerated in the United States are in a, in a state prison. That's where the big numbers are. And every single state runs its prison in a completely different way. And every single county runs its jail in a completely different way. The folks who are in charge of these are not public health folks, they're not people who are trying to necessarily reduce crime, reduce substance use, you know, work for the public good. They're mostly people who wanted to be a cop of some sort, and went to work, and ended up sitting in a jail or prison, watching over a group of people. You know, we incarcerate people of color at vastly disproportionate rates in this country. The federal prisoners are more likely to be white, you know, white collar crime, those are federal crimes. And so folks who go into federal prison are more likely to be white than most people in jail or prison at the state level. It's a small proportion of folks, their conditions are actually generally much better. So we really have to kind of go to work at reforming the state prison systems and the county jails and part of the problem is that they're just, it's just not a very coordinated system. Like little fiefdoms. I mean, once upon a time in California before the Prison Law Office sued to make medical care somewhat better in the California prison systems, every single prison ordered its pharmaceutical products, ordered its medications separately, and it was really susceptible to graft and mismanagement. So we need some sort of like common thought about incarceration and why we incarcerate. I heard a doctor on the news say, well, you should first look at people who don't need to be there, and let them out. And he made reference to bail and people who are just in there because they couldn't afford to pay bail, right? So we need to reform the bail system -- that's just putting people in jail because they don't have enough money to pay. That's debtors prison. We need to reform the state prisons in a uniform way. We need to think about why we incarcerate people and what we're doing, you know, the Europeans have a much different model for why they incarcerate folks and how they actually want to make a change in people's lives. But we have been addicted to incarceration for decades at this point. And there's a big overlap with drug policy here because we have been incarcerating people for relatively minor drug offenses. Incarcerating somebody for possessing or selling small amounts of drugs does not stop people from possessing or selling drugs in the community as a whole. Even if we thought that was what we want it to

be doing, it's not effective. If one person who's selling drugs on a street corner gets incarcerated. Guess what? There are a bunch of other folks who'd like to take over and do that. So what we need to do is fundamentally think about why we incarcerate and begin to think about it in a more systematic way, instead of letting every little sheriff, and every little warden, generally people who've come up through these systems, who have a very specific idea about right and wrong, and law and order, run their little fiefdoms the way they want. I mean, it's almost impossible to imagine such a culture shift. But I think that's what we need. And what we have is a set of public health professionals, people who are physicians who've gone into jails and prisons who have been thinking about this -- people like Brie Williams, who wrote about it with a correctional officer over the weekend -- thinking about how we could dramatically change what we think about our theory of incarceration or a theory of justice. And if we really wanted to change people's behavior, then we have to look to public health. If we just want to lock people up and end up in situations like this again, then we can continue on the road we're on.

Gabriella Miyares (14:03)

Yeah, I think you're right. It's almost a silver lining, hopefully a silver lining situation. And this, of course, the fear is that you know how many people have to die before people start paying attention. I think that's been, you know, true of a lot of things. But I'm hopeful that this brings, you know, the situations to light that a lot of people turn a blind eye to or don't even realize, you know, is as bad as it is. So I'm, I'm very thankful that you came on and spoke with us today and taking the time for lending your expertise to this and appreciate your work at DPA as well, and welcome, as a relative newcomer!

Mary Sylla (14:47)

Thanks very much.

Gabriella Miyares (14:53)

Thanks again to Mary for joining us at this really critical time. Now, for those listeners who are interested in learning more about Drug Policy Alliance's response to the COVID-19 pandemic, we do have a devoted page to this on our website. Go to drugpolicy.org/COVID-19 to learn more about what we're doing, see allies' resources, and also read the sign on letters that we've taken part in. Thanks again for listening. Starting this month, we're going to have much more regular content on the podcast, both related and not to COVID-19. We'd love your feedback. So please tweet at us. We're @drugsnstuffDPA. Until next time, stay safe and stay well.

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