Prison nursing: legal framework and care reality

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Degree in Nursing

ABSTRACT

Introduction: Penitentiary Nursing has experienced during the last decades a deep transformation similar to that experienced by the rest of the Nursing. However, there is a great distance from the protective legislation.

Objective: To analyze the main legal documents which regulate the functions of Penitentiary Nursing and to compare it with the health care reality of nurses in Spanish prisons.

Methodology: Narrative bibliographic review based on various sources such as Medline, Cuiden, Scielo, Dialnet, etc.

Results: Is selected 43 documents, due to its relevance with the theme object of study. Is rejected 4 articles for lack of the same. Analyzed documents regarding legal framework and functions of nursing in prisons in its different sections (health care, teaching, research and management).

Conclusion: The functions currently carried out in prisons are the ones provided for by health care legislation outside the prison context, along with the internal administrative regulations established by prisons. The possibility should be reconsidered of integrating Prison Healthcare into the Public Healthcare System so as to guarantee equality of healthcare for persons deprived of liberty and to provide the same rights and obligations to health professionals working in this sector.

Keywords: prisons; nursing; community health services; history; legislation; nursing staff; nurses; Spain.

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INTRODUCTION

1.1. Historical basis

The historical background of Correctional Nursing goes back to the 16th and 17th centuries. Bernardino de Obregon (1540-1599) founds the “Minim Congregation of Poor Brothers Infirmarians” commonly known as the Obregorian Brothers. 

In 1834 the General Statutory Order on the Prisons of the Reign was published and later, the 1884 Regulations. The Regulations include the obligation of the Commander of the Prison to create an infirm-
ry in the facility to host and assist the sick and convalescing to avoid their transfer to hospitals. To this end, there should be a cabinet with the essentials in charge of the surgeon-physician of the Prison. 7

In 1938, inspection services of prisoner concentration camps supervise the correctional facility of Trujillo and detect relevant sanitary deficiencies and dispose: “all the convenient should be done so that an infirmary be provided next to the room currently used as the Doctor’s Office and if this room does not meet the appropriate conditions another room within the facility should be assigned to that purpose (…)” 8

In Spain, between the 1940s and the 1980s the provision of healthcare to inmates was mainly based on charity, human and material resources being therefore adjusted to that conception. 9

1.1 Features of the imprisoned population

The milestone of healthcare in correctional facilities (CF) is the individual and it corresponds to a profile of citizen deprived of liberty. 10 “The provision of healthcare should be granted to inmates as regular users of health services, along with access of this group to health resources, the quality of correctional healthcare and equity regarding the access to care” 11

The responsibility of health teams within CF is to ensure a health status of inmates equivalent to that of the general population where the prison is located.

The imprisoned population has several specific features, different from the general population that in turn, determine particular nursing needs. 7, 12

With reference to social and sanitary features, we must underline the high prevalence of severe socially and economically relevant diseases such as HIV, hepatitis C, tuberculosis and drug abuse, without dismissing the high percentage presenting mental disorders and the increasing number of patients with chronic pathology. Throughout recent decades, foreign population has significantly grown, different ways of falling ill have been imported and Prison Health has had to face all this. 13

Regarding demographic profiles, CFs host a young population, where approximately 70% are under 45 years old, with a low cultural level. Most of the time, their imprisonment entails their first contact with the healthcare system. There is a predominance of male inmates. According to data from the Correctional Department in January 2015, 65,039 people were hosted in Spanish correctional facilities, 4978 being women. We must not forget that in female CF their children are also assisted since they can keep their own children under 3 years old. Healthcare provided in these facilities should also include the children.

1.2. Features of Correctional Nursing professionals

As to nursing professionals developing their tasks in CF we can say that, as in other areas, “the practice of Nursing is a combination of health sciences and the art of care, a humanistic combination of scientific knowledge, nursing philosophy, clinical practice, communication and social science” 14, 15

Correctional Nursing has a complex development that supports the need of raising awareness on this field. The tasks developed by nursing professionals are poorly known by professionals outside correctional healthcare, playing a secondary role within the health system. Correctional nurses could be defined as “specialists largely unknown by society with limited technical and human means and with special patients, even if only due to the deprivation of liberty, with a relevant increase of mental diseases, drug abuse and infectious pathology”. 16 The special features of the correctional population and the correctional environment make correctional nurses special themselves.

As to the administrative relationship, correctional nurses are employees of the General Administration, governed by the regulations of the Administration, the Spanish Constitution, the Basic Statute of Public Employees and are subject to the hierarchical system established by these regulations. Therefore, correctional nurses depend on the Ministry of the Interior as the rest of staff from Penitentiary Institutions (PI) and ultimately on non-healthcare superiors, such as directors of CF or those performing the corresponding duties. As far as the Catalan Administration is concerned, the General Directorate of Correctional Services and Rehabilitation is responsible for the corresponding competences. The transfer of competences responds to the Royal Decree 3482/1983 as of December 28th on the transfer of services from the Government to the Generalitat of Cataluña regarding correctional administration. Nevertheless, until 2006 the formal process was not initiated, concluding on October 1st 2014 with the transfer of healthcare personnel to the Institut Català de la Salut (Catalan Institute of Health). 11

Prison health care is organized around the tasks of correctional nurses, thus a fundamental axis of prison healthcare itself. Currently in Spanish CF, it is estimated that there are 9.09 nurses per every 1000 inmates, with a corresponding ratio of 110 inmates per every professional nurse. According to a study by the Nursing Group of the Spanish Society of Prison Health (GESESP in Spanish) where 1139 inmates of 77 different facilities were interviewed, 33.5% of inmates (382) reported pursuing nursing consultation on a daily basis and 25.5% (294) on a weekly basis to
address their health related issues. Only 7.6% of inmates reported never pursuing nursing consultation. According to the same study, inmates were offered the possibility of evaluating nurses through a Likert scale. The average score was 4 (range 4 to 5) which corresponds to “sufficient”. Likewise, they were asked whether nurses solved their health issues: 34.7% (395) reported that they always did, 31.8% (362) almost always, 27.7% (316) sometimes and 5.8% (66) never. 

This data shows that patients subject to the provision of care in correctional facilities positively evaluate nursing staff as well as the work that they develop and they seek consultation to solve their health problems on a significant proportion.

1.3. Prison Healthcare

Prison healthcare (PH) is a term taken from legal texts to define “any activity promoted by correctional facilities aimed at the prevention and restoration of health of those hosted within”. In Spain the term appears for the first time in the 19th Century Legal Code as a specific term of the correctional administration. Spanish prison healthcare has very high quality rates in comparison with even more economically developed countries.

In Spain there are currently two management models: that administered by the Ministry of the Interior, including all autonomous communities except for Catalonia and the Basque Country, which are managed by the Department of Health of the Generalitat de Catalunya and of the Basque government respectively. According to Royal Decree 148/1989 the Sub-directorate General of PH is created. In 1997 the Spanish Society of Prison Healthcare is founded. Its founding sheds light on the task of correctional healthcare professionals who had been neglected by the Public Health system. Thus a difficult and meritorious work is initiated: the promotion of research through the creation of the Spanish Journal of Prison Health (Revista Española de Sanidad Penitenciaria), indexed in Medline and the holding of National Conferences and Seminars that promote the recognition and appreciation of the work carried out in prisons by the rest of healthcare institutions.

Society and prisons are not isolated realities since health issues in prisons have a clear impact in society and vice versa. They are therefore forced to come to terms and interact. Prison healthcare needs to have the same features and quality standards as that delivered by public health services, according to the General Prisons Act and Act 16/2003 as of May 28th on the Cohesion and Quality of the National Health System (NHS). This is why prison healthcare has to be coordinated with Community Healthcare to grant real equality of the services delivered and not breach the right to the protection of health (Art. 43 of the Spanish Constitution).

According to the Sixth Additional Provision of the Act on the Cohesion and Quality of the NHS, “healthcare services reliant on Correctional Institutions will be transferred to autonomous communities for their complete integration in the corresponding autonomous services of health”. The Basque country and Catalonia are the communities where functions and services have been transferred to the Health Teams of the public network.

OBJECTIVES

The objective of this bibliographic revision is to describe the reality of care provided by Correctional Nursing professionals through the collection and analysis of the main legal documents that regulate Prison Healthcare in Spanish facilities.

MATERIAL AND METHODS

We carried out a literature search between December 2014 and December 2015. Medline, Cuiden, Scielo and Dialnet were the databases that we analyzed. The main keywords were “nursing”, “jail”, “prison”, “evolution”, “nursing functions prisons”, “nursing laws prisons” and “prison healthcare”. The articles reviewed date back to 1834 until 2015. Moreover, three specialized books on Prison Healthcare were used and different numbers of the Spanish Journal of Prison Health were reviewed together with the website of the Ministry of the Interior and Correctional Institutions as well as several legal documents on the issue.

RESULTS

47 documents were reviewed, 43 of which were selected due to their relevance to the issue. 4 articles were rejected for lacking it.

4.1 Legal Framework

With regard to the legal foundations of PH in chronological order we find legal documents addressing correctional nursing from 1834 to 2011 when the previous denomination of healthcare technical assistants (ATS in Spanish) was changed to Correctional Nursing professionals and the 1982 and 1996 prison
regulations (PR/82, PR/96). Throughout these years a series of legal documents form the essentials of Correctional Nursing. (Table 1)

### 4.2 Roles of nurses in prisons

The roles performed by professional nurses in CF can fit into three categories:

- **Healthcare delivery:** mainly through Primary Care. In this sense it can be equivalent to a primary care institution. We must also underline the delivery of care to patients included in HIV, hepatitis C, tuberculosis, mental health and drug use programs, as well as emergencies. The care delivered is therefore similar to primary care in some aspects and it is specific and different in other ways.

- **Chronic patients:** correctional care has a substantial role as a long-term centre with chronic patients since individuals are hosted for long periods of time in CF and suffer from chronic diseases.

- **Management of medical-legal, regulatory and administrative aspects:** PH is an activity which goes beyond law and the delivery of healthcare and it is regulated by prison legislation. 

The roles of nursing included in the Regulations of healthcare professions are: delivery of care, teaching, research and management. All of them are carried out by correctional nurses.

The roles of nurses are currently regulated by the 1996 Correctional Regulations and some not repealed articles from 1981 such as Art. 324 which establishes nursing roles.

According to the GESESP study from 2008, almost 79% believe that correctional nursing roles are obsolete and totally isolated from reality. 5.3% believe that they are acceptable and compatible; 5.9% poorly operational although acceptable and 10.1% of professionals report being completely unaware of these roles.

#### 4.2.1. Delivery of care

Nursing consultation is one of the key elements of Nursing, since it provides direct contact between professionals and patients. Consultation sessions can be included in two different categories, according to the promoter of each one:

- **Session by demand:** consultation pursued by patients or as a result of an emergency.

- **Scheduled session:** created by prior appointment, proposed on the initiative of nursing professionals or derived by other professionals (physician, specialist). It is aimed at detecting and assessing risk factors or health issues, carrying out health education and monitoring of chronic processes, promotion of health and treatment adherence as well as comprehensive care delivery. The delivery of care is aimed at both healthy and diseased individuals.

According to a study carried out by GESESP, nursing consultation is the most rewarding activity for professionals, yet is the one they spend less time with since it demands more time for the preparation and delivery of medication and methadone.

#### 4.2.2. Teaching

With regard to teaching, many CF collaborate with Nursing Schools by tutoring internships for graduate students. It is all about training to offer quality care without forgetting Health Education that professionals carry out in facilities with patients, both as individuals and as groups.

#### 4.2.3. Research

Research is the main basis for the improvement of care delivery, an essential tool to offer quality care for the general population. The main objective of Nursing research is to improve the results of care, advancing knowledge and Nursing practice, by implementing scientific evidence-based care subjected to revision and validation, promoting quality care, in search of excellence and cost-efficiency.

The progression of research in the Correctional Department is extremely slow. Nursing professionals dedicated to research are scarce and they lack the appropriate support. Nevertheless, currently there is a raising awareness on contributing to scientific progress through publications in journals such as the Journal of Prison Health: the main means of communication.

#### 4.2.4. Management

Management and Organization of correctional nursing are greatly diluted with regard to their regulation. Nurses assume administrative tasks entailed by the health system, from drafting clinical records, consulting outside specialists, producing reports for patients, different bodies within the administration, judges and courts. Supervisors are responsible for the
organization of correctional nursing services. Where there are no supervisors, staff nurses assume this responsibility, as well as that of pharmacy stores and other healthcare documentation when needed. (Table 4)

### DISCUSSION AND CONCLUSIONS

Nursing is a young discipline. During the last century it evolved from a voluntary discipline, mostly religious with delegated and anonymous functions, to a professional role with defined competences and duties. The regulation of the correctional nursing role and function is an important element in any correctional system. In Spain, the legal framework is built on the foundation of the Spanish Constitution and the General Prison Organization Act (LOGP). Article 36.1 of LOGP states that: "Join physicians upon consultation and upon examination of new inmates, noting their instructions for the administration of injectable and other treatments."

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<tr>
<th>LEGISLATION</th>
<th>REGULATED FUNCTIONS</th>
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<tr>
<td>R.D, as of 11 November 1889, regarding the reorganization of the staff of correctional facilities</td>
<td>First reference to correctional Nursing. Article 36 clearly establishes that “practicing surgeons, pharmacists and correctional nursing staff will be included within the Healthcare Department”.</td>
</tr>
<tr>
<td>O.L, as of 25th November 1944 regarding the Basis of the National Health System</td>
<td>Professional organization of physicians and non-medical staff (midwives, trainees and nurses).</td>
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<tr>
<td>1973 Non-medical staff Regulations in Correctional Facilities</td>
<td>Repealed. The sole clear reference regarding the regulation of functions. Article 48 establishes the role and functions of correctional nurses.</td>
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<td>1978 Spanish Constitution</td>
<td>Article 25 of our founding charter states “custodial sentences and security measures will focus on re-education and social reintegration and will not consist of forced labour”.</td>
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<td>General Prison Organization Act 1/1979 (LOGP)</td>
<td>Own independent autonomous prison health system within the Correctional Administration, dependent of the Ministry of the Interior, withdrawn from the national health system. It included primary care and specialized and preventive care, as well as admittance to prison hospitals. All correctional facilities must count with primary healthcare teams, as Article 36.1 of LOGP states.</td>
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<td>Prison Regulations</td>
<td>Approved y Royal Decree 1201/1981, as of 8th May and amended by Royal Decree 787/1984, as of 28th March. Article 324 includes currently in force nurse functions: a) “Join physicians upon consultation and upon examination of new inmates, noting their instructions for the administration of injectable and other treatments. b) Performing cures according to their training. c) Controlling medication and healthcare material so that only those prescribed by physicians are used. d) Personally leading decontamination and disinfection activities, as stated by physicians. e) Personally being responsible for administrative documents and more specifically for clinical records, examination records, files and others that the department may need. f) Immediately attending when thus requested by Director or the individual in charge of the corresponding functions.”</td>
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<td>O.L. 14, as of 25th April: 1986 General Health Act</td>
<td>It grants the rights of inmates and their access to healthcare services on effective equal terms. The main objective is to “regulate all actions that may lead to the implementation of the right to health protection”. This Act introduced the National Health System in our country. It is the first Law which reflected the need for renovating the prison health system as to introduce healthcare services on equal terms as those of the general population.</td>
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<tr>
<td>R.D 1231/2001</td>
<td>Article 52.1 states that: “performing the nursing profession entails the provision of healthcare, as well as research, management and educational activities”.</td>
</tr>
<tr>
<td>O.L 16, as of 28th May regarding the Cohesion and Quality of the NHS</td>
<td>Two main objectives: the cohesion and standardization of the health system by avoiding any risk of dispersion once transferred the corresponding competences and ensuring the quality of the services provided by granting the safety of patients, on the basis of the principles of equality, quality and citizen engagement. Its additional provision states the transfer of healthcare services and institutions dependent of the correctional department to the corresponding Autonomous Communities. In 2005, the Parliament passed a non-legislative motion which urged Autonomous Communities to carry out this transfer.</td>
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[Table 1. Legislation relating to Correctional Healthcare](#)
LEGISLATION | REGULATED FUNCTIONS
---|---
O.L 44, as of 21st November 2003, regarding the Organization of Healthcare Professions | Article 7 states that “It belongs to Graduates in Nursing to perform the management, assessment and provision of Nursing care aimed at the recovery of health and the prevention of diseases and disabilities”. It modifies the organization and inter-relation of healthcare professions as it leaves the pre-existing pyramid system, where physicians were at the top of the pyramid and organized the rest, to a system where all professions cooperate and are inter-related and where the patient is the main axis.

R.D. 55 and 56 as of 21st February 2005 | It regulates all university information regarding graduate and postgraduate education for its European Adaptation.

R.D. 450 as of 22nd April 2005 | Creation of new Nursing sub-specialties.

O.L 29/2006 regarding the rational use of drugs and healthcare products | Nurse prescribers.

R.D. 183 as of 8th February 2008 | It defines and classifies new specialties within Health Sciences and develops certain aspects of the specialized healthcare training system.

R.D 20/2011, as of 30th December, regarding urgent budgetary and financial measures for the correction of public deficit | “The denomination of correctional healthcare assistant staff changes to Correctional Nurses.”

R.D. 967/2014, as of 21st November | Agreement of the Council of Ministers determining the degree of the Spanish Qualification Framework for the Official University Nursing Diploma.

Table 2. Examples of activities and programs implemented by nurses in correctional facilities.

| Programs for the Prevention of Infectious Diseases | Upon imprisonment examination will be performed to know the patient regarding liver disease, sexually transmitted diseases, HIV, etc. Vaccination campaigns against HAV, HBV, tetanus and flu, as well as a TBC control program.

| Harm reduction programs/Drug use programs | Methadone maintenance program, syringe exchange program and smoking cessation programs.

| Preparation and Administration of prescribed medication | Psychotropics, antiretroviral therapy, chronic medications, directly observed therapies (DOTs).

Table 3. Teaching activities carried out by correctional nurses.

| Health Education (HE) | Nurses develop the main role regarding the promotion of HE in accordance with the multicultural and diverse context of patients. HE is one of the essential tools in the promotion of health. It aims at enabling personal development so that inmates take their own decisions being fully aware and autonomous regarding their health so that they acquire healthier habits to avoid and change certain lifestyles.

| Undergraduate training | Tutoring of Nursing students regarding their curricular internships.

| Postgraduate training | Acquisition of new knowledge to offer excellence-based quality care. Tutoring of new colleagues.

| Continuous training | Advanced training courses, expert courses, Master’s Degree, seminars, congresses, etc.

| — Within the correctional facility | Clinical sessions, lectures, meetings. Rarely do facilities do this and we should promote it.

| — Outside the facility | Agreements with public hospitals to attend refresher courses.
profession with university training and its own body of knowledge, delivering evidence-based care. Correctional nursing has evolved in line with non-correctional nursing, but according to the documents found, this has not been the case of the legislation that regulates it.

Despite this fact, this paper evidences the existing breach between reality and the legislation that regulated the delivery of care in prisons. Legal regulations should facilitate work, yet in this case is the opposite. Obsolete isolated from reality legislation jeopardizes the development of correctional nursing. This bibliographical revision evidences what nursing professionals have been reporting for decades: the roles currently included in Correctional Regulations fail to respond today’s healthcare reality.

The roles that correctional nurses currently perform are those clearly included in outside-prison legislation. Nevertheless the staff has to comply with what PR/96 establishes, as well as assume responsibilities, roles, tasks or internal administrative regulations established by the Correctional department. Moreover we must also consider the hierarchical order that the institution subjects all its personnel to, including nurses.

This may be all due to the specific nature of the correctional system, which is not aimed at delivering healthcare, which is rather a necessary complement of the later. We should therefore reconsider the need of integrating Prison Healthcare in the Public Health System so that it grants the equality of healthcare for people deprived of liberty and provides the same rights and duties for all healthcare professionals delivering it.

Last, we must consider that this work has some limitations. Among them, it is worth noting that all the articles were published in Spanish since no English or other language publications were found.

Table 4. Bibliohraphic revision regarding the opinions on Correctional Nursing roles.

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<td>Five main roles, excluding the last.35</td>
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<td>“Enfermería penitenciaria: competencias, funciones e intervenciones” GESEP 2010. Editorial Rev. Esp. SP “Enfermería en prisiones”2007</td>
<td>Regarding the Statute of Correctional Employees, which despite being abolished is the sole clear reference regarding the regulation of correctional nurses’ roles. 15, 15</td>
</tr>
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<td>Prólogo de “Realidad laboral y profesional de la Enfermería en las prisiones españolas” GESEP 2009</td>
<td>“Rooted in the past roles”, roles included in the current Correctional Act are obsolete and divorced from the reality of these professionals”. 39</td>
</tr>
<tr>
<td>Letter of the Asociación de Enfermería Comunitaria. Martínez Riera JR. 2014</td>
<td>“The rules and the roles are utterly out of touch with current correctional nursing regulations”29</td>
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<td>Saiz de la Hoya. 2003</td>
<td>“There is a lack of modern and practical healthcare staff functions.” 41</td>
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