

Lawyer questions rights behind bars

Imprisonment itself is often not the only form of punishment received by criminals.

"As a lawyer," says Peter Westen, a University of Michigan law professor, "I frequently see cases involving allegations of medical mistreatment in prison."

"Prisoners claim that they were denied pain killers on purpose because a prison official wanted them to suffer. Or that a prison physician amputated a limb unnecessarily — or refused to amputate a limb that was gangrenous. Or that a prison physician waited two hours before operating so that the patient would suffer while waiting."

Withholding of medical treatment in these circumstances may not be a product of sadism by prison physicians, but rather a product of the way society — including prison officials — view prisoners, observes Westen.

"Along with other prison officials, prison physicians may come to have low regard for a prisoner's humanity because the physician recognizes that the prisoner, by definition, is someone deserving of punishment," says the U-M constitutional law scholar.

One of the significant ethical questions facing prison officials, according to Westen, is whether the officials should intervene and force needed medical treatment on a prisoner who chooses to die.

Westen examined this question in a paper dealing with the following hypothetical situation: A woman prison inmate suffering from potentially fatal blood pressure refuses to allow the prison physician to administer life-saving medical treatment. Should the physician intervene and force treatment?

"THIS IS an area not clearly covered by law, according to Westen, because existing laws often are not applied in the prison context."

"There are laws, both civil and criminal, that purport to regulate the responsibility of prison physicians for the life and health of inmates under their care. There are criminal laws, for example, against aiding persons to commit suicide and against punishing inmates by misusing (and withholding) medical treatment; and civil laws requiring physicians to take reasonable steps and precautions in ministering to the medical needs of inmates."

"But the brute fact," says Westen, "is that prosecutors rarely enforce these laws against prison physicians, and civil juries rarely impose civil liability."

Arguing in favor of intervention by the physician in the hypothetical case, Westen contends that inmates, placed in a childlike, dependent role in prisons, may not be ready to take "responsibility for life and death decisions." "I am prepared to assume," he says, that "if the woman in this hypothetical case were not in prison, the physician

would have no obligation to intervene and force life-saving treatment on her, and would not be obliged to seek a court order authorizing him to save her life."

But incarceration presents a new dimension on the matter, says Westen.

"Prisoners are persons who have been stripped of even the most elemental autonomy. They are not allowed to keep simple aspirin in their cells. If they want aspirin, they must seek it from a prison official; if the official decides to give it to them, they must swallow it in his presence to ensure that they are not selling or misusing it. They are not allowed to keep thermometers in their cells because it is feared that they might use them as weapons."

"In short, we treat prisoners like we once treated slaves, and like we now treat children. We control everything they do — when they eat, what they eat, when they sleep, when the lights go on, what they see, what they read."

"Having denied this woman the autonomy to decide for herself whether to take aspirin, the prison cannot easily explain her now dying by saying she is free to do whatever she wishes with respect to life-saving treatment."

Medical intervention also seems justified, says Westen, in view of the possibility that prison conditions may have contributed to the woman's mental state prior to her refusing medical treatment.

"If society is partly responsible for causing her predicament, it is also partly responsible for solving it."

Village voters may face tax hike to beef up services, add police

By ALICE COLLINS

Franklin voters may be asked to approve a tax hike next spring to meet the rising costs of village services and provide increased police protection.

Approximately \$135,000 in additional tax revenue would be needed to finance the programs outlined by Village President William Herrick in a recent issue of The Quorum, official newsletter of the Village Council.

Herrick suggests a 2.7 mill increase (\$2.70 in taxes for each \$1,000 of assessed property value).

If the question goes to the voters March 10, it will be in the form of a charter amendment to raise the present three-mill general fund tax levy limit. A two-thirds majority is required to amend the charter.

"The day of the three mills for the general fund is really behind us," said Herrick at a recent council session. "If we want to do the things we would like to do for the village, we have to consider asking the community to support it with financing."

ALTHOUGH NO council vote has yet been taken on the tax increase issue, no members appear to be opposed.

"I certainly can't speak for any other member of the council," said Council member Robert Thompson last week. "We haven't directly confronted the issue. We're just now taking a hard look at it. But there seems to be a general

acceptance of the need."

The council will discuss the proposals at upcoming meetings and Herrick has asked for input from residents. The next regularly scheduled meeting is Aug. 20.

In order to put the proposal on the March ballot, the council's decision would have to be made by the October meeting, according to Village Clerk Sharon Riley. Charter amendment proposals must be decided early because they must be sent to the governor for approval.

THE POLICE DEPARTMENT would be increased from seven to 10 officers, including Chief Joseph George, if the proposed plan is approved.

"Adding three additional officers and related equipment" at a cost of approximately \$60,000 a year, said Herrick, "would assure each of us of adequate police protection at all times and would reduce the safety risks now tak-

en by our officers working alone."

It would take approximately 1.2 mills to provide the police department increases.

Additional tax money would be requested for the resurfacing of village roads, 0.5 mills; for the establishing a formal village inspection program for maintaining the existing septic system, 0.8 mills; and for continued updating of the village's new master plan, 0.2 mills, according to Herrick.

REVENUES FOR resurfacing village roads generally come from state gas and weight taxes which are returned to the village. But every dollar of state funds used for local roads must be matched by one dollar of locally raised funds.

Estimates of the local portion of the resurfacing varies from \$20,000 to \$30,000 per year for the next few years, Herrick said.

"It appears likely," Herrick added, "that the village will have to adopt a

formal program of inspection to assure that existing septic systems are properly maintained. Indications are that a program of this nature may cost \$40,000 per year."

Dr. Thompson said such an inspection system is needed as "an alternative to installing a sewer system in the village."

THE EFFORT to implement and update the village's new master plan will be an on-going effort, Herrick said.

"Expenditures for this purpose have not been estimated but must come from the general fund. It's reasonable to suppose that this program could be supported with an additional 0.2 mills."

By charter the village may levy no more than three mills in taxes for its general fund which finances the police services, village hall and grounds, insurance, retirement of debt incurred to purchase the village office building, accounting, audit and legal fees and services of the village clerk and office personnel.

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