Care over Incarceration: Decriminalization of Mental Illness in the United States

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On my honor as a University student, I have neither given nor received unauthorized aid on this assignment as defined by the Honor Guidelines for Thesis-Related Assignments.

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According to the National Alliance on Mental Health (NAMI, 2019), over 2 million mentally ill people are incarcerated every year, and approximately 20 percent of inmates in jails and prisons have a serious mental illness (Treatment Advocacy Center, 2016). Beginning in the late 1950s, the deinstitutionalization movement removed mentally ill people from psychiatric hospitals in favor of community-based treatment methods. The number of patients in psychiatric hospitals fell 92 percent (fig. 1), and hundreds of mental hospitals across the nation closed (Torrey, 1997). Jails and prisons have become the "new asylums" of the US (National Institute of Corrections, 2014); ten times as many mentally ill people reside in jails and prisons as in state psychiatric hospitals. Restrictive treatment laws, insufficient funding, and scarcity of mental health professionals inhibit alternative community-based treatment methods. As a result, nearly half of adults in the US with schizophrenia, bipolar disorder, and other severe mental illnesses remain untreated (Treatment Advocacy Center, 2019).

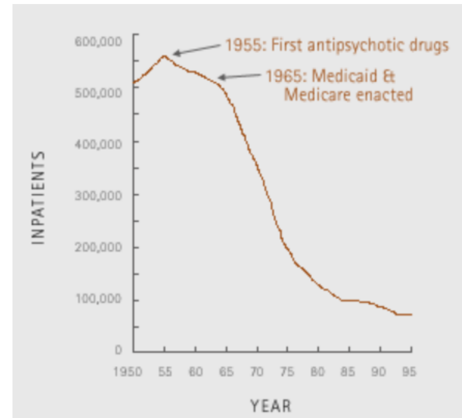

Figure 1. The decline of psychiatric hospitals in the US 1950-1995 (Torrey, 1997)

Mental Health America (MHA), the nation's largest mental health advocacy, recommends diverting mentally ill individuals from prisons in favor of "culturally competent" community-based treatment programs (MHA, 2020), and emphasizes improving de-escalation techniques for law enforcement to prevent unnecessary arrests. As inmates, mentally ill people serve longer sentences on average, often do not receive necessary treatment and medication, and

are disproportionately kept in segregation and solitude (NAMI, 2019). According to the Treatment Advocacy Center (TAC), more than half of all prison suicides are committed by inmates with serious mental illnesses (TAC, 2016). The American Civil Liberties Union (ACLU) compares inadequate medical and mental healthcare in prisons to turning “a minor sentence into a death sentence” (ACLU, 2019).

The American Jail Association (AJA) asserts that jails have become inadequate “de-facto mental health facilities,” and the National Criminal Justice Association says “jails have replaced a fully functional mental health system” (NJCA, 2020). AJA stresses that incarcerating the mentally ill is expensive and requires more space and supervision than housing other inmates (Schulman, 2016). Prison Policy Initiative (PPI), a nonprofit prisoner advocacy, aims to “expose the broader harm of mass criminalization” (PPI, 2020). It argues that prison crowding degrades inmate health, and exacerbates violence, misconduct, and recidivism. The center for Prisoner Health and Human Rights blames prison crowding on strict drug laws and the country’s “failure to provide adequate access to healthcare for low-income individuals” (CPHHR, 2020). Families Against Mandatory Minimums (FAMM), an advocacy composed of family members of inmates, recommends that the Federal Bureau of Prisons addresses prison crowding by hiring “more trained and licensed mental health professionals” (FAMM, 2020). The American Psychiatric Association (APA), however, notes that the US is facing a major shortage of mental health professionals, particularly in rural areas of the country (APA, 2020).

As advocates for the mentally ill inmate population push for the federal support of community-based treatment alternatives, prisoner advocates support inmates by demanding limits on solitary confinement and expanding access to mental healthcare. De-escalation training

for law enforcement and community-based diversion programs are essential in lowering the number of mentally ill people behind bars.

Review of Research

Research on the Impact of Incarceration on Mentally Ill Inmates

In the AVID Prison Project, researchers discovered that mentally ill inmates are "disproportionately locked down in segregation" (Guy, 2016). While in segregation, these inmates are "placed in small single person cells for 22 to 24 hours per day," and they face "severely restricted access to programs and activities, including mental health treatment." According to the researchers, such segregation does not reduce violence; it can worsen mental illness and increase suicide rates in prisons. An inmate featured in the report stated: "They don't understand that placing me in the hole (solitary confinement) exacerbates my mental illness to a whole different degree" (Guy, 2016).

Psychiatrist Dr. Terry Kupers has spent over 40 years interviewing patients in solitary confinement. He summarizes his research on solitary confinement's negative impact by explaining human beings' needs for "social interaction and productive activities to establish and sustain a sense of identity and maintain a grasp on reality" (Kupers, 2013). Without social interactions, mentally ill inmates cannot "test unrealistic ruminations and beliefs in conversation with others" (Kupers, 2013), causing internal impulses to grow uncontrollably. ACLU notes that these impulses lead to extremely bizarre and harmful behavior for these inmates, listing cutting flesh, smashing heads against walls, swallowing razors, and suicide attempts by hanging, among others. (ACLU, 2014).

Research on the Effectiveness of Community-Based Treatment Programs

Researchers at UC Davis evaluated diversion programs called mental health courts (MHC), which are designed to help mentally ill criminals who “do not meet not-guilty-for-reason-of-insanity requirements” (Loong et. Al, 2019). MHCs screen and assess the defendant, and then legal and health professionals negotiate a treatment plan (Loong et al., 2019). They found that MHCs reduce recidivism, but that additional treatment is often required. While these programs have proven effective, limited resources, in terms of both funding and available mental health professionals, impede their acceptance nationwide.

A growing community-based treatment method called Assertive Community Treatment (ACT) involves “an individualized package of services for people with serious mental illness living in the community” (BCMH, 2019). An ACT team includes a psychiatrist, nurse, employment specialist, substance abuse disorder specialist, and a peer support specialist, among others. The team is “on call 24 hours a day to address the individual’s needs and any crises that may arise.” A 2017 study showed that participants in ACT spent half as many days in jail as untreated mentally ill inmates and were much less likely to incur new charges. However, the enormous cost of utilizing an ACT team has inhibited this method’s implementation in areas of the United States with limited resources (BCMH, 2019).

Support for Improved De-escalation Techniques among Law Enforcement

Mentally ill people in the US are statistically “more likely to encounter police than get medical help,” although the vast majority of crimes committed by mentally ill people are nonviolent (NAMI, 2019). Mental Health America (MHA) accordingly notes the importance of de-escalation training for law enforcement when interacting with mentally ill people (MHA, 2020). These crisis situations are a mentally ill person’s “first encounter with the criminal justice

system" and accurate de-escalation can dismiss the need for any further involvement between an individual and the criminal justice system. MHA lists "lack of alternatives to calling 911 and lack of training for 911 personnel and first responders," as causes of many "tragic outcomes" with law enforcement (MHA, 2020). In 2015, 25 percent of all fatalities from police shootings involved a person with a mental illness, making mentally ill people 16 times more likely to be killed by police than their counterparts (TAC, 2018).

MHA states a goal of ensuring "crises are dealt with in a manner that is least damaging to an individual and most conducive to a peaceful outcome," and they list improved police training as a key action to meet that goal (MHA, 2020). The National Alliance on Mental Health (NAMI) stresses the importance of law enforcement partnering with local mental health organizations to understand the local mentally ill population. It recommends creating a "customized 40-hour training for law enforcement officers" tailored to the community's specific needs (NAMI, 2020). Police forces across the country are implementing "Crisis Intervention Team" (CIT) training, which emphasizes using non-lethal force and "reducing arrests while helping people obtain mental health services" (Herbst, 2018). Lt. Richard Cavanaugh, New Jersey Police Officer and board member of CIT International considers CIT-trained officers as "specialist officers, like you have SWAT Officers or bomb technicians" (Herbst, 2018).

Reduction of Solitary Confinement in Jails and Prisons

NAMI contends that mentally ill inmates are disproportionately locked down in segregation compared to their counterparts (NAMI, 2020). As the number of incarcerated people has increased dramatically in the past few decades, jails and prisons have turned to solitary confinement and segregation as methods to reduce violence among inmates (ACLU, 2014). As a

result, it is estimated that between 80,000 and 100,000 prisoners are held in segregation and solitude throughout the US. Forty-four states in the US have even developed “supermax” prisons, where each prisoner in the institution is “held in extreme isolation, often for years or even decades.” These “supermax” prisons are more than twice as expensive to build and operate as standard maximum security prisons; critics of solitary confinement and segregation emphasize the “high fiscal and human costs” combined with little evidence that these programs improve safety in prisons (ACLU, 2014).

The American Psychiatric Association “issued a formal position statement that prisoners with serious mental illness should almost never be subjected to such treatment” (ACLU, 2014). In cases where there are no other options than segregation, the APA insists on “extra clinical support” to combat the deteriorative effects of social isolation (ACLU, 2014). The American Bar Association concedes that temporary solitary confinement is necessary at times, but it offers several reforms to the current state of segregated housing. The ABA emphasizes using the “least restrictive segregation possible” with “limitations on the duration” (ABA, 2019). It further recommends allowing inmates in isolation to continue “social activities such as in-cell programming, phone calls, and reading material,” and insists on limiting the use of sensory deprivation techniques such as “auditory isolation or deprivation of light” (ABA, 2019). At the federal level, multiple senate hearings led to the Government Accountability Office investigating the Federal Bureau of Prisons’ use of solitary confinement, where they found that the “BOP has never assessed whether the practice contributes to prisons safety” (ACLU, 2014). As a result, the BOP agreed to “reduce its segregated population,” and launch a “comprehensive assessment of its use of solitary confinement.”

National Shortage of Mental Healthcare Professionals as a Barrier to Treatment

The nationwide shortage of mental health care professionals inhibits the introduction of community-based treatment in many areas. According to the American Journal of Preventative Medicine, half of all rural communities do not have access to a psychologist, and 65 percent do not have access to a psychiatrist (fig. 2; Andrilla et al., 2018). Furthermore, more than 60 percent of practicing psychiatrists are "older than 55 and nearing retirement, one of the highest proportions of all specialties" (Levine, 2018). To combat this shortage, universities are increasing recruitment efforts in mental healthcare. At the Medical College of Wisconsin, the psychiatric program is "locating residency training in rural areas to help meet demand." Universities across the nation are starting to follow suit, and the number of psychiatric residency students has increased by 5.3 percent in the past decade (Levine, 2018).

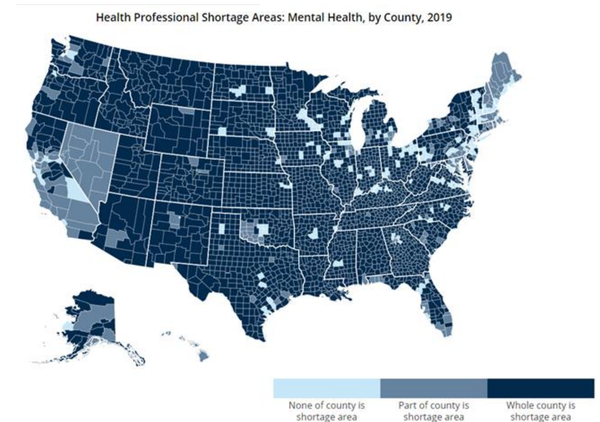

Figure 2. Mental Health Professional Shortage Areas 2019 (Rural Health Information Hub, 2019).

Mental healthcare organizations are also turning to electronic means to combat the shortage in the form of telepsychiatry. The American Psychiatric Association supports telepsychiatry, claiming that it "helps meet patients' needs for convenient, affordable, and readily-accessible mental health services" (APA, 2019). InnovaTel Telepsychiatry**,** owned and operated by clinicians, is addressing insufficient mental healthcare in jails by "re-imagining the delivery of psychiatric care through advanced technology." By incorporating virtual treatment sessions in prisons using video, they strive to "increase a facility's capacity for care in an efficient and cost-effective way" (InnovaTel, 2019). For areas of the country lacking resources to

support community-based treatment methods, InnovaTel represents how technology can help meet the needs mental healthcare in US prisons. However, some prisoners' rights advocates "caution against taking telemedicine as the end-all, be-all approach" (Arndt, 2016). CPHH explains that video therapy makes it difficult to sense "nonverbal cues" of an inmate, and it stresses that "group interaction is therapeutic, and prisoners don't necessarily get that" with telepsychiatry (Arndt, 2016).

Expanded Access to Mental Healthcare in Prisons and Jails

The Center for Prisoner Health and Human Rights (CPHH) contends that the deinstitutionalization movement has turned correctional facilities into the "biggest psychiatric facilities in the country" (CPHH, 2020). It points out that mental illness is associated with "increased rates of disciplinary actions in prisons," presenting challenges for "staff and other inmates" (CPHH, 2020). CPHH emphasizes that jails and prisons face significant overcrowding problems, with the number of inmates rising from 178,000 to 5.6 million since 1950. As a result, "only about a third of state prisoners and a sixth of jail inmates" report receiving the mental health treatment they need while incarcerated (CPHH, 2020).

The Marshall Project, a non-profit journalism project about criminal justice, notes that the Federal Bureau of Prisons (BOP) enacted a new policy in 2014 "promising better care and oversight for inmates with mental health issues" (Thompson and Eldridge, 2018). As of February 2018, the BOP "classified just 3 percent of inmates having a mental illness serious enough to require regular treatment" (Thompson and Eldridge, 2018), falling well short of the 20 percent rate found by the Treatment Advocacy Center (TAC, 2016). The 2014 policy calls for more

heavily involved treatment plans, consisting of monthly and sometimes weekly check-ins with a team of health professionals to craft a treatment plan and monitor progress. A former BOP prison psychologist equated the policy to "doubling the workload but keeping the resources the same," noting the BOP did not increase mental health staffing since the 2014 policy change. These changes have "caused a 35% decline in the number of federal prisoners receiving regular treatment" (Thompson and Eldridge, 2018; fig. 3).

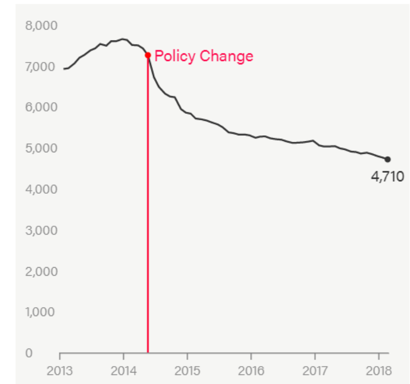

Figure 3. Federal Inmates Receiving Regular Treatment (Thompson and Eldridge, 2018).

The American Psychiatric Association praises professionals throughout the country who are implementing new mental healthcare programs in prisons to address the treatment gap. Robert Morgan, psychology professor at Texas Tech University, created a program called "Changing Lives and Changing Outcomes," which emphasizes interpersonal behavioral training combined with mental health treatment (Stringer, 2019). He contends that "mental healthcare alone will not reduce the chances of criminal behavior." He aims to address "antisocial thinking and behavioral patterns" among mentally ill inmates, which he refers to as "criminalness" (Stringer, 2019). Doctor of Psychology Dave Stephens stresses that "interactions between correctional staff and inmates significantly influence the mental health of prisoners." He recommends that correctional workers practice "trauma-informed care," and works with the National Institute of Corrections to train workers on "how to communicate with inmates in ways that minimize the chances of retraumatizing individuals" (Stringer, 2019).

Support and Policy for Community-Based Treatment Alternatives

While reforms of mental healthcare in jails constitute short-term improvements, mental health advocacies are clear that getting mentally ill inmates back into their communities is the ultimate goal. The Treatment Advocacy Center explains that psychiatric hospitals gained popularity in the late 1800s, when confining mentally ill people in prisons and jails was ruled "as inhumane and problematic" (TAC, 2020). It contends that today's state of mental healthcare has "returned to the earlier practice of routinely confining such persons in prisons and jails" (TAC, 2020). NAMI says "helping people get out of jails and into prisons is a top priority," and they point out that it is three times more expensive annually to house a mentally ill inmate in jail than it is to provide community mental health treatment (NAMI, 2020). In 2015, NAMI partnered with criminal justice leaders, county and state leaders, and mental health professionals to launch the Stepping Up Initiative, which "challenges counties to reduce the number of people with mental illness in jails." The initiative focuses on collaboration to help "counties work together to find solutions that work for the local community," and it supports local leaders by connecting them with similar communities who have had successful efforts. The campaign also provides template petitions for citizens to "take action now" and get in contact with local sheriffs' offices and county leaders. To date, NAMI supporters have sent "over 150,000 emails, 230,000 petition signatures, and thousands of tweets and phone calls to Congress asking for mental health reform now." NAMI credits these actions for "unprecedented bipartisan agreement" in mental health policy (NAMI, 2020).

MHA calls for "culturally competent mental healthcare" (MHA, 2019) and urges policy-makers to improve the national mental health system. Rather than focusing on petitioning the government, MHA "collaborates with scientists, practitioners, policy experts, advocates, and other community leaders to design (mental health) policy" that are recommended directly at the

state and federal levels. MHA demands investment in diversion programs; Mental health courts are a possibility, but pre-booking diversion programs are “a much better option,” as preexisting mental health conditions “should not be reason for incarceration.” MHA also calls for investment in community-based treatment such as Assertive Community Treatment (ACT), which “has strong evidence for reducing days of incarceration.” MHA warns that people entering the criminal justice system “often lose insurance benefits and treatment services,” so it demands “Continuity of Care” for inmates transitioning back to the community from incarceration. Finally, MHA notes that juveniles who are involved with the criminal justice system are more likely to end up in the criminal justice system as adults, and it supports mental health screening and stronger support systems in school, listing “Start Early” as a key pillar of mental health treatment (MHA, 2020).

Families Against Mandatory Minimums (FAMM) argues that mentally ill inmates should be kept close to home in order to “maintain and strengthen important family bonds.” Through a federal prisoner survey, FAMM found that “half of respondents were incarcerated more than 500 air miles from home” (Ring & Gill, 2017). Such disconnection from communities prevents inmates from staying connected to their homes, and makes implementing community-based treatment more difficult. In 2018, FAMM worked with the Trump Administration to support the passing of the First Step Act, which allows federally prisoners to “earn time credits by completing rehabilitative programming” (FAMM, 2020). Prisoners can “redeem their earned time credits for time in a halfway house or home confinement” during their sentence instead of federal incarceration. The act also shortened the maximum incarceration distance between prisoners and home to “500 driving miles,” and emphasized relocation to beds closer to home as they open up (FAMM, 2020).

The Treatment Advocacy Center praises the 21st Century Cures Act of 2016, which addresses "a host of their priorities" (TAC, 2020). The act gave states over $6 billion to combat the opioid epidemic and to develop treatment alternatives to incarceration (NCJA, 2019). It supports "increasing the number of psychiatric beds nationwide," creates a federal position called "assistant secretary for mental health and substance use disorders," and addresses the "criminalization of untreated mental illness" by incorporated funding for "assisted outpatient treatment programs" in the Department of Justice budget (TAC, 2020). States are required to "expend not less than 10 percent" of their mental health services funding on "supporting evidence-based programs that address the needs of individuals with serious mental illness" (TAC, 2020).

Conclusion

To prevent more mentally ill people from ending up in prisons, de-escalation training in the form of CIT teams and diversion programs such as mental health courts need to become national priorities. For mentally ill inmates already in prison, segregation and solitary confinement must be reduced in favor of reformed national standards, as these methods cause and exacerbate psychiatric symptoms in mentally ill individuals. Leaders of the criminal justice system must commit to removing mentally ill people from jails altogether and back into the community-based treatment method originally intended by the deinstitutionalization movement. Addressing the nationwide shortage of mental health professionals is necessary for these programs to work. Exploring options such as using medical residency students in rural areas and implementing/testing telepsychiatry provide tangible starting points. Finally, legislation such as the 21st Century Cures Act and the First Step Act are essential in providing these community-

based methods the financial support they need. While improving mental healthcare in prisons offers a temporary aid to the mental healthcare system, mentally ill and inmate advocacies, jail and prison organizations, and mental health professionals agree that mentally ill people are best served by getting treatment in their own communities.

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