The Silent Voice: Mental Illness in America's Detention Facilities

The Nebraska Justice System and associated systems have been in the spotlight as the budget for Nebraska's corrections is an area of concern and controversy. In 2022, the corrections budget was "expected to exceed half a billion dollars… including at least $230 million to build a new facility."[1] When this was made known to the public, many state citizens were upset. The Omaha World-Herald wrote an article on the new prison, stating that the new facility would have 1,500 beds and would be used to replace a much older facility stretched beyond capacity. It also stated that the state would pay around 17 million dollars for the land on which the facility would be built.[2] The sheer number of people arrested and sentenced in America also explains why there are so many prisons in Lincoln and Omaha and why new correction facilities are needed.

Many different aspects of the justice system should be observed and critiqued to find ways to improve. One aspect of the justice system, other than building new institutions (which is inherently to the need for expanded facilities), that will be discussed in this paper is mental health. Mental health issues have a great impact on America's justice system, to the point that if these problems can be mitigated, it could solve many of the issues pertaining to overspending, high recidivism rates, and, most importantly, the maltreatment of prisoners. This will be the area of focus for this paper, addressing how America's justice system treats people with mental illness, how well people with mental illness are reintroduced into society and their recidivism rates, and options for mental health treatment for offenders.

How are people with serious mental illness treated in our prison and our justice system? Studies show that people with serious mental illness are vastly over-represented in the prison systems in the United States. One of these studies, conducted by Schramm-Sapyta, Ralph, Huynh, Tang, Tackett, Easter, and Larson, "Relationships between substance use disorders,

'severe mental illness' and re-arrest in a county detention facility: A 4-year follow-up cohort study," was published in 2023. Not only did these researchers find that people with serious mental illness are over-represented in the prisons, but they recidivate at a much higher rate than other offenders. The other offenders that have a similar rate of recidivism are offenders with serious drug charges. They are arrested, tried, and sentenced at a similar or higher rate because they are often comorbid. Out of the population that this study looked at, over four years 60 percent of them were rearrested. Looking at this information, it is clear that people with serious mental illness take up a significant portion of offenders in our prisons.[3]

While offenders with serious mental illness are in prison, they tend to be treated inadequately. According to the research done by Daquin and Daigle in 2018, there are multiple ways these offenders experience different interactions with others while in prison. They found that offenders with mental disorders are in more aggressive interactions with other inmates. In these interactions, the mentally ill inmates are usually the victims. While many different interactions can occur while in prison and even more ways that those interactions can go, certain aspects of these exchanges are consistent. Offenders with mental disorders in prison are much more prone to violence enacted against them than offenders without mental disorders. They are much more vulnerable in America's prisons.[4]

Additionally, this research highlights that the general prison culture, characterized by a lack of empathy and increased aggression, accentuates the challenges faced by these individuals. Despite the broad spectrum of interactions that can occur in prison, there is a troubling consistency in the patterns of victimization experienced by inmates with mental disorders. These offenders are not only more likely to be targeted for violence, but they also experience barriers that hold back their ability to seek help or protection. The combination of these factors

underscores the urgent need for reforms aimed at improving the treatment and safety of mentally ill offenders within the prison system.[5]

Not only are prisons dangerous places for offenders with serious mental illness due to the violent actions of others, but they are dangerous places for the effect they have on the mind. There are many different aspects of prisons that are seen as less than ideal. These generally include things like food quality, lack of socialization, missing various loved ones, and losing the choice of how to express oneself through clothing. While these can seem to be less than ideal, but still manageable, other aspects of prison life are also seen as unfortunate that might not come to mind. Some of these include violent outbursts and violent interactions with other inmates (as mentioned before), lack of freedom in schedule, lack of freedom to go outside at will, tense interactions with security guards, and many more. Situations like these happen daily and affect mental health by making individuals seem less in control of their lives. Taking away any sense of control from an individual suffering from mental illness can greatly diminish their mental health at a rapid pace and set them on a path of recidivism due to lack of mental health.

For offenders in prison, these situations are dealt with every single day. Over time, these experiences may become more easily dealt with. For offenders with mental illness, this is not the case. These situations are exacerbated for those with mental disorders. These individuals are targeted more when it comes to the violent interactions they may have while in prison. Not only are they targeted in certain situations, but offenders with mental disorders also see things in a different light than offenders without mental disorders. With this, the situations that offenders can eventually grow to see as normal are almost impossible to be accustomed to for those with mental illness.

These circumstances can often lead to more stress than individuals with mental illness can endure. For some, it is more than they think they can endure. The suicide rates in prisons in the United States are a stark fact to look at. “In state and federal prisons, a total of 4,500 people died by suicide from 2001 to 2019. The number of suicides increased 83% over that period.”[6] This is not an issue that has limited itself to only state or federal prisons. This problem has shown itself in any kind of government detention center, which shows how badly these establishments need more assistance with mental health treatment. E. Clare Harris and Brian Barraclough conducted a study examining the standard mortality rate (SMR) of different mental disorders to see if and how mental disorders affect suicides. What they found was that “of 44 disorders considered, 36 have a significantly raised SMR for suicide, five have a raised SMR which fails to reach significance, one SMR is not raised and for two entries the SMR could not be calculated.”[7] While this information is not taken directly from prison populations, it still shows the impact that many different mental disorders can have on the rate of suicides.

Suicide rates are not the only outcome of mentally ill offenders being given prison sentences. Another measurable outcome of prison time for certain offenders is developing Post-Traumatic Stress Disorder (PTSD). PTSD is a mental disorder that comes from one experiencing troubling events, leading to complications in dealing with said events. It is often seen in veterans who have seen active battle, as well as individuals after being released from incarceration.

There have been different studies on Post-Traumatic Stress Disorder (PTSD) with released prisoners. One study published in 2007 found that “PTSD rates ranged from 4% of the sample to 21%.”[8] Certain researchers classify PTSD from experiences in prison as Post-Incarceration Syndrome. It is important to understand the weight of PTSD existing as Post-Incarceration Syndrome. For a situation to cause PTSD, it needs to be a particularly disturbing

experience. If individuals are being released from prison with PTSD or Post-Incarceration Syndrome, then it is clear that they experienced different conditions that were intensely traumatic. Not only were the experiences traumatic, but they dealt with them for their entire prison sentences. Since many offenders with prison sentences have been in detention centers for multiple years, these occurrences have not occurred for short periods of time. On top of the sheer amount of time that these offenders deal with traumatic conditions, offenders with mental disabilities are more prone to heightened feelings of anxiety. These heightened feelings can worsen the effects of PTSD or Post-Incarceration Syndrome. This is another example of how having more help for mental health in prison systems can alleviate difficulties for certain offenders.

The rates of recidivism reflect how our justice system treats different offenders. Different recidivism rates also show how well different people can reintegrate back into society. “Two-year prevalence rates of mental health and substance use disorder diagnoses among repeat arrestees” is a study that was conducted in Indianapolis, Indiana to look at specific recidivism rates. Over two years in this study, between January 1, 2014, to December 31, 2015, these researchers discovered different aspects of recidivism. Almost one third of the arrests that happened during this time were arresting people with serious mental health illness. Over a quarter of the arrests pertained to people with substance abuse disorders. It was also found that people with multiple mental illnesses had a much higher rate of being arrested multiple times.[9] To more fully understand the context of this study, substance use disorder is considered to be a mental disorder and is included in the DSM-5. “Substance use disorder (SUD) is a complex condition in which there is uncontrolled use of a substance despite harmful consequences.”[10]

The two studies listed above, and their results, give a glimpse into just how much of a disproportional impact offenders with serious mental illness have on the prison population. Not only are people with serious mental illness being arrested and sent to prison more than offenders who do not have mental health issues, but they are also more likely to be arrested after being released from prison. This cycle leads to more overcrowding of American prisons and puts more strain on a system that is already lacking resources. If there is a goal to improve our prison systems, then looking at how to help these offenders should be a central point to achieve. Improving mental health support in detention facilities, particularly focusing on access to treatment both in and out of prison, and having different options for sentencing are different steps that can help with this area in need of improvement. Not only will these steps help with recidivism rates, but they will also help with the ongoing struggle to have a humane justice system in the United States.

Different programs in prison systems have been considered to help improve mental health both in prison and with the integration back into society. This has been proven in different studies. Not only does having mental health programs in prison help with treating mental illness, but it also helps with keeping track of the state of offenders' mental health and whether the treatment works at all. This is the case considering most mental health programs in prisons require multiple mental health evaluations at different times. With these evaluations, people are able to figure out what works best and what should change to work better for individual participants.[11]

There are different opinions concerning whether people with serious mental illness should be sent to prison or diversion programs. Not only are there these opinions, but there are also different studies to support these opinions. According to a study conducted by E. L.

Johnston, “Retributive justifications for jail diversion of individuals with mental disorder,” there are three different rationales that support sending individuals with serious mental illness to diversion programs instead of giving them jail and prison time.

The first rationale given is that an offender having serious mental illness would most likely diminish their culpability at the time of the crime. If this is the case, then the offender would not be deserving of an extended prison sentence. Another rationale Johnston listed is that when there are offenders with severe mental conditions, there is a greater chance that prison time will do more harm than good. To have a similar effect on offenders with serious mental illness as offenders without mental illness, the mentally ill offenders would need to receive punishments outside of prison. These usually end up being some type of diversion program. The final rationale given by Johnston is that since offenders with serious mental illness experience things differently than other offenders, prison time in a detention facility could be inhumane. Finding different due punishments to fit crimes needs to be possible for offenders, no matter their mental state.[12]

Being able to reenter society is a goal for mentally ill offenders. Making sure that they have different options for treatment and making sure that there are possibilities to make prison more bearable and other possibilities to assist these offenders is important. There are aspects of life that make reentry into society a bit more difficult. One of these aspects is the stigmatization of mental illness.

Mental illness having a stigma is not new. This is something that has been a taboo topic of conversation for a good portion of human history. There have been many different inhumane treatments of mentally ill people throughout history. These include treatments like the rest treatment, which would consist of keeping the mentally ill person in a house secluded from any

social interaction. There were also examples of stigma towards mental illness in the past being shown through religious beliefs. There was a time when it was a common belief that people with mental disorders were possessed by the devil. This belief is much less common today, but there is still a stigma toward mental illness.

Something that is often overlooked is that "the influence of stigma on power is commonly overlooked because power differentials are often taken for granted, but labels applied by the powerless to the powerful clearly do not result in stigma."[13] This is something that is showing itself in today's world in more ways than one. An example of labels applied to the mentally ill is that some different names and slurs are used to describe people with mental disorders. This is something that can be used against mentally ill people, but there is not much that can be done in the same way for people without mental illness. This is an example of how people without mental illness and people with mental illness have different power differentials.

Another power differential between those with and without mental disorders is different actions being taken by the United States government. The vast majority of people working for the Senate are not known to have mental illness. The same is true for other branches of government. While this may not seem to be a huge influence, it brings up the concern of legislation being passed that allows stigma towards mental health to continue. America is doing much better in this area compared to how mental health has been treated throughout history, but that does not mean that there is no room for improvement. Since people working in America's government do not have mental illness, they have the power to make choices that do not enable the power differential between those with mental illness and those without. If these choices can be made on a large scale such as this, then the stigma towards mental health could be diminished

even more. With less stigma towards these concerns, then offenders with mental disorders could have a much greater chance of being able to reenter society with fewer complications and issues.

One more option available for offenders with mental illness is to choose what they plead during their time in court. The most common pleas for court sessions are “guilty” and “not guilty.” These options are accommodating for many offenders, but it is less helpful for offenders with mental disorders. When someone with serious mental illness commits a crime, there is a question that needs to be answered: were they aware of what they were doing at the time of the incident? If the answer is yes, then they would likely plead guilty if they want a plea deal, or they might plead not guilty in hopes of proving their innocence.

If there is an offender who has serious mental illness that has proven that they were not aware of what they were doing at the time of their crime, then the pleas of guilty or not guilty do not particularly help. The offender could not realistically plead not guilty if they committed the crime, since it is untrue and could lead to a harsher punishment when the guilt is proven. It would also not be in the best interest of the offender to plead guilty, since it would be admitting guilt to something that they had no control over. In situations like this, there is another plea to use in court.

“According to the law in many countries, people with mental disorders do not have criminal responsibility. They are defined as not guilty due to insanity (insanity defense) and therefore cannot be punished.”[14] Not guilty by reason of insanity is a plea that can help in situations where offenders with severe mental illness commit a crime. Not every situation where a mentally ill offender goes to court applies to this plea, but it is helpful in situations where the offender had no culpability for the crime. This defense is not used often, however. Looking at criminal cases in the United States, only 1 percent of these cases has used not guilty by reasons

of insanity. Not only is this used rarely, approximately 25 percent of this 1 percent of cases are successful in their cases. Putting it simply, there are less than 1 in 400 defendants that are found not guilty by reasons of insanity.[15] While the United States has many different areas in the justice system that need to be improved upon for the sake of mentally ill offenders, as well as others, this is a step in the right direction (even if it is not often used).

There are specific examples of this being used throughout the history of the United States justice system. One in particular which is a well-known case had an offender named Andrea Yates. Andrea lived in the suburbs of Houston, Texas, and was married with five children. She was a part of a devout Christian family. One day in June of 2001, Andrea called her husband to ask him to come home. He came rushing home to find each of their children in their beds. Upon inspection, he realized that each of them had died that day from drowning. Andrea Yates had submerged each of them in the bathtub. She had also called 911 to report that she had killed her children.

This case was widespread in the news across America at the time it occurred. A mother murdering her children is usually a wrong that people pay attention to. Andrea was convicted of capital murder. Later her case was declared a mistrial due to false testimony from a psychiatrist. The incorrect testimony that the psychiatrist, Park Dietz, was influenced by the show “Law and Order.” Dietz believed that Yates had seen an episode of “Law and Order” that told the story of a woman with postpartum depression who drowned her children. Dietz alleged that Yates saw that episode and believed that she could then drown her children and get away with it with the not guilty by reasons of insanity defense. After Yates was found guilty, Dietz recounted his false testimony after “Law and Order” producers searched through their 269 episodes and could not find one about a woman with postpartum depression drowning her children. Dietz worked with

the courts to correct his mistake.[16] With the false testimony, many people began to look at other facts from her case that may have been overlooked. One fact in particular was that Andrea stated that she killed her children because God told her to.

Looking at the facts of Andrea's case again, she was found to be not guilty by reason of insanity. This is an example of America's justice system being willing to work with mental illness. If this was not able to happen, Andrea would be in prison for the rest of her life with the chance of parole after forty years. Now, since not guilty by reason of insanity is an option in our courts, Andrea is in a psychiatric facility getting the help she needs. This is an ideal outcome for an offender with serious mental illness going through our justice system. A psychiatric facility might not be the choice for every mentally ill offender, but the options for different mental health treatments are important.[17]

Having different programs available to offenders is important to impact their mental health, and thus affect their recidivism rates. For offenders with serious mental illness, it is important to have this help available to them both in and out of detention facilities. One option for treatment outside of prison is community treatment programs. While some programs may be more intense than others, these programs usually consist of different ways and rule sets to help individuals rehabilitate or help reintroduce themselves into society well. Gregory Threurer and David Lovell did research in 2008 about an intensive community treatment program to show the effects of the treatment.

While there are many different aspects of offenders' lives that this type of treatment affects, the specific variable that these two researchers were looking at was recidivism rates. Mentally ill offenders were interviewed three months after their release for different time periods. Some of the most significant results found by this study were that recidivism rates

varied based on how instrumental the offender saw their problem, particularly with drug use. There were different limitations to this research, however. These limitations mostly consisted of sample size and lack of variability. While these researchers mentioned that this study had its flaws and complications, it does give a glimpse into how instrumental community treatment programs can be. By addressing both substance abuse disorders and mental health issues, programs like this can help break cycles related to recidivism and help improve the overall justice system.[18]

While there are some agreements on the topic of certain offenders needing to be with the community to properly rehabilitate and enter back into society, there is still the concern of what options are there for these offenders that still keep them in check and keep the rest of society safe. Halfway houses are a feasible option for many of these situations. Halfway houses are a useful tool for offenders who need to be with the community and also have a higher level of supervision. There are halfway houses that exist specifically for offenders with mental illness, but these are much less common. They still have great results, however. While they can do great things by themselves, something many of these places agree on is that when it comes to our justice system and mental illness, there needs to be institutional change.[19]

When looking for options for offenders with serious mental illness who need rehabilitation but also access to the community, probation can be a feasible option. While it can be a real option, probation can be less than ideal at times. This comes down to the fact that probation officers are human. Many of them do not have the necessary training to work with people with different mental conditions. Many states offer assessment tools for probation officers to use with their probationers. Oftentimes, these assessment tools have automatic “mental health flags” to let the probation officer know, and anyone else who needs to know, that there is a risk

of serious mental illness with this probationer. This also lets the probation officer know that the probationer will most likely need help and surveillance throughout their time on probation. While these are great tools and it is great that they are offered at multiple locations, the main flaw is that many probation officers are just not taking advantage of them. This can be fixed with more training available for probation officers on how to work with people with severe mental illness.[20] While it is clear that mental illness in prisons is a great concern, it is still an emotional topic for many to be worried about the welfare of people currently in prison. There are more people to be concerned about how offenders with mental illness are treated by America's justice system than only the people currently in prison. In today's world, there is a rising number of children and adolescents who are being diagnosed with different mental disorders. Health Resources and Services Administration (HRSA) conducted a study that found "that between 2016 and 2020, the number of children ages 3-17 years diagnosed with anxiety grew by 29 percent and those with depression by 27 percent."[21]

To some, this may not seem like pertinent information. This may just seem like children getting some diagnoses, nothing more and nothing less. There is much more to this, however. There are many examples of how people with mental illness are treated in prisons. These examples come from pop culture, academic studies, news articles, and almost anywhere else. If these examples of maltreatment of mentally ill people in prisons continue, then these current youth will be dealing with these same problems in the future. These children are the future. If we do not fix our current problems, then these issues will progress to the point that the children of today will be dealing with these problems as the adults of tomorrow.

Many may say that it would be crude to make an assumption that the children of today who have mental disorders are going to be in prison. Some different studies and data show the

arrest rates of people with mental illness. This was shown earlier, but rates of arrest for mentally ill persons are higher than for other individuals. This is especially true when looking at rates of rearrest and recidivism. This still shows how much of a problem it is for people with mental illness today. If this is something that does not get fixed in today's world, then it is not just going to go away on its own. If real effort is not put into fixing these problems, then they will continue to exist until that effort is found and used.

In conclusion, the challenges faced by offenders with serious mental illness within America's justice system highlight a critical need for reform. Addressing these challenges is not just about improving the treatment of affected individuals. Addressing these is a necessary step towards reducing overspending, lowering recidivism rates, and preventing the maltreatment of prisoners. The evidence presented in this paper underscores the importance of focusing on effective treatment options, enhancing reintegration efforts, and exploring alternative sentencing approaches. Successful reforms in different jurisdictions show promising results that could be adapted to drive change in the entirety of the United States of America. Policymakers, communities, and advocates must collaborate on implementing these solutions. By prioritizing mental health within the justice system, and other systems associated with it, we can achieve a more just and humane system. This could benefit society as a whole by ensuring that all individuals are treated with dignity and fairness.

ENDNOTES

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