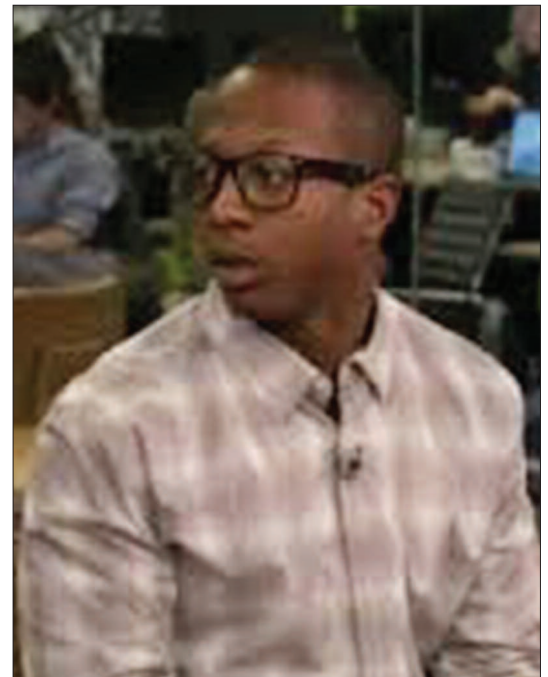


## Prisoners and Mental Illness

*Are too many with psychiatric problems behind bars?*

**T**housands of people with schizophrenia, severe depression, delusional disorders or other mental problems are locked up, often in solitary confinement. While some committed violent crimes and remain a threat to themselves or other inmates and prison staff, many are incarcerated for minor offenses, simply because there is no place to send them for treatment. The number of mentally ill inmates has mushroomed in recent years as states have closed their psychiatric hospitals in favor of outpatient community mental health centers that typically are underfunded and overcrowded. In an attempt to reduce the influx of mentally ill inmates, some 300 specialized mental health courts have diverted them into court-monitored treatment instead of jail. Yet, many participants re-offend, and some experts say psychiatric treatment alone won't prevent criminal behavior. Meanwhile, courts in more than a half-dozen states have declared solitary confinement unconstitutional for those with mental illness. However, some corrections officials say solitary is necessary to separate dangerous prisoners.



*At age 16, Kalief Browder was falsely accused of stealing a backpack and sent to New York City's notorious Rikers Island jail after he was unable to post bail. He spent three years at the facility – two in solitary confinement – before being released, never having gone to trial. Like many inmates who have endured solitary, the once sociable teenager now describes himself as having become paranoid, quiet and "distant."*

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# Prisoners and Mental Illness

BY SARAH GLAZER

## THE ISSUES

The photo is shocking. A young man wearing a helmet lies chained to a bed. The wall behind him shows a smear of blood where he had been banging his head.<sup>1</sup>

The helmet and chains were “the treatment that was provided” at the Michigan adult prison where 19-year-old Kevin DeMott had been held in solitary confinement for four months, says his mother, Lois DeMott.

Kevin had long been troubled: a bipolar-disorder diagnosis at 11, juvenile detention for trying to rob a pizza store with a toy gun at 13 and adult prison at 15. In prison he was cited dozens of times for breaking rules and sentenced to more time behind bars for assaulting a guard.

Kevin’s mother says the prison imposed solitary confinement to punish behavior rooted in his mental illness — throwing objects off a balcony in a rage, breaking light bulbs to cut himself and ripping a so-called “suicide gown” to make a noose to hang himself.

When photographed in solitary, in January 2011, Kevin was receiving no medication for his condition and “was very depressed,” Lois DeMott says.

The plight of mentally ill inmates — and how to treat their condition while holding them accountable for crimes and keeping prisons safe — is receiving new attention from criminal justice and psychiatric experts. Mental health advocates say budget cuts in community mental health services have led police and courts to lock up many troubled individuals in jails and prisons that are ill-equipped to treat them. At the same time, they say, many inmates are inappropriately placed in solitary



*Kevin DeMott, 19, is shackled in his cell at a Michigan adult prison in January 2011, a helmet protecting against his head-banging. Kevin’s mother says the prison kept him in solitary confinement for four months to punish him for behaviors stemming from his bipolar disorder and did not treat his illness. As states have lost some \$4 billion in mental illness treatment funds in recent years, hospitals and mental health clinics have closed, and many mentally ill people ended up in jails and prisons.*

Michigan Department of Corrections/  
Family Participation Program

confinement, causing or exacerbating mental problems.

Even so, some experts say that only a minority of the crimes committed by mentally ill people are due to their illness, citing other factors such as using drugs or associating with criminals. Thus treatment alone will not prevent many mentally ill offenders from returning to jail, they contend. Meanwhile, unions representing prison guards defend the use of solitary confinement as necessary to keep inmates from harming themselves or others.

More than one in five Michigan prisoners in 2009 had severe mental disabilities, according to a University of Michigan study, but 65 percent of those had received no treatment in the previous 12 months.<sup>2</sup>

Echoing a nationwide trend that began in the 1960s, Michigan closed three-quarters of its 16 state psychiatric hospitals between 1987 and 2003. The

patients could be better served, it was thought, in community mental health centers. But budget cuts reduced those community services, and Michigan’s prisons and jails have become, in effect, its largest mental hospitals.<sup>3</sup>

More people with serious mental illness are now in a prison or jail in 44 states than are housed in those states’ largest psychiatric hospitals, according to a survey published last year by the Treatment Advocacy Center, a group in Arlington, Va., that advocates more timely and effective treatment for people with mental illness.<sup>4</sup>

However, states have lost some \$4 billion in treatment funds in the last few years, forcing them to close or shrink mental health clinics and hospitals. As that’s happened, more mentally ill inmates

have wound up in jails and prisons, and corrections officials say they aren’t able to deal with the trend.

In the Madison, Wis., area, Dane County Sheriff Dave Mahoney says he must put suicidal or dangerous mentally ill inmates in solitary confinement because he has no mental health facilities. It’s “inhumane” and a “human rights violation,” Mahoney says, but he’s been unable to persuade the county to provide the more than \$100 million needed to update his jail.

About 15 percent of men and 31 percent of women in local jails suffer from serious mental illnesses, such as schizophrenia, bipolar disorder or major depression — rates four to six times that of the general population.<sup>5</sup> (See graphic, p. 244.) Most are in jail for misdemeanors — often petty crimes, such as trespassing, disorderly conduct or drug use, resulting from a combination of homelessness and mental illness.<sup>6</sup>



Sheriff Thomas J. Dart last year proclaimed Chicago's Cook County Jail the state's largest psychiatric hospital.<sup>7</sup> On any given day, about a third of its 10,000 inmates are mentally ill, according to the sheriff.<sup>8</sup>

Jails are the wrong place to treat mentally ill people, Dart wrote, calling it a "nightmare" that rising numbers of mentally ill people have been caught in the web of the criminal justice system ever since the shuttering of mental hospitals and clinics. Those who land in his jail are mainly charged with "crimes of survival," such as prostitution and trespassing, he said. "They are, for the most part, good people who suffer from an illness beyond their control and simply need their government to have its priorities straight."

For a fraction of the cost of incarcerating a mentally ill inmate, he continued, "we can empower new community health centers and establish comprehensive discharge planning. It's humane and fiscally prudent."<sup>9</sup>

The situation has become especially acute in the nation's local and county jails.<sup>10</sup> On one weekend last year, 48 percent of some 1,000 inmates at the Dane County Jail were taking at least one psychotropic medication for a mental illness, according to a snapshot census by the jail. Mahoney says the number of mentally ill inmates has risen since last April, when, to save money, Madison's state hospital closed its unit for people with mental health emergencies brought in by police.

To avoid the five-hour roundtrip to the nearest state mental hospital, in Oshkosh, police instead are charging mentally ill people with crimes and taking them to jail because "they know I have full-time mental health care," Mahoney says.<sup>11</sup>

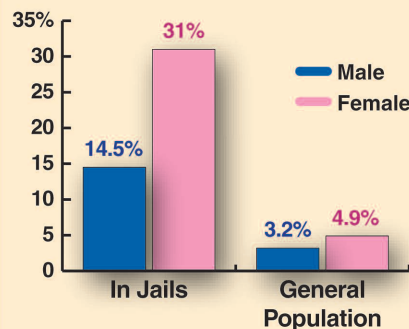
Often, a mentally ill person lands in jail for disorderly conduct when "the 'crime' is the fact that he's off his medications," Mahoney says.

The Dane County Jail is unusual in providing 24-hour mental health care delivered by a psychiatrist or staff psy-

## Jail Inmates Have High Rate of Mental Illness

*Women in America's local jails are about six times more likely — and men about 4.5 times more likely — to suffer from a serious mental illness than people in the general population.*

**Percentage of Serious Mental Illness, in Jails vs. General Population, by Gender**



Source: "Incarceration's Front Door: The Misuse of Jails in America," Vera Institute of Justice, February 2015, p. 12, <http://tinyurl.com/lyuun67>; original research from Henry J. Steadman, et al., "Prevalence of Serious Mental Illness Among Jail Inmates," *Psychiatric Services*, June 2009, <http://tinyurl.com/q8j9mke>

chiatric social worker. Elsewhere, 83 percent of inmates with mental illness received no treatment for their condition after admission, according to a 2015 report by the Vera Institute of Justice, a research group in New York.<sup>12</sup>

Even prisoners who receive treatment can have periods when their symptoms return. They may throw feces at guards or become belligerent. According to a forthcoming Human Rights Watch report, corrections guards respond to such behavior by subjecting mentally ill prisoners — more often than other inmates — to "unnecessary and even gratuitous use of force," ranging from the use of pepper spray and

stun guns to outright brutality.<sup>13</sup>

Prison officers "rarely receive training to help them understand mental illness and how it can affect conduct," the report says.

Mentally ill inmates also are more likely than other prisoners to end up in solitary confinement for breaking rules. They can remain isolated for up to 23 hours a day, a form of sensory deprivation that is stressful even for those without mental health issues, say psychiatrists and advocates for the mentally ill.

"Even if they don't get worse, they don't get better because in general they're not given treatment," says Renee Binder, president-elect of the American Psychiatric Association, which says prolonged solitary should be avoided for the seriously mentally ill.

"You begin to turn on yourself," says James Burns, 27, who spent almost two years of a five-year prison sentence for armed robbery in solitary in an adult prison in Colorado, starting at age 15. "I would punch the walls until my knuckles bled. Hurting myself felt better than feeling nothing at all."

Recent lawsuits on behalf of inmates produced a series of court decisions declaring it a violation of the Constitution's prohibition against "cruel and unusual punishment" to place seriously mentally ill prisoners in solitary. As a result, some prisons have been developing specialized housing and treatment programs for the mentally ill. (See sidebar, p. 254.)

This year, Massachusetts became the third state to prohibit solitary for those with serious mental illness. Others, including Montana, New Jersey and New Mexico, are considering similar laws for psychologically vulnerable populations such as mentally ill or juvenile inmates.<sup>14</sup> As a result of litigation, New York recently became the largest state to limit solitary confinement for young people, declaring it off-limits for those under 18. New York City officials went even further recently, banning solitary for inmates 21 and younger at its Rikers Island jail, effective next year.<sup>15</sup>

However, corrections officers' unions have opposed such restrictions, saying they threaten the safety of inmates and staff. (See "At Issue," p. 257.) In New Jersey, unions oppose a bill to ban prolonged solitary for those 21 and under. "You'll have a gang member who's going to assault, seriously injure or kill another inmate and then he's going to pass that weapon over to a 21-year-old because the 21-year-old can't get locked up in isolation," says Edward S. Sullivan, president of the New Jersey Superior Officers Law Enforcement Association.

Most experts say the solution lies in keeping the mentally ill from being incarcerated in the first place by treating their illness. That's the idea behind specialized mental health courts, which offer mandated treatment in lieu of a conventional sentence behind bars. (See sidebar, p. 252.)

Most such courts once offered alternative sentences only to people charged with misdemeanors, but more now make the same offer to people charged with felonies — sometimes violent felonies. But Jeffrey L. Metzner, clinical professor of psychiatry at the University of Colorado School of Medicine, says that trend raises two concerns: "One is the issue of dangerousness, and there's also an issue the public has, which is not unreasonable: If you do something really bad, you ought to be punished."

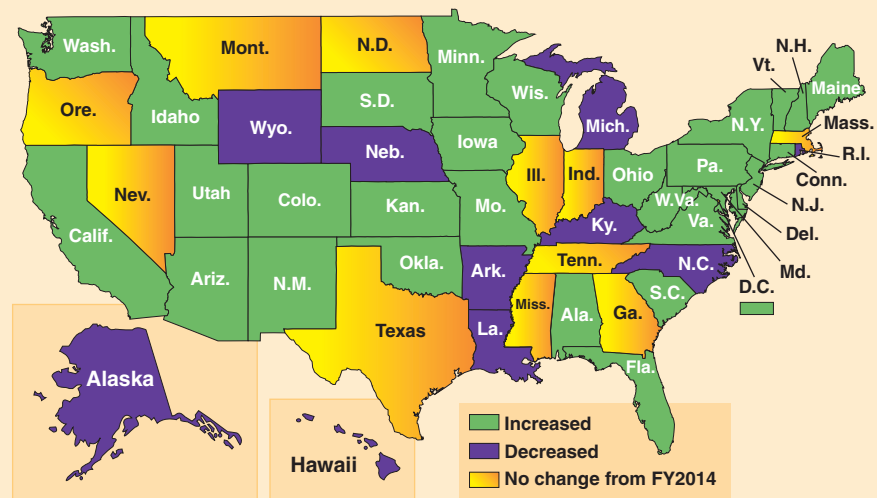
Even when mental health courts work well, they handle only a fraction of the thousands of people with mental illness who end up in a big-city jail, says Michael Jacobson, a former New York City corrections commissioner and now director of the Institute for State and Local Governance at the City University of New York.

"In any system, you probably want some of those specialized [mental health and drug] courts; but there has to be some systematic way, aside from boutique courts that handle 20 people a day," of reducing the numbers of men-

## Fewer States to Raise Mental Health Spending

Twenty-eight states and the District of Columbia plan to increase spending on mental health services in fiscal 2015 — seven fewer than in 2014. Eleven states plan no change in their mental health budgets, while 10 say they will cut spending.

### Changes in State Mental Health Budgets, Fiscal 2014 to Fiscal 2015



Source: "State Mental Health Legislation 2014: Trends, Themes & Effective Practices," National Alliance on Mental Illness, December 2014, p. 25, <http://tinyurl.com/soj5c6>

tally ill behind bars, says Jacobson, who is advising the city on how to do that.

As courts, judges, prosecutors, policy-makers and mental health advocates consider the problems of the mentally ill in prisons, here are some questions they are asking:

### *Is the proportion of mentally ill people in jails and prisons rising?*

The number of mentally ill inmates in Chicago's Cook County Jail has doubled in the last eight years, even as the county's overall jail population has been falling.<sup>16</sup>

Nneka Jones, the psychologist in charge of mental health services at the jail, cited recent closures of mental health facilities, which include Mayor Rahm Emanuel's decision in 2012 to close six of Chicago's 12 mental health clinics. "I do believe that there is a

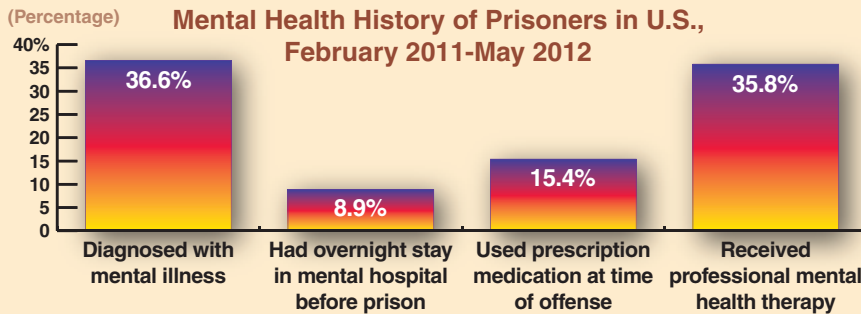
correlation," she said. "We have not only seen an increase in the number of mentally ill inmates coming into our custody, we have also seen them coming in in a sicker state."<sup>17</sup>

Jails around the country are reporting similar problems. In some cases, the number of mentally ill inmates has remained relatively constant, but their share of the jail population has risen as crime rates have plummeted. In New York City, the share of mentally ill inmates has doubled over the last eight years, to 38 percent, mainly because the overall jail population has fallen by about half since the 1990s.<sup>18</sup>

However, it's difficult to know whether such a proportion applies nationally or has changed over time. Although the federal Bureau of Justice Statistics has conducted several national surveys, bureau statistician Lauren Glaze says its

## Many Prisoners Report Prior Mental Illness

Nearly 37 percent of state and federal prisoners surveyed in 2011 and 2012 said they had been diagnosed with a mental illness; 36 percent said they had received mental health therapy.



Source: Allen J. Beck, Marcus Berzofsky, Rachel Caspar and Christopher Krebs, "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12," U.S. Department of Justice, May 2013, p. 24, <http://tinyurl.com/nhqcfv4>

method for measuring mental illness has differed from survey to survey, so trends cannot be determined. (See graphic, above.)

Indeed, according to psychology professor Craig Haney of the University of California, Santa Cruz, who served on a National Academy of Sciences committee on the growth of incarceration, "we don't have reliable enough data to say with confidence if the actual percentage of prisoners who are mentally ill is increasing or not. Most suspect it has, primarily because of the expanded reach of the prison and jail system over the last 35 years, and corresponding reductions in the size of the public mental health system."

For a prison to calculate its mentally ill population, it must have enough psychiatric staff to identify them, something many prisons lack, Haney says. However, as a result of litigation, "a number of systems are under pressure to at least accurately count for the first time," he says.

The question goes beyond statistics, he continues. "If we're not counting them reliably we're not treating them effectively, and they're certainly not getting better on their own," Haney says.

Many experts blame the deinstitutionalization movement that began during the John F. Kennedy administration in the early 1960s, when states began closing many of their mental health hospitals.<sup>19</sup>

"The absolute numbers of mentally ill in prisons have risen exponentially" since then, says Doris A. Fuller, executive director of the Treatment Advocacy Center. "In the mid-1950s, when there was widespread availability of psychiatric beds, 4 percent of the prison population was estimated to have mental illness. Over the long arc of time, it has risen, and it has never abated."

Experts cite a variety of causes for the rising numbers of mentally ill inmates. Two prominent ones are harsher mandatory sentencing and the nation's so-called war on drugs, which sent jail and prison populations soaring from the 1980s to 2009, when they began to abate. Starting in the 1980s, drug arrests more than tripled, peaking in 2006.<sup>20</sup>

Those trends ensnared many mentally ill people. Nearly three-quarters of jail inmates with mental illness also suffer from drug or alcohol addiction.<sup>21</sup>

In addition, the so-called "broken windows" strategy — in which police

in New York and other large cities arrest people for "quality of life" crimes as a strategy for preventing more serious crimes — tend to sweep up more mentally ill people. The homeless are especially vulnerable because "they're peeing in the street, panhandling, sleeping in the subway," says Jacobson at City University of New York.

The mentally ill also swell the local jail population by coming back more often than other offenders. A group of 400 "frequent fliers" returned to New York City's jails more than 18 times over the past five years; 67 percent had a mental health need and 99 percent had a substance abuse disorder.<sup>22</sup>

In addition, while most mentally ill jail inmates are picked up for minor nonviolent crimes, they tend to stay longer than the average inmate.<sup>23</sup> According to Homer Venters, assistant commissioner for the Bureau of Correctional Health Services in New York City's Department of Health and Mental Hygiene, mentally ill inmates at the Rikers Island jail stay twice as long as the average inmate, perhaps because they are less skilled at obtaining bail and at working the system and are more likely to commit infractions.

"We have a system that has become brittle and inaccessible for people with mental illness," Venters says.

Some say the perceived rise may simply be the result of jail and prison directors doing a better job of screening and diagnosing those with mental illness upon entry. "We used to put them in the hole [solitary confinement]; now we get a psychiatrist for them," the warden of a California jail told Henry J. Steadman, lead author of a frequently cited survey that found about 17 percent of the 12 million people admitted to jails each year exhibit signs of serious mental illness.<sup>24</sup>

As for historical trends, "the proportion of people with mental illness in U.S. jails may not be much different than it was 20 to 40 years ago," says Steadman, president of Policy Research



Associates, a consulting firm outside of Albany, N.Y. “Was it 17 percent 30 years ago? No one ever collected the data. Even today, in most jails they can’t tell you how many have serious mental illness.”

### ***Do programs that offer treatment instead of jail prevent further crime?***

It’s a heart-warming scene repeated often around the country. The courtroom breaks into applause as smiling defendants march up to the judge’s podium to receive a certificate and a hug from the judge. It’s graduation day in mental health court, a ceremony to congratulate defendants for completing treatment under the court’s supervision.

The first such court opened in 1997 in Ft. Lauderdale, Fla., when suicides of mentally ill people in Broward County jails prompted officials to pursue reforms. As originally conceived, the courts focus on mentally ill people accused of misdemeanors, aiming to get them into treatment and prevent them from committing further, possibly more serious, crimes.<sup>25</sup>

Since then, mental health courts have grown rapidly to between 300 and 400 nationwide, and most operate similarly: In place of a trial and conventional sentence, a defendant may opt for attending court-mandated treatment that can last 12 to 24 months.<sup>26</sup> The defendant then must appear regularly at status hearings in the courtroom, where a clinical team working with the judge checks on progress and adherence to treatment. The court can send the individuals to jail if they don’t comply with a treatment regimen.

Advocates of such courts say evaluations show graduates are less likely to commit new crimes. In a frequently cited evaluation of four mental health courts in California, Minneapolis and Indianapolis, 49 percent of participants were re-arrested after 18 months, compared with 58 percent of mentally ill defendants in the conventional court system.<sup>27</sup>



Getty Images/The Denver Post/Craig F. Walker

*Timothy Heckler says goodbye to program administrator Shari Lewinski after being released from the Court to Community program for people with mental illness in Denver, Colo., on July 17, 2014. “I’ve learned a lot. I’m still off the drugs; I’m really grateful for that,” Heckler told Judge Johnny Barajas. One way the criminal justice system is dealing with mentally ill people is to divert them to specialized mental health courts that allow them to enter mandatory court-monitored treatment programs instead of going to jail.*

At first blush, seeing almost half of a program’s participants re-arrested may not sound like a resounding success. But evaluation co-author Allison Redlich, an associate professor of criminal justice at the State University of New York, Albany, says, “This population has earned the name ‘frequent fliers,’ ” for the frequency of their arrests, “so any kind of reduction can be a success.” Nevertheless, she adds, “mental health courts don’t work for everybody. Trying to figure out how and for whom they work is where we should be focusing our efforts.”

A new research finding — that less than 20 percent of crimes committed by mentally ill defendants can be directly traced to their illness — might explain the high re-arrest rates.<sup>28</sup>

Jennifer Skeem, co-author of this research and a professor in the School of Social Welfare at the University of California, Berkeley, says mentally ill people often commit crimes for the same reasons as others — hanging out with the wrong crowd, using drugs or

not thinking or caring about the consequences of their actions beyond immediate gratification.

The premise of most jail diversion programs — that treating mental illness will stop people from committing crime — is too “simplistic,” she says.

“We shouldn’t stop investing in specialty programs for that population,” says Skeem. But, she cautions, “the emphasis of those programs needs to be broadened” beyond psychiatric treatment, “and we need to pay attention to other risk factors that could relate even more strongly to their involvement in the criminal justice system.”

For example, she says a form of cognitive behavioral group therapy that aims to change criminal thinking patterns — such as justifying irresponsible behavior to oneself — in all kinds of offenders, not just the mentally ill, has been shown to reduce subsequent violent acts.

When it comes to reducing crime nationally, mental health courts get

“mixed reviews,” depending on the courtroom, says Nicole Waters, principal court consultant at the National Center for State Courts, an independent court improvement organization based in Williamsburg, Va. “A court might be very effective in one state and not another, and we don’t know why,” she says.

Research shows it is important to have a probation officer or judge with a “firm but caring relationship” with the person being supervised, Skeem says. That could explain why success varies so widely from court to court. “You might have a judge who realizes that unless this defendant stops hanging out with their drug-using cousin, all the medication compliance in the world won’t make the difference in preventing re-arrests,” she says.

Some civil liberties groups and defense lawyers complain that court-supervised treatment often lasts much longer than the conventional sentence a defendant would have received for a misdemeanor — such as probation, a fine or a few weeks in jail.

Steadman, who advises local governments on such programs, agrees that mandated treatment tends to last much longer than the 60 to 90 days typical for a misdemeanor sentence. But, he says, “These are not quick fixes. The people getting into these specialty courts have got longer-term behavioral health problems that take long-term treatment. You don’t give them an injection and they’re better.”

“Most mental health courts are targeted on misdemeanants, many of whom would never be involved with the criminal justice system but for mental health courts,” asserts Ira Burnim, legal director of the Bazelon Center for Mental Health Law, a legal advocacy group for the rights of the mentally ill based in Washington.

He describes a Florida mental health court where “they dragged in one guy for drinking coffee on the street and loitering. This was just a homeless guy

they were trying to bring in for some services.”

Waters agrees that such so-called “net-widening” is a risk for courts that only take misdemeanors. But increasingly mental health courts are accepting felony cases as well, where the defendant is more likely to face a substantial prison sentence, she notes.

Upon hearing the word felony, “the public has the perception these are mass murders, but those are not the types of cases” these courts take, says Waters.

In Miami-Dade County, for example, the majority of felony cases handled by the mental health diversion court are drug possession charges and assaults connected with resisting arrest, which can include even slight physical contact with the officer. In addition, Waters says, the prosecutor has a lot of discretion over which cases to bring: “He can say ‘no’ to murders, sex offenses, gang affiliations.”

Nevertheless, Waters says, prosecutors often fear that a mental health court could release people into the community without adequate supervision, and that they may commit another crime. However, a new study suggests that accepting felony defendants actually improves public safety by reducing the risk of future violence. In a one-year follow-up, felony defendants who went through the San Francisco Mental Health Court were found to be far less likely to have committed violent acts than those from other courts.<sup>29</sup>

The study is consistent with other research that presents a seemingly paradoxical finding: Programs targeting high-risk offenders produce a better payoff in reduced recidivism than those aimed at low-level offenders, who are more likely to get re-arrested for petty offenses.<sup>30</sup> At New York City’s Nathaniel Project, which treats court-referred felony defendants, only 3 to 4 percent of graduates are re-arrested for a violent crime two years later, according to project co-founder Ann-Marie Louison.

Violent felonies now comprise more than 40 percent of the caseload at the Brooklyn Mental Health Court, although the court won’t take defendants charged with murder or rape. Judge Matthew J. D’Emic, who presides over the court, says the decision to accept violent felonies was based on some early cases in which the crime seemed directly linked to the person’s mental illness.

As for releasing dangerous defendants into the community, D’Emic admits, “I’m worried about it every day.” But because he receives daily reports on defendants, he says he is alerted right away if someone has violated his or her agreement by dropping out of a treatment program. He can then order that person’s arrest.

### ***Does solitary confinement induce mental illness?***

Kalief Browder was a sociable 16-year-old living in New York when he was falsely accused of stealing a backpack and sent to Rikers Island, the city’s huge jail. Browder would spend three years at Rikers awaiting a trial — two in solitary confinement, typically for repeated scuffles with other inmates. After Browder refused numerous offers to plead guilty to a lesser charge, saying he wanted to prove his innocence at trial, prosecutors finally dismissed the case, saying the man who had accused Browder of stealing the backpack had gone back to Mexico and disappeared. Six months after Browder returned home he made two suicide attempts — first by attempting to slit his wrists, second by trying to hang himself.

Browder had frequent flashbacks to the “Bing,” as solitary is called at Rikers. Like many inmates who have endured solitary, he no longer felt comfortable around other people, describing himself as having become paranoid, quiet and “distant.” He told *The New Yorker*, “I feel like I was robbed of my happiness.”<sup>31</sup>

In recent years, stories like Browder’s and reports by advocacy groups have



called attention to the psychologically damaging effects of solitary confinement, especially on young people.

People in solitary are more likely to commit suicide or deliberately harm themselves than the general prison population.<sup>32</sup> And mentally ill inmates are more likely to land in solitary than other prisoners, according to several studies.<sup>33</sup>

Researchers and psychiatrists agree that solitary confinement can be particularly damaging for the mentally ill. The American Psychiatric Association says prolonged solitary “should be avoided” for those with serious mental illness.<sup>34</sup>

However, psychiatrists and psychologists have long debated whether solitary induces mental illness in people without a mental disorder. In research first published in the 1980s, Harvard Medical School psychiatrist Stuart Grassian examined prisoners being held in solitary confinement and concluded that isolation units tend to induce psychosis. Even inmates who did not become obviously psychotic reported psychosis-like symptoms, including hallucinations and violent outbursts.<sup>35</sup>

Three years after California opened its high-security prison at Pelican Bay, the University of California’s Haney interviewed a representative sample of 100 inmates in solitary as an expert consultant to a prisoner lawsuit challenging the unit’s constitutionality. Haney found some form of serious psychological or emotional disturbances in nearly every prisoner he interviewed. More than 90 percent reported problems with anxiety; 70 percent felt they were on the verge of an “impending breakdown;” more than 40 percent had hallucinations; and 27 percent had suicidal thoughts. More than three-quarters exhibited social withdrawal, and an almost equal number suffered chronic withdrawal, Haney said in an e-mail to *CQ Researcher*.<sup>36</sup>

Terry Kupers, a psychiatrist at the Wright Institute in Berkeley, Calif., an

educational institution for psychologists, has visited many prisoners in solitary confinement as an expert witness. “It is very clear from the research . . . that for just about all prisoners, being held in isolated confinement for longer than three months causes lasting emotional damage, if not full-blown psychosis and functional disability,” he writes.<sup>37</sup>

Typically, upon release from solitary, he says, “the first thing most do is shut themselves in a room . . . as if reproducing the conditions of solitary confinement they’ve become habituated to; they won’t go places, can’t hold a job and won’t talk to others.”

exists is people locked down in cells who communicate with other people because there may be anywhere from 15 to 20 cells adjacent.”

Some inmates say they feel safer in solitary confinement because they have made enemies in the prison yard, notes Joel Dvoskin, a mental health consultant to states, who served on a controversial Colorado prison study of solitary that found no adverse effects. “We don’t think it helped mental functioning, but there was no evidence of systematic deterioration,” he says.<sup>38</sup>

But the relatively positive results, Dvoskin says, may have occurred because conditions in Colorado may have



AP Photo/Michael Rubinkam

*Matt Dougherty, a police officer in Lower Merion, Pa., center, undergoes training designed to help police recognize and respond to people suffering from serious mental illness. The trainers, intervention specialist Michelle Monzo and officer Joe Smith, whisper to Dougherty to help him empathize with a mentally ill person who hears voices.*

However, Jeffrey L. Metzner, a clinical professor of psychiatry at the University of Colorado, disagrees. “With a few exceptions, long-term segregation,” as solitary is often called, “does not cause someone to develop a mental illness. It certainly causes people to feel distressed . . . anxious and depressed and irritable.” But, says Metzner, “it doesn’t make you psychotic.”

Metzner adds, “In the movies you’re placed in a cell with no communication with anyone. That doesn’t exist. What

been better than in other prisons. Many inmates had TVs in their cells, and the corrections officers treated prisoners respectfully. “If the officers are rude, it makes a difference,” says Dvoskin.

Critics argued that the results in Colorado could not be generalized to other states. “I agree: All it tells us is that in that study that’s what they found,” says Dvoskin, adding that the study should be replicated in other states.

Some critics of research by Grassian and Haney say their studies were not

well designed because it was unclear how many of the prisoners already had psychiatric symptoms before entering prison. Nor was there a comparison group of prisoners who had not experienced solitary, they said.<sup>39</sup>

However, Haney disputes these criticisms. "I've seen a number of cases in which people with no pre-existing mental illness and no record of family history developed serious forms of psychosis that persisted, even after they were released from prison," he says. "I have absolutely no doubt it can occur. I'd not suggest isolation makes everyone mentally ill, but I've seen it happen."

Corrections officials say solitary confinement is an essential tool for protecting inmates and controlling misbehavior. "Where do you put someone who is hallucinating? If you leave him in general housing, everyone's safety is in jeopardy," says Thomas J. Fagan, a former administrator with the Federal Bureau of Prisons who is now director of the Division of Social and Behavioral Sciences at Nova Southeastern University in Fort Lauderdale, Fla.

"If you take that option away, . . . the other options are going to be costly," Fagan says, because it generally means creating a new, secure mental health facility with more psychiatric staff.

CUNY's Jacobson says surveys indicate that inmates knifing fellow prisoners or committing other types of violence represent a very small percentage of those who end up in solitary. Mainly, he says, "It's prisoners not listening to an order" or possessing a pornographic magazine — infractions for which inmates can go to solitary for weeks, or even months, he says.

Much like with a naughty child, the appropriate answer to misbehavior by a prisoner is a brief timeout in solitary, he asserts. "Whatever benefits come from cooling people off, you can probably get in a week or two." ■

## BACKGROUND

### From Jails to Bedlams

With more mentally ill people now housed in prisons and jails than hospitals, many observers have noted a cruel paradox: The United States seems to be returning to 19th-century conditions decried by social reformers at the time.<sup>40</sup>

In the early 1800s, reformers discovered that many mentally ill people were being housed and abused in jails or poorhouses. A Massachusetts preacher, the Rev. Louis Dwight, was delivering Bibles to a Boston jail when he came upon a psychotic inmate imprisoned for nine years despite breaking no laws. The prisoner was dressed in rags, Dwight wrote, and his only bed was "a heap of filthy straw."<sup>41</sup>

Dwight's revelations spurred an investigation by the Massachusetts Legislature and the opening of the first State Lunatic Asylum in 1833, in Worcester. When the hospital opened, more than half of the patients came from jails, prisons and almshouses.<sup>42</sup>

A decade after Dwight's original findings, Dorothea Dix, a Massachusetts teacher, was horrified at finding "insane" prisoners in miserable conditions in unheated jail cells in 1841. She began a campaign, traveling from state to state, urging the humane treatment of the mentally ill in asylums instead of prisons. Her advocacy led to the opening of 32 state psychiatric hospitals in 18 states.<sup>43</sup>

By 1900, every state had a mental institution.<sup>44</sup>

By the mid-20th century, however, state mental hospitals had become the target of exposés. Conscientious objectors, appalled at the conditions they found while working as attendants in such institutions in 20 states during

World War II, turned to the press and testified in Congress about the abusive treatment.

The exposés began a reform movement that became the early impetus for a push toward deinstitutionalization — the movement to shift mentally ill patients from hospitals to outpatient treatment in community mental health clinics.

The movement was aided by the development of anti-psychotic drugs, the first of which — Thorazine — was introduced in 1954. The drug set off a pharmacological revolution in the treatment of schizophrenia. The discovery of additional psychotropic drugs created a sense of optimism that the seriously mentally ill could live independently in their own neighborhoods.

Deinstitutionalization was also the result of stronger due process protections against involuntary commitment to mental hospitals, the growing influence of psychiatrists who thought the mentally ill could be cared for outside of institutions and the enactment of Medicaid in 1965, according to the Vera Institute of Justice. Medicaid would not reimburse state mental hospitals for care, leading many state institutions to release droves of patients to nursing homes, general hospitals or the street, where they could obtain Medicaid coverage.

In 1963, President Kennedy proposed a series of federally funded community mental health centers that would function as an alternative to psychiatric hospitals, signing into law the Mental Retardation and Community Mental Health Centers Construction Act. It authorized Congress to provide up to \$3 billion in grants to states to establish community mental health centers.<sup>45</sup>

However, the federal government never followed through with adequate funds, and by 1980 only 754 of the 2,000 planned centers had been built.<sup>46</sup>

*Continued on p. 252*

# Chronology

## 1830s-1950s

*Wretched prison conditions for the “insane” lead to creation of asylums as humane alternatives.*

**1833**

Massachusetts lunatic asylum opens.

**1841**

Prison reformer Dorothea Dix begins campaign to place the mentally ill in asylums — hospitals — not jails.

**1900**

Asylums exist in every state.

**1940s**

Conscientious war objectors expose abuses they see while working at asylums, helping set the stage for deinstitutionalization.

**1954**

Thorazine, a schizophrenia drug, is marketed in U.S., spurring pharmaceutical revolution and crusade for community treatment.

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## 1960s-1970s

*Deinstitutionalization movement empties state mental hospitals, while psychotropic drugs revolutionize care.*

**1963**

Under President John F. Kennedy's prodding, Congress authorizes up to \$3 billion in state grants for community mental health centers.

**1971**

President Richard Nixon declares a “war on drugs.”

**1973**

New York state's “Rockefeller drug laws” start a national trend for mandatory sentences for drug possession.

**1980s** *Homelessness among the mentally ill rises. . . . States begin building “supermax” prisons.*

**1980**

Fewer than 800 community mental health centers exist instead of the 2,000 expected.

**1988**

After a police officer kills a mentally ill man, Memphis, Tenn., pioneers training for police to recognize psychiatric symptoms.

**1989**

California builds Pelican Bay supermax prison to hold some inmates in solitary 23 hours a day.

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**1990s** *Courts rule solitary confinement for the mentally ill is “cruel and unusual punishment.” . . . First mental health courts are founded.*

**1993**

In *Casey v. Lewis*, federal court finds it unconstitutional for Arizona to place seriously mentally ill prisoners in solitary confinement.

**1995**

In *Madrid v. Gomez*, federal judge declares holding those with mental illnesses in solitary at California's Pelican Bay prison is unconstitutional.

**1997**

Broward County, Fla., opens first mental health court.

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**2000s-Present** *Mental health courts grow rapid-*

*ly, accept more serious crimes; bipartisan support grows for federal legislation to offer treatment and rehabilitation to prisoners.*

**2004**

Congress passes the Mentally Ill Offender Treatment and Crime Reduction Act to help state and local governments improve responses to the mentally ill in the criminal justice system.

**2008**

President George W. Bush signs the Second Chance Act, authorizing grants to states to help prisoners re-enter society.

**2011**

U.N. expert declares putting mentally ill and young people in solitary confinement is “torture.” . . . New York state prohibits long-term solitary confinement of people with serious mental illness.

**2014**

Colorado becomes second state to bar long-term solitary confinement for mentally ill. . . . New York state activists charge that hundreds of mentally ill people remain in solitary. . . . New York City mayoral task force announces \$130 million plan to divert the mentally ill from the justice system and treat them.

**2015**

Massachusetts becomes third state to limit solitary confinement for the mentally ill. . . . To improve funding for treatment, President Obama proposes increasing grants to states and local governments. . . . Montana, New Mexico, New Jersey consider bills to limit solitary confinement for inmates who are mentally ill. . . . At least 300 mental health courts are in existence; study finds they reduce violence among felony defendants.



# Innovative Program Diverts Mentally Ill From Jail to Treatment

*“We’re the biggest crime prevention program in town.”*

Justin Volpe had stopped taking his medications for psychosis and was addicted to drugs when he heard voices telling him to steal from a co-worker. The 23-year-old was arrested for theft in 2007 and landed in a Miami jail for a month and a half awaiting trial.

But instead of a trial and a sentence, Volpe was offered an eight-month court-mandated course of drug treatment and psychiatric counseling, part of a mental health jail diversion program run by Miami-Dade County and the 11th Judicial Circuit of Florida.<sup>1</sup>

Today, Volpe, 31, says the program helped him turn his life around. Were it not for the jail diversion program, “I would have continued the vicious cycle of drugs and incarceration,” says Volpe, who sports a neatly trimmed beard and a ready smile. “If I were still alive, my quality of life would be nowhere near what it is today.”

Now the married father of a 4-year-old, Volpe is a full-time employee for the Miami-Dade County courts. As a certified peer specialist, he helps mentally ill defendants on their road to recovery, taking them out for coffee and offering support to help them make it through their mandated treatment.

Although the mental health diversion program operates out of a court, it has some notable differences from a typical mental health court. Defendants who enter the program are not required to plead guilty, as in some courts, and if they successfully complete the program their charges are dismissed so they don’t acquire a criminal record.

Recidivism rates — arrests for new offenses — have dropped from 70 percent before the program began in 2000 to about 20 percent for those who finish the program, according to Tim Coffey, coordinator of the court’s diversion program. The program also works closely with local and county police who have been trained in crisis intervention, or how to de-escalate conflicts involving mentally ill people. In 2013, out of 10,626 mental health crisis calls answered by police, only nine arrests were made, according to Coffey.

The program has had strong support from public defenders and prosecutors. “We want to stop people from committing crimes,” says Jennie Conklin, an assistant state attorney. “You can only lock people up for so long. We can keep arresting them for misdemeanor after misdemeanor or try to get them treatment to reduce recidivism. . . . Just putting them in jail and saying, ‘Good luck and we hope you take your meds’ won’t work.”

With the cooperation of prosecutors, the program recently has begun accepting people who have committed low-level felonies, mostly for drug possession and assault related to a physical struggle while resisting arrest, according to Coffey. Recidivism rates for felony offenders who complete the program are just 6 percent.<sup>2</sup>

The program’s secret ingredient, many experts say, is the judge who founded it in 2000 and has spearheaded many of its innovations, Judge Steve Leifman, associate administrative judge in the Miami-Dade County Court Criminal Division. Leifman says he became convinced the program was needed because he was appalled at how badly mentally ill people were being treated by the criminal justice system.

“There is so much stigma with mental illness that most judges have no clue,” he says, that people can recover from it with appropriate treatment, just like any physical illness. Leifman also works with a national program to train judges to recognize psychiatric symptoms and address mentally ill defendants respectfully. “When I talk to people with mental illnesses, it is striking how abused they are by the mental health system and the criminal justice system,” he says. “How you address them in court makes all the difference in the outcome: If they’re motivated, and you’re offering them help, they’re mostly going to do it.”

Citing the diversion program’s record in reducing re-arrests, he declares, “We’re the biggest crime prevention program in town.”

Yet, it’s difficult to find hospital beds or other aid needed by the people in the program, such as housing, employment and job training.

*Continued from p. 250*

## **Mandatory Sentencing**

At the same time that the population of state mental hospitals was dropping, the number of people entering the nation’s prisons and jails was increasing.

Drastic cuts in the social safety net in the 1980s contributed to rising homelessness and to increasing numbers of

mentally ill people on the streets. Growth in prison and jail populations closely mirrored the rate at which state psychiatric institutions were emptying.<sup>47</sup>

One factor during the 1980s was the rise in the prosecution of drug crimes, beginning with President Richard M. Nixon’s declared war on drugs in 1971. Another was the growing popularity of mandatory sentences, starting with the so-called Rockefeller drug laws adopted in New York state

in 1973, which included mandatory sentences for drug possession.

During the 1970s, crime experts began to question the effectiveness of rehabilitation for convicted criminals, a changing view that would cause prisons to turn away from rehabilitation programs and politicians to support harsher sentencing.

Beginning in the 1980s and continuing into the ’90s, more states passed laws mandating long sentences and

With 9 percent of the county's population suffering from serious mental illness — the highest rate of any urban center in the country — fewer than 13 percent receive care in the public mental health system, according to the project's website.<sup>3</sup>

Many mental health clinics “don't want to deal with a homeless guy with mental illness,” Leifman says. “They haven't bathed; they're difficult. The treatment providers don't get paid enough” to give this population the level of service they need. But he adds, “It's not just about putting them on the right medications; it's about giving them a life where they want to get back up and help themselves again.”

Leifman has become so frustrated with the lack of a facility offering appropriate treatment to mentally ill offenders that he decided to create one. He is leading county efforts to convert an abandoned state mental hospital into a comprehensive center for mentally ill offenders. Plans call for 168 beds available for up to 90 days of residential treatment, providing a seamless transition from the courtroom to services — all under one roof.

On a recent tour of the building, Leifman showed off the large institutional kitchen he plans to turn into a culinary job-training program, an area that will be used as a crisis center where police can bring mentally ill people to be evaluated and offices where case managers can help link people up with benefits.

With the help of a \$1-a-year lease arrangement with the state and passage of a \$22 million bond issue, he hopes the new facility will open within two years. Leifman also has his eye on a neighboring property he would like to see converted into low-cost housing for those coming through the program.

Historically, the nation has gone from warehousing the mentally ill in state mental hospitals with scant treatment to today's conventional court system, where “we're kicking them all to the street, which is equally horrible,” observes Leifman. With the new facility, he says, mentally ill people “will come



CQ Researcher/Sarah Glazer

*Justin Volpe was arrested in Miami after he heard voices telling him to steal. But instead of a jail sentence, he received drug treatment and counseling, helping him turn his life around.*

here and we'll gently reintegrate them back into the community. This will be the crowning jewel; we'll make sure they get everything they need.”

— Sarah Glazer

<sup>1</sup> The official name of the program is the Eleventh Judicial Criminal Mental Health Project.

<sup>2</sup> “Eleventh Judicial Criminal Mental Health Project — Program Summary,” <http://tinyurl.com/qg4efnk>.

<sup>3</sup> The high rate is thought to be the result of a combination of homeless people attracted by South Florida's warm climate and the legacy of the 1980 Mariel boatlift, when Cuban President Fidel Castro allowed more than 125,000 people to emigrate to the United States, some of whom were from Cuba's mental wards and prisons. See Pete Earley, *Crazy* (2006). Also see Eleventh Judicial Circuit of Florida, Criminal Mental Health Project website, <http://tinyurl.com/qdkjb4d>.

minimums for certain crimes as well as “three strikes” laws, which imposed a lengthy mandatory sentence for an offender's third conviction.

Between 1970 and 2005, the nation's prison population exploded by 700 percent and continued rising to a peak of 1.6 million in 2009. The increase in incarceration involving drug arrests accounted for about two-thirds of the increase in the federal prison population and one-half of the

increase in state prisons between 1985 and 2000.<sup>48</sup>

The 1980s also saw the beginning of a state trend to build so-called supermax prisons, designed to confine the worst of the worst prisoners in solitary confinement. In 1989, California opened the Pelican Bay prison with a Security Housing Unit (SHU) designed to hold prisoners in solitary for 23 hours a day.

In 1995, a federal judge prohibited confinement of mentally ill prisoners

at the SHU and concluded that conditions were close to intolerable even for the mentally healthy.<sup>49</sup>

Among the cases of abuse was that of an inmate who refused to return a food tray in protest against an officer who called him derogatory names. He was beaten unconscious until a piece of his scalp had been peeled back.<sup>50</sup>

In his decision, U.S. District Judge Thelton E. Henderson ruled that prison officials “cross the constitutional line

## States Revamping ‘Solitary’ for the Mentally Ill

*“It was a culture change in the beginning.”*

After 25 years spent mostly locked alone in his cell, a Pennsylvania prisoner identified only as “BB” developed schizophrenia and had difficulty speaking in complete sentences — a condition “principally attributable to his experiences in solitary confinement,” according to a 2014 Justice Department report.<sup>1</sup>

But, prompted by a lawsuit filed in March 2013 by the Disability Rights Network of Pennsylvania, the Pennsylvania Department of Corrections is taking steps to drastically curtail solitary confinement for inmates with serious mental illness.

Under a settlement announced Jan. 6, those who have demonstrated “problematic” behavior, such as posing a danger to inmates or staff, must be sent to specialized but still secure treatment units, where they will be allowed at least 20 hours weekly outside of their cell and receive individualized mental health treatment.<sup>2</sup>

The settlement specifies that after July 1, 2016, no seriously mentally ill person can be placed in solitary unless “exceptional circumstances” exist, such as lack of bed space, and cannot be held in solitary longer than 30 days.<sup>3</sup>

Pennsylvania’s Department of Corrections says it already has moved hundreds of mentally ill inmates out of solitary and placed potentially dangerous inmates in the newly designed secure treatment units specified in the settlement.

“Even though the cell size and furnishings are similar [to regular solitary prison cells], the experience is very different,” says Robert Marsh, director of the psychology department for the Pennsylvania Department of Corrections. The new units include areas where inmates can congregate and cubicles where they can meet privately with therapists.

“The artwork lets you know this is different,” Marsh says, alluding to inmates’ artwork on themes of recovery adorning the hallways.

The Justice Department initiated its investigation several months after the Disability Rights Network filed its suit and conducted it independently of the advocacy group, says Kelly Darr, legal director of the Disability Rights Network of Pennsylvania. The government investigation “confirmed the allegations” in the advocacy group’s lawsuit and “added pressure” on the Pennsylvania Department of Corrections “to address the issue,” she says.<sup>4</sup>

The Justice Department report, based on a statewide investigation, concluded last year that hundreds of mentally ill prisoners remained in solitary confinement for months and sometimes years in “harsh” conditions in Pennsylvania’s prisons.

“They are routinely confined to their cells for 23 hours a day, denied adequate mental health care, and subjected to punitive behavior modification plans . . . unsettling noise and stench, harassment by correctional officers and the excessive use of full-body restraints,” the Justice Department charged.<sup>5</sup>

John Wetzel, secretary of the Pennsylvania Department of Corrections, said last year that the report relied on information from one or two years earlier and thus did “not reflect the reality” of how the department was operating at the time of the report’s release in February 2014.<sup>6</sup>

In January, the Pennsylvania Department of Corrections said fewer than 150 people with serious mental illness remained in traditional solitary confinement cells, down from nearly 850 previously.<sup>7</sup> More recently, Susan McNaughton, press secretary for the Department of Corrections, said in a March 5 e-mail, “We have no seriously mentally ill inmates who experience solitary confinement.”

The corrections department has also undertaken mental health training for its entire custody staff, Marsh says. As part of the training, correctional officers are given ear buds with a tape

when they force certain subgroups of the prison population, including the mentally ill, to endure the conditions in the SHU, despite knowing that the likely consequence for such inmates is serious injury to their mental health.”<sup>51</sup> Placing mentally ill persons in such conditions is “the mental equivalent of putting an asthmatic in a place with little air to breathe,” he wrote.<sup>52</sup>

In December 1995, Henderson followed up by ordering the removal of 100 severely mentally ill prisoners from the SHU by year’s end.

Nevertheless, Henderson refrained from declaring solitary unconstitutional for prisoners without mental disorders.

Conditions in solitary “may well hover on the edge of what is humanly tolerable for those with normal resilience,” he said. However, he added, its use for the general population does not violate the Eighth Amendment’s ban on “cruel and unusual punishment.”

The Pelican Bay ruling led to a series of lawsuits by the American Civil Liberties Union (ACLU) and other advocacy groups on behalf of prisoners confined in solitary in Arizona, Indiana, New Mexico, New York, South Carolina, Texas and Wisconsin. That litigation has led to settlements or court orders prohibiting confinement of mentally

ill prisoners in solitary, albeit only for those prison systems named in the suits.

The ACLU also has waged a campaign outside the courtroom to “stop solitary,” likening isolation to “torture” — advocating the adoption of state laws to limit solitary.<sup>53</sup> That effort is a recognition, says the ACLU’s Amy Fetting, senior staff counsel for its National Prison Project who directs the Stop Solitary campaign, of the difficulty of achieving change merely by filing suits and enforcing settlements. “Not even the ACLU can sue every state and every single facility that engages in this practice,” she says.



that simulates the schizophrenic experience of “hearing voices.” Officers listening to the tape have to cope with a demanding situation — such as repeating numbers backwards. “It’s an eye-opener as to how stressful mental illness can be,” Marsh says.

Eldon Vail, secretary of the Washington state Department of Corrections from 2008 to 2011, pioneered the alternative approach of providing secure treatment units as deputy secretary from 1999 to 2006. “Some of those guys are dangerous to themselves or others so you’ve got to have them in a more restricted environment,” he says, but it should be a specialized unit where “mental health staff have significant authority over how it’s operated.”

Retraining prison guards is crucial, according to Vail. “The orientation for corrections officers for the last 30 or 40 years has been around this notion ‘Games Prisoners Play’: You’re taught that every interaction is a potential effort by the inmate to manipulate you, so you start to look with great suspicion at the folks you’re responsible for supervising,” he says.

Prisoner BB, who was exhibiting bizarre speech and responding to hallucinations, improved dramatically after he was admitted twice to an offsite inpatient unit, according to the Justice Department. Instead of recognizing this improvement as confirmation that solitary confinement was harming the inmate’s mental functioning, Pennsylvania corrections officials viewed it as evidence he had “malingered” or had “faked” his mental illness while in solitary, the Justice Department reported.<sup>8</sup>

Asked if there was a trend of corrections staff accusing inmates of faking mental illness, Marsh says, “It’s very difficult to make that conclusion,” adding that “Mental illness can wax and wane.”

— Sarah Glazer



CQ Researcher/Sarah Glazer

*Recovery-themed artwork by mentally ill inmates now adorns the new units Pennsylvania established for state prisoners moved out of solitary confinement in response to a lawsuit.*

<sup>1</sup> Department of Justice, letter from Acting Assistant Attorney General Jocelyn Samuels to Gov. Tom Corbett, Feb. 24, 2014, p. 12, <http://tinyurl.com/p4ayyja>.

See also Elizabeth Daley, “Pennsylvania Agrees to Keep Mentally Ill Inmates out of Solitary,” Reuters, Jan. 6, 2015, <http://tinyurl.com/k4oyz9a>.

<sup>2</sup> “Pennsylvania Department of Corrections Settles Lawsuit with the Disability Rights Network of Pennsylvania,” news release, Pennsylvania Department of Corrections Jan. 6, 2015, <http://tinyurl.com/pgt9ktm>.

<sup>3</sup> *Disability Rights Network of Pennsylvania v. John Wetzel*, U.S. District Court for the Middle District of Pennsylvania, case number 1:13-cv-00635, p. 12, <http://tinyurl.com/pn56aop>.

<sup>4</sup> The Justice Department initiated its statewide investigation in May 2013. See Department of Justice, *op. cit.*

<sup>5</sup> Department of Justice, *ibid.*

<sup>6</sup> Mark Berman, “The Pennsylvania Prison System Will Stop Putting Mentally Ill Inmates in Solitary,” *The Washington Post*, Jan. 8, 2015, <http://tinyurl.com/p7zclx>.

<sup>7</sup> News release, *op. cit.*

<sup>8</sup> Department of Justice, *op. cit.*

## Mental Health Courts

In recent years, the second generation of mental health courts has changed the way the specialty courts do business, partly in response to some of the criticisms from civil liberties groups about how they operate. For example, some advocates for the civil rights of the mentally ill object that courts often require a defendant to enter a guilty plea before entering the program, saddling the person with a criminal record that can bar him or her from public housing or make it difficult to get a job.

According to Waters of the National Center for State Courts, at least 43 percent of the nation’s mental health courts now allow the defendant to enter the program without pleading guilty.

A tragedy in Memphis, Tenn., in 1988 — a police officer’s shooting of a mentally ill man — spurred another type of alternative to incarceration. Memphis pioneered a 40-hour training program for officers on how to recognize signs of mental illness and de-escalate a combative situation with a mentally ill person and provided a drop-off center where an officer could take a person exhibiting psy-

chiatric symptoms for evaluation and treatment.<sup>54</sup>

The approach, known as Crisis Intervention Team (CIT) training, has spread rapidly, with 2,500 programs offered in cities and counties throughout the United States, according to Michele Saunders, vice president of CIT International, a Memphis-based membership organization that provides information to localities on how to start a CIT program. In addition, some jails and prisons have started CIT training to help corrections officers deal with mentally ill inmates more empathetically and to identify when they have a mental disorder, Saunders says. ■

# CURRENT SITUATION

### State Action

Montana, New Jersey and New Mexico are considering legislation to protect mentally ill prisoners from long-term solitary confinement, joining New York, Colorado and Massachusetts, which already have such laws, according to the ACLU's Fettig.<sup>55</sup>

However, advocates for the New York law, known as the "SHU Exclusion Law," which took effect in 2011, say

"They are not receiving any out-of-cell therapy and are still being harmed," he says. "We think the 'serious mental illness' line is not working as well as we would like. People with mental illness [of any kind] shouldn't be in there."

To address this gap, his organization and prisoner advocacy groups are supporting a bill introduced in the New York Legislature to prohibit solitary confinement for inmates with any mental illness.<sup>57</sup>

Legislation in several states, supported by a coalition of religious and civil liberties groups, would prohibit prolonged disciplinary confinement for all prisoners. New Mexico, New Jersey and New York are considering a 15-day limit, while a bill in Montana would

"The use of restrictive housing is a necessary tool . . . to ensure a safe environment for staff as well as inmates," the department testified.<sup>60</sup>

Court decisions in six states have decreed that holding prisoners with serious mental illness in solitary is unconstitutional under the Eighth Amendment. Several other states, including Pennsylvania, are making changes in response to lawsuit settlements.

In an interim agreement reached last year growing out of litigation filed by the ACLU, New York state agreed to ban solitary confinement for 16- and 17-year olds and restrict it to 30 days for people with developmental disabilities, such as traumatic brain injury or an extremely low IQ.

A final settlement could lead to even more sweeping restrictions. The ACLU has agreed to suspend its litigation until February 2016 while an expert for each side monitors the system and recommends new guidelines for solitary confinement.

**Court decisions in six states have decreed that holding prisoners with serious mental illness in solitary is unconstitutional under the Eighth Amendment.**

### Local Action

After a schizophrenic man died last year in an overheated cell at Rikers Island, New York City announced what some experts call the most extensive program of any city aimed at the mentally ill in the criminal justice system.<sup>61</sup>

"The best way to deliver services in jails is to make sure people don't get into jail," says Trish Marsik, executive director of Mayor Bill de Blasio's Task Force on Behavioral Health and the Criminal Justice System, which came up with the \$130 million plan last December.

The sweeping program aims to connect mentally ill people with services at every point where they might have contact with the criminal justice system. Starting with drop-off centers, where police can bring mentally ill people for treatment and evaluation rather than jail, the plan would also make sure inmates get treatment upon their release.<sup>62</sup>

*Continued on p. 258*

they are disappointed with the results. While approximately 200 inmates have been moved from solitary into special mental health units, hundreds of others remain in isolation because of questions over their diagnosis. The law's prohibition applies only to those with "serious mental illness," including schizophrenia, bipolar disorder and major depressive disorder.<sup>56</sup>

About 700 prisoners in solitary "don't meet this magic line" of serious mental illness, but have been diagnosed with some other more minor form of mental illness, and some may be in solitary because of misdiagnosis, according to Jack Beck, director of the Prison Visiting Project of the Correctional Association of New York, a nonprofit that inspects prisons and reports to the state Legislature.

place a 14-day limit for the seriously mentally ill and those under 18.<sup>58</sup>

In support of their efforts, reformers have been citing a 2011 report by the U.N. special rapporteur on torture. It declared that solitary confinement can amount to "torture" for juveniles and for the mentally ill and should be prohibited for both groups, as well as barred for anyone else beyond 15 days.<sup>59</sup>

A bill introduced by Democratic New Jersey State Sen. Raymond J. Lesniak would prohibit solitary confinement for inmates with mental illness and those 21 and under and would limit it to 15 days for others. However, unions representing corrections officers and the New Jersey Department of Corrections oppose the bill, with the latter warning it would be "financially prohibitive." (See *At Issue*, p. 257.)

# At Issue:

## *Should prolonged solitary confinement be banned?*



**STATE SEN. RAYMOND J. LESNIAK, D-N.J.**

WRITTEN FOR *CQ RESEARCHER*, MARCH 2015

**t**he United States leads the world in the percentage of its population in prison. Antiquated and counterproductive corrections policies, which often make inmates more likely to commit crimes than when they entered prison, contribute to that high percentage. That's hardly the goal of rehabilitation, which should be in the forefront of corrections policy. Extensive use and misuse of solitary confinement is a prime example of a counterproductive corrections policy.

The vast majority of people subjected to solitary confinement will one day re-enter society. When they return, do we want men and women haunted by that experience, or do we want people capable of making the greatest contributions they can? The humane choice, the one that promotes public safety in and out of our prisons, is to end solitary confinement in its current form.

What makes solitary confinement so traumatic? It entails locking up people in a small cell for 23 hours per day, depriving them of any meaningful human interaction. This leads to self-mutilation, revenge fantasies, rage and irrational anger, heart palpitations, hallucinations and violent nightmares.

Solitary confinement endures despite sound alternatives. And its drawbacks far outweigh its very few perceived benefits.

U.S. courts and international human rights bodies have correctly recognized prolonged isolation as torture, especially among vulnerable populations such as children and prisoners with mental illnesses. The legislation I proposed in New Jersey would eliminate solitary confinement for these groups. A federal judge described solitary confinement for mentally ill individuals as equivalent to "putting an asthmatic in a place with little air to breathe." The developing brains of young people are particularly susceptible to the harms associated with solitary confinement.

Beyond the mental and emotional anguish of the people directly subjected to it, solitary confinement poses dangers to the corrections community, as well as the broader society. The states that have dramatically reduced its use have all seen incredible results. When Maine reduced its reliance on solitary, it saw reductions in inmate violence, use of force and self-mutilation, which went from a weekly occurrence to one almost nonexistent. Mississippi has had even more dramatic results, ultimately leading to the closure of its solitary unit, saving the state millions.

Limiting solitary confinement, as proposed in my legislation, will reduce repeat offenses, provide better safety for correction workers and save taxpayer dollars. It's worked in Maine and Mississippi. It can also work in New Jersey.



**MICHAEL POWERS**

**PRESIDENT, NEW YORK STATE CORRECTIONAL OFFICERS & POLICE BENEVOLENT ASSOCIATION**

WRITTEN FOR *CQ RESEARCHER*, MARCH 2015

**t**hose who spend every day working in our prison system — protecting the safety and security of inmates and fellow staff members — understand that solitary confinement cannot be completely eliminated. Opponents of this widely accepted practice tend to be agenda-driven advocacy organizations that demonstrate their lack of experience by relying on Hollywood myths, not real-life situations, to make their case.

Disciplinary separation for inmates of any age is a proven strategy for restoring stability and safety to the often dangerous correctional environment. Implemented thoughtfully, it's a critical tool in today's prisons.

The only inmates put in disciplinary confinement in the special housing unit — known as "solitary" — are those needing to be there for the protection of the staff, other inmates or sometimes even the inmate himself. Solitary is the only mechanism for removing a violent inmate from the general population.

And make no mistake — some need to be removed. In the real world, inmates continue to perpetrate violence after they've lost their freedom and are living behind prison walls.

For example, an inmate serving 15 to 45 years for manslaughter, burglary and attempted arson recently beat a correction sergeant so badly that he was hospitalized with two broken ribs and a punctured lung. An inmate doing 15-to-life for murder and robbery seriously injured two officers who tried to break up a fight he was having with other inmates.

After these incidents, and the subsequent legal hearing process, these inmates were removed from the general population so they could not perpetrate more violence.

In solitary, inmates are closely monitored through constant rounds made by correction officers and other staff. They are allowed reading and legal materials, and they get to exercise.

Keeping those determined to harm others apart from less violent inmates is an important strategy in medium-security facilities, where inmates live in dorms with dozens of other inmates. Violent disruptions also prevent orderly inmates from taking part in the educational and other programs aimed at helping them transition back into society.

Today's disciplinary confinement policies have evolved over decades of experience. While we are always open to identifying new ways to improve public safety and the protection of everyone at our facilities, the smartest and most effective policy changes come from those of us working in the field — not those whose only exposure to the corrections system is "Orange Is The New Black" or Hollywood prison movies.



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An important goal is to identify the mentally ill before they are charged at an arraignment hearing so judges realize that in many cases, “we don’t need to send those people to jail,” says Marsik. “We’ve just been using jail because we don’t know what else to do.”

The plan has so far received favorable reviews from advocates for mentally ill prisoners. But CUNY’s Jacobson notes that “even in a place like New York City, which has more community-based [treatment] capacity than most, there’s not remotely enough capacity to deal with these folks.”

In addition, for people who are mentally ill but pose a threat to other people, “a drop-off center won’t do it for them,” he says. “You may need secure facilities because you can’t deal with them in a 48-hour drop-off center.”

The mistreatment of mentally ill inmates at Rikers Island, revealed by press accounts and a two-and-a-half-year investigation by a U.S. attorney in Manhattan, prompted these and other reforms, including a shakeup of the jail leadership by de Blasio and expanded therapy inside the city’s jails.<sup>63</sup>

However, last month *The New York Times* reported abuse by guards was persisting at Rikers Island. It documented another 62 cases of inmates, some of them mentally ill, who were seriously injured in conflicts with guards in the six months after the U.S. attorney in Manhattan published a report in August describing in graphic detail widespread brutality against inmates.<sup>64</sup>

New York City corrections officers complain that they now have fewer methods to control inmates. After the state eliminated solitary confinement for 16- and 17-year-olds in December, there was a spike in violence among inmates. And in March, more than half of the inmates at Rikers were locked down in their cells for 34 hours to curb rising gang violence. Previously an inmate could be locked in solitary up to 90 days, but now the limit is 30.<sup>65</sup>

“It appears to me that the inmates are being emboldened to think that there is virtual impunity for their actions,” said Sidney Schwartzbaum, president of the union for assistant deputy wardens.<sup>66</sup>

## Congressional Action

When it comes to funding a mental health court or training police to recognize mental illness, some state and local governments have been helped by grants under the federal Justice and Mental Health Collaboration Program.

The program, which aims to improve responses to mentally ill people involved with the criminal justice system, is funded under the 2004 Mentally Ill Offender Treatment and Crime Reduction Act, due to expire this year. Sen. Al Franken, D-Minn., is expected to introduce a bill to reauthorize the program under a new title, the Comprehensive Justice and Mental Health Collaboration Act of 2015.

However, at its current funding level of \$8.5 million, the program funds only about 15 percent of applicants, according to Ron Honberg, director of policy and legal affairs at the National Alliance on Mental Illness. President Obama’s budget would boost funding for this program by 60 percent — to \$14 million in fiscal 2016.<sup>67</sup>

“We’re hoping to increase funding for this,” says Honberg. “We have opportunities for this, because the bigger goal of reducing the number of people who are incarcerated is becoming a bipartisan conversation,” as fiscally conservative lawmakers such as Sen. Rand Paul, R-Ky., have joined with liberals to reduce spending on prisons.<sup>68</sup>

In February a bipartisan group, including such conservatives as Sen. Ted Cruz, R-Texas, backed the Smarter Sentencing Act of 2015, which would cut some mandatory sentences in half and give judges greater discretion in sentencing.<sup>69</sup> The bill was introduced

in the Senate by Mike Lee, R-Utah, and Dick Durbin, D-Ill., and in the House by Rep. Paul Labrador, R-Idaho. In a meeting with 16 members of Congress on Feb. 24, President Obama reportedly threw his support behind the bill, but the legislation is still expected to face opposition from Senate Judiciary Committee Chairman Chuck Grassley, R-Iowa, who condemned a similar bill last year as “lenient” and “dangerous.”<sup>70</sup>

Obama is also seeking more money for two other programs that could help mentally ill people who come in contact with the justice system. He proposes to almost double funding to \$120 million for the Second Chance Act, signed into law by President George W. Bush in 2008. It provides grants to states and nonprofits to develop re-entry programs for released prisoners — such as connecting them to jobs, housing and treatment — with the aim of reducing recidivism. This program has strong bipartisan support.

The Justice Reinvestment Initiative — another program that would get a budgetary boost (from \$27.5 million to \$45 million) — aims to help states reduce their prison populations by investing in recidivism-prevention strategies, such as drug treatment for people on probation and parole.<sup>71</sup>

However, outlays for these programs are tiny when compared with the more than \$4 billion that states have cut in mental health funding in recent years.<sup>72</sup> (See graph, p. 245.)

“The pendulum in funding has swung in the negative territory for a while; a deep hole needs to be filled” in mental health services, says Fred Osher, director of health systems and services policy at the Council of State Government’s Justice Center, which advises states on strategies for reducing prison populations.

One thing that could help, Osher says, is Obama’s Affordable Care Act (ACA). Under the ACA, childless single men are obtaining insurance for the

first time through an expanded Medicaid program. “That’s opening up doors in increased expenditures,” Osher says.

One of the biggest problems mentally ill prisoners face is the loss of Medicaid while in prison and the difficulty in re-enrolling after their release. Some jails, like Sheriff Mahoney’s in Dane County, Wis., sign prisoners up for Medicaid immediately upon their release in an effort to keep them connected to treatment and, ideally, out of jail. ■

## OUTLOOK

### Training Judges

As New York City’s new top-to-bottom plan for the mentally ill suggests, some localities are trying a new tack. But it may take more tragic stories from inside prisons and jails — and more money from state legislatures and local governments — for this approach to become widespread.

Most of the reform energy is coming from the judicial branch, maintains Steve Leifman, an associate administrative judge in the Miami-Dade County Criminal Division, in Miami, Fla. “Judges are on the front line,” he says. Leifman is leading a project with the American Psychiatric Association to train judges in how to recognize mental illness and how to address mentally ill defendants — a program he hopes to expand nationally from the 300 to 400 judges now signed up.

The goal is to get more people into treatment as soon as they show up in the courtroom. But some advocates for the mentally ill say efforts like this are merely a reaction that comes too late to a more serious problem: “Every community needs a local facility where someone with mental problems can go for help *before* he ends up in trouble,” writes journalist and advocate

Pete Earley. His son was arrested for breaking into a neighbor’s house after a hospital had turned him away for treatment of his bipolar disorder during a manic episode. Earley argues the required treatment often means a hospital for someone seriously psychotic — not just an outpatient clinic.<sup>73</sup>

The need for hospital beds after the era of deinstitutionalization is getting renewed attention. Recently a group of medical ethicists from the University of Pennsylvania issued a call to “Bring Back the Asylum.”<sup>74</sup> For people with severe psychotic disorders, “who are too unstable or unsafe for community-based treatment,” they wrote, “the financially sensible and morally appropriate way forward includes a return to psychiatric asylums that are safe, modern and humane.”

Responding to the lack of local treatment facilities in Miami-Dade, Leifman is spearheading an unusual effort to convert an abandoned mental hospital into an inpatient and outpatient treatment center. (*See sidebar, p. 252.*)

But those who have committed violent crimes don’t necessarily have any treatment alternatives to prison, as New York City real estate developer Francis J. Greenburger discovered when his oldest son was charged with arson. According to Greenburger, his mentally ill son was convinced a drug dealer was pursuing him, and after getting no response from the police, he set trash on fire on his stove and called the fire department for help.<sup>75</sup>

He was convicted and sentenced to five years. Because there was no alternative to prison that was secure enough to satisfy the district attorney, Greenburger decided to build one of his own. His Greenburger Center for Social and Criminal Justice is negotiating with the New York State Office of Mental Health to license what may be the first treatment center of its kind in the country — a 30- to 60-bed locked facility for mentally ill people facing felony prison sentences of at least two years.

But whether such a facility would pose a danger to the surrounding community remains a concern. “I think that district attorneys and judges would be more inclined to let certain individuals out [of prison for an alternative treatment program] if they were in a secure facility,” says D’Emic of the Brooklyn Mental Health Court, commenting on the Greenburger proposal.

Increasingly, judges like D’Emic and Leifman are becoming experts on the root causes — homelessness, drug abuse, mental delusions and poverty — that bring people before them.

“It’s like a social services agency more than a court,” Cheryl Roberts, executive director of the Greenburger Center, says of D’Emic’s mental health court. Indeed, she says, courts have “become, for better or worse, the place where our social problems — homelessness and mental illness — are colliding.” ■

### Notes

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<sup>5</sup> “Incarceration’s Front Door: The Misuse of Jails in America,” Vera Institute of Justice, February 2015, <http://tinyurl.com/lyuun67>.

<sup>6</sup> Tom Dart, “How We Shaft the Mentally Ill,” *Chicago Tribune*, July 29, 2014, <http://tinyurl.com/mult5bw>.

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<sup>8</sup> On March 5, 38 percent of inmates entering Cook County jail self-identified as mentally ill

according to Cook County Sheriff Thomas J. Dart webpage, <http://tinyurl.com/pefxnlk>.

<sup>9</sup> Dart, *op. cit.*

<sup>10</sup> Jails are locally run facilities, primarily holding people arrested but not yet convicted or serving a sentence of less than a year.

<sup>11</sup> Also see Steven Elbow, "City Poised to Sue State Over Closing Mendota Mental Health Institute to Detained Mental Patients," *The Capital Times*, June 28, 2014, <http://tinyurl.com/lbvd9hg>.

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<sup>13</sup> "Callous and Cruel: The Use of Force Against Inmates with Mental Illness in U.S. Jails and Prisons," Human Rights Watch, forthcoming.

<sup>14</sup> See Solitary Watch, <http://tinyurl.com/mf8fnhz>.

<sup>15</sup> Michael Winerip and Michael Schwartz, "Rikers to Ban Isolation for Inmates 21 and Younger," *The New York Times*, Jan. 13, 2015, <http://tinyurl.com/kkjmasv>.

<sup>16</sup> Mary Cirincione, "Mentally Ill Population Doubled Since 2006; Now 20 Percent," Medill News Service, Oct. 15, 2014, <http://tinyurl.com/kzwwkl34>.

<sup>17</sup> *Ibid.*

<sup>18</sup> See Elizabeth Glazer, "Breaking Point," Vera Institute of Justice Blog: Current Thinking, Feb. 19, 2015, <http://tinyurl.com/m4cgcc8>.

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<sup>19</sup> Dominic A. Sisti, *et al.*, "Improving Long-Term Psychiatric Care; Bring Back the Asylum," *JAMA*, Jan. 20, 2015, pp. 243-244, <http://tinyurl.com/nxmneqa>.

<sup>20</sup> Sarah Glazer, "Sentencing Reform," *CQ Researcher*, Jan. 10, 2014, pp. 25-48.

<sup>21</sup> David Cloud, "On Life Support: Public Health in the Age of Mass Incarceration," Vera

Institute of Justice, November 2014, p. 7, <http://tinyurl.com/mvewx4f>.

<sup>22</sup> "Action Plan," Mayor's Task Force on Behavioral Health and the Criminal Justice System, 2014, <http://tinyurl.com/mwlpjxnr>.

<sup>23</sup> Vera, "Incarceration's Front Door," *op. cit.*

<sup>24</sup> Henry J. Steadman, *et al.*, "Prevalence of Serious Mental Illness Among Jail Inmates," *Psychiatric Services*, June 2009, pp. 761-765.

<sup>25</sup> "The Broward County (Fort Lauderdale) Mental Health Court," Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload, April 2000, <http://tinyurl.com/p4d7msj>.

<sup>26</sup> The National Center for State Courts estimates that there are about 300 courts. A recent article estimates "upwards of 400." See Sisti, *et al.*, *op. cit.*

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<sup>30</sup> *Ibid.*

<sup>31</sup> Jennifer Gonnerman, "Before the Law," *The New Yorker*, Oct. 6, 2014, <http://tinyurl.com/q3x9p8j>.

<sup>32</sup> Cloud, *op. cit.*, pp. 13-14.

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<sup>36</sup> Ryan Devereaux, "Searching for the Truth about California's Prison Hunger Strike," *Rolling Stone*, Aug. 12, 2013, <http://tinyurl.com/lujcpkn>.

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<sup>38</sup> See Peter Katel, "Solitary Confinement," *CQ Researcher*, Sept. 14, 2012, pp. 765-788.

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<sup>40</sup> Sisti, *et al.*, *op. cit.*

<sup>41</sup> Pete Earley, *Crazy* (2007), pp. 64-65.

<sup>42</sup> E. Fuller Torrey, "Deinstitutionalization: A Psychiatric Titanic," *Frontline*, <http://tinyurl.com/2f9osq>.

<sup>43</sup> "The Vital Role of State Psychiatric Hospitals," National Association of State Mental Health Program Directors, July 2014, pp. 1-3, <http://tinyurl.com/nxtmqe9>.

<sup>44</sup> Earley, *op. cit.*, p. 65.

<sup>45</sup> See Barbara Mantel, "Mental Health Policy," *CQ Researcher*, May 10, 2013, pp. 425-448. Also see Earley, *ibid.*, p. 69.

<sup>46</sup> For background on how and why the mental health centers were never properly funded, see Background section in Sarah Glazer, "Treating Schizophrenia," *CQ Researcher*, Dec. 5, 2014, pp. 1009-1032.

<sup>47</sup> Cloud, *op. cit.*, p. 8.

<sup>48</sup> *Ibid.*, p. 9.

<sup>49</sup> The case is *Madrid v. Gomez*. "Case Closed on Supermax Abuses at Pelican Bay," *Solitary Watch*, Feb. 15, 2011, <http://tinyurl.com/lypaxn6>.

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## About the Author

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<sup>51</sup> Katel, *op. cit.*, p. 778. For text of 1995 decision in *Madrid v. Gomez*, see *ibid.*

<sup>52</sup> *Madrid v. Gomez*, *op. cit.*

<sup>53</sup> Katel, *op. cit.*, p. 780.

<sup>54</sup> Amy C. Watson and Anjali J. Fulambarker, "The Crisis Intervention Team Model of Police Response to Mental Health Crises: A Primer for Mental Health Practitioners," *Best Practices in Mental Health*, December 2012, <http://tinyurl.com/kdpxpur3>. Also see CIT International, <http://tinyurl.com/n8nhtj3>.

<sup>55</sup> Bob Katzen, "Beacon Hill Roll Call Volume 40," *Somerville News Weekly*, Jan. 12, 2015, <http://tinyurl.com/mpgo9xm>. Also see "Governor Hickenlooper Signs Law Limiting Solitary Confinement for Mentally Ill," ABC 7, June 6, 2014, <http://tinyurl.com/kaokqyh>.

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<sup>57</sup> Bill introduced by Correction Committee Chair and NY Assembly Member Daniel J. O'Donnell, <http://tinyurl.com/k3szfgz>.

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<sup>62</sup> "Action Plan," Mayor's Task Force on Behavioral Health and the Criminal Justice System, 2014, <http://tinyurl.com/mwlpnxr>.

<sup>63</sup> Michael Winerip and Michael Schwartz, "New York City Plans Focus on Mental Health in Justice System," *The New York Times*, Dec. 1, 2014, <http://tinyurl.com/l2wu557>.

<sup>64</sup> Michael Winerip and Michael Schwartz, "Even as Many Eyes Watch, Brutality at Rikers Island Persists," *The New York Times*, Feb. 21,

## FOR MORE INFORMATION

**American Civil Liberties Union National Prison Project**, 915 15th St., N.W., 7th Floor, Washington, DC 20005; 202-393-4930; <https://www.aclu.org/prisoners-rights>. Advocacy program that challenges the constitutionality of placing mentally ill prisoners in solitary confinement.

**Council of State Governments Justice Center**, 100 Wall St., 20th Floor, New York, NY 10005; 212-482-2320; <http://csgjusticecenter.org/>. Advisory group that offers strategies to policymakers in reducing corrections spending and responding to people with mental illness in the criminal justice system.

**National Alliance on Mental Illness**, 3803 North Fairfax Dr., Suite 100, Arlington, VA 22203; 703-524-7600; [www.nami.org](http://www.nami.org). Grassroots organization on mental health that advocates for access to services, treatments and research.

**National Center for State Courts**, 300 Newport Ave., Williamsburg, VA 23185; 800-616-6164; [www.ncsc.org](http://www.ncsc.org). Independent court-improvement organization that offers extensive information on mental health courts.

**National Sheriffs' Association**, 1450 Duke St., Alexandria, VA 22314; 800-424-7827; [www.sheriffs.org](http://www.sheriffs.org). Professional association representing thousands of sheriffs, deputies and law enforcement professionals.

**Solitary Watch**, P.O. Box 11374, Washington, DC 20008; [solitarywatchnews@gmail.com](mailto:solitarywatchnews@gmail.com); <http://solitarywatch.com>. Website sponsored by a coalition of civil rights groups critical of solitary confinement; provides breaking news and research in the field.

**Treatment Advocacy Center**, 200 N. Glebe Rd., Suite 801, Arlington, VA 22203; 703-294-6001; [www.treatmentadvocacycenter.org](http://www.treatmentadvocacycenter.org). Advocacy group that focuses on eliminating barriers to the effective treatment of people who are mentally ill.

**Vera Institute of Justice**, 233 Broadway, New York, NY 10279; 212-334-1300; [www.vera.org](http://www.vera.org). Research group that works with government to improve services affecting criminal justice and public safety.

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<sup>66</sup> *Ibid.*

<sup>67</sup> "President's Budget," Justice Center, Council of State Governments, Feb. 2, 2015, <http://tinyurl.com/nt9q6ru>.

<sup>68</sup> Sarah Glazer, "Sentencing Reform," *op. cit.*

<sup>69</sup> Text of the Smarter Sentencing Act of 2015, <http://tinyurl.com/ny27n2s>.

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<sup>71</sup> "President's Budget," *op. cit.*

<sup>72</sup> Funding for state mental health agencies fell \$4.4 billion from FY 2010-FY2013. See "The Vital Role of State Psychiatric Hospitals," National Association of State Mental Health Program Directors, July 2014, p. 22, <http://tinyurl.com/mxtmqe9>.

<sup>73</sup> Earley, *op. cit.*, p. 356.

<sup>74</sup> Sisti, *et al.*, *op. cit.*

<sup>75</sup> Matt A. V. Chaban, "From a Father's Anguish Comes a Plan to Help Mentally Ill Inmates," *The New York Times*, Oct. 6, 2014, <http://tinyurl.com/l9ntabf>.

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The lack of mental health training for guards contributes to a needless use of force against mentally ill prisoners, a human-rights group finds.

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Mentally ill felony defendants who went through the San Francisco mental health court were far less likely to commit violence than similar defendants in other courts.

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A study of five jails finds that 14.5 percent of men and 31 percent of women suffered from serious mental illness.

Subramanian, Ram, *et al.*, "Incarceration's Front Door: The Misuse of Jails in America," Vera Institute of Justice, February 2015, <http://tinyurl.com/nfm8v6d>.

Jails have become "de facto mental hospitals" for the mentally ill, according to a policy group.

# The Next Step:

## *Additional Articles from Current Periodicals*

### ***Alternative Programs***

Cassidy, Megan, "New Phoenix team tackles recidivism of those with mental illness," *The Arizona Republic*, Jan. 27, 2015, <http://tinyurl.com/qfew5z8>.

Intervention teams that work with mentally ill repeat offenders have successfully prevented 85 percent of clients from returning to prison in Arizona's most populous county.

Cortez, Marjorie, "S.L. County fears criminal justice reforms could become unfunded mandate without Medicaid fix," *Deseret News*, March 3, 2015, <http://tinyurl.com/q74ebdb>.

The Utah House of Representatives passed a bill that would require drug offenders to participate in community mental health programs in exchange for reduced prison sentences.

Napoleon, Carrie, "Sheriffs look for funding to take more prisoners," *Chicago Tribune*, Feb. 3, 2015, <http://tinyurl.com/nwgmw2>.

Indiana lawmakers expanded county prison systems' role in housing low-level offenders.

### ***Mental Health Courts***

Cosgrove, Jaclyn, "Residents with mental illness get second chances when arrested — in some Oklahoma counties," *The Oklahoman*, Jan. 29, 2015, <http://tinyurl.com/oy5gpgv>.

Only 16 out of 77 Oklahoma counties have implemented mental health courts to work with nonviolent, mentally ill offenders, but counties that use them have reported significant reductions in recidivism and hospital stays for clients.

Chanen, David, "Hennepin County's mental health court becomes model approach," *The Minneapolis Star-Tribune*, Feb. 5, 2015, <http://tinyurl.com/qhj8rg5>.

Numerous Minnesota counties have replicated the mental health court model developed by Hennepin County in 2003, which helps defendants find housing, employment and therapy and tracks their success in taking medications.

Krueger, Joline Gutierrez, "Mental Health Court provides help all around," *Albuquerque Journal*, Dec. 17, 2014, <http://tinyurl.com/nlkncqp>.

The Albuquerque Metropolitan mental health court system offers defendants legal and mental health advice and allows them to periodically meet with judges to avoid jail time.

### ***Recidivism***

Voorhees, Josh, "How to Fix America's Recidivism Crisis," *Slate*, Sept. 16, 2014, <http://tinyurl.com/n7j5l4b>.

Iowa's "Central Pharmacy Pilot Project" provides newly released mentally ill inmates with 90 days' worth of medications to ease their transitions into society and lower recidivism.

Cason, Mike, "Bill to reduce Alabama's prison population draws praise, raises concerns about costs," *The Huntsville (Ala.) Times*, March 4, 2015, <http://tinyurl.com/nvpqu78>.

Alabama sheriffs and county officials raised concerns over the costs of a bill proposed by a Republican state senator that would send mentally ill criminals to county programs.

Reid, Wilson, "Tough Texas gets results by going softer on crime," *The Washington Post*, Nov. 27, 2014, <http://tinyurl.com/nb37c2s>.

Recidivism in Texas has declined from 28 to 22.6 percent since 2008 following a series of reforms.

### ***Solitary Confinement***

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Prisoners who spend three months or more in solitary confinement can experience heightened anxiety.

Melamed, Samanta, "Deal aims to end solitary confinement for seriously mentally ill prisoners in Pa.," *The Philadelphia Inquirer*, Jan. 8, 2015, <http://tinyurl.com/qgsdxob>.

A settlement between Pennsylvania's corrections department and a disability rights advocacy group will replace the use of solitary confinement for mentally ill inmates with separate housing facilities.

Sheriff, Natasja, "A tough cell: US to defend solitary confinement use before UN," *Al Jazeera America*, Nov. 11, 2014, <http://tinyurl.com/l7egt5u>.

A United Nations committee expressed concerns to U.S. officials about the country's use of "prolonged isolation" in prisons.

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