

In this month's newsletter I bring you information about the serious problems associated with the incarceration of individuals with serious mental illness and the lack of appropriate service and accommodations in our prisons, jails and communities to meet their needs.

- Karen Richards

*"To not have your suffering recognized is an almost unbearable form of violence."*

- Andrei Lankov



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## Did you know?

In 1965 Congress created the Medicaid program. States moved patients out of state mental hospitals and into nursing homes and general hospitals because the program excluded coverage for people in “institutions for mental diseases.”

In 1980 President Jimmy Carter signed the [Mental Health Systems Act](#) which aimed to restructure the community mental-health-center program and improve services for people with chronic mental illness. In 1981 under President Ronald Reagan, the [Omnibus Budget Reconciliation Act](#) repealed Carter’s community health legislation and established block grants for the states, ending the federal government’s role in providing services to the mentally ill. Federal mental-health spending decreased by 30-percent.

In 1985 federal funding dropped to 11 percent of community mental-health agency budgets.

In 2009 in the aftermath of the Great Recession, states were forced to cut \$4.35 billion in public mental-health spending over the next three years.

In 2010 there were 43,000 psychiatric beds in the U.S., about 14 beds per 100,000 people.

A 2016 report [Disabled Behind Bars](#), indicates that nationally 20% of prisoners have serious mental illness (SMI). The cost of incarcerating a person with SMI is TWICE the cost of providing Assertive Community Treatment (ACT) type programs and supported housing to prevent institutionalization.

# When did prisons become acceptable mental healthcare facilities?

## Deinstitutionalization

In 1955 with the introduction of the first effective antipsychotic medication, Thorazine, severely mentally ill people were moved out of large state institutions followed by closure of part or all of the institutions. Ten years later, the federal Medicaid and Medicare programs were enacted. These programs excluded coverage for people in “institutions for mental diseases.” This left many people living with mental illness with few places to go other than the streets or prison.

In a joint report by the Treatment Advocacy Center (TAC) and National Sheriff’s Association, [The Treatment of Persons with Mental Illness in Prisons and Jails: A State Survey](#), prisons and jails have become America’s “new asylums.” The report finds that in 2012, there were an estimated 356,268 inmates with severe mental illness in prisons and jails while approximately 35,000 patients with severe mental illness were in psychiatric hospitals. The report indicates that the “result is a system that incarcerates 10 times the number of persons with mental illness than it treats.”

A report released in 2015 by the Urban Institute on [The Processing and Treatment of Mentally Ill Persons in the Criminal Justice System](#) reported that “mentally ill offenders possess a unique set of circumstances and needs. However, all too often, they cycle through the criminal justice system without appropriate care to address their mental health.” According to a report by Frontline [Deinstitutionalization: A Psychiatric “Titanic”](#) deinstitutionalization has exacerbated the mental illness crisis leaving approximately 2.2 million severely mentally ill people without treatment.

According to the 2016 Report, [Disabled Behind Bars](#), The Mass Incarceration of People with Disabilities in America’s Jails and Prisons, due to the lack of reasonable accommodations and service, many prisoners with disabilities are held in segregation often allegedly for their own protection. A growing array of research proves that even short periods of segregation of prisoners with mental illness has long-lasting negative consequences.

*“Deinstitutionalization doesn’t work. We just switched places. Instead of being in hospitals the people are in jail. The whole system is topsy-turvy and the last person served is the mentally ill person.” - Jail official, Ohio*



### Segregation of the Mentally Ill

Imagine for a moment life in solitary confinement or 'segregation.' You spend 23 to 24 hours a day in a cell that measures from 6 x 9 to 8 x 10 feet with a solid door having a slot large enough only to receive meals. If you are allowed out for an hour of activity, you are alone, in an exercise room, a hallway or a fenced or walled "dog run." Your life is idle. The only activities you have are within the confines of this cell and ultimately your own mind. The psychological impact of such a bleak environment over time is akin to torture.

Imagine now that you are a person with a serious mental illness placed in a segregated prison or jail cell receiving little-to-no meaningful treatment for your illness. The cell however is the lesser of two evils as your mind is the worst tormenter of all. With the torture of continuously being in your mind—a mind already in unimaginable pain—your mental health deteriorates, you have psychotic breaks, you self-mutilate and in turn are punished for 'bad behavior' with more time in solitary. It becomes an endless, seemingly hopeless cycle.

There is much information available to support the severe and negative impact that segregation has on individuals with severe mental illness, such as the 2010 article [Solitary Confinement and Mental illness in U.S. Prisons: A Challenge for Medical Ethics](#) co-authored by Jeffrey L. Metzner, MD and Jamie Fellner, Esq. who compare the psychological stressors of isolation to be as clinically distressing as physical torture with psychological effects often including anxiety, depression, anger, cognitive disturbances, perceptual distortions, obsessive thoughts, paranoia, and/or a psychosis. For individuals with mental illness the lack of "meaningful social contact" and "unstructured days" exacerbates the symptoms of their illness. These prisoners decompensate in isolation and "many" won't get better as long as they are isolated.

Why is it then that [More Mentally Ill Persons Are In Jail And Prisons Than Hospitals](#)? As a result of the deinstitutionalization initiative, the closing of publicly-operated mental health hospitals, and the federal government's failure to adequately fund community programs to meet the growing demand, hundreds of thousands of mentally ill persons have been released into communities that lack the resources for their treatment. State legislatures have been unable or unwilling to appropriately fund needed mental health services. Consequently, without needed supports, many people with mental illness end up homeless or incarcerated. Once incarcerated they experience difficulty complying with strict prison rules which leads to punishment. The Human Rights Watch reports in [XII. Mentally Ill Prisoners and Segregation](#) that "the mentally ill are disproportionately represented among prisoners in segregation." And that, "rule-breaking can lead to increasing punishment" ... "eventually accumulating substantial histories of disciplinary infractions, [for which] they land for prolonged periods in disciplinary or administrative segregation."

Not surprisingly, prisons and jails are not equipped nor are staff trained to deal with mental illness despite housing hundreds of thousands of seriously mentally ill inmates. While behind bars, inmates are frequently deprived of adequate medical and mental health treatment as well as necessary supports, services and reasonable accommodations or modifications of rules nor access to programming necessary to meet their needs as eligible persons with disabilities. In the absence of necessary psychiatric medications and rehabilitation services, the use of other options, such as solitary confinement may seem like the only viable option which in turn can lead to situations that are unfair to both the inmates and prison officials.



## Mentally Ill in Vermont State Corrections Facilities

Despite numerous protections built into law in Vermont, prisoners with serious mental illness continue to face issues related to lack of adequate medical care, use of force, segregation, and lack of coordination for re-entry. The Department of Corrections (DOC) reports that 5% of Vermont inmates have Significant Function Impairments (SFI), a designation that gives such inmates additional rights. Because the term SFI does not encompass all individuals who may have a mental health diagnosis, it does not accurately capture the true number of people with mental illness who are incarcerated. Nationally, figures show the percentage to be in the 20% range. Vermont law, 28 V.S.A. §907 requires the DOC to administer a program of trauma-informed mental health services to all inmates and provide appropriate staff. The Departments of Corrections, Mental Health and Disabilities, Aging, and Independent Living have a joint responsibility to coordinate services and discharge planning for such inmates. Statutory provisions in 28 V.S.A. §701a limit the time that inmates with an SFI designation can be kept in disciplinary segregation, voluntary segregation and any other forms beyond 30 days require a due process hearing and assessment by a qualified mental health professional and a physician.

Vermont's prisons are places of public accommodation under Vermont's Fair Housing and Public Accommodations Act and under the federal American's with Disabilities Act (ADA). Seventeen years ago, in the case of *Olmstead v. L.C.*, the Supreme Court ruled that unjustified segregation of persons with disabilities violated the ADA. As a result, individuals with disabilities are entitled to reasonable modifications of prison rules, policies, and protocols that may be necessary to live in the most integrated setting appropriate to their needs. Two recent cases brought to the Vermont Human Rights Commission (VHRC) for investigation, "D.C." v. Department of Corrections (DOC) and "C.S." v. DOC resulted in findings that incarcerated individuals with mental health needs were subjected to discriminatory treatment.

In "D.C." a unanimous Commission found that both DOC and the Department of Mental Health (DMH) violated D.C.'s rights. This case involved a 60-year-old man deemed incompetent to stand trial who was kept in prison for 40 days while waiting for a hospital bed. A quarter of that time was spent in segregation as his mental health rapidly deteriorated and he was unable to comply with rules. The Commission found, that there were reasonable grounds to believe that both the DOC and the Department of Mental Health (DMH) discriminated against "D.C." on the basis of his disability when they failed to provide him with appropriate services in the most integrated setting. See [report](#). In "C.S.", a severely mentally ill inmate who entered prison at the age of 17 spent 2.4 years in segregation. While there, he experienced a rapid deterioration of his mental health and a significant increase in self-harm and mutilation. On June 23, 2016, the Commission found that there were reasonable grounds to believe that the DOC discriminated against "C.S." by failing to accommodate his needs.

This system is broken. Vermont can do better. The diversion of people from prisons and jails into community-based services is not only the right thing to do, it is also the most cost-effective and humane way of addressing the needs of inmates with disabilities. This may require significant up-front resources but failing to address it will ultimately cost Vermont more.

## Contact Us

### Vermont Human Rights Commission

14-16 Baldwin Street  
Montpelier, VT 05633-6301

Phone: 802.828.1625

800.416.2010

Fax: 802.828.2481

Email: [human\\_rights@vermont.gov](mailto:human_rights@vermont.gov)

Visit us on the web at  
[hrc.vermont.gov](http://hrc.vermont.gov)

## NEWS

Human Rights Commission, State Held Disabled Man in Segregation for Two Plus Years - read the full story [here](#)

Human Rights Commission Challenges Handling of Mental Illness in Prison—read the full story [here](#)

Mental Illness in VT Prisons—read the full story [here](#)

Should Vermont's Most Mentally Ill Inmates Live in Prisons—read the full story [here](#)

Cost of not caring: Nowhere to go—read the full story [here](#)

In a Virginia Jail a Young Man Wasted Away and No One Bothered to Notice - read the full story [here](#)

Inside a Mental Health Hospital Called Jail—read the full story [here](#)

Mentally Ill Prisoners Are Destroyed by Solitary Confinement—read the full story [here](#)