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Another Damaged Health Care System: Failing the Incarcerated

Introduction:

The late great President of South Africa, who spent 27 years in prison, Nelson Mandela, once stated, “It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones” (qtd. in Jimba et al. 282). The dynamics of this quote stand relevant to the health care conditions for incarcerated people in the US. The words from the South African leader and social justice icon illustrate how governments ignore the handling of prison health care, which affects the lives of incarcerated individuals. After reading Nelson Mandela’s quote, one cannot help but wonder just how much America is doing to improve the health care of those incarcerated in its prison system. Why do these health care failures persist, and how can things change to bring about better health care and health management for incarcerated individuals?

Health care for incarcerated individuals continues to be an ongoing debate, even though incarcerated individuals have a constitutional right to adequate health care. There seems to be an uncontrollable failure of proper health care for these individuals caused by shrinking budgets and lack of assistance. Many physicians and nurses are capable of providing proper health care, but are overworked, underfunded, and simply do not have access to updated medical technology (Hurst et al.). There needs to be

some accountability to ensure that prisons and providers can meet the standards of care for incarcerated individuals.

Being denied proper medicine and inadequate treatment plans can affect many individuals who come into the prison system, including elderly individuals with chronic care issues, and transgender individuals needing to continue with transitioning treatment. Such injustice can be seen in Virginia. The state of Virginia funds billions of dollars to private companies for prison health care, including companies such as Corizon Corrrectional Health and Armor Correctional Health, and this arrangmement has fallen short of the state’s obligations to elderly and/or transgender incarcerated individuals. Inadequate health care is an injustice to incarcerated individuals' privileges and rights as human beings. Such injustice takes place in Virginia, where incarcerated Individuals suffer from poor health care due to the decision by the Virginia Department of Corrections to contract with private companies that fail on administration, staffing, and general care for those most vulnerable and incarcerated.

My Awareness: **Broken Health Care in Prison**

My passion for gaining knowledge about prison health care comes from a personal experience of my own. It saddens me to know firsthand how incarcerated individuals suffer from poor health care during incarceration. I, unfortunately, witnessed neglect and inadequate health care for many incarcerated individuals. I was assigned to a prison facility that housed assisted living individuals with chronic health problems. I never would have believed the level of neglect and improper health services that were provided for these individuals. I learned how prison health facilities were understaffed,

and many duties that fell upon the CNAs would be passed on to incarcerated individuals who worked in the prison as assisted living pod workers. Many times assisted living pod workers would be assigned to a chronic care person and would perform duties like changing their clothes to changing their dirty diapers because there would be no nurse available in the pod. I quickly learned that there seemed to be no hope or improvement for these individuals who depend so heavily on health care services while incarcerated. After learning of several deaths in the facilities, I felt that something needed to change or improve to bring about proper health care and assistance to every incarcerated individual.

There should be attentive solutions for the elderly and transgender incarcerated individuals dealing with their health care while being incarcerated. Many elderly and/or trans incarcerated individuals wonder about their health care needs being adequately met and receiving the proper medicine, which should be prescribed to them by a specialist. Witnessing elderly incarcerated individuals being neglected by CNAs who knew their duties would be to change the elderly individuals' diapers or soiled clothing gave me a passion for assisting these individuals. Working with Jacob Johnson as his inmate caregiver, assisting him with his wheelchair and completing daily activities such as changing his clothes and eating meals, made me aware of the neglect and provided me with firsthand insight on how inadequate health care was causing suffering and pain for incarcerated individuals. Unfortunately, the administration seems not to have or feel this same passion to provide adequate health care. Additionally, transgender individuals face not being able to continue with transistioning after many years of transitioning in society, be it through professional doctors or means of their own based on their

personal life situations. There would be great comfort for these incarcerated individuals in gaining awareness of these issues and making a solid plan to provide them with adequate and beneficial health care, which is their right.

These incarcerated individuals' stories need to be heard on so many different levels so that awareness can be at the forefront of change for the better treatment of some of the most vulnerable incarcerated populations such as transgender and/or elderly individuals. The Virginia Department of Corrections (VDOC) plays an important role in making sure that incarcerated individuals have access to proper health care that does not hinder their present well being. The thought of entering a system that makes you beg and plead for general and adequate health care that is your right to have since this system oversees your well being can be problematic for the incarcerated individuals. The research gathered outlining inadequate prison health care brings an abundance of information and data that pinpoints issues and errors all across the board. There is an overwhelming disregard at every level of the prison system, causing many incarcerated individuals pain, suffering and even death.

Stories of Incarceration and Health Care

Recent personal stories from incarcerated individuals from across the state of Virginia show how prison health care has and could continue to be a major problem, causing incarcerated individuals mental stress, long-term illnesses, or even death (Burnette). The issue of the inadequate health care the VDOC provides to the individuals in their care seems to have traveled from the past into the present, but hopefully not into the future.

Cynthia B. Scott, a 42-year-old African American woman, has been serving a sentence at Fluvanna Correctional Center since 2003. She has been afflicted with an array of severe health problems and physical ailments from sarcoidosis to issues with her eyes. Ms. Scott and several others from Fluvanna Correctional Center for Women in Troy, Virginia, filed a complaint against Harold W. Clarke, A. David Robinson, and Frederick Schilling, all appointed to the Virginia Department of Corrections; Phyllis A. Baskerville, Warden of Fluvanna; Armor Correctional Health Services, INC; and Acting Medical Director of Fluvanna. These women seek preliminary and permanent relief from the defendants' knowing and intentional failure to provide them with medical care adequate to protect them from ongoing or imminent physical injury, illness, and undue risk of premature death in deliberate indifference to their rights under the Eighth Amendment to be free from cruel and unusual punishment. (Burnette)

For incarcerated individuals like Ms. Scott, the "sick call," when a CNA comes to disperse medication to the pod, is their only opportunity, outside of filing an emergency grievance for medical assistance, to have medical issues addressed. Ms. Scott was seen at sick call for many months during which she suffered from breathing difficulties, catastrophic weight loss, for which there was no explanation, and a protein deficiency. However, there was no modification of her diet and she was finally referred for testing that revealed she was afflicted with sarcoidosis, a serious, potentially life threatening disease (Complaint 31). In response to this mistreatment, Ms. Scott collected complaints from other women at the Fluvanna Correctional Center, and they filed an official complaint with the district court in Charlottesville, Virginia. Scott's story indicates

that many incarcerated individuals are willing to fight for their right to adequate health care, even while in prison.

Askia Asmar, who died at age 67, was once incarcerated at Deerfield Correctional Center. Asmar contracted COVID-19 when quarantined with others who were already COVID-19 positive. Asmar was denied early release, even though he suffered from cancer. His loving family advocated for him to be granted early release due to his chronic care needs. He had been denied early release despite his serious health condition and upcoming release date. The Virginia Department of Corrections failed to transport him to an important medical appointment for his cancer treatment. Asmar gained knowledge of this failed appointment from a nurse at MCV hospital when he went for his chemotherapy, as it is imperative that he receive the MRI/CT scan before chemo. Asmar filed several medical requests about this appointment, which yielded no positive result (ACLU of VA). This neglect violated his right to adequate health care services, but, more than that, it's immoral. The neglect in providing a safe and proper quarantine area for Asmar after knowing Asmar's medical needs and treatment requirements contributed to his death and brought grief upon his family.

Askia Asmar's death is a prime example of inadequate health care from the Virginia Department of Corrections for this elderly and vulnerable person, and sadly it cost him his life. Most importantly, the mistreatment of Asmar is not a way for our prison system to treat incarcerated individuals, no matter what they may have done in their past.

Jacob Johnson, currently at Deerfield Correctional Center, faces major issues with past and present health care providers assigned by the Virginia Department of

Corrections. We email each other through jPay, a service provided for incarcerated individuals to stay in contact with their friends and family. Johnson states that he is denied the proper medication that he needs for a severe head injury that he sustained before being incarcerated (Johnson). Several specialists from VCU Medical Center prescribed the medication for him, but the prison facility will not provide him with the medication. Jacob has filed many complaints to the Department of Corrections, but there seems to be no hope in sight.

In January 2022, WAVY 10 News reported that the Virginia Department of Corrections would no longer be using private company health care services to provide care for incarcerated individuals, hoping to make this “a win,” according to Johnson, for the prison population since they will not be provided with sub-par medical treatment (Johnson). Jacob feels discouraged since he has seen no improvement in his medical treatment plan, which constantly gets delayed and denied by nurses and medical doctors at the facility. While the recent VDOC announcement of plans to deprivatize the prison system in Virginia have only slowly begun to be realized, with the formation of a oversing board that will play middle man between the state and the private corporations it contracts to supply health care in the system, it remains to be seen if this plan will be fully implemented and to what degree the changes will improve the conditions for Jacob and other incarcerated individuals with specific health care needs.

Jason Yoakam, a 42-year-old transgender male, filed a 33-page complaint with help by Lamba Legal in U.S. District Court for the Western District of Virginia, located in Charlottesville, Virginia. Yoakam states that he was denied breast removal surgery by the Virginia Department of Corrections, which says it is not medically necessary for his

treatment for gender dysphoria. Jason has gotten treatment from an endocrinologist and a transgender health specialist at the University of Virginia, both who state that chest surgery is a medically necessary treatment for transgender males with gender dysphoria. Jason's gender dysphoria causes him to suffer from depression, anxiety, panic attacks, and physical pain from having to bind his chest, which causes him to bleed, scarring, and pain (Green). Yoakam's lawyer released a statement from the transgender inmate, stating, "The only thing I am asking is to be treated fairly and have access to the same standard of health care that other incarcerated people receive. It has been traumatizing, isolating, and stigmatizing to be denied health care services to treat the gender dysphoria that the Virginia Department of Corrections health care providers have diagnosed" (Green). Yoakam already fights a battle that many do not relate to or understand. Yoakam's journey does not seem easy whether he is in society or in prison. The ability to finally live his truth and come to terms with his identity can be a burden in itself. Yoakam just wants to be treated fairly and have the adequate health care that fits his diagnoses.

These stories show a growing need for incarcerated individuals to know that guidelines for standard health care exist and are key to providing proper health care and treatment to them while they are incarcerated.

Guidelines for The Protection of the Incarcerated: Trans and Elderly Needs

Many incarcerated individuals are not aware of the guidelines established by the United Nations Office on Drugs and Crime in honor of the late activist and South African president Nelson Mandela, the "Nelson Mandela Rules." These rules outline what is

generally accepted as being good principles and practice in the treatment of prisoners and prison management. The section on “Health-Care Services” (rules 24-35) sets a valid blueprint on the conduct that should be in place to guarantee every incarcerated individual proper access to health care. Rule 25 states that prisons should have a health care system that can evaluate, promote, and improve the physical and mental health of every incarcerated person; furthermore, the rule states that prison supervisors should pay close attention to incarcerated individuals with special health care needs and issues that can hamper their rehabilitation (“The Nelson Mandela Rules” 8). Rule 26, follows up rule 25 and states how the health care service providers should prepare and maintain up-to-date and accurate confidential individual medical files on all incarcerated individuals (“The Nelson Mandela Rules” 8). These guidelines indicate the level of awareness and attentiveness needed in handling the health care of incarcerated individuals, and the rules provide a standard for health care of incarcerated individuals no matter where they are incarcerated. There is the question of how aware incarcerated individuals are of these guidelines, and let alone how aware and active the prison systems in different states are in keeping in accordance with the Mandela Rules.

The Mandela Rules do not only concern health care for incarcerated individuals, but they also outline best practices for a number of concerns:

> All prisoners should be treated with respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners should be protected from, torture and other cruel, inhumane or degrading treatment or punishment, for which no circumstances whatsoever may be evoked as a justification [...]. (“The Nelson Mandela Rules" 2)

Acknowledging these guidelines could activate incarcerated individuals, the prison administrators, and the public to work to overcome these difficulties in prison health care. With the knowledge and awareness of guidelines such as The Mandela Rules, we might see proper health care for all incarcerated individuals.

Injustice happens when incarcerated individuals are not offered any choice in their medical care. Yet, while denying health care choices to the incarcerated, states spend billions of dollars annually on prison health care. With 40% of incarcerated individuals with chronic health conditions, and 20.1% of state inmates who receive no medical examination while incarcerated, we can see that there is a lack of agency for incarcerated individuals when it comes to their specific health care needs (Casendino).

Since 1972, when an incarcerated individual was given rights to basic medical care under Newman v. Alabama, issues of agency for the incarcerated have been in the public sphere. At that time, a federal district court judge found 8th and 14th Amendment violations relating to the inadequate medical care and treatment of state inmates and granted declaratory and injunctive relief (Breece and Grametbaur). However, the Supreme Court found differently in the 1976 case of Estelle v. Gamble, in which an incarcerated man in Texas filed a complaint due to not receiving proper care for a back injury he obtained while on a prison labor assignment. In their ruling on this case, the Court failed to concretely establish that ignoring an incarcerated individual's medical needs could constitute cruel and unusual punishment in violation of their rights under the 8th Amendment of the United States Constitution, which requires that states provide medical treatment to incarcerated individuals; they did not find this to be the case with Gamble's situation (Casendino). After many decades of rising incarceration rates, the pattern of neglect not addressed by the Court in this pivotal case is continuously being perpetuated by states, courts, and several different private health care companies

operating within state prisons (Adler; Natterman; Oliver). The Supreme Court has set a very high standard on ruling when an incarcerated individual's rights to health care are being denied, which has caused a major issue with transgender and the elderly prison population since they have a much more sensitive needs for special health care.

According to Hurst et al., "The proportion of incarcerated persons older than 55 years has increased by 234% between 1999 and 2013" (563). Older adults have higher rates of chronic conditions, including hypertension, diabetes, and heart disease. As they age, there will be more people in the prison population with cognitive impairment and physical disabilities that will make them vulnerable to injuries and poorer health outcomes. Mostly due to health care costs, this translates to older people in prison being the most expensive group.

The services for elderly incarcerated individuals are very limited and leave several bedridden. Those in need of assistance with daily living are often left lying in bed, waiting for nurses to enter the pod to assist them or change them. This may happen one day and maybe not the next day due to understaffing of CNAs. Some states have placed elderly incarcerated individuals in a centralized geriatric prison, by converting an existing facility or building into an assisted living prison (Hurst et al.). Whether modifying an existing prison facility or building a new building, it seems that budget restraints can make it difficult for a state correctional system to function or fulfill the whole spectrum of health care service needs for elderly prison populations.

The population of older prisoners has grown in recent years and is projected to have a steeper growth rate in the near future (Gavin 266). The cost effective management of this aging population will be of significant importance to state budgets. Research can and should be the starting point for addressing the costly demographic shift. A goal should be to raise awareness of issues related to aging prisoners and to

stimulate a debate on how to manage aging prisoners through an examination of this population's health care needs. Some of the debate focuses on cost effective management plans that expand the use of sentencing options for those with chronic health problems as to avoid more serious health problems. However, there is also little guidance on how to effectively manage this population, while incarcerated, due to the number of gaps in current research and practice. One gap in research concerns the specific needs of olderly prisoners. As KiDeuk Kim and Bryce Peterson point out, referring to work done by Human Rights Watch, “[O]lder prisoners may need extra blankets to stay warm in winter, extra time to finish chores, and extra surveillance and protection not to be victimized . . . ” (16). It is important to broaden our understanding of these aging populations in order to better address their health care needs.

Approximately, five thousand transgender individuals are incarcerated in state prisons, but we have little insight into their lives before prison or their journey with transitioning (Herring and Widra). Transgender individuals experience widespread stigma for having a gender identity or expression that differs from their assigned birth sex. Due to this stigma, many transgender people are excluded from the legitimate economy and turn to street economies, such as sex work, to survive, or they resort to substance use to cope with mistreatment, placing them at risk for arrest and incarceration. Limited provider knowledge on transgender health in prison systems contributes to stigmatizing interactions and improper care for incarcerated transgender people.

It may not seem obvious, but the lack of treatment services for transgender individuals who are transitioning demands attention by prison administrators (Van Hout

et al.). Given the guidelines outlined by the United Nations for the Treatment of Prisoners Standard Minimum Rules (aka “The Nelson Mandela Rules”), these administrators should be held responsible for providing medical services for transgender incarcerated individuals, including surgeries and meds. Many jurisdictions globally have no specific prison policy to guide prison management and prison staff in relation to the special needs of LGBT+ prisoners despite the UN’s “Mandela Rules.” For example, there is a lack of specialist care for transgender individuals, like Jason Yoakam, who needs care to continue transiting once locked up; while not the cause of Jason’s denial, sometimes this care is denied due to lack of legal documentation, especially when an individual begins transitioning through blackmarket or underground methods due to financial or other socioeconomic reasons (Herring and Widra).

The LGBT+ population seems to not receive adequate representation in every stage of the criminal legal system. They often do not get proper legal representation, but they are underserved once they are incarcerated. Indeed, the incarcerated transgender population is often not distinguished from the LGBT+ population because prison faclities often ignore transgender diagnoses and indivdiual treatment needs (White Hughto and Clarke). The ability to provide the transgender population with proper treatment, medication, and mental support would ease some of the anxiety which is already present upon their incarceration. The anxiety that is faced with losing freedom and family support plays a great deal on the mental status of many incarcerated individuals. Adding onto that anxiety of inadequate health care and treatment may cause further mental issues that may have been resolved before incarceration.

According to the Mandela Rules, incarcerated individuals who require "specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals . . . " (Rule 27, 8). Furthermore, as stated by the UN, "The prison director shall take into consideration the advice and reports" provided from the physician ("The Nelson Mandela Rules" 11). Transgender people represent a key special population with distinct needs and rights. These needs should bring forth forms of increased advocacy, awareness, high level prison management, and supporting prison staff and prison health care providers with clinical and cultural training on transgender patient care, and the Mandela Rules are one great place to start this awareness training.

There seems to always be a problem of the increasing numbers of incarcerated individuals, which increases the need for health care services being made available in the prison system. With growing numbers of elderly and LGBT+ individuals being incarcerated, there needs to be more focus on the needs of these populations. Although incarcerated individuals do not have full constitutional rights, they are protected by the Eighth Amendment that prohibits cruel and unusual punishment. This protection also requires that incarcerated individuals be provided with a minimum standard of living. Prison facilities are not budgeted to employ contact specialists who can diagnose the special health needs of elderly or transgender individuals, so the prison cannot adequately provide many types of specialty health services, including providing services for transgender individuals going through their transition. A lack of resources means that many prisons are not living up to the requirements that they provide a minimum standard of living for trans and/or elderly individuals who are incarcerated in these inadequate facilities.

Inadequate Health Care Administration and Staffing in Prisons

Some say that prison health care is set up to benefit incarcerated individuals because they may not seek health care services outside of the prison system. This can be correct to a degree and leads people to believe that incarcerated individuals are provided with adequate services. However, my research and many scholarly articles show the myriad of issues and problems facing incarcerated individuals (Kurland). These issues are costing many incarcerated individuals—especially elderly and trans individuals—their lives, or are causing them to suffer even worse symptoms, which could result in death.

For some inmates, incarceration may have a positive health impact in the short term by providing housing, making meals available, reducing access to drugs, alcohol, cigarettes, and giving some access to health care. An article by Macmadu and Rich, "Correctional Health Is Community Health," points out how challenging it can be to provide proper health care for incarcerated individuals who may enter the prison system already having poor health issues. Several recommendations are given to reduce these challenges, which would require lawmakers to amend the Prison Litigation Reform Act (PLRA) to provide increased pressure for improved correctional health care. Also, the authors argue that addictions and mental health treatment programs should be pursued as alternatives to incarceration whenever possible. Finally, the scholars suggest that jails and prison medical directors should work toward improving access to MAT (Medication-Assisted Treatment), which is the use of medications in combination with counseling and behavioral therapies; this approach is effective in the treatment of

opioid use disorders (OUD) and can help some people to sustain recovery while incarcerated.

However, this protective effect is temporary because individuals lose these benefits once they are released (Macmadu and Rich). Moreover, studies have documented a huge increase in all-cause mortality in the first two weeks after individuals were released from prison when compared to all other populations (Macmadu and Rich). As transgender and the elderly individuals are placed back into society, there is a need for ongoing treatment to be provided upon release. But while there is more that states can do for these individuals once they are released, there is much more that needs to be done for them while they are incarcerated.

Prisons have an administrative system that governs the needs of incarcerated individuals, but these administrative systems are failing individuals and causing a violation of their rights as human beings; in some cases, these system failures can even cause death for the incarcerated (Harki). For example, prison doctors often fail to follow specialist diagnoses and follow requests in individuals' medical charts, leaving many incarcerated individuals without medications or proper treatment plans recommended by specialists or treatment teams (Johnson). This negligence affects the standard of living for many transgender incarcerated individuals. Again, I find Mandela rule #24 to be very important when it comes to a prisoner's health care. It states that, "Prisoners should enjoy the same standards of health care that are available in the community" (McCrie and Clémot). Incarceration should not mean that one is denied the health care they would receive on the outside.

Additionally, the shortage of the budget leads to understaffing and outdated computer systems that are used to upload incarcerated individuals' medical records. Sadly, this affects the incarcerated individuals by failing to document and store proper treatment plans for their medical care. The improper and erroneous treatment plans can cause incarcerated individuals to deal with symptoms and illness that come with missed medications that keep them functioning and healthy. Many who would say that these are prisons and there should be no privileges for incarcerated individuals, do not acknowledge or are not aware of the rights of incarcerated individuals to a healthy standard of living. Yes, these individuals are serving their time, but is it right to take away their rights for adequate health care while they are incarcerated?

Conclusion:

The improper healthcare system causes problems in many incarcerated individuals who hope to one day reenter society as healthy and living beings. The downfall of prison health care has caused some to reenter society broken and disheartened from inadequate prison health care. Lupa Brandt, an advocate at Phoenix Transition Program in Georgia, underscores the fact that the damaged health care system in US prisons is failing the incarcerated and is, indeed, an issue of life and death: “I have seen the way they take care of people. I actually worked for a short time as an orderly in their prison infirmary, and I saw the people [who] had [...] ‘Do Not Resuscitate’ sign[s] hanging on the[ir] door[s]. You know that the prison doctor has decided that they are not worth keeping alive.” Lupa’s statement brings to mind the quote from Nelson Mandela: “A nation should not be judged by how it treats its highest

citizens, but its lowest ones.” With the awareness that comes from research on health care failures in US prisons and the stories of the incarcerated and their health care needs, it is clear that change is needed to better a broken prison health care system that is damaging people who want to reenter society they once were a part of, becoming free of their imprisonment, but who deserve adequate health care while they are yet incarcerated.

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