

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

**Testimony on LB 786
Before the Judiciary Committee
Nebraska Legislature
February 12, 2020**

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Good afternoon Senator Lathrop and members of the committee. For the record my name is Brad B-R-A-D Meurrens M-E-U-R-R-E-N-S and I am the Public Policy Director at Disability Rights Nebraska. We are the designated Protection and Advocacy organization for persons with disabilities in Nebraska, and I am here today in support of LB 786.

The prevalence rates of prisoners with disabilities is significant. The criminal justice system is housing such a significant number of people with mental illness, either diagnosed or not, that many authors have deemed U.S. prisons as “the new asylums”¹. Research indicates that people with mental illness continue to be overrepresented within the criminal justice system (see table 1), inmates typically have significant and multiple health problems, and the incidence of co-occurring disorders (simultaneous substance abuse and mental illness) is common. As the Council of State Governments Justice Center writes in 2013²:

“In a study of more than 800 individuals released from U.S. prisons, nearly all—eight in 10 men and nine in 10 women—had chronic health conditions requiring treatment or management...People in the study often had more than one type of health problem-conditions that they had when they entered the facility and that required ongoing attention upon release. Roughly four in 10 men and six in 10 women reported a combination of physical health, mental health, and substance use conditions... Co-occurring mental health and substance use disorders are common. In prisons, approximately 30 percent of individuals with substance use disorders also have a major mental health disorder. Conversely, in jails, an estimated 72 percent of individuals with serious mental illnesses have a substance use disorder. In prisons, co-occurring disorder estimates range from 3 to 11 percent of the total incarcerated population.”

¹ See Frontline, “The New Asylums” (video), <http://www.pbs.org/wgbh/pages/frontline/shows/asylums/>

² Council of State Governments Justice Center (2013), “Health, Mental Health, and Substance Use Disorders FAQs”, available at: <http://csqjusticecenter.org/substance-abuse/faqs/>

Table 1 Estimated Proportion of Adults with Mental Health, Substance Use, and Co-occurring Disorders in U.S. Population and under Correctional Control and Supervision³

	General Public	State Prisons	Jails	Probation and Parole
Serious Mental Disorders	5.4%	16%	17%	7-9%
Substance Use Disorders (Alcohol and Drugs) — Abuse and/or Dependence	16%	53%	68%	35-40%
A Co-occurring Substance Use Disorder When Serious Mental Disorder Is Diagnosed	25%	59%	72%	49%
A Co-occurring Serious Mental Disorder When Substance Use Disorder Is Diagnosed	14.4%	59.7%	33.3%	21%

Early research indicates that 25%-87% of inmates report having experienced a head injury or traumatic brain injury compared to 8.5% in the population⁴.

Additionally, the existence of a mental illness, developmental disability, or brain injury can affect an inmate’s functioning in corrections. As the Centers for Disease Control points out (see handout), inmates with traumatic brain injury might have injury-related attention or memory issues, or deficits in impulse control which can affect the perceptions of staff or other inmates. Someone with an intellectual disability may be vulnerable to victimization or exploitation⁵ or have greater difficulty understanding and following rules and instructions⁶. An individual with a mental illness may need immediate access to medications or treatment, and without them, may be at serious risk for worsening mental health symptoms while in jail or may act in ways that lead to discipline and segregation.⁷

The Substance Abuse and Mental Health Services Administration notes that “Use of evidence-based approaches for screening and assessment is likely to result in more

³ See Fred Osher, M.D., David A. D’Amora, M.S., Martha Plotkin, J.D., Nicole Jarrett, Ph.D & Alexa Eggleston, J.D., Council of State Governments Justice Center, Criminal Justice/Mental Health Consensus Project, *Adults with Behavioral Health Needs Under Correctional Supervision: A Shared Framework for Reducing Recidivism and Promoting Recovery* (2012), https://www.bja.gov/Publications/CSG_Behavioral_Framework.pdf

⁴ See Schofield PW, Butler TG, Hollis SJ, Smith NE, Lee SJ, Kelso WM. “Traumatic brain injury among Australian prisoners: rates, recurrence and sequelae.” *Brain Injury* 2006; 20(5):499-506; Slaughter B, Fann JR, Ehde D. “Traumatic brain injury in a county jail population: prevalence, neuropsychological functioning and psychiatric disorders”. *Brain Injury* 2003; 17(9):731-41; and Morrell RF, Merbitz CT, Jain S, Jain, S. “Traumatic brain injury in prisoners”. *Journal of Offender Rehabilitation* 1998; 27(3-4):1-8.

⁵ See Anna Scheyett, Jennie Vaughn, Melissa Taylor & Susan Parish, “Are We There Yet? Screening for Intellectual and Developmental Disabilities in Jails”, *47 Intellectual and Developmental Disabilities* 13, 14 (2009)

⁶ See Leigh Ann Davis, M.S.S.W., M.P.A., “People with Intellectual Disabilities in the Criminal Justice Systems: Victims & Suspects”, *The Arc* (2009), <http://www.thearc.org/what-we-do/resources/fact-sheets/criminal-justice>.

⁷ Supra note 3

accurate matching of offenders to treatment services and more effective treatment and supervision outcomes”.

Additionally, our research on solitary confinement indicates that segregation (whether long-term or short-term), can have significant negative effects on an inmate’s psychiatric condition. Generally speaking, they worsen (which can then be used to justify keeping them in segregation longer). A unique symptomology of inmates in solitary confinement includes irrational anger and rage, loss of impulse control, paranoia, and perceptual distortions/illusions/hallucinations. Serious symptoms can occur even in individuals without mental illness after being isolated for only a few days. Thus, we strongly support the screenings after time spent in segregation proposed in LB 786.

We recommend LB 786 be advanced.