

## Cruel and Unusual

*What Psychology says about America's Prison System*

By Juliana Tedeschi

Every day, in over 2,000 federal, state, and for-profit prisons, the United States trespasses on the eighth amendment rights of about [1.8 million](#) of its citizens. Our founding fathers wrote the eighth amendment, in part, to set the limits within which our prison system should operate. In theory, the amendment prohibits “cruel and unusual” punishment, but how well is this accomplished in practice? The conditions of our prisons, as well as the retributive nature of the justice system, causes such psychological damage to our citizens that it's time to rethink not only the eighth amendment, but the incarceration system altogether.

While we can't know exactly what the founding fathers meant by “cruel,” the term is an indisputably fitting descriptor of our prisons' mental health infrastructure. Not only have many prisons' mental health resources been found [criminally insufficient](#), but the ‘treatment’ provided sometimes takes the form of heavy medication or solitary confinement. These deeply inhumane responses to mental illness, combined with the heavy stigma -- and subsequent violence -- that often accompanies a diagnosis, dissuades many people from seeking treatment. And for most prisoners, treatment is an urgent necessity, with [over half](#) of incarcerated people showing symptoms of moderate to severe mental illnesses.

As it stands, even if prisons were equipped with well-funded mental health services, these services could never keep up with the damage that the prison environment creates. The rate of PTSD, which stands at [60%](#) in men's prisons, stems from the widespread sexual and physical violence that most people will either witness or be victim of during their sentence. Other tacitly accepted characteristics of prison life -- everything from isolation from friends and family to lack of natural light -- [correlate](#) with rates of depression, anxiety, and suicide.

Individual prisons regularly augment this trauma with practices like solitary confinement, which the United Nations [characterized as torture](#) more than a decade ago. The [80,000 Americans](#) who are estimated to be in solitary confinement show

symptoms including hallucinations, cognitive damage, depression, and psychosis. As is the case for most forms of trauma, the damage persists long after the initial event; those who have been in solitary confinement represent half of the deaths by suicide among prisoners, despite making up only 6% of the prison population<sup>1</sup>.

Even in the most peaceful and well-equipped prison, the mental health of the inhabitants would still be at risk from the second flaw of the eighth amendment: its sixteenth word.

The eighth amendment's sixteenth and final word, "punishment," neatly describes the American justice system's retributive purpose, which itself causes psychological harm. Many Americans would argue that the harsh characteristics of a retributive sentence do their job to punish the criminal and dissuade crime. Yet we only seem to be accomplishing the former; the retributive system shows a [marginal reduction](#) in crime and a recidivism rate of more than [50%](#) after only three years. Furthermore, the recidivism rate jumps to [70%](#) for prisoners with mental illnesses, and with incarceration costing over [\\$1.2 trillion](#) each year, it's not within our best interest to continuously cycle prisoners through the system at the cost of their wellbeing and our tax dollars.

An alternative to retributive justice is restorative justice, a system that collaborates with offenders and aims to fully reintegrate them into society, if it is safe to do so. The principles of restorative justice are tailored to the needs of the offender themselves, directly address mental health concerns, and are incompatible with the characteristics of the retributive system, like isolation and a lack of autonomy, that cause psychological damage. Some states in America have implemented restorative justice, and see [lower recidivism rates and less money](#) spent per offender than in their formerly retributive systems. Restorative justice may feel contrary to our instinct to punish those who break society's rules, but with such low demonstrated efficacy, and such high individual and public cost, there is little proof that our current system does anything beyond fulfilling those vindictive impulses.

As it stands, the state of mental health in American prisons both crosses the bounds of "cruel and unusual," and will continue to do so until we remove the concept of punishment from our justice system. Restructuring such an established American system might seem too difficult, but the founding fathers once saw a damaging and

archaic system and took action to create a better one. Who's to say we can't do the same?

1:[https://www.prisonpolicy.org/blog/2020/10/13/solitary\\_mortality\\_risk/#:~:text=These%20preventable%20deaths%20aren't,the%20community%20directly%20from%20solitary.](https://www.prisonpolicy.org/blog/2020/10/13/solitary_mortality_risk/#:~:text=These%20preventable%20deaths%20aren't,the%20community%20directly%20from%20solitary.)