

# The Horseshoe Theory of Mental Illness and Incarceration

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## Introduction

“And I find it kind of funny, I find it kind of sad / The dreams in which I'm dying are the best I've ever had,”<sup>1</sup> Curt Smith sadly lilted in the chorus of the 1983 song “Mad World.” Everyone seems to know the first lines of this 1980s hit, “All around me are familiar faces / Worn out places, worn out faces,”<sup>2</sup> but it seems that the chorus echoes far more than the first lines. It echoes in the minds of the mentally ill, but probably much more in the minds of mentally ill prisoners, who comprise 64.2% of those jailed and 56.2% of those in state prisons.<sup>3</sup> The news is full of information about a mental health crisis<sup>4</sup> and an incarceration crisis,<sup>5</sup> but what headlines don't often say is that these issues are overlapping. The three largest mental health treatment facilities are Los Angeles County Jail, Rikers Island Jail Complex, and Cook County Jail.<sup>6</sup> The suicide rate of those imprisoned is three times higher than the national suicide rate.<sup>7</sup>

Political scientists first claimed the “horseshoe theory.” It argues that “the political spectrum is bent, like a horseshoe, with the far right and far left at the ends bending around so

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<sup>1</sup> “Tears for Fears — Mad World Lyrics,” Genius Lyrics, Genius Media Group Inc., 14 November, <https://genius.com/Tears-for-fears-mad-world-lyrics>

<sup>2</sup> Ibid.

<sup>3</sup> Van Wyck, Carolyn Pratt, and Elizabeth Pratt. “Mass Incarceration and Mental Illness: Addressing the Crisis.” In *Incarceration and Race in Michigan: Grounding the National Debate in State Practice*, edited by Scott Lynn Orilla and Stokes Curtis, 177-212. East Lansing: Michigan State University Press, 2020. Accessed October 31, 2020. doi:10.14321/j.ctvq2vzv6.16.

<sup>4</sup> Keya Vakil, “America’s Mental Health Crisis Is Exploding During the Coronavirus Pandemic,” Courier Newsroom, Courier Newsroom, 19 June 2020, <https://couriernewsroom.com/2020/06/19/americas-mental-health-crisis-is-exploding-during-the-coronavirus-pandemic/>.

<sup>5</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010), 9

<sup>6</sup> Van Wyck, 179.

<sup>7</sup> Ibid, 183.

they almost touch each other.”<sup>8</sup> However, this theory is widely contested (see more in footnotes).<sup>9</sup> Despite its controversial nature, the overall shape of the horseshoe is useful in analyzing modern imprisonment and past mental health treatment.

The United States’ historical treatment of mental illness and modern incarceration are like the ends of a horseshoe—seemingly on opposite ends, but analogously close. The horseshoe remains the best shape to describe this incredibly complex relationship, as it allows for a central curve that connects the two, yet enough difference for a gap between the ends. Evidence for this theory comes from the establishment of Friends Asylum in Pennsylvania, an examination of asylum decrease and prison increase also in Pennsylvania, and a modern ethnographic account of mental health treatment in a modern day maximum security prison in California.

I begin each section with a case study; something I believe encapsulates the topic at hand. Then, I examine three parallels that almost connect the ends of present incarceration and past mental health treatment. These parallels are: designed separation, long duration, and similar reform histories. Next, I analyze the “middle” of the horseshoe, or a direct intersection of incarceration and mental health treatment. Finally, I discuss why there is a gap between the ends of the horseshoe or the crucial difference between present day incarceration and past mental health care.

### **Separation: Selective and the Same**

The first parallel is the selective separation that occurs in both prison and the asylum, demonstrated by Morgan Hinchman’s experience. Friends Asylum was dubbed the “Quaker Bastille” by Morgan Hinchman in 1847, after he sued his own family, friends, and the doctors of Friends for involuntarily holding him there, just so they could take his money for “nefarious purposes.”<sup>10</sup> His family accused him of “moral insanity” due to stealing money from the bank he worked at and physically hurting his mother in an orchard.<sup>11</sup> To Hinchman’s lawyers, “moral insanity” meant that he was “insane in conduct, not in ideas,”<sup>12</sup> and the jury found for Hinchman, which meant they thought he was sane.<sup>13</sup> Hinchman, if in our times, would likely have ended up in prison, not an asylum. He represents a particularly interesting intersection of wrongful conduct

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<sup>8</sup> Noah Berlatsky, “Let’s Put an End to ‘Horseshoe Theory’ Once and For All,” *Pacific Standard*, grist, 9 February 2018, <https://psmag.com/social-justice/an-end-to-horseshoe-theory>

<sup>9</sup> Ibid; Simon Choat, “‘Horseshoe theory’ is nonsense – the far right and far left have little in common,” *The Conversation US*, 12 May 2017, <https://theconversation.com/horseshoe-theory-is-nonsense-the-far-right-and-far-left-have-little-incommon-77588>.

<sup>10</sup> Patricia D’Antonio, *Founding Friends: Families, Staff, and Patients at Friends Asylum in Early Nineteenth Century Philadelphia* (Bethlehem, Lehigh University Press, 2006), 13.

<sup>11</sup> “The Patient as a Psychiatric and Legal Subject in Nineteenth-Century America: BETWEEN NORM AND NORMAL.” *Diagnosing Madness: The Discursive Construction of the Psychiatric Patient, 1850-1920*, by Cristina Hanganu-Bresch and Carol Berkenkotter, University of South Carolina Press, Columbia, South Carolina, 2019, pp. 9–34. JSTOR, [www.jstor.org/stable/j.ctv7r41gv.7](http://www.jstor.org/stable/j.ctv7r41gv.7). Accessed 31 Oct. 2020.

<sup>12</sup> Ibid, 23.

<sup>13</sup> Ibid, 25.

and whether or not that hinges on insanity. Fundamentally, Hinchman’s story is about separation from society and the reasons behind it, making his case study an interesting introduction to the formulated separation of people into asylums or into prisons.

First, both historical US mental health treatment and modern incarceration stem from a desire to separate certain groups from the general population. In the early 1800s, Pennsylvania Quakers created Friends Asylum for “unruly, unmanageable, and enfeebled kin.”<sup>14</sup> Approximately 180 years later, armed with law-and-order rhetoric, Pennsylvania governor Dick Thornburgh launched a campaign to build new prisons for criminals.<sup>15</sup> Although for different reasons, asylums and prisons reflect a deep social dilemma—how do we deal with members of society that pose harm to themselves or others or are unable to coexist well with others? The response to both those historically with mental illness and those presently convicted of crimes is the same: it is better to separate them from the rest of society. Foucault likens the separation of people into prisons to a village barricading itself from a plague, writing, “If it is true that the leper gave rise to rituals of exclusion [...] then the plague gave rise to disciplinary projects.”<sup>16</sup> If true, one must question why we view criminals and the mentally ill as “lepers,” capable of spreading disease through mysterious and then unknowable ways. Foucault’s analysis strikes root at our need for hierarchy and control. It is especially relevant when dealing with “deviant” populations. Not only do the modern prison and the historical asylum separate people from the general population, the method in which people are separated are eerily similar.

Secondly, the selective separation for both the asylum and prison are shockingly alike, both with the intention of control. In Friends Asylum, the strength of mental illness dictated where one lived and what conditions—those most mentally ill lived closest to the superintendent.<sup>17</sup> Likewise, in prisons, inmates are divided into sub-populations such as those in mental wards, maximum security units, and those in the “general population.”<sup>18</sup> Sometimes, when some wards are better than others, moving blocks serves as a punishment, as seen by the moving of Leroy Dewer and Ray Lamorie into the significantly worse HBZ block in the Attica prison before the 1971 uprising.<sup>19</sup> This careful format of separation serves to maintain power imbalances: having “unruly” patients closer to authority puts them closer to control, while using location as a punishment serves to deter prisoner misbehavior. Location allows for observation. For those in Friends Asylum, being closer to the superintendent likely resulted in closer observation, as they were nearer to authority, yet further from freedom. Foucault writes of Jeremy Bentham’s panopticon where “He [a prisoner] is seen, but he does not see; he is the

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<sup>14</sup> D’Antonio, 16.

<sup>15</sup> Anne E. Parsons, *From Asylum to Prison: Deinstitutionalization and the Rise of Mass Incarceration after 1945*. (The University of North Carolina Press, 2018), 137-138;

Michel Foucault, *Discipline and Punish*, (New York City: Vintage Books, 1995), pg. 198.

<sup>16</sup> Michel Foucault, *Discipline and Punish*, (New York City: Vintage Books, 1995), pg. 198.

<sup>17</sup> D’Antonio, 55.

<sup>18</sup> Lorna A. Rhodes, *Total Confinement: Madness and Reason in the Maximum Security Prison* (London, The University of California Press, 2004), 2.

<sup>19</sup> Heather S. Thompson, *Blood in the Water: The Attica Prison Uprising of 1971 and its Legacy* (New York, Vintage Books, 2016), 47.

object of information, never a subject in communication.”<sup>20</sup> This Big Brother-esque watching is for control. While Friends Asylum came before the panopticon, the patients there had constant “companionship.”<sup>21</sup> Those with more attention were and are supposed to be subdued more easily. Therefore, how the patients/inmates were structured in asylums and prisons was almost identical, yet what remains more similar is the physical location of asylums and prisons.

Some prisons are literally the same buildings as former asylums. States throughout the United States “recycled” mental institutions and tuberculosis sanatoriums as prisons.<sup>22</sup> There are currently sixty-nine open or closed prisons on the grounds of former mental hospitals/tuberculosis sanatoria. Understanding the economic situation of the asylum helps explain this “recycling.” This was both a cost cutting measure *and* a measure to save the economies of the small towns that housed the mental institutions. These small towns were generally white and were hurt by the decline of industrial jobs, which resulted in extra labor and little capital to create new jobs. They were among the staunchest advocates for more prisons. However, research shows that the prisons could not save the economies of these towns, which were suffering from the effect of industrial decay and massive job loss. In contrast, people were staunchly against the creation of community mental health centers in their towns. Some wanted to turn the former asylums into community mental health centers, but this failed for two reasons. First, it did not fit Pennsylvania Governor Dick Thornburgh’s law and order agenda, and NIMBYism (N ot I n M y B ack Y ard), the aforementioned opposition to mental health centers spurred old asylums to become new prisons.<sup>23</sup> To conclude, the first parallel between modern prisons and historical asylums lies in the fact that they separate people, how they separate people, and where they separate people.

## **The Constant and Continual Carceral State**

Secondly, the constant and continual carceral states created by both historic mental health treatment centers and imprisonment represents another similarity, as demonstrated by the 2003 Supreme Court case *Lockyer v. Andrade*. This case fundamentally asks, is \$153.00 worth 50 years without parole?<sup>24</sup> As a consequence of California’s “three strikes laws,” Leandro Andrade will not be eligible for parole until he is 87 because he stole \$153.00 worth of video tapes from two Kmart’s.<sup>25</sup> A third felony, even nonviolent, will impose a harsh sentence ranging from 25 years to life. Since Andrade stole from two Kmart’s, the judge sentenced him to two felonies, which resulted in a sentence of 50 years until parole. The 9th Circuit Court of Appeals ruled his punishment a violation of the Eighth Amendment, arguing that his punishment was “cruel and

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<sup>20</sup> Foucault, 200.

<sup>21</sup> D’Antonio, 106.

<sup>22</sup> Parsons, 143-144.

<sup>23</sup> *Ibid*, 140.

<sup>24</sup> Ina Jaffe, “Cases Show Disparity Of California’s 3 Strikes Law,” npr, npr, 30 October 2009, <https://www.npr.org/templates/story/story.php?storyId=114301025>.

<sup>25</sup> Jaffe.

unusual.”<sup>26</sup> However, the Supreme Court, ruling 5-4 on party lines (with the exception of Souter, who, although appointed by a Republican, became a staunch liberal).<sup>27</sup> Their reasoning was that, since Andrade could receive parole after 50 years, it was not “cruel and unusual.”<sup>28</sup> This case study demonstrates the second parallel between modern prison and historical mental health treatment: the torturous length.

The long time one spends, either as a convict or a patient, is a feature of both modern prisons and historical asylums. The managers of Friends Asylum lamented that their asylum was becoming a place for rich Quakers to leave their chronically insane relatives.<sup>29</sup> Chronic patients left fewer beds for patients who could be cured by moral treatment.<sup>30</sup> Women at Laurelton, a home for “feeble-minded women” in Pennsylvania, stayed for decades, generally past menopause.<sup>31</sup> This was to prevent these “feebleminded women” from passing their “feeble-minded” genes to future generations. In fact, one of the main reasons why mental health care was primarily so white (which prison is not) is that the people with “bad genes” were locked up, so others could eugenically purify the white race.<sup>32</sup> When voters repealed California’s three strikes law in November 2012, over 1,500 people were released.<sup>33</sup> Even without three strikes laws, mandatory minimums create too long sentences disproportionate to the crime committed.<sup>34</sup> Mandatory minimums spurred the growth of mass incarceration, leading to the prison crisis we have today.<sup>35</sup> Additionally, difficult parole measures such as needing a job before release, as was in Attica in 1973, makes it nearly impossible to escape the clutches of a truly pernicious system.<sup>36</sup> However, even if getting out of prison or an asylum is challenging, staying out of these institutions proves more difficult.

Both historical mental health treatment and modern criminal justice carry long, sometimes lifetime, sentences because of recidivism. Recidivism supports the chronic nature of these systems by making it nearly impossible to actually leave. Around 1/5 of Friends Asylum’s admitted patients were readmissions from 1817-1841.<sup>37</sup> Of this 1/5, half of them had experienced mental distress within a year of release and thus returned.<sup>38</sup> Prison recidivism is worse—a 2018 Bureau of Justice report outlines that 83% of those released were rearrested within 9 years, with

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<sup>26</sup> Jaffe.

<sup>27</sup> “Lockyer v. Andrade.”

<sup>28</sup> Jaffe.

<sup>29</sup> D’Antonio, 34.

<sup>30</sup> Ibid, 34.

<sup>31</sup> Parsons, 50-51.

<sup>32</sup> Ibid, 14.

<sup>33</sup> Karch, Andrew, and Matthew Cravens. “Rapid Diffusion and Policy Reform: The Adoption and Modification of Three Strikes Laws.” *State Politics & Policy Quarterly* 14, no. 4 (2014): 461-91. Accessed October 31, 2020. <http://www.jstor.org/stable/24710977>.

<sup>34</sup> “Mandatory Minimums and Sentencing Reform,” Criminal Justice Policy Foundation, CRIMINAL JUSTICE POLICY FOUNDATION, Accessed 15 November, 2020. <https://www.cjpf.org/mandatory-minimums>.

<sup>35</sup> Ibid.

<sup>36</sup> Thompson, 12.

<sup>37</sup> D’Antonio, 85.

<sup>38</sup> Ibid, 85.

44% being rearrested in the first year.<sup>39</sup> It is difficult to leave, but it is *even more* difficult to stay out. Therefore, both asylums and prisons have lengthy sentences due to recidivism.

## Rational Reform

In an otherwise bleak essay, the similar histories of reform for both historical mental health treatment and modern imprisonment provide possible hope and freedom as the third and final parallel, as demonstrated by the 1971 case *Dixon v. Attorney General of Commonwealth of Pennsylvania*. This case concerned Farview State Hospital for the Criminally Insane in Pennsylvania, where most people left by dying.<sup>40</sup> He writes, “We find Section 404 to be almost completely devoid of the due process of law required by the Fourteenth Amendment.”<sup>41</sup> Section 404 allows for involuntary commitments to be made by “a relative, guardian, friend, individual standing in loco parentis to the person to be committed, or by the executive officer or an authorized agent of a governmental or recognized nonprofit health or welfare organization or agency or any responsible person.”<sup>42</sup> This led to the release of hundreds, most of whom did not commit crime or rejoin the mental health system.<sup>43</sup> Although the case was focused on the liberties of those institutionalized, public safety was of utmost importance.<sup>44</sup> However successful this reform was in freeing people from mental hospitals, it often sent former patients into a world with little community support. Historian Anne Parsons writes, “On the one hand, many people diagnosed with mental illness gained a host of negative writes, such as the freedom from confinement. On the other hand, the more positive rights such as the right to mental health care [...] did not materialize.”<sup>45</sup> This hope, soon extinguished by the rough waves of reality, makes this case and its consequences a reflection of both prison and asylum reform, as all began with good intentions, but sustainability issues eclipsed any meaningful reform.

The last parallel is that reform for both the asylum and the prison came from genuine altruism and high minded intent but failed due to financial reasons or unsustainable practices. In the beginning of mental deinstitutionalization, mental health advocates had two unlikely allies: the Pennsylvania Department of Justice (before the Department of Corrections was created, corrections was under the Department of Justice) and prisoners’ rights advocates. Prior to the law-and-order rhetoric, Pennsylvania, under Allyn Sielaff, the new commissioner of corrections, used work and education release programs to reduce recidivism. Pennsylvania’s Attorney General, William Sennett, preferred to use probation as a punishment, not jail time in this era.

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<sup>39</sup> Mariel Alper and Matthew R. Durose, “2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005-2014),” Bureau of Justice Statistics, Department of Justice, May 2018, <https://www.bjs.gov/content/pub/pdf/18supr9yfup0514.pdf>.

<sup>40</sup> Parsons, 92.

<sup>41</sup> “*Dixon v. Attorney General of Commonwealth of Pa.*, 325 F. Supp. 966 (M.D. Pa. 1971),” Justia Law (Justia, April 22, 1971), <https://law.justia.com/cases/federal/district-courts/FSupp/325/966/2594206/>.

<sup>42</sup> *Ibid.*

<sup>43</sup> Parsons, 95.

<sup>44</sup> *Ibid.*, 94.

<sup>45</sup> Parsons, 94-95.

Prisoners went to “out-prisoner” programs, aptly named for its similarity to mental health “out-patient” programs. While in these programs, inmates went to forestry camps and work release programs during the day and returned to prison at night. However, with fears of crimes stoked by politicians after the Attica uprising and the rise of politicians like Governor Thornburgh, these programs were later replaced with the building of new prisons, as “tough on crime,” became the new political fashion.<sup>46</sup> The visionary nature of the initial reforms under Sielaff and Sennett proves that initial prison reform was high-minded and looked to the well-being of those the system served. Likewise, mental health reform in Pennsylvania was similarly compassionate and innovative.

At Friends Asylum, the reformers keenly focused on “moral treatment.” Moral treatment was the idea that everyone, even mentally ill, had some semblance of rationality left, and that individualized care and routines, consisting of work and being treated as a rational being, would connect patients to their rational senses.<sup>47</sup> This Quaker ethos of focusing on the “inner light” of everyone sees its reflection in “moral treatment.” However, the collective need for security was not fulfilled by moral treatment, which ultimately failed in providing a cure for patients and their communities.<sup>48</sup> Moral treatment disappeared after 1832, and after 1850, Friends Asylum was just like other asylums, grounded in modern “medical” practice.<sup>49</sup> Although it disappeared, the efforts of Friends to connect to the “rationality” of the insane represents a valiant effort, like the community corrections under Sielaff and Sennett, for high minded reform.

Fundamentally, Sielaff and Sennett’s reforms became politically inconvenient, while there were sustainability issues with Quaker mental health reform. In 1970s Pennsylvania, legislators shifted to the American zeitgeist of “tough on crime.”<sup>50</sup> Criminal justice became punitive, not rehabilitative.<sup>51</sup> This made community corrections against the agenda of people like Governor Dick Thornburgh, who built new prisons while slashing budgets for community mental health programs.<sup>52</sup> Similarly, having personal attendants at Friends Asylum became inconvenient. Moral treatment failed in part due to the highly individualized nature of the practice. Patients needed constant personal companions to do work with them, which proved costly and taxing to employees, who had other duties.<sup>53</sup> Therefore, the final parallel between historical mental health treatment and present criminal justice treatment lies in the failed high-minded and compassionate reform that reformers attempted.

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<sup>46</sup> Parsons, 100.

<sup>47</sup> D’Antonio, 18.

<sup>48</sup> Ibid, 147.

<sup>49</sup> Ibid, 29.

<sup>50</sup> Parsons, 100.

<sup>51</sup> Ibid, 100.

<sup>52</sup> Ibid, 129.

<sup>53</sup> D’Antonio, 106.

## The Miserable Middle

After examining the three parallels of modern incarceration and past asylums, I will now introduce the “miserable middle,” where mental health “treatment” and imprisonment collide in the curve of our horseshoe. Eddie Mullen, described as “a small disheveled man with several tattoos and scars,” was in prison for attacking his family members while drunk.<sup>54</sup> When he met with the admitting mental health clinician, he described paranoia, anxiety, suicidal thoughts, and remorse over his actions. His intention? To be admitted in a mental health ward because “he did not want to be sent to a more threatening environment.”<sup>55</sup> The clinician he spoke to thought either antisocial or borderline personality disorder was the proper diagnosis for Mullen. The difference between these two diagnoses would mean much to where Mullen would be placed. Clinicians view antisocial personality disorder as incurable, while a diagnosis of schizophrenia is viewed as treatable.<sup>56</sup> Foucault writes that psychiatry provides people who are deciding “deviancy” a veneer of “scientificity,” which is supported by the law.<sup>57</sup> Much of his argument lies in the power imbalance between the psychiatrist and the patient, and nowhere is this more present than in prison. This difficult delineation of mental health problems while still balancing the safety of other prisoners represents the tension underlying “the miserable middle:” where mental health treatment and prison intersect. This section will discuss the overlapping populations served by the two systems and life in a modern mental health ward.

The modern prison population is overwhelmingly male,<sup>58</sup> and Friends Asylum was also disproportionately male.<sup>59</sup> Moreover, as mental hospitals closed, people who would have been institutionalized in hospitals were instead incarcerated in prisons.<sup>60</sup> A year after the passing of California’s Lanterman-Petris-Short Act in 1970, the amount of mentally ill people in the criminal justice system doubled. This act made it more difficult to involuntarily hospitalize people, but researchers discovered that police officers would just arrest people, if they could not commit them due to mental health reasons. After the deinstitutionalization of asylums in the 1960s, police began arresting mentally ill people (who previously had lower arrest rates than the general population) at higher rates than the general population.<sup>61</sup> The aforementioned statistics in the introduction egregiously indicate that this issue has just skyrocketed with more and more mentally ill people in the prison system than ever before. Furthermore, these overlapping populations coincide in the mental health wards of prisons.

What is this “miserable middle” like? In some aspects, it is exactly the same. They undergo the same regime of surveillance and control, and the punishment system for infractions

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<sup>54</sup> Rhodes, 140.

<sup>55</sup> Ibid, 141.

<sup>56</sup> Ibid, 141.

<sup>57</sup> Foucault, 296.

<sup>58</sup> “BOP Statistics: Inmate Gender,” Federal Bureau of Prisons, USA.gov, 24 October 2020, [https://www.bop.gov/about/statistics/statistics\\_inmate\\_gender.jsp](https://www.bop.gov/about/statistics/statistics_inmate_gender.jsp).

<sup>59</sup> D’Antonio, 73.

<sup>60</sup> Parsons, 106.

<sup>61</sup> Ibid, 107.

remains the same.<sup>62</sup> However, there is a reason why some prisoners, especially those in isolation, want to be in mental wards. It is because of the human interaction one receives in a mental ward. There are prisoner painted murals, therapists, and medication treatment. Rhodes writes, “Thus what distinguishes mental health from other units—before any consideration of “treatment”—is the interpretation placed on inmates’ “need for attention.”<sup>63</sup> Workers perceive inmates as *needing* attention, not just *wanting* it, and the inmates therefore receive it. However, this attention may be for naught—a worker described his situation as a “cesspool” and that “we’re not going to get healing.”<sup>64</sup> Do not expect a “cure” for these mentally ill, expect a maintenance of symptoms at best. Incarceration simply will “cause harm through either neglect or attention.”<sup>65</sup> Therefore, the “miserable middle” is similar to general incarceration in some ways but different in others.

It is difficult to paint in broad strokes about mental health wards throughout the United States, which vary wildly due to funding and other factors such as how the state generally treats inmates. In New Jersey, former inmate now college student Sabir Bell, describes a situation significantly bleaker than in Rhodes’s ethnography. He describes stigma about going to mental health wards, which contributes to many mentally ill prisoners avoiding “help.”<sup>66</sup> Part of this stigma is likely due to the negative impact a mental health diagnosis has for parole. Medical practitioners distribute medication, but mainly to sedate, not to cure, since they view the inmates as prisoners first, then patients, putting punishment before rehabilitation.<sup>67</sup> Therefore, the “miserable middle” varies greatly from state to state, but the curved intersection between mental health treatment and incarceration is terrible wherever you go.

## The Choice Chasm

Now we will study the sliver of space between the ends of our horseshoe. It can be summarized succinctly in one word: choice. Jeremy Roland, due to the three strikes law, is serving a life sentence for three felonies.<sup>68</sup> Rhodes writes, “He [Roland] mourns the rational actor he could have been and wants to be now.”<sup>69</sup> What is this “rational actor”? From economics to criminal justice, the elusive “rational man” remains at the forefront of how we view the way people act, or at least the way they should. What separates Roland from any inmate at an asylum is that he made a *choice* to commit crime. The world perceives him as having control over his life, and therefore, should be held accountable when he makes mistakes. Roland himself does not disagree but does think his punishment is excessive.<sup>70</sup> Roland captures precisely the miniscule gap between the asylum and the prison: the ability to choose.

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<sup>62</sup> Rhodes, 116.

<sup>63</sup> Ibid, 121.

<sup>64</sup> Ibid, 119.

<sup>65</sup> Ibid, 119.

<sup>66</sup> Sabir Bell. Interview by author. Hillsborough, New Jersey (Zoom). December 11, 2020.

<sup>67</sup> Ibid.

<sup>68</sup> Rhodes, 2.

<sup>69</sup> Ibid, 4.

<sup>70</sup> Ibid, 4.

The ability to choose is what separates the asylum from the prison. People perceive prisoners as, correctly or incorrectly, having *chosen* to commit crime, and therefore should receive punishment. However, people *do not choose* to be mentally ill, and therefore should receive treatment. Supporting this idea is the idea of the rational man. In Friends Asylum's moral treatment, patients lost their rationality, but people could still appeal to it and bring it back.<sup>71</sup> In prison, people assume that "rational man" is there and should act accordingly.<sup>72</sup> For example, staff believe that by punishing missteps, the prisoner will connect his behavior to the punishment and later cease, to avoid punishment.<sup>73</sup> However, how much choice is there in a prison environment where your showers, your meals, your job, your information, is dictated by bureaucracy? There is a limit to the "rational man." Therefore, what forms the gap between the ends of our horseshoe is the perceived power to choose.

## Conclusion

The horseshoe theory, although first used by political scientists, serves as a rich symbol of the complex relationship between historical mental health treatment and modern incarceration. Three forces push the ends (asylums and prison) together: the intentional and systematic separation of people from society, its enduring duration, and histories of high-minded reforms that eventually imploded. The "miserable middle" (the center of the curve) of the horseshoe consists of populations that overlap and mental health wards in prisons. Lastly, what separates the ends of the horseshoe is the concept of choice.

The constancy of a carceral state permeates US history and society. The question is not just if or what the next carceral state will be, but rather why? What does it say about our power relations that we separate people? What should the purpose of separation be, to help the one isolated or to protect ourselves? These questions have dogged thinkers and reformers and are by no means solved now; the challenge now is to understand and implement the efforts that must tiptoe a careful tightrope. If we are too punitive and desirous to protect society from "dangerous" people, we may extinguish all effort of redemption and make it impossible for those who have made mistakes or are ill from returning. Historically, society has sacrificed the rights of many to protect the collective, and it is not entirely wrong to let go of some freedoms to protect the public: wearing a mask during a pandemic, vaccine mandates, etc. The impossible question is how much?

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<sup>71</sup> D'Antonio, 134-135.

<sup>72</sup> Rhodes, 77.

<sup>73</sup> Ibid, 77.

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