

CARE OR CUSTODY: WHERE SHOULD MENTALLY DISORDERED OFFENDERS BE PLACED?

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Abstract

The Prison Service's emphasis on punishment, control and security has created many problems for the efficient and effective delivery of care to mentally disordered prisoners. Mentally disordered offenders do not have the crucial coping mechanisms or ability to deal with the 'prison culture' (Stephen and Knight, 2009). Conflicting opinions with regards to the treatment of mentally disordered offenders between the prison system and the NHS means care available to prisoners is limited. The focus remains on punishment for the offence rather than treatment of mental disorders (Criminal Justice Act: Chap 44, 2003). Therapeutic communities offer a potential solution to the question of where mentally disordered offenders should be placed. The research found that all three (Community, Institution and Prison) are useful with regards to the placement of mentally disordered offenders. It seems that each provides care for the offender and protects the public from future harm to differing degrees. It identifies the appropriateness of each placement, however also identifies that placement should be dependant on the aims (punishment or rehabilitation), the offence and the mental health issues.

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1. Introduction

1.1. Mentally disordered offenders are defined by the mental health act as *"those who come into contact with the criminal justice system because they have committed, or are suspected of committing, a criminal offence, and who may be acutely or chronically mentally ill...It also includes those in whom a degree of mental disturbance is recognised, even though it may not be severe enough to bring it within the criteria laid down by the Mental Health Act 1983 (now 2007)"*(NACRO, 2010)

1.2. The following research will be an investigation into where mentally disordered offenders should be placed. The Prison Service's emphasis on punishment, control and security has created many problems for the efficient and effective delivery of care to mentally disordered prisoners. Mentally disordered offenders do not have the crucial coping mechanisms or ability to deal with the 'prison culture' (Stephen and Knight, 2009). Conflicting opinions with regards to the treatment of mentally disordered offenders between the prison system and the NHS means care available to prisoners is limited The focus remains on punishment for the offence rather than treatment of mental disorders (Criminal Justice Act: Chap 44, 2003). Therapeutic communities offer a potential solution to the question of where mentally disordered offenders should be placed. This is what shall be explored within this research.

1.3. The treatment of mentally disordered offenders has historically reflected the views, attitudes and approaches of society. It has invariably been two opposing ideas: "legalism" and "welfarism" (Gostin, 1983). The current legislation (Mental Health Act 1983) states that the treatment of mentally disordered offenders is a matter for the courts to decide and define, as opposed to a medical matter. Traditionally care for mentally disordered patients has occurred within care institutes, however mentally disordered offenders have more recently been moved from care institutes and are now detained in Prison. This raises the question of whether mentally disordered offenders are "mad", "bad" or both. This is difficult to distinguish between when discussing mentally disordered offenders due to the nature of the person. Society accepts that we punish criminals, and heal sick. However mentally disordered offenders fall on both sides of the line which invariably means they need to be punished and treated. The first analysis chapter will look to discuss the advantages and disadvantages of incarcerating the mentally disordered offending population taking into account the aims outlined within the Criminal Justice Act (2003). The Criminal Justice Act 2003 states that offenders must be punished, rehabilitated, and the public protected from any harm the offender could cause. The second chapter looks to assess the effectiveness of institutes in conjunction with the aims outlined under the Criminal Justice Act (2003), looking specifically at public protection and rehabilitative or treatment focused approaches. Finally the community placement for mentally disordered offenders will address the advantages and disadvantages of mentally disordered offenders being placed within a community setting, again in line with the Criminal Justice Act 2003. The question that this research looks to answer is "Should mentally disordered offenders be placed into a care institution, prison, or community or should an alternative solution be explored?" Due to the need for public protection, punishment and treatment of the offender it is important to identify that community care, institutionalisation and incarceration may not be the appropriate solution of where mentally disordered offenders should be placed. This shall be explored through literature that will be reviewed in this research. The first aim of this research is to explore and build on previous research in this area. To secondly assess previous research and policy documents to identify which is deemed to be the most appropriate institution to place mentally disordered offenders. The first objective is to identify the most appropriate place for

mentally disordered offenders, taking into account of treatment, punishment and public protection. The second is to highlight the differing opinions of the NHS and prison system when dealing with mentally disordered offenders, through a critique of literature with regards to the effectiveness of treatment programmes and recidivism rates within Prison, Mental Health Institutes or the Community

2. Literature Review

The Improving Health and Supporting Justice (2009) document states that the government's aim is to provide effective mental health care in the most appropriate environment, be that in the Criminal Justice System or in a health setting. This approach is being taken forward in light of Lord Bradleys (2009) recommendations, whilst also maintaining a focus on the Criminal Justice System's aims of protecting the public, reducing health inequalities, reducing reoffending and health improvement. However the publication focuses on the placement of mentally disordered offenders in the Criminal Justice System rather than an alternative (Seymour and Rutherford, 2008). Although it briefly touches on placement of offenders in other institutions it is very much focused on the fact that mentally disordered offenders are primarily offenders who have mental health issues, and does not seem to recognise that such offenders may have offended due to their mental health issue (Bean, 1986). This document also highlights the need to reduce the current delay in the psychiatric reports as this potentially allows for some mentally disordered offenders who should be placed in care institution to be placed within the Prison Service, potentially causing more harm for the offender (Roskes, Feldman, Arrington and Leisher, 1999; Bradley, 2009; Durcan, 2006).

The Mental Health Act 2007 has provision for mentally disordered offenders to be placed into a hospital at sentencing or whilst in prison after assessment, as outlined in the Criminal Justice Act 2003. Section 37 is sometimes used to order mentally disordered offenders to be detained in a hospital at sentencing. Section 45a is similar to that of Section 37 (Mental Health Act, 2007), however this allows for the offender to be transferred back to prison from hospital. Sections 47 and 48 (Mental Health Act, 2007) allow for the offender to be transferred to a hospital. The Mental Health Act, 2007 is important to this research as it includes guidelines for treatment and rights of the offenders. It also highlights the ability to place offenders in care institutions rather than prisons (Roskes et al, 1999, Bradley, 2009; Torrey, 1993). However it is not an advisory document of where is best, it simply outlines the options available currently.

The article by Stephens and Knight (2009) reviewed literature on the area of mentally disordered offenders in the prison system, and questioned if this was the most appropriate institution for this type of offender to be placed. They suggested that the conflicting aims of the NHS and Prison system had led to neglect within the prison service of mentally disordered offenders (Torrey, 1993; Gostin, 1977). They suggest that a therapeutic community maybe a more appropriate placement area for mentally disordered offenders so that they can receive the appropriate treatment and care for their condition whilst also providing public protection. Although these are aims for the prison service it is suggested by Stephens and Knight (2009) that the prison service is not equipped to meet these aims for all the mentally disordered offenders due to "*individual characters, particular illness, length of sentence and medical resources within the prison*" (Stephens and Knight, 2009, pp3; Leibling and Kramp, 1994; Stern, 1989; Brooker, Ricketts, Lemme, Dent-Brown and Hibbert 2005; Cavindino, 1997). However Stephens and Knight (2009) also highlight that punishment and treatment can happen in one system through the example of Grendon Underwood (HMP) (Bradley, 2009). They suggest the prison service would learn a great deal from the therapeutic approach to rehabilitation of mentally disordered offenders (Roskes et al, 1999; Rice et al, 1992). It identifies that mentally disordered offenders are at risk of improper

treatment whilst in Prison, and that this may lead them to re-offend. Their use of data collected from government bodies and from other researchers allows for a rounded approach to the area.

According to Roskes et al (1999) mental illness is prevalent in the prison population; this is reflected within the Bradley Report (2009) which states 78% of male offenders and 64% of female prisoners have a personality disorder. Roskes et al (1999) identify a number of models for the treatment of mentally disordered offenders within the community through use of the probation service. They also identify a “novel collaborative approach” (Roskes et al, 1999) to help mentally disordered offenders succeed with treatment in the community. Roskes et al (1999) also identify problems that this population will face during treatment in the community. This key article will inform the research in identifying areas which can be manipulated so that the best institution or other can be identified and problems reduced or eliminated to help reduce recidivism in this area. Although this article is based on American Psychiatry and their penal system it will be able to add insight into the treatment of mentally disordered offenders in the UK due to the sheer number of offenders in the United States, and the development of treatment programmes (Senior, 2005; Blummenthal and Wessely, 1992). Again this article has identified other areas of research that are key to this research project and has helped inform the methodology of this research piece. As a key piece it has also identified that the prison system is at risk of being abused as a mental hospital rather than a jail (Torrey et al 1993) and offers an alternative stance to that of Stephens and Knight (2009). This in turn will help identify and inform any recommendations that can be drawn from this research.

Rice, Harris, and Cormier (1992) conducted research on therapeutic communities for mentally disordered offenders. Although their research was aimed at treatment and recidivism of Psychopaths, it does highlight the efficacy of these communities with many other mental illnesses (Potter, 1995). Again this research highlights many problems associated with some mental illnesses like Psychopathy and the treatment programs they can be entered into and the effectiveness of these treatment programs. It also highlights the need for some sort of public protection from these types of mentally disordered offenders. This research is key to the research project as it will help identify treatment programmes which could be implemented in an institution or other type of care for mentally disordered offenders, and inform any recommendations which can be drawn from the research project.

3. Methodology

3.1. Method

This research is based on a qualitative collection and analysis of literature, documents and data obtained through secondary research. It will take a non-empirical approach to the literature which is reviewed. It will review the literature provided by government bodies, policy documents, research, journal article, and treatment programmes. The literature review will be undertaken to reveal the pertinent issues in relation to where mentally disordered offenders should be placed taking into account the psychological needs, protection and public safety.

The analysis strategy that will be used is that of literature based Thematic Analysis (Bryman, 2004). Through reading existing policy documents, research, journal articles and other texts key, themes will be revealed and this will allow for the appropriate questions to be asked of each document. Each piece of literature will be assessed in relation to quality, using Scott's (1990) four criteria: Authenticity, Credibility, representativeness and meaning. A review framework will be produced so the same questions are asked of each piece of literature to aid reliability and validity, and allow easier analysis. This will allow for relevant themes to be identified, measured and critiqued at the same level for each piece of literature. It will also keep the research focused and irrelevant information will not be taken forward.

The literature review will encompass both desk and library based searches using the following process (Bryman, 2004); noting relevant details as they come to light, searching "mental disorder" and "mentally disordered offenders", using information from existing references from key texts, keyword internet searches using Google, Google Scholar and Lit Search and focused searches on appropriate pages such as NHS website and Home Office.

The data collected will then be assessed based on recidivism rates and also the effectiveness of treatment where applicable, along with consideration of public and personal protection. Literature will also be assessed on how well it achieves the aims laid out by the Criminal Justice System, the NHS and the mental health authorities. The research should also highlight areas which have worked and those that have not so that conclusion may be drawn as to the appropriate placement of mentally disordered offenders.

3.2. Ethical and Practical Considerations

The reason a literature based thematic analysis has been adopted is due to many ethical considerations. Time and money are also factors when assessing the appropriate method to carry out research. The amount of time needed to review interviews and observations, and produce a well balanced argument from the research data, would exceed the time constraints for this research project. It would also be difficult to build relationships with participants in this time frame, and this could impact the data collected. For this reason a thematic analysis of literature was adopted so that these issues could be overcome. It is hoped that the literature that is reviewed within this research will allow for areas that this project cannot access, such as personal views of mentally disordered offender's. It is pertinent to mention that some issues discussed by any of these parties including mentally disordered offenders themselves could indeed raise further issues that would be difficult to approach, such as disclosure, confidentiality, trust, and allegiances (Code of Ethics, 2009).

It is important to mention that the literature available to be reviewed is not exhaustive and that the research that has been reviewed has not been compared on a "like for like" basis.

Thus it would be impossible to draw concrete conclusions from this thesis. However it is hoped that this thesis will highlight the advantages and disadvantages of each placement and identified areas that may be improved in the future to reduce re-offending, increase the effectiveness of treatment and punishment, and maintain public protection.

It would be impossible to generalise the findings to the mentally disordered population due to the wide variety of mental health issues and varying offences that have been committed. However this research is replicable, although it is subject to the view and opinions of the past present and future researchers. Validity and reliability will be high within this thesis due to it assessing the previous literature in relation to the placement of mentally disordered offenders.

Approval from the NHS Research Ethics Committee (Royal College of Nursing, 2004) would also need to be gained before any research could be conducted involving those under medical care for their mental health issues. This would not be possible due to time restraints. The research ethics that would need to be considered from an NHS point of view are the same as those outlined under the British Psychological Society Code of Ethics, (2009), and these will be explored in more detail

It can also be argued that mentally disordered offenders lack the capacity to consent to interviews about their placement and treatment and this raises issues of if the care/punishment providers would be in an ethical position to consent for the offenders (Code of Ethics, 1.3 (iv), 2009; Research Ethics, 2009). As capacity is a very subjective area, it would also be easy for those parties involved with mentally disordered offenders to declare the offenders unfit to consent when they would like to part-take in the research. Moreover it must be explained to all involved that there is a legal definition of capacity and this must be complied with (Research Ethics, 2009). It is also possible that offenders may not be able to consent due to the nature of their detention.

It would also be difficult to express that mentally disordered offenders have a right to withdraw from the research, if they are in an institute they may feel that they have to continue for fear of being reprimanded (Code of Ethics, 1.4 (ii), 2009).

The British Psychological Society (2009) state that "*Concerns involve unethical behaviour but others involve lack of information, poor planning or carelessness. Reflective practice, peer support and transparency of professional activity would prevent problems occurring or developing into serious concerns*" pp 7. This suggest that a thematic analysis of the existing literature would be a more appropriate approach when dealing with mentally disordered offenders, who are vulnerable not only because of the mental health issues they display but are also vulnerable due to being part of the offending population (Bradley, 2009)

It is also pertinent to mention the researcher's responsibility to avoid harming mentally disordered offenders. This includes physical and psychological issues that may arise from interviews, or observations which could be detrimental to treatment the offenders are receiving (Code of Ethics, 3.3 (i), 2009; Research Ethics, 2004). It is also for these reasons that the research is taking a literary basis, so that harm to the offenders can be eliminated from the study. However the researcher must be mindful of the implications that this study may have on the future placement of offenders (Code of Ethics, 2009; Research Ethics, 2004)

It is relevant to note that research or observations of mentally disorder offenders could put the researcher at risk of harm, again this could be physically or psychologically (Code of Ethics, 3.1 (iv), 2009).

When conducting a literary based research project the researcher must be mindful to acknowledge any arguments, opinions, research findings and conclusions. This will be done throughout the research project, maintaining professional integrity and only claiming appropriate credit of conclusions and research findings (Code of Ethics, 4.1 (vi), 2009). These considerations further supported the use of a literary based research project. This research aims to analyse the advantages and disadvantages of various placements of mentally disordered offenders, allowing for different perspectives. It will evaluate the outcomes to inform future decisions, with regards to ethics, treatment and placement of mentally disordered offenders.

4. Incarceration

4.1. Over View

Incarceration is defined as confinement or imprisonment within a defined area such as a prison. Throughout the history of prison it has been stated that prison is a system '*intentionally organized for the purpose of inflicting deterrent punishment*' (Gunn et al, 1978 pp 9).

The cost to the public and to the offenders being imprisoned is constantly discussed in relation to psychological health, public protection, and expenditure and recidivism rates. This chapter looks to discuss the advantages and disadvantages of incarcerating the mentally disordered offending population taking into account the aims outlined within the Criminal Justice Act (2003). The Criminal Justice Act 2003 states that offenders must be punished rehabilitated, and the public protected from any harm the offender could cause. Imprisonment will be discussed in relation to existing literature that has focused on this population and offer an insight into whether the Prison System is an appropriate setting for mentally disordered offenders to be placed. The literature reviewed under the analysis chapters have been quality assessed under Scott's (1990) criteria and have been found to be authentic, credible and representative.

4.2. Analysis

Cavindino (1997) suggests that mentally disordered offender's should be able to enjoy the same rights as offenders without mental health illnesses, which is explored in the Improving Health and Supporting Justice (2009). Improving Health and Supporting Justice (2009) states that the government's aim is to provide effective mental health care in the most appropriate environment be that the Criminal Justice System or in a health setting. The publication focuses on the placement of mentally disordered offenders in the Criminal Justice System rather than an alternative. It highlights that whether in custody or under supervision offenders are more likely to suffer mental health issues. It also states that those within the Criminal Justice System often experience problems gaining access to appropriate care and treatment for their mental health issues. However, Improving Health and Supporting Justice (2009) suggest that the prison service has more to offer than it has previously, and that the appropriate placement for this population is within the prison service. It suggests, like the Criminal Justice Act (2003) that the most important factor when dealing with offenders, and with mentally disordered offenders, is that of public protection. It then looks at reducing health inequalities, reducing re-offending and finally health improvement. Whilst trying to obtain the rationales outlined within the Criminal Justice Act (2003), Improving Health and Supporting Justice (2009) focuses on the offenders being offenders first and in need of treatment secondly. This is a reasonable assumption to make if the offender has the mental capacity to understand what they have done wrong, to understand the difference between right and wrong, and if they can be held responsible for their actions. This has been supported by Bean, (1986) who suggests that mentally disordered offenders' should be incarcerated for a number of reasons. The first is that it is beneficial for the mentally disordered offender as it allows them to be perceived as more than just their illness. Furthermore it instils in society that mentally disordered offender's are capable of making their own decisions and should be held responsible for all of their actions. However if the person to be incarcerated should, at the time of committing the crime, lose the capacity to understand what is required by law, then it is taken that they should not be held responsible for there actions. (Hart, 1968)

Improving Health and Criminal Justice (2009) is supported by previous research conducted by Gostin (1977) and Cavindino (1997) who stated that society is a strong advocate for the belief that mentally disordered offenders have the right to be held responsible and punished for the crimes which they have committed and be held in custody for a period of time which reflects the gravity of the offence they committed. They still need to be treated for their mental illness however society is justified in protecting itself by holding the mentally disordered offender in custody, if the offence is deserving of such a punishment. Moreover, Gostin (1977) suggests that whilst the mentally disordered offender is held in custody, then everything in society's power should be done to try to rehabilitate this offender so that they may (if appropriate) be reintegrated back into society. This remains in line with the aims of Improving Health and Criminal Justice (2009) and the Criminal Justice Act (2003), which states that offenders should firstly be detained within the prison system to protect the public and secondly treated and rehabilitated.

Although the Improving Health and Criminal Justice (2009) document briefly touches on placement of offenders in other institution it is very much focused on the fact that mentally disordered offenders are primarily offenders who have mental health issues, and does not seem to recognise that such offenders may have offended due to their mental health issue. This issue is supported by the fact that mental illness is prevalent within the Criminal Justice System (Roskes, Feldman, Arrington, and Leisher, 1999) and this raises the question of if the mentally disordered offenders committed the offence due to their mental illness, or if mental illness is developed whilst in prison. Rose (1985) suggests that the ever increasing protection of civil liberties of the mentally ill, from tightening treatability criteria, can lead to the denial of treatment of mentally disordered offenders'. This is highlighted as "defensive psychiatry" by Prins (1992), suggesting that tightly controlling the amount of psychiatric intervention, the medical profession will alleviate the suffering of fewer and fewer patients. This would lead to fewer patients being classified as mentally disordered, inevitably increasing the number of mentally ill patients being in prison. This is supportive of Roske et al (1999) and Singleton, Bumpstead, O'Brien, Lee and Meltzer (2001; Singleton, Meltzer, Gatward, Coid and Deasy, 1998) research that shows there is a higher proportion of a mentally ill patient's in prison than in the respective society, such as 66% of prisoners suffer with a Personality disorder as opposed to 5.3% of the general population (Singleton et al, 1998; 2001).

It is suggested by Stephens and Knight (2009) that the prison service is not equipped to meet all these aims for treatment of all the mentally disordered offenders due to "*individual characters, particular illness, length of sentence and medical resources within the prison*" pp3 (Stephens and Knight, 2009). They suggested that the conflicting aims of the NHS and Prison system had led to neglect within the prison service of mentally disordered offenders. However Stephens and Knight (2009) also highlight that punishment and treatment can happen in one system through the example of Grendon Underwood (HMP). They suggest the prison service would learn a great deal from the therapeutic approach to rehabilitation of mentally disordered offenders. This is also supported by the Lord Bradley Report (2009) in which Lord Bradley suggests that the NHS should take responsibility for health services within prisons, such as including mechanisms to ensure the Care Programme Approach (HM Prison Service and NHS Executive Working Group, 1999) is functioning satisfactorily. It identifies that mentally disordered offenders are at risk of improper treatment whilst in Prison, and that this may lead them to re-offend. Alternative research carried out by Torrey (1993) suggests that the prison system is at risk of being abused as a mental hospital and should be

reserved for those who do not have mental health issues. An alternative institute should be used to detain mentally disordered offenders

Gostin (1977) suggests that the legal approach is inappropriate as “*there is little in the traditions, training or experience of judges or members of the legal profession to commend them in preference to the professionals traditionally associated with humanism*”pp28 . The emphasis that has been placed on the ability of the law to intervene is aimed at raising the position of the mentally ill. Whilst Gostin (1977) supports mentally disordered offenders being placed within the prison system, he disagrees with treating those offenders within that system, and it should be left to professionals in other institutions. The treatment model holds that the law, under its own momentum and with little concern for those lives it is reshaping, crushes the individual under the weight of the legal process. This is due to the adversarial nature of the British Criminal Justice System. The Treatment model suggest then, that the legal system take a similar approach to that of the Children Act 1989, in which the focus was placed on the child them self rather than the interests of others involved. Therefore a more appropriate approach to mentally disordered offender’s would be not to focus on the punishment of the mentally disordered offender, but rather to focus upon the offenders and provide the appropriate treatment and care for their mental condition. This approach is supported, moreover, by Mill (1985 pp1429) who further critiques the Incarceration of mentally disorders stating that

“The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because in the opinions of others, to do so would be wise or even right.”

Further research by the Home Office (Liebling and Kramp, 1994; National Institute for Mental Health in England and Care Services Improvement Partnership, 2008) on the suicide attempts of male offenders found that the prison service has an adverse and detrimental effect on the prisoner's mental health. This is further supported by the writings of Stern, (1989; Brooker et al, 2005) who suggested that mismanagement, restrictions due to lack of funding, staffing issues and overcrowding all contribute to the inability to rehabilitate and treat mentally disordered offenders. This inability to rehabilitate and treat due to the issues raised means that the prison system is not achieving the rehabilitative aims that have been outlined within the Criminal Justice Act (2003) and the improving health and justice document (2009). However it must be stated that due to the restrictions placed upon all offenders within the prison system it can be assumed that it is fulfilling the aim of protecting the public, albeit without taking the release of offenders into consideration.

4.3. Findings

The analysis supports the use of imprisonment for public protection, however to use prison as a rehabilitative resource to aid the offender is neither justifiable nor needed (Mill, 1985). From the analysis of the literature it can be seen that incarceration is appropriate for fulfilling the aims outlined in the Criminal Justice Act 2003 with regards to protecting the public (Bean,1986) . However when looking at the treatment of mentally disordered offenders it seems an inappropriate placement due to treatment taking a secondary focus. It can be seen that if the offender has reasonable capacity when committing the offence then they should be

treated like the "normal" prison population and treatment for mental health issues should take a "back seat" (Cavindino, 1997). Furthermore if they have diminished capacity then an alternative placement should be provided for these offenders (Hart, 1968). The research shows that imprisonment could be an appropriate placement for mentally disordered offenders if treatment could be gained swiftly, those involved in the care of mentally disordered offenders had more training and the facilities in place to deal with mentally disordered offenders are improved (Improving Health and Supporting Justice, 2009; Gostin, 1977).

5. Mental Health Institute

5.1. Overview

A mental health institute is defined as "*an establishment in which treatment or nursing (or both) are provided for persons liable to be detained under the [1983 c. 20.] Mental Health Act 1983*". This is the same for any mentally disordered offender who would be detained under the Mental Health Act 1983. This chapter looks to address the advantages and disadvantages of mentally disordered offenders being placed within an institute such as a mental health institute/hospital. This chapter will assess the effectiveness of institutes in conjunction with the aims outlined under the Criminal Justice Act (2003), looking specifically at public protection and rehabilitative or treatment focused approaches. It will review the care providers who are trained with regards to mental health illnesses, whether offenders have a capacity to understand their wrong doing and therefore be held responsible for their actions and review some of the limitations outlined within the previous chapter as possible support for mentally disordered offenders being placed within a mental health institute.

As discussed in the previous chapter, imprisonment is an appropriate place to detain offenders for public protection but it does not seem to be the most appropriate place to detain mentally disordered offenders who need treatment and have diminished capacity. Under the Improving Health and Criminal Justice's (2009 p3) own admission the prison service is not doing enough to treat mentally disordered offenders: "*over the last decade, we have already made great strides to achieve better outcomes for this group...However this does not go far enough*". Within this chapter an alternative placement will be explored to identify if this is more appropriate in achieving better outcomes for mentally disordered offenders.

5.2. Analysis

Under the treatment model, it is suggested (Cavindino, 1997) that the medical profession are the most appropriate professionals to make decisions about the mentally ill as they have experience, have been trained, qualified and are generally regarded as being caring. Criminal Justice Institutes utilise different principles and values such as retribution, public safety and due process. These values, under the treatment model of mental illness are not best suited to the treatment of mentally disordered offenders due to the secondary focus on care and treatment (Cavindino, 1997). Bean (1986) supports this admission by stating that mentally disordered offenders fall into a "medical paradigm" where the law is focused on retribution and deterrence as opposed to therapeutic approaches. He suggests that

"Mentally disordered people cannot be said to deserve punishment if they lack the necessary responsibility to be aware of their crime...mentally disordered people are not responsible for their actions whilst they remain disordered. Rehabilitation will not apply either, for the Prison Medical Service...cannot provide the necessary treatment." pp 92

It is reasonable to postulate that what Bean (1986) is concluding is that the appropriate place for mentally disordered offenders (who need treatment and lack capacity) is to be placed within a Therapeutic Setting where rehabilitation can be achieved through psychiatric treatment (Bean, 1986). Those that are not fully responsible for their actions due to mental illness should not be held fully liable for their actions. Criminal law is based on the "normal" person; however mental illness renders the offender as different from the norm and therefore

is not subject to the same treatment as “normal” people. This suggests that mentally disordered offenders should be placed in a more appropriate setting such as a hospital in which they can be held in relation to their mental capacity, level of responsibility and needs. (Bean, 1986). However, the Medical/Treatment model is frequently regarded as dehumanizing, degrading and damaging, suggesting that compulsory hospitalization could create more stringent criteria, rules and procedures (Cavindino, 1997). However Cavindino (1997) suggests that this is not possible due to the lack of definition and the ambiguity surrounding the Mental Health Act (2007) and that although it allows scope for mentally disordered offenders to receive further more targeted and intense treatment, it allows medical professionals to infringe the rights of the mentally disordered offenders when too much faith is placed in their ability to effect a cure. Therefore Cavindino (1997) suggests that mentally disordered offenders should be able to enjoy the same rights as offenders without mental health illnesses, although this may go against the principles of care as the reduction in freedom is, in some cases, for the patients safety and the protection of the public.

Rice, Harris and Cormier (1992) support this view within their research on therapeutic communities for mentally disordered offenders. Although their research was aimed at treatment and recidivism of Psychopaths, it does highlight the efficacy of these communities with many other mental illnesses. Again this research highlights many problems associated with some mental illnesses like Psychopathy, the treatment programs used and the effectiveness of these treatment programs. It also highlights the need for some sort of public protection from these types of mentally disordered offenders. The article by Stephens and Knight (2009) supports Rice et al (1992) research. They suggested that the conflicting aims of the NHS and Prison system had led to neglect within the prison service of mentally disordered offenders. They suggest that a therapeutic community maybe a more appropriate placement area for mentally disordered offenders so that they can receive the appropriate treatment and care for their condition whilst also providing public protection. Although these are aims for the prison service it is suggested by Stephens and Knight (2009) that the prison service is not equipped to meet all these aims for all the mentally disordered offenders due to "individual characters, particular illness, length of sentence and medical recourses within the prison" (Stephens and Knight, 2009). However Stephens and Knight (2009) also highlight that punishment and treatment can happen in one system through the example of Grendon Underwood (HMP). They suggest the prison service could learn a great deal from the therapeutic approach to rehabilitation of mentally disordered offenders. It identifies that mentally disordered offenders are at risk of improper treatment whilst in Prison, and that this may lead them to re-offend. The Lord Bradley report (2009) is supportive of the view for a therapeutic setting such as Grendon Underwood, as highlighted by Stephens and Knight (2009). Lord Bradley (2009) suggests that an example is that of HMP Grendon is a specialist centre for the treatment of personality disorders within the serious offenders. He highlights that through exploring the past and present, "clients" can make sense of their offending behaviour and the cycle of abuse and over a period of years turn away from violence. Furthermore, Lord Bradley highlights that the staff within prison are not adequately trained to identify mental health issues and this is reflected in the views outlined by Gostin (1977). This is supported through a thematic analysis conducted by Her Majesty's Chief Inspector of Prisons 2007, in which it was found that only about a quarter of prison officers had received mental health training. Suggesting that a therapeutic community is a more appropriate setting to place mentally disordered offenders due to the training the staff in these institutes have received.

The Mental Health Act 2007 has provision for mentally disordered offenders to be placed into a hospital at sentencing or whilst in prison after assessment. Section 37 is sometimes used to order mentally disordered offenders to be detained in a hospital at sentencing. Section 45a is similar to that of Section 37 (Mental Health Act, 2007), however this allows for the offender to be transferred back to prison from hospital. Sections 47 and 48 (Mental Health Act, 2007) allow for the offender to be transferred to a hospital. The mental health act is important to this research as it includes guidelines for treatment and rights of the offenders. It also highlights the ability to place offenders in care institutions rather than prisons. If a prisoner is suffering from a mental illness so severe that they would be sectioned under the mental health act within the community, then they cannot remain within prison and must be transferred to a specialist unit of a hospital within the NHS. However this is problematic due to the lack of appropriate secure units and beds for this population (Durcan, 2006) and this can have significant repercussions on the offender and cause great distress. The lack of these institutions and the lack of funding with this type of placement suggest that this population of offenders will further suffer as outlined by Durcan (2006). Durcan (2006) suggests that although they are appropriate for severe mental health issues, it can cause more distress waiting to be allocated and as a future recommendation more of these placements should be created. It has also been highlighted with the Lord Bradley Report (2009) that there has been a number of absconds from these institutes and that this is something that needs to be addressed if these institutes are to be utilised in a more effective manner. If the public are to feel secure and protected this is an issue that needs to be addressed effectively as the Media plays a role on highlighting those offenders that have mental health issues and those that have not been secured within an institute (The Independent, 1994)

A large study of adult mentally disordered offenders found that they could be adequately treated within primary care (Senior, 2005), which suggests that to properly care for those with mental health issues is to use primary mental health services. This further suggests that the prison setting is not an appropriate setting and that a mental health institute is far more appropriate as it is aimed at treating mental disorder rather than punishment (Lord Bradley Report, 2009). However, Roske et al (1999) identify a number of models for the treatment of mentally disordered offenders within the community through use of the probation service. They also identify a "novel collaborative approach" (Roskes et al, 1999) to help mentally disordered offenders succeed with treatment in the community. Roskes et al (1999) suggest that mentally disordered offenders do not need to be detained as it is possible that mental health institutes and prison exacerbate mental health issues and the offenders could exit these systems with even more issues to overcome.

Additionally when it comes to punishment for the crime they have committed it is only possible to see that the offender being detained is the punishment. This is in line with the Criminal Justice Act 2003 aims; however it does not deal with retribution, deterrence and reparation which are also aims of the Criminal Justice Act, in relation to the offence/s this population have committed. Again this goes back to whether the offender has the capacity to accept responsibility for their actions, or even if it is reasonable to expect this population to do so. It can be argued that all mental health issues can diminish the responsibility of the person for example Severe Depression, Severe PMT (Reznek, 1997) and therefore it can be argued that any offender suffering any mental health issue cannot take responsibility for their actions. This is a very subjective area due to the diagnosis and definitions of mental illness. Under the DSM-VI (1994) mental illness is defined as an illness of the mind, which is very subjective and open to interpretation. The descriptions of mental health illnesses are also all encompassing and there are areas in which anybody could be placed for example "Personality

Disorder-Otherwise Unspecified"(DSM-VI, 1994). Care must be taken with regards to the diagnosis of mental health issues but this is racked with problems as many do not have physical symptoms (Laing, 2006). These definitions are used to identify those that should be placed within a mental health institute and those that are able to be placed within the prison system. This has implications for the more serious offenders who may claim diminished responsibility or capacity. It's possible that offenders will not see mental health institutes as punishments (Roske et al, 1999).

5.3. Findings

As it can be seen from the analysis, mentally disordered offenders placed within a mental health institute have better access to treatment (Bradley, 2009). However when looking at the appropriate punishment for this population it is possible that it would be viewed as a "soft option" encompassing general populations who need to be punished (Reznek, 1997). The definitions of mental illnesses need to be much more specific and outline those that should be detained within this institute and those that should be detained in prisons (Laing, 2006; Reznek, 1997). Funding and facilities are also issues that need to be addressed if those with mental health issues are to be placed within a mental health institute (Bradley, 2009). However when looking at the two main themes outlined in the Criminal Justice Act 2003, mental health institutes seem to be a more appropriate placement setting as it both maintains public protection, within the secure sites, and more effectively treats and rehabilitates offenders as opposed to the prison system (Bradley, 2009). However as the evidence suggest, mental health institutes provide not only the appropriate and timely treatment this population needs, but also fulfils the public protection outlined within the Criminal Justice Act 2003.

6. Community

6.1. Overview

This chapter looks to address the advantages and disadvantages of mentally disordered offenders being placed within a community setting. It shall take into account the rationales outlined within the Criminal Justice Act 2003 with regards to public protection and rehabilitation. It shall assess the effectiveness of mentally disordered offenders within the community. Community is defined as "*community is embodied in the village or small town where human associations are characterized as... associations that are intimate, familiar, sympathetic, mutually interdependent, and reflective of a shared social consciousness*" (Benedict Anderson, 1991 p6)

The Criminal Justice Act (2003) states that community sentence for mentally disordered offenders can only be applied if "*the particular requirement or requirements forming part of the community order must be such as, in the opinion of the court, is, or taken together are, the most suitable for the offender*" (part 12, 148, 2b)

The community order (defined by the Criminal Justice Act 2003 (c.44, Sect177) as "*a person aged 16 or over is convicted of an offence, the court may make and order imposing on him any one of the following requirement: Unpaid Work Requirement, An Activity Requirement, A Programme Requirement, A Prohibited Activity Requirement, A Curfew Requirement, An Exclusion Requirement, A Residence Requirement, A Mental Health Treatment Requirement, A Drug Rehabilitation Requirement, An Alcohol Treatment Requirement, A Supervision Requirement, An Attendance Centre Requirement*") needs to work with Multiple agencies to ensure the public and offender protection. This is done using the Multi-Agency Public Protection Arrangements (MAPPA) which works with housing, social workers, probation officers and the NHS along with many others to ensure public protection and offender management within the community. This service is integral to all offenders, but particularly when dealing with mentally disordered offenders as much more support and supervision may be needed to maintain their treatment for their mental health issues during the Criminal Justice Process and upon release.

6.2. Analysis

Under the Criminal Justice Act (2003) the community order was introduced highlighting those offenders with mental health issues could be required to undergo mental health treatment if the offence permitted them to be treated and punished within this scheme. This could be as a resident in a care home (not a high security psychiatric institute), as a non resident in such a care home, or under the supervision and direction of a medical practitioner and/or a chartered psychologist. However of all the 203,323 community orders given in 2006, only 725 were mental health treatment requirements (Seymour and Rutherford, 2008). This strongly suggests that this requirement is not being used effectively when placed against the evidence that suggest the majority of offenders within the prison system have mental health issues. However it could be argued that the nature of the crimes committed by mentally disordered offenders requires them to be placed within the prison system due to the severity of offence and the risk to the public (Criminal Justice Act 2003). Further research by the National Audit Office (2008) showed that in none of the cases they reviewed had mental health treatment been initiated by the Community Order. All offenders undergoing the mental health treatment requirement had already been receiving treatment and this was incorporated into their Community Order (Seymour and Rutherford, 2008). This again suggests that the requirement is not being utilised within the Criminal Justice System or under the Criminal

Justice Act 2003 (Bradley, 2009). This requirement is also used with a Supervision Requirement to aid support and rehabilitation of the offender.

Furthermore, as Lord Bradleys Report (2009) states, the community sentencing for mentally disordered offenders is subject to the same issues as all community sentences within the Criminal Justice System. It faces the same lack of funding and resources and this could be a reason for the lack of use when sentencing mentally disordered offenders. Moreover, Lord Bradley (2009) states that there is inconclusive evidence when looking at re-offending of this population due to the 'lack of research' in the area, and 'low quality of research design in existing literature'. Due to this it could be argued that it would be difficult to assess the effectiveness of mentally disordered offenders being punished and rehabilitated or treated within the community. However although Lord Bradley (2009) supports the use of community sentences with mentally disordered offenders he does acknowledge that potential risk to the individual and the public must be over-riding factors when using this option. This is also supported by the research conducted by Roskes et al (1999) where risk factors were identified for mentally disordered offenders that are placed in the community. For obvious reason the public are more at risk with offenders being punished within the community due to the lack of physical restraint associated with prisons. He further suggest that there is a need for better engagement with service users and carers, such as social workers, nurses, general practitioners, psychologists and probation officers to make this placement of offenders more effective. Although there is a Multi-Agency Public Protection Arrangement in place with these offenders there has been evidence of the communication between the agencies being somewhat lacking (House of Commons Justice Committee, 2008). Again it can be argued that whilst some agencies that would be involved with the care and punishment of this population have some training with mental health issues, others have not received any and this could mean that mentally disordered offenders would lack the appropriate treatment that would coincide with their punishment (House of Commons Justice Committee, 2008). However it could also be argued that this is, although not fully supported or used as of yet, a step towards treating offenders with mental health issues rather than punishing them for an illness that may have aided their offending behaviour. This is supported by the report on mental health treatment requirements by the Sainsbury's Centre for Mental Health (Seymour and Rutherford, 2008) which suggested that community sentences for mentally disordered offenders are only appropriate for some offences, but also on the prerequisites that the offender receive one on the evidence of a mental health practitioner that would suggest the mental health issue is susceptible to treatment and does not require a Hospital Order or Guardianship Order as outline under the Mental Health Act (2007). This is an area that needs to be researched more thoroughly so that stronger conclusions can be made about its effectiveness.

Lord Bradley (2009) further supports the use of community placements for mentally disordered offenders through his Cost/ Benefit Analysis (Tribal, 2008) which showed (in its early indications) that the cost of placing mentally disordered offenders would be beneficial to the Criminal Justice System by reducing the number of offenders, with mental health issues, within the prison system. This suggests that as many as 2000 prison places could be freed for those who are not eligible to be placed within the community, possibly saving the Criminal Justice System £40m a year (Tribal, 2008). This also take into the account of increased spending by the mental health services which would be accommodating those not in the prison system. It is also pertinent to mention that mentally disordered offenders involved in a community placement due to timely and appropriate treatment being made available and access to mainstream mental health services would be beneficial for this

population. It would allow some sort of “normality” for them to remain in, rather than being placed in a new environment which could be further damaging to their mental health (Bradley, 2009) This would further allow this population the support that they would need and aid in their well-being due to being kept within their own community. It must also be stated that Potter (1995) found that the majority of offences committed by mentally disordered offenders were frequently "minor", often summary offences and not generally serious violent crimes. This further supports the view this population should be moved away from the prison system and treatment and rehabilitation should take a primary focus. Stern, (1989; Brooker, 2005) suggests that mismanagement, restrictions due to lack of funding, staffing issues and overcrowding within prisons, all contribute to the inability to rehabilitate and treat mentally disordered offenders. This further supports the use of a community placement for mentally disordered offenders.

According to Roskes et al (1999) mental illness is prevalent in the prison population. They identify a number of models for the treatment of mentally disordered offenders within the community through use of the probation service. They also identify a “novel collaborative approach” (Roskes et al, 1999) to help mentally disordered offenders succeed with treatment in the community. Although this article is based on American Psychiatry and their penal system it will be able to add insight into the treatment of mentally disordered offenders in the UK due to the sheer number of offenders in the United States, and the development of treatment programmes.

Torrey et al (1993) suggested that prisons could be abused as mental hospitals and have called for active diversion programs. Torrey et al (1993) hope that mentally disordered offenders can be identified as needing an intervention early in the criminal process and, where appropriate, removed from the prison system and moved to more appropriate care focused areas, such as the community. Roskes highlights through their review of the Public Safety Coordinating Council (1997) that the research found that enrolment within community mental health programmes significantly correlated with about 12 percent lower numbers of those in prison over a 10 year period (Interdisciplinary Team, 1997). However Roske et al (1999) suggest that mentally disordered offenders should serve their punishment requirement and upon release they would receive the community treatment. This as a “novel collaborative approach” supports the Criminal Justice Act 2003 in its aims of protecting the public by imprisoning offenders, and also rehabilitating offenders after they have been punished. This effectively goes against the approach that this population should be treated as mentally ill firstly, and punished secondly or not at all (Bean, 1986). Roske et al (1999) suggest that the appropriate method to community placement is that the offender is assessed immediately and treatment begins immediately, contact is made with previous and current treatment providers to ensure comprehensive care can be arranged and carried out. Probation officers are seen to be integral to the coordination of case management; however a therapist or clinician performs the majority of case management, medication and psychotherapy. However they identify like Lord Bradley (2009) that there are many issues surrounding mentally disordered offenders being placed within the community. Roske (1999) identifies that there is a “double stigma” associated with this population due to being offenders and suffering mental health issues. It is possible that this stigma will hinder the rehabilitative aims of the Criminal Justice Act 2003 as they could lose the support of their families, friends and the community themselves. Roske (1999) offers a solution to this suggesting that if offenders are placed within a “clubhouse” or a “halfway house” then this can act as a support system for the offenders. Roske et al also highlight that mentally disordered offenders placed within a community setting may have difficulty distinguishing between probation officers and

therapists/clinicians/psychiatrist/psychologist. They suggest that some offenders will feel as though the mental health issues are secondary to being monitored for non compliance and that they may be arrested and imprisoned for any violation, including thoughts of offences. Roskes et al (1999) suggest that this is eventually overcome given time and patience by all parties involved. This is supported by Blumenthal and Wessely (1992) who suggest that the aim of diversion is "*reduce the role of the criminal justice system and increase that of the health service*" pp98. Prins (1994) suggest however that mentally disordered offenders being placed within the community ignores the victim's needs and the views of the public with regards to safety and punishment for offences. However as many of the Community orders given the majority encompass a punishment requirement along with a rehabilitative and reparative and supervision requirement (Ministry of Justice, 2008), which could be argued allows for public protection and takes into account victim and public needs and views.

6.3. Findings

From the above analysis it can be seen that the community allows mentally disordered offenders to receive treatment in a timely and appropriate manner. However it is suggested that the assessments must be accurate to successfully treat the offender as well as protecting the public from possible harm. Research has supported the view that mental illness is prevalent (Roskes, 1999) within the prison population and whilst it is impossible to attribute mental illness to being an offender it appears that the community treatments through the NHS and other services are more effective in reducing reoffending (Roskes et al, 1999). It has also been noted that although punishment and treatment within a community can occur; it is not widely used or accepted (Seymour and Rutherford, 2008) due to the lack of training, mismanagement and stigma associated with mentally disordered offenders (Bradley, 2009). These are issues that need to be overcome if treatment and punishment within the community can be measured appropriately and if it is to become effective. It has been suggested in the analysis that community treatment should follow once a prison sentence has been served. This seems like a feasible response to the aims outlined under the Criminal Justice Act 2003; however measures need to be in place to treat those offenders whilst they are in prison too. The issues outlined by Roskes et al (1999) with regards to the issues mentally disordered offenders would encounter within the community also need to be addressed; this can be overcome given time and patience by the offenders and supporting services.

7. Conclusion

The analysis conducted throughout this dissertation supports the use of imprisonment for public protection, however to use prison as a rehabilitative resource to aid the offender is neither justifiable nor needed (Mill, 1985). It seems inappropriate for rehabilitation as treatment takes a secondary focus. If it is assumed that the offender has reasonable capacity when committing the offence, then they should be treated like the "normal" prison population and treatment for mental health issues should occur after punishment (Cavindino, 1997) It was found that incarceration is appropriate for fulfilling the aims outlined in the Criminal Justice Act 2003 with regards to protecting the public (Bean, 1986). Mental capacity was also found to be an integral component when placing offenders within the prison system (Hart, 1968). The analysis further suggests that imprisonment could be an appropriate placement for mentally disordered offenders if treatment could be gained swiftly, effective training for all staff involved with mentally disordered offenders was provided and the facilities in place to deal with mentally disordered offenders are improved (Improving Health and Supporting Justice, 2009; Gostin, 1977). The analysis also found that mentally disordered offenders placed within a mental health institute have better access to treatment (Bradley, 2009). When looking at the appropriate punishment for this population it is possible that it would be viewed as a "soft option" encompassing general populations who need to be punished (Reznek, 1997). It was also found that the definitions of mental illnesses (DSM-VI, 1994) need to be much more specific and further direction needs to be given to identify those that should be detained within this institute and those that should be detained in prisons (Laing, 2007; Reznek, 1997). Funding and facilities are also issues that need to be addressed if those with mental health issues are to be placed within a mental health institute (Bradley, 2009). health institutes seem to be a more appropriate placement setting, as it achieves the two main aims outline by the Criminal Justice Act 2003 (public protection and rehabilitation) (Bradley, 2009). The analysis of literature suggests that mental health institutes provide not only the appropriate and timely treatment this population needs, but also fulfils the public protection outlined within the Criminal Justice Act 2003.

The analysis within this dissertation has supported the view that mental illness is prevalent (Roskes, 1999) within the prison population and whilst it is impossible to attribute mental illness to being an offender it appears that the community treatments through the NHS and other services are more effective in reducing reoffending. Through the analysis it can be seen that the community placement allows mentally disordered offenders to receive treatment in a timely and appropriate manner. However it is suggested that the assessments must be accurate to successfully treat the offender as well as protecting the public from possible harm. It has also been noted that although punishment and treatment within a community can occur; it is not widely used or accepted (Seymour and Rutherford, 2008) due to the lack of training, mismanagement and stigma associated with mentally disordered offenders (Bradley, 2009). These are issues that need to be overcome if treatment and punishment within the community are to be measured accurately to identify if this is an effective placement. It has been suggested in the analysis that community treatment should follow once a prison sentence has been served, however measures need to be in place to treat those offenders whilst they are in prison too. Further training, time and management all seem to be areas which need to be addressed if mentally disordered offenders are to be placed within the community.

Moreover, it can be seen that all three areas are useful with regards to the placement of mentally disordered offenders. It seems that each provides care for the offender and protects

the public from future harm to differing degrees. However it is difficult to state which is more appropriate as it is dependent on what should be the main aim of the placement, the mental illness itself and/or the offence committed. Should the focus be placed on Public Protection or Rehabilitation of the offender? It could be argued that both are equally important and if this is the case then the most appropriate placement for mentally disordered offenders would be within a mental health institute. This is due to its restrictive nature but also its treatment focus. However if a mentally disordered offenders treatment is viewed as more important than that of public safety, or their mental health issues and offence were such that allowed for the offender to remain in the community then this is the most appropriate course of action. This is due to the fact that incarceration seems to be the least appropriate for treatment, however if the offence is so serious that prison is warranted and the mental health issues are such that it can be treated within the prison then this must be considered as an option.

It is clear from the research that a clear set of definitions is needed when discussing mental illness and a clearer outline is needed when sentencing mentally disordered offenders. Furthermore, mental health awareness needs to be raised and training given to all staff that will encounter mentally disordered offenders throughout the Criminal Justice Process. Funding, facilities and training all need to be addressed throughout any of the placements so that any of the outlined placements can be effective in their treatment and protection aims.

As stated before it seems that all of the placements are effective to varying degrees and it may be that future punishment and treatment of mentally disordered offenders will encompass all of these areas so that offenders and the public receive the best results from the Criminal Justice System. It is important to mention that the literature available to be reviewed has not been exhaustive and that future research projects may shed more light on the area. It is also pertinent to mention that the research that has been reviewed has not been compared on a "like for like" basis and it would be impossible to draw concrete conclusions from this thesis. Furthermore the veracity of the literature needs to be questioned. Although, at face value, the literature seems to be accurate and reliable it must also be considered that the sample, research design and data analysis methods which have been used may have affected the veracity of these pieces of literature and this must be kept in mind with past present and future research. However it is hoped that this thesis has highlighted the advantages and disadvantages of each placement and identified areas that may be improved in the future to reduce re-offending, increase the effectiveness of treatment and punishment, and maintain public protection when dealing with mentally disordered offenders.

Within the literature analysis it became clear that the diversion into different placements seemed to be an underlying suggestion, however none of the literature suggested trialling the diversion technique across all three placements. This would involve filtering mentally disordered offenders effectively from sentencing into a community placement, mental health institute or prison, dependant on the need for treatment, rehabilitation and public protection, whilst taking into account the mental illness and the offence committed. This is something that would need to be further explored in future research.

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