

***Just Mercy's* Stories of Unjust Ableism and Racialization**

Leah Hunt
Rutgers University

Bryan Stevenson is a renowned civil rights lawyer and the founder of the Equal Justice Initiative, based in Alabama. Stevenson's 2014 book, *Just Mercy*, recounts his early career as a defense attorney for death row prisoners and his journey to making the Equal Justice Initiative the force it is today. He is passionate about fighting for people on death row and working against the tide of mass incarceration, which he defines as the system by which the nation has disproportionately incarcerated people of color and even profits from the criminalization of people. Mass incarceration fractures and disempowers poor, working-class, and racially-marginalized communities nationwide by holding them in punitive confinement, depriving them of potential workers in their economy, setting additional roadblocks on the path to higher education and employment, and overall inflicting trauma on individuals and communities. The cycle continues as it disproportionately criminalizes people who cannot financially support themselves - be it because of disability, economic depression, and/or systemic racism - for not being able to conform to the societal mold of the "good citizen" who has a job, a place to live, and access to affordable healthcare.

In *Just Mercy*, Stevenson tells the personal stories of a multitude of people he has represented throughout his career as a lawyer, including many black people living with mental disabilities, such as Horace Dunkins, Trina Garnett, and Joe Sullivan. He details their situations in which law enforcement played on racial fears and stereotypes of black criminality, while also not taking their disabilities into consideration when handling their cases. These three people find their identities at the intersection of oppression because of both racism and ableism (among others), that have deep roots in the United States criminal justice system. The stories of Horace Dunkins, Trina Garnett, and Joe Sullivan tell of people whose criminal justice outcomes are not

only affected by the historic overcriminalization of black people, but also by systematic mistreatment of people with disabilities.

Prisons and jails are the nation's de facto treatment centers for mental illness. This phenomenon has been thoroughly analyzed in Alisa Roth's book, *Insane: America's Criminal Treatment of Mental Illness*. She radically asserts, "In America, having a mental illness has become a crime," ("Insane"). According to the Federal Bureau of Prison Statistics, 64% of the nationwide jail population suffers from mental illness (Cullors 2). Furthermore, a supplementary report that the advocacy group, "Dignity and Power Now" submitted to the United Nations Human Rights Office states, "Black people with mental health conditions, particularly Schizophrenia, Bi-Polar disorders and other psychoses are more likely to be incarcerated than people of other races" (Cullors 2). Despite these statistics, the United States' criminal justice system turns a blind eye to mental health in all steps of the judicial process. The desire to keep costs low contributes to jail and prison facilities' lack of qualified mental health care professionals. Overcrowded facilities often employ unlicensed counselors and even then have too few to serve their population, resulting in prisons simultaneously denying proper care and overprescribing medications as a last-resort (Cullors 2). In the stories of Dunkins, Garnett, and Sullivan, two major sites of injustice appear initially: the exclusion of their disability from consideration in the discussion of sentencing and the mistreatment and abuse because of their disability while incarcerated.

Both Trina Garnett and Horace Dunkins were sentenced to life in prison and the death penalty, respectively, despite their documented intellectual disabilities (Stevenson 71). Garnett is developmentally disabled and sustained childhood trauma. She was sentenced to life without parole for accidentally lighting a fire that burned down a home and caused two fatalities. Dunkins was also intellectually impaired, as evidenced by IQ testing. During Dunkins' time on death row, the Supreme Court actually upheld the practice of capital punishment for the mentally disabled in 1989 with *Penry v. Lynaugh* ("Penry"). This ruling left little hope for Dunkins' case, and he was ultimately executed in a mishandled procedure that made national news for its atrocity. Due to improperly

connected cables, the procedure took nineteen minutes in total (Applebome). Not until 2002, following *Atkins v. Virginia*, was the execution of intellectually disabled people outlawed (“Atkins”). The discrimination against such people in the criminal justice system did not cease there. The aforementioned report from Dignity and Power Now detailed that today people of color “report receiving considerably harsher sentences than their white counterparts and feel they are less likely to be offered alternative treatment programs or “rehab” instead of incarceration during sentencing” (Cullors 3). Garnett would have been a valid candidate for a reduced sentence and/or an alternative treatment program; she showed signs of intellectual disability as a child and likely experienced post-traumatic stress disorder from her lifetime of abuse, but her case fell through the cracks of the criminal justice system. It was neglected because of her race, gender, and class. Her lawyer failed to file the paperwork necessary for her to be proclaimed incompetent to stand trial. No one fought against the decision to try the (at the time) fourteen-year-old in adult court, and her lack of intent to kill could not be taken into consideration for sentencing of the second-degree murder as per state law (Stevenson 150). The mandatory sentence was life in prison without the opportunity of parole. Through this series of unjust events, a fourteen-year-old mentally disabled girl from a broken home ended up sentenced to die in prison for an unintentional crime.

Garnett’s story of mistreatment continued when she went to adult prison. There, a correctional officer raped and impregnated her, not only traumatizing the young woman with the initial sexual attack, but also with the stresses of pregnancy and birth. Like most women in prison prior to widespread state policy changes in 2008, Garnett was handcuffed to a bed while she gave birth to a child that was subsequently taken away (Stevenson 151). As can be expected, her mental health worsened further. Stevenson recounts that she became less functional: “Her body began to spasm and quiver uncontrollably, until she required a cane and then a wheelchair. By the time she had turned thirty, prison doctors diagnosed her with multiple sclerosis, intellectual disability, and mental illness related to trauma” (151). Prisons are constitutionally obligated to provide those who are incarcerated with psychiatric care, as decided by the

1976 Supreme Court case *Estelle v. Gamble* (Press). Not only did the carceral system fail to help Garnett maintain her baseline health, but its harsh environment compounded her illnesses. Dignity and Power Now writes, “While most offenses committed by people with mental conditions tend to be nonviolent... their incarceration (instead of voluntary treatment) often exacerbates their conditions and results in higher rates of trauma, criminality and recidivism” (Cullors 2). Garnett experienced trauma as a child, went untreated for years, was sentenced to prison without consideration of said trauma, continued to lack treatment in prison, and to top it off, experienced new trauma while under state custody. This cycle only further cripples those who have had a difficult time thriving in this hyper-capitalist, overpoliced society where one’s ability to obtain money dictates one’s health outcomes, freedoms, and overall quality of life. This system criminalizes vulnerable people for being vulnerable under the system of capitalism, and then punishes them by inflicting more harm, yielding them even less capable of functioning in the “proper” way in society.

Stevenson also tells of his experience with his client Joe Sullivan, who was intellectually impaired but nonetheless sentenced to life imprisonment without parole when he was thirteen years old. According to Stevenson, Sullivan read at a first-grade level (Stevenson 258). After the boy allegedly participated with older teens in the robbery and sexual assault of an older woman in her home, the court reviewed his history of nonviolent, misdemeanor-level juvenile incidents and decided that he was a “‘serial’ or ‘violent recidivist’” who had already thrown away his second and third chances (258). Like Garnett, Sullivan only found more trauma in prison. He was raped and sexually assaulted many times and he, too, developed multiple sclerosis from trauma in prison and was ultimately bound to a wheelchair. In this way, the criminal justice system was able to criminalize him because of his mental disability and then through imprisonment render him physically disabled, only making it infinitely more difficult for him to conform to societal expectations of self-sufficiency.

When Stevenson met Sullivan, he was an excited and gentle young man juxtaposed within the harsh and unforgiving environment of prison. He had served eighteen years and was reading at a

third-grade level at age thirty-one. In awaiting Stevenson's arrival, Sullivan was wheeled into a four-by-four-foot cage that was apparently protocol for movement of all lifers, no matter how low-threat. It took four men to get the wheelchair out of the cage, all the while jostling and frightening Sullivan inside (Stevenson 262). This punitive approach is not only unnecessary, but it is detrimental to the mental and overall health of prisoners such as Sullivan. This is an example of the multitude of ways that law enforcement and correctional officers mishandle mentally disabled people inside and outside prisons. The Dignity and Power Now report states that in the Los Angeles, California jail system, a third of sheriff deputy-on-prisoner force is perpetrated against prisoners with mental health issues. The deputies "respond more aggressively and more skeptically to requests and actions, including about health concerns, by Black and Latino prisoners as compared to White prisoners" (Cullors 3). Such abuse is tied to the historic dehumanization of black and brown people in the nation. Since the dawn of colonial chattel slavery, the hegemony has seen black bodies as "slaveable," disposable, and dangerous.

From inside Florida's Dade Correctional Facility, stories of horrific abuse against mentally ill people of color have come to light in the past few years. Journalist Eyal Press wrote for *The New Yorker* about the conditions in the facility's mental health ward, where verbal, physical, and sexual abuse is rampant. In multiple instances, correctional officers attempted to handle mentally ill individuals that they felt were disorderly by locking them in a shower stall with the water on at above 150 degrees. One man, fifty-year-old Darren Rainey, died from this treatment. Press reports: "It was later revealed that Rainey had burns on more than ninety per cent of his body, and that his skin fell off at the touch." Countless other instances of violence, such as officers beating handcuffed prisoners were witnessed by staff, but the culture within the facilities makes it too intimidating for most people to report these abuses. The witnessing prisoners fear being abused themselves. Staff may fear losing their jobs and often feel conflicted about loyalties to correctional officers, who protect them while on the job (Press).

The cases of Horace Dunkins, Trina Garnett, and Joe Sullivan as described in *Just Mercy* by

Bryan Stevenson are testaments to the disproportionate harm that the system of mass incarceration inflicts upon black people, the poor, and people with disabilities. They are among the groups most vulnerable to being inhumanely and unjustly treated within the criminal justice system. Dignity and Power Now references studies on the vicious cycle of effects on black people who do not have adequate access to mental health care, leading to "more severe symptoms, greater criminal involvement, and more frequent arrest" (Cullors 2). A long history of racialized citizenship and the more recent, intertwined histories of mental healthcare deinstitutionalization and mass incarceration brought us to where we are today. If there are little to no public mental health care programs in the nation, where else will a person of humble means who cannot function as a cog in the machine of capitalism end up but on the streets or imprisoned? There simply is no place in our highly monetized society for people who lost the lottery of birth to get help maintaining or repairing their mental health if they cannot afford it.

Works Cited

Applebome, Peter. "2 Electric Jolts in Alabama Execution." *The New York Times*, The New York Times, 15 July 1989, www.nytimes.com/1989/07/15/us/2-electric-jolts-in-alabama-execution.html.

"Atkins v. Virginia." *Legal Information Institute (LII)*, Cornell Law School, <https://www.law.cornell.edu/supct/html/00-8452.ZO.html>.

Cullors, Patrisse, and Mark-Anthony Johnson. "Impact of Disproportionate Incarceration of and Violence Against Black People with Mental Health Conditions In the World's Largest Jail System." *UN Treaty Body Database*, United Nations Human Rights Office of the High Commissioner, Aug. 2014, http://tbinternet.ohchr.org/Treaties/CERD/SHared%20Documents/USA/INT_CERD_NGO_USA_17740_E.pdf.

"Insane: America's Criminal Treatment of Mental Illness." *ALISA ROTH*, alisaroth.com/.

"Penry v. Lynaugh." *Legal Information Institute (LII)*, Cornell Law School, <https://www.law.cornell.edu/supremecourt/text/492/302>.

Press, Eyal. "The Torturing of Mentally Ill Prisoners." *The New Yorker*, Condé Nast, 2 May 2016, www.newyorker.com/magazine/2016/05/02/the-torturing-of-mentally-ill-prisoners.

Stevenson, Bryan. *Just Mercy: A Story of Justice and Redemption*. Spiegel & Grau, 2015.