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HEALTH & MEDICINE NEWS

Jail, ER, psych ward: How one Virginia inmate got caught in the criminal justice cycle



By MARIE ALBIGES
DAILY PRESS | SEP 04, 2019



An \$850 check.

That's what's been holding Justin Marshall Evans, 37, in jail for 10 months without a trial.

In that time, he's been to the emergency room at least six times.

He's had multiple surgeries to remove inanimate objects he's swallowed and two more operations to stitch cuts he's had when he's tried to kill himself.

He's cycled between an isolated cell at Hampton Roads Regional Jail, emergency rooms and the state psychiatric hospital so many times that it's been hard for his grandmother, Marianne Sherman — or me, as the reporter looking into his case —

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Since May, the longest he's stayed in any of those places is about 20 days — not long enough, in his grandmother and experts' opinions, to get meaningful treatment

His medical expenses — which are expected to be ultimately paid for by state taxpayers — far exceed the \$850 forged check he's since paid his aunt back for. Just in the past year, Sherman has received nearly \$100,000 in medical bills in Evans' name, though she hasn't paid them.

And that's just the latest case.



Justin Evans, seen in jail in 2014.(Joe Fudge, Daily Press)

Evans has spent most of his adult life incarcerated, either in jail or at a state psychiatric hospital. He's usually awaiting trial while physicians, prosecutors and Evans himself debate his competency, or he's recovering from surgery after attempting to commit suicide.

He's been diagnosed with bipolar disorder, post-traumatic stress disorder,

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terrors, and has suicidal thoughts, prompting him to cut himself or ingest things, especially when he's stressed or uncomfortable.

The Daily Press first wrote about Evans in 2015, in the middle of a York County court case that had dragged on for more than five years.

At the time, doctors and prosecutors struggled to determine Evans' place in society, marking him either as a con man playing the system, or a mentally ill individual.

[A 2015 Daily Press article about Evans »](#)

Four years later, Evans is still stuck in the cycle, shuffling between jail and hospital, healthy and sick, competent and incompetent, on doctors' and judges' orders.

While extreme, his case highlights a broader problem. More than 700 local and regional jail inmates were committed to state psychiatric hospitals for emergency services in fiscal 2018, a state report found. And another study found almost 20 percent of inmates were mentally ill or suspected to be so. Nearly three-quarters were in jail on non-violent charges.

The total cost of treating those people: around \$23 million.

Evans' experience has led him to harbor a deep distrust of the criminal justice and behavioral health systems. He's convinced that anyone who works for the state of Virginia is working against him, so he's chosen to represent himself on the latest charges keeping him in jail — a move not recommended by most practicing lawyers and judges.

That distrust has made him defiant, his unwillingness to accept help and his inconsistencies accessing treatment keeping him trapped.

One doctor, a clinical forensic psychologist named Jeffrey Aaron, put it in these terms when he evaluated Evans in January: "In brief, no evaluator has opined that Mr. Evans had deficits in his capacity to understand — or his actual understanding

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“Rather, there has been a difference of opinion about whether his actions, often disruptive to the legal process, are best understood as volitional or the product of a mental illness that is beyond his control.”

‘Perfect storm’

Evans was kicked out of nursery school for “impulsivity,” said his grandmother, who is 65.

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He never finished the seventh grade. By his early teenage years, he'd been in two juvenile detention centers.

A product of alcohol and drug abuse from his biological parents, Evans went to live with Sherman and her late husband Leon when he was 18 months old.

Evans was the “perfect storm,” Sherman said, following in his parents’ footsteps and becoming an addict.

At 18, he was charged with robbery and cocaine possession. When he got out of prison seven years later, he went to live with Sherman in York County.

Three months later, worried about his safety after finding a gun in her home, Sherman called the community services board, who offered to send sheriff’s deputies by to check on Evans. Deputies from the York-Poquoson Sheriff’s Office found Evans outside Sherman’s home with a .38-caliber revolver, eight bullets and 5.2 grams of cocaine.

Thus began his six-year stint in the criminal justice system.

At the heart of the delay was whether Evans was competent to stand trial. Court records show at least a dozen psychological evaluations between 2010 and 2016, with results zig-zagging between competent and incompetent. In turn, prosecutors and Evans’ court-appointed attorneys took turns disputing psychologists’ conclusions.

Several doctors said Evans was competent but unwilling to stand trial and would do anything — punch walls, swallow the pins used to help his fractured hand heal, ingest objects and cut himself — to delay prosecution. He was labeled “uncommunicative” and “agitated” by evaluators.

Prosecutors accused him of malingering, delaying the case by any means necessary and faking a mental illness to stall sentencing.

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either at Evans' request or on their own accord.

During his time awaiting trial at the Virginia Peninsula Regional Jail, Evans was often placed in restraints. Then-superintendent John Kuplinksi said it was to prevent Evans from harming himself, but Evans called it torture and abuse, filing a lawsuit against Kuplinksi and other jail officials in May 2015 that's still pending.

Since then, he's filed another lawsuit against the jail and a slew of new staff members, including Kuplinksi's successor Tony Pham. Pham did not respond to multiple requests for comment.

Inconsistent treatment

When someone with a mental health issue commits a crime, it's often hard to know if the two are related, said Rhonda Thissen, the executive director of the National Alliance of Mental Illness Virginia.

"If someone has multiple mental illnesses and is committing crimes that are potentially caused by their symptoms, but they don't get consistent treatment because they go in and out of facilities that don't give him the treatment he needs, how do we hold him accountable?" she said in a phone interview.

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The campus of Eastern State Hospital near Williamsburg.(Aileen Devlin)

During Evans' stays at Eastern State, he said he's been given medication for both his mental illness and his self-sustained injuries, although not consistently. But when he's transferred back to jail, those medications don't necessarily follow him.

"In a perfect world, the medical records would follow that person," said Jerry Fitz, the corrections operations administrator for the state Department of Corrections, which isn't involved in Evans' current care.

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In reality, that varies from jail to jail, Fitz said. Facility medical directors have the final say in which medications are prescribed to inmates, and their opinion might not match an outside doctor's. Some jails simply don't provide certain medications.

At HRRJ, which houses the region's sickest inmates, each inmate who returns from a hospital stay goes through the jail's medical department, according to Assistant Superintendent Christopher Walz.

Lawsuits filed by inmates' families and an investigation by the U.S. Justice Department show inmates missed doctor's appointments and the jail failed to provide adequate medical and mental healthcare.

At least 22 people have died while in the jail's custody since 2015.

Thissen said being in jail can be extremely triggering for someone like Evans, and solitary confinement — which he's often placed in to keep from hurting himself — exacerbates the symptoms of mental illness.

But if he's not cooperating with doctors and doesn't want to be helped, there's not much the system can do, she said.

“At some point, unless he's willing to do the work necessary to definitely say, yes, he has a mental illness that causes him to do the things he's been doing, it's kind of like he hasn't availed himself of the protections the system has put in place for people in his situation,” Thissen said.

Where is Justin Evans?

It's been nearly impossible to track Evans down over the past three months.

He's moved so frequently, and with little warning, that there were days Sherman and I had no idea where he was.

The jail could only confirm if he was in their “custody” — but that's a legal term and

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anything, not even whether he'd been admitted. And Eastern State sent me to the state behavioral health spokeswoman.

Periodically, I would check in with Sherman.

“Any word from him?” I'd text.

“Not a word from anyone...” she wrote one day in August. “I just don't know what else to do but wait???” The responses were usually similar.

I'd schedule an interview at the jail, only to find out he'd been taken to the hospital the day we were supposed to meet.

I'd show up at Eastern State during visitation hours, and get a call from Sherman, who said sheriff's deputies had tried to take him back to HRRJ, so he “swallowed a bunch of stuff” — various objects he got from the nurse's station.

Marianne Sherman talks on the phone with her grandson, Justin Evans, on Thursday, August 29, 2019. (Daniel Linhart / The Virginian-Pilot)

When Sherman's texts started with

“So Justin is back at HRRJ...” we knew it wouldn't be long before he'd be back in the hospital, or worse.

She could do little but think positive: “...hopefully he will not harm himself again,” she texted one day in late July.

Occasionally, Sherman aired her frustrations in texts.

“He is in a horrible state of despair...he feels hated and tortured...” she said in early August. At that time, Evans had just returned to Eastern State after once again swallowing something at the jail and needing emergency surgery.

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“They could have just committed him to a REAL program and tried to address and help his mental illness but they have chosen to deny and neglect and punish him instead...for hurting himself???? I swear, I just don’t get it...” Sherman continued.

No one at the state — in the Department of Behavioral Health and Developmental Services, Eastern State Hospital or the Department of Corrections — would comment specifically on Evans’ case.

The behavioral health department said that would be a violation of the federal health-privacy law, and the corrections department cited a state law barring it from releasing records about — or commenting on — inmates who are on active probation or parole.

The behavioral health department also denied The Virginian-Pilot’s request to photograph Evans at Eastern State, saying it had “serious concerns about this individual’s capacity to make an informed decision,” although Evans had been found competent to stand trial a few days earlier.

The department also said allowing a photo could pose a safety risk or set back Evans’ care.

The Hampton-Newport News Community Services Board also declined to comment specifically on his case, as did the Hampton sheriff, who cared for Evans briefly at the city jail.

Maj. Angelanette Moore, security director at the Virginia Peninsula Regional Jail — where Evans was incarcerated on and off between 2009 and May — also declined to comment.

‘It’s like I’m in a nightmare’

In the months Evans has spent drifting between hospitals and jails, he said he’s lost weight, and he’s not exercising.

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He's barely had time to recover from one surgery before he's discharged back to jail, where he's put in solitary confinement and finds another way to hurt himself.

"The last three months have been hard on my body," Evans said during an Aug. 9 phone call from Eastern State.

Over the years, he's ingested paper clips, combs, batteries, pens, and pieces of metal, according to court records and Daily Press archives.

During the interview, he calmly explained he's suicidal.

"It's like I'm in a nightmare," he said.

One day in May, after a court date, he called his grandmother from the Hampton jail and told her, "I want you to know I still love you," she recalled. He also said he didn't know when he would speak with her again.

Then he swallowed a razor.

Now, on days Evans goes to court, Sherman gets so nervous she has stomach pains.

Before one late May court hearing, while Evans was still recovering from surgery to remove the razor, he called his grandmother to make sure she'd be there.

After 3½ hours of waiting, and with the courtroom cleared of other defendants, Evans shuffled in wearing orange flip-flops and handcuffs, a folder in one hand. He wore blue sweatpants and a grey sweater, a white shirttail poking out.

He immediately looked around for Sherman — whom he calls "mom" — his face brightening when he spotted her.

"I love you," he mouthed with a smile.

Judge Christopher Hutton denied his request for his case to be dismissed (Evans

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extensive record — robbery, abduction, drug possession, having a firearm, larceny — and called him a danger to himself and others and a flight risk.

The judge also dismissed Evans' plan of seeking outpatient treatment and a place to sleep at his grandmother's if he were released on bond.

But he also scrutinized Evans. He was impressed by the inmate's large vocabulary and surprised by his knowledge of the law.

“You're much more intelligent than the average defendant that stands over there,” Hutton remarked.

Evans calmly explained that he suffered from three mental illnesses that are exacerbated the longer he spends behind bars.

“I don't do well in the jail,” he said.

Alternatives to jail

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An aerial view of the Hampton Roads Regional Jail on Thursday, August 8, 2019.(Stephen M. Katz)

Virginia began offering jail diversion programs for people with mental illnesses in 2007 — while Evans was serving time on robbery charges from Hampton.

Dr. Michael Schaefer, assistant commissioner of forensic services for the behavioral health department, said the state modeled its programs after the widely-used “Sequential Intercept Model,” which looks for the right time to treat people before they end up in prison, but still hold them accountable for their crimes.

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Police officers became trained in crisis intervention. Community services boards, which provide behavioral and mental health services to the poor and uninsured, received funding so they could give psychiatric care to inmates in jail — and help make plans for getting treatment after their release.

Magistrates, the court officials who set bond for people who've just been arrested, were given the power to send people for treatment at a hospital or outpatient facility instead of to jail.

And special “behavioral health dockets” popped up in courts around the state, aiming to address the underlying causes of defendants’ crimes instead of merely punish them. People who stay in treatment and complete the program can have their charges dismissed. There are now 16 such dockets, Schaefer said, including in Chesapeake, Virginia Beach, Norfolk and Newport News.

The goal of these jail diversion tactics is to get people treatment and keep them out of jail — or at least reduce the amount of time they spend there.

In Hampton and Newport News, 224 people have been helped over the past five years, said Dean Barker, manager of forensic services at the community services board that serves the two cities. He said that has saved the cities around \$4 million based on what it would have cost to manage those people in jail.

There are limits: Anyone with a record of violence is typically ineligible.

“All of this is done with an eye on public safety,” Barker said in a phone interview.

In discussing Evans’ York County charges in 2015, Barker told the Daily Press that if Evans had been arrested in Newport News or Hampton, the community services board would have intervened through one of the jail diversion tactics.

When I brought that up to him in early September, Barker wouldn’t comment on Evans’ current Hampton charges. He said there are a lot of “exclusionary criteria” that must be considered for jail diversion, and it would depend on the defendant’s

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With robbery and gun charges on his record, Evans likely wouldn't have qualified for a behavioral health docket when he landed back in jail for forgery in 2018.

And behavioral health dockets aren't currently available in any of the places he's been arrested over the years. Barker said Hampton is waiting for approval from the Supreme Court of Virginia to launch one there, hopefully before the end of the year.

Thissen, from NAMI Virginia, said Evans would be the ideal candidate for a behavioral health docket.

The state is aiming to do more to help mentally ill inmates. The General Assembly voted this year to develop standards for behavioral health services in local and regional jails. The state Board of Corrections also will have the power to do a yearly unannounced inspection of any jail.

Sparked by the 2015 death of Jamycheal Mitchell at the Hampton Roads Regional Jail — where Evans is currently held — House Bill 1942 also makes it easier for jails to obtain medical records for inmates too sick to give consent and requires them to plan how inmates with severe mental illness will get services upon release.

The standards won't be finalized until July 2020, and more public comment will be taken first. But an advisory group's recommendations include training jail guards on mental health issues, more review of inmates' prescribed medications and requiring incoming inmates to be screened for mental health or substance abuse disorders.

Evans could be a candidate for a rarely used "mandatory outpatient treatment order," said Anne Metz, an assistant professor of counselor education at the University of Lynchburg.

A 2008 state law allows a judge to release someone on bond and send them home with an order for up to 90 days of treatment, which includes regular check-ins with a CSB worker. Metz said that requires a patient to be willing to comply. And it's not clear Evans would be.

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But that idea — like any proposed reforms — must face a stark reality: There aren't enough mental health services in Virginia, including psychiatrists and crisis stabilization centers. So even people who have a treatment plan when they get out of jail or a hospital often gets put on a waiting list for services, Barker said.

The General Assembly provided \$60 million to improve services to people with behavioral and mental health issues. Local community services boards are doing a better job of same-day health assessments, a recent state report found. But they're struggling to provide follow-up services within the goal of 10 days.

And, as Metz points out, the resources vary by locality.

“There isn't one criminal justice system, nor is there one public mental health system,” she said in an email. “Depending upon what side of a county line you live, you can have radically different outcomes.”

Competent but uncooperative

Bruce Cruser, executive director of Mental Health America of Virginia, said Evans has been straddling the line between two state systems, much to his detriment, for years.

“He's in the criminal justice system; he's in the behavioral health system, but neither one is really prepared to fully meet this guy's needs,” he said.

In an ideal world, whenever Evans is released, a judge would require him to attend some sort of specialized, intensive, inpatient mental health treatment and receive strict behavioral supervision, Cruser said.

And to stay out of jail, he'd have to comply with the judge's orders.

That, combined with any doctor-prescribed medication or therapy, means Evans could gradually transition back into a supportive community, Cruser said.

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But Cruser doesn't know that such a facility — one that would meet all of Evans' needs — actually exists.

Sherman said if Evans is released, she wants him to go into a three or six-month inpatient treatment program “to help ground him again, to help with psychotherapy even, to help work out what that man has lived through,” she said.

Bruce Cruser

“They can't just open the jail doors and say, 'You're free to go,'” she

added.

For her part, Sherman has reached out to the Virginia Beach chapter of NAMI and plans to go to their support group meetings for family members of people suffering from mental illness.

She also wants to go to Richmond in January to advocate on behalf of mentally ill inmates in front of the General Assembly.

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Evans said when released, he wants to return to live with his grandmother in York County, get a job at Smithfield Packing Co. and get his certification to become a peer support specialist to work with recovering drug addicts. He wants to be able to exercise regularly and eat healthy.

“I have an addictive personality, but I have learned what to do to keep a rein on that,” he said.

His jury trial for his forgery charges is scheduled for Oct. 23.

Before this article posted online, Evans had been moved again — unbeknownst to me or Sherman. On Friday, Evans called her to say he'd been admitted to Maryview hospital, then sent to a state mental hospital in Northern Virginia. It was unclear when he'd be moved again — or how long after that his grandmother would find out.

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