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Diabetes Management of Incarcerated Individuals: Is the Federal Bureau of Prisons Contributing to Worsening Diabetic Conditions?

Mariam Antony

I. Introduction

A. Raising the Issue

"He's a diabetic. He's probably in shock, semiconscious."[1] These were the last words Adam Greene heard before going unconscious after police officers mistook his diabetic insulin shock for intoxication and pushed him to the ground during a traffic stop.[2] Greene was a father to four children. At the time in 2010, he had been a diabetic for twenty-six years.[3] In 2012, Greene settled a federal lawsuit against the state of Nevada for a violation of his civil rights.[4] Unfortunately, this is neither the first nor the last story of diabetes mismanagement in the correctional system process.[5]

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[1] David Lohr, *Adam Greene Settles Police Beating Suit for $300,000: Nevada Officers Kicked Man In Diabetic Shock*, HUFFPOST (Feb. 10, 2012), https://www.huffpost.com/entry/adam-greene-police-beating-settlement-nevada-diabetic_n_1265992.

[2] *Id.*

[3] *Id.*

[4] *Id.*

[5] *See* Stephanie Talmadge, *When Getting Arrested Can Quickly Become a Medical Emergency,* GQ (June 11, 2020), https://www.gq.com/story/protesting-with-a-chronic-illness. Getting arrested while experiencing a diabetic emergency can be life-threatening. The mismanagement and mishandling of diabetes can begin as early as an individual's initial arrest. *Id. See also* Natalie Shure, *When You Have Diabetes, Even a Routine Police Encounter Can Turn Fatal*, THE NATION (Aug. 3, 2020), https://www.thenation.com/article/society/diabetes-police/. Alexis Wilkins was at a protest when a cop stopped her car and forced the passengers to get out. Wilkins had diabetes and needed her insulin, which was inside the car, but officers refused to give her life-saving medicine to her. *Id.* Officers found her request suspicious and Wilkins remained anxious that she would suffer from a medical emergency without her medications. *Id.*

There are many issues related to noncommunicable disease care in federal prisons, which fall under the management of the U.S. Bureau of Prisons, a federal agency. Although there are many noncommunicable diseases, this comment specifically focuses on diabetes because of its prevalence (how common it is in individuals),[6] especially in incarcerated individuals. Prison and incarceration are not conducive to the management of diabetes because diabetes may not even show symptoms until an individual mismanages the disease for a long time.[7] An individual could first appear normal and then suffer a diabetic emergency, which could lead to consequences like heart attack and stroke.[8] The question explored in this note is whether the mismanagement of diabetic care within the federal prison system is contributing to the worsening condition of an incarcerated diabetic. The note will focus on the federal prison system because federal prisons under the U.S. Bureau of Prisons play an important role in serving as models for local and state jails, which face similar obstacles when it comes to diabetes management.[9]

Two major administrative agencies who manage diabetic care of incarcerated individuals are the Department of Justice and the Federal Bureau of Prisons. Although these are the two main agencies involved in implementing diabetic care in prisons, they have not provided uniform

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[6] *What is Prevalence?*, NAT'L INST. OF MENTAL HEALTH, https://www.nimh.nih.gov/health/statistics/what-is-prevalence (last visited Feb. 4, 2024).

[7] *Diabetes*, MAYO CLINIC (Sept. 15, 2023), https://www.mayoclinic.org/diseases-conditions/diabetes/symptoms-causes/syc-20371444.

[8] *Id.*

[9] Laura M. Maruschak et al., *Medical Problems of State and Federal Prisoners and Jail Inmates, 2011–12*, U.S. DEP'T OF JUSTICE (Feb. 2015), https://bjs.ojp.gov/content/pub/pdf/mpsfpji1112.pdf. About 40% of incarcerated individuals in state and federal correctional institutions in 2011-2012 had a chronic medical condition and almost half had a chronic condition at some point in their life. From the years 2004 to 2012, rates of high blood pressure and diabetes increased in individuals incarcerated in state and federal correctional institutions. *Id.*

standards throughout prisons, and thus uniform enforcement is nearly impossible.[10] First, this note will examine the type of treatment that is given in the federal prison system as compared to the guidelines set forth by the American Diabetes Association (ADA). The type of treatment may vary depending on the prison's security and health system, but most facilities do not meet national standards regardless of these variables.[11] Second, this note will examine how the U.S. Bureau of Prisons has set lower standards for diabetic care than what national standards require. Many facilities have cited financial concerns and the potential for misusing diabetic drugs as reasons why they are not able to meet national standards for diabetic care. Through varying types of research, this note will examine the validity of these reasons. Diabetes has become more prevalent throughout the United States[12] and as more individuals become incarcerated it is important to hold the federal agency in charge of correctional healthcare accountable. The U.S. Bureau of Prisons works in conjunction with the Department of Justice and other agencies, such as the Center for Disease Control and Prevention (CDC), to combat various non-communicable diseases like diabetes. This note will also examine the relationships between the U.S. Bureau of Prisons and other agencies.

II. Background and History

A. Diabetes as a Chronic Condition – Introduction to Diabetes

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[10] *Id.*

[11] *Diabetes Management in Detention Facilities*, AM. DIABETES ASS'N (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[12] *See National Diabetes Statistics Report*, CDC (Nov. 29, 2023), https://www.cdc.gov/diabetes/data/statistics-report/index.html#:~:text=Among%20US%20adults%20aged%2020,2004%20to%208.3%25%20in%202021.

To understand the severity of diabetes as an incarcerated individual, one must first understand how diabetes as a disease drastically alters an individual's body. According to the CDC, diabetes is a chronic condition in which your body's ability to turn food into energy is affected.[13] A person's body breaks down food into glucose, which is essentially sugar.[14] This glucose is then released into the bloodstream.[15] When the level of glucose in a person's blood increases, this triggers the pancreas to release insulin.[16] However, diabetes affects these processes.[17] A diabetic is unable to make a sufficient amount of insulin.[18] As a result, too much glucose stays in the individual's bloodstream.[19] Over a period of time, this can lead to negative health outcomes, such as kidney diseases, loss of vision, and heart disease.[20] Diabetes is a "silent epidemic" that killed almost seven million individuals worldwide in 2021.[21] The fact that there is currently no cure for diabetes further intensifies this epidemic; diabetic healthcare must necessarily focus most efforts on managing the disease rather than trying to get rid of it.[22]

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[13] *Diabetes Basics*, CDC (June 21, 2022), https://www.cdc.gov/diabetes/basics/index.html.

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] *Diabetes Basics*, CDC (June 21, 2022), https://www.cdc.gov/diabetes/basics/index.html.

[19] *Id.*

[20] *Id.*

[21] Douglas Broom, *Diabetes: A Silent Epidemic that Kills Nearly 7 Million of Us Every Year*, WORLD ECON. FORUM (Dec. 14, 2020), https://www.weforum.org/agenda/2020/12/diabetes-silent-epidemic-world-health/. .

[22] David Zhao, *Goals of Cure: Perspectives on the Concept of Cure in Type 2 Diabetes*, 28 J. EVAL. CLINICAL PRAC. 445, 446 (2002), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9303532/pdf/JEP-28-445.pdf/.

There are three types of diabetes: type 1, type 2, and gestational.[23] Type 1 diabetes occurs in individuals when they are young, and these individuals must use insulin daily to prevent a life-threatening situation.[24] There is no cure to type 1 diabetes, and no way to prevent an individual from getting it.[25] In the United States, most individuals who have diabetes are diagnosed with type 2 diabetes—approximately 90-95%. [27] Type 2 diabetes can be prevented through lifestyle changes and regular blood tests.[28] Gestational diabetes is when an individual gets diabetes while pregnant, but did not have diabetes before the pregnancy.[29] This type of diabetes could go away after pregnancy, but these individuals are at higher risk of getting type 2 diabetes following their pregnancy.[30] Individuals may have prediabetes before type 2 diabetes, which is when an individual's blood sugar is at an increased level but not at the level of type 2 diabetes.[32] Prediabetes affects more than 98 million adults in the United States—over one-out-of-three adults.[33] Out of these individuals, more than eight in ten people are unaware they have

[23] *What is Diabetes?*, CENTERS FOR DISEASE CONTROL AND PREVENTION (June 21, 2022), https://www.cdc.gov/diabetes/basics/diabetes.html.

[24] *What is Type 1 Diabetes,?* CTRS. FOR DISEASE CONTROL AND PREVENTION: DIABETES https://www.cdc.gov/diabetes/basics/what-is-type-1-diabetes.html (last updated May 15, 2024).

[25] *Id.*

[27] *What is Diabetes?*, *supra* note 23.

[28] *Id.*

[29] *Id.*

[30] *Id.*

[32] *Id.*

[33] *Id.*

prediabetes.[34] Through healthy lifestyle changes, the prediabetic individual can prevent type 2 diabetes.[35] Additionally, the roles race and ethnicity play in diabetes are important because these factors can affect diabetic outcomes.[36] Ethnic and racial minorities face more negative consequences from diabetes because these populations are more likely to have diabetic complications due to decreased control of the disease.[37] Various unique risk factors minority populations face can help explain this, such as obstacles to accessing healthcare, cultural attitudes and behaviors, and socioeconomic status.[38] An individual's entrance into a correctional facility further intensifies these factors.[39]

Diabetes is especially prevalent in correctional facilities.[40] Out of the two-million individuals who are incarcerated, about 80,000 have diabetes, or about 4.8%.[41] Early identification of diabetes can help improve outcomes and prevent worsening health conditions

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[34] *Id.*

[35] *Id.*

[36] *Hispanic or Latino People and Type 2 Diabetes*, CTRS. FOR DISEASE CONTROL AND PREVENTION: DIABETES https://www.cdc.gov/diabetes/library/features/hispanic-diabetes.html#:~:text=People%20of%20certain%20racial%20and,if%20you%20already%20have%20it (June 20, 2022);*see also Fighting Diabetes' Deadly Impact on Minorities*, DRUGS.COM fda.gov/consumers/consumer-updates/fighting-diabetes-deadly-impact-minorities (Nov. 4, 2015).

[37] J. Sonya Haw, et al., *Diabetes Complications in Racial and Ethnic Minority Populations in the USA*, CURRENT DIABETES REPS. (Jan. 9, 2021) 1, 3. Hispanic individuals' death rate from diabetes is 50% higher than the death rate of diabetes for non-Hispanic individuals. *Id.* at 1. Non-Hispanic white individuals have the lowest rate of diabetes in the U.S. while American Indians and Hispanics have the highest rates of diabetes in the U.S. *Id.*.

[38] *Id.* at 5.

[39] U.S. DEP'T OF JUST., NCJ 248491, MEDICAL PROBLEMS OF STATE AND FEDERAL PRISONERS AND JAIL INMATES, 2011–12, (2015).

[40] Am. Diabetes Assoc., *Diabetes Management in Correctional Institutions*, 34 DIABETES CARE S75 (2011).

[41] *Id.*

and comorbidities.[42] Although diabetes cannot be cured, it can be controlled through managing blood sugar and ensuring blood sugar levels stay within a healthy range. [43] The first way to manage blood sugar is to make lifestyle changes, including changes in food choices.[44] Meals should be balanced and include an appropriate ratio of carbohydrates to whole foods and vegetables.[46]. In addition, avoiding sugar—especially drinks that have artificial sweetener—is important. [47] The next lifestyle change that can help to control and manage diabetes is exercise. Diabetic individuals can greatly benefit by implementing an exercise plan that includes moderate aerobic activity for about 30 minutes a day.[48] Individuals should check their blood sugar before and after exercise to monitor how the body is reacting to the exercise.[49] The next way to manage diabetes is to take medication including insulin because food and exercise may not be sufficient if an individual's blood sugar is too high.[50] The timing and dosage of these medications should

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[42] *Id.* Comorbidity is defined as having more than one condition or disease at the same time. *Comorbidities*, CTRS. FOR DISEASE CONTROL AND PREVENTION: ARTHRITIS https://www.cdc.gov/arthritis/data_statistics/comorbidities.htm (Oct. 4, 2023). *Id.*

[43] Mayo Clinic Staff, *Diabetes Management: How Lifestyle, Daily Routine Affect Blood Sugar*, MAYO CLINIC Jan. 6, 2024, https://www.mayoclinic.org/diseases-conditions/diabetes/in-depth/diabetes-management/art-20047963.

[44] *Id.*

[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] *Id.*

[50] *Diabetes management: How lifestyle, daily routine, affect blood sugar*, MAYO CLINIC (June 2022), https://www.mayoclinic.org/diseases-conditions/diabetes/in-depth/diabetes-management/art-20047963.

be decided by a healthcare professional and taken accordingly to manage blood sugar levels throughout the day. [51]

Since there is no cure or medication to completely treat or prevent diabetes, the only way to combat diabetes is through management and control, which is not easy in any type of setting, but especially in an incarcerated setting.[52] The unique situation of an individual who is situated in a correctional facility is that they, unlike other individuals, do not have the freedom to manage their diabetes in ways they would outside incarceration.[53]

B. Case Law – The Legal Right of an Incarcerated Individual to Receive Diabetic Care

There is a legal backdrop in the United States upon which these changes in the treatment and management of diabetes have been evolving. An individual who becomes incarcerated has the right to receive "adequate medical care and equal treatment guaranteed by the Constitution and federal law."[54] The following cases are important to understand because they lay a legal foundation for the rights of incarcerated individuals. Just because an individual is incarcerated does not mean they have different constitutional rights when it comes to diabetic care and treatment. To begin, in 1976, the Supreme Court held in *Estelle v. Gamble* that "deliberate

[51] *Id.*

[52] Diane O'Laughlin, *Complete Care Model on Glycemic Control in California State Prisons*, SJSU (2019), https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1101&context=etd_doctoral.

[53] *Id.* "These rigid circumstances increase the complexity of diabetic disease management and comorbidity control, leading to increased patient vulnerability." *Id* at 1. Since individuals who are incarcerated cannot choose what to eat, when to exercise or even when to take their medications, they suffer a great disadvantage in management compared to those who are not incarcerated. *Id.*

[54] *The Legal Right to Medical Care in Correctional Facilities*, AM. DIABETES ASS'N, https://dev.diabetes.org/sites/default/files/2019-06/the-legal-right-to-medical%20care%20in%20correctional%20facilities.pdf (last visited Feb. 4, 2023).

indifference."[55] to a prisoner's injury or illness is a form of cruel and unusual punishment, which is a constitutional violation of the Eighth Amendment. This case is relevant to diabetic care in correctional institutions because it held that incarcerated individuals do have a constitutional right to adequate medical care including access to proper diabetic medications and treatment.[56] Medical professionals themselves use *Estelle* to argue for better healthcare for incarcerated individuals especially since they do not have many of the healthcare options afforded to individuals who are not incarcerated.[57]

The incarcerated individual in *Estelle* needed to show proof of not only of their bad health and medical treatment, but also unconstitutional conditions in the prison.[58] The individual had a back injury that occurred while he was incarcerated, and he was seeing the medical team to get treated.[59] The medical staff claimed that the individual was seen about seventeen times over the course of three months in which his health concerns, including his injury, were adequately treated.[60] The doctor failed to perform an X-ray and argued that failing to conduct an X-ray did not rise to the level of cruel and unusual punishment, but rather at most could rise to the level of medical malpractice.[61] The plaintiff brought the claim against multiple parties including the state

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[55] Estelle v. Gamble, 429 U.S. 97, 106 (1976).

[56] *Id.*

[57] Joseph E. Paris, *Why Prisons Deserve Health Care*, AMA JOURNAL OF ETHICS (Feb. 2008), https://journalofethics.ama-assn.org/article/why-prisoners-deserve-health-care/2008-02.

[58] *Estelle*, 429 U.S. at 106.

[59] *Id.*

[60] *Id.* at 107.

[61] *Id.*

corrections department medical director and two correctional officers employed at the prison.[62] This is one of the first cases in which an incarcerated individual's health needs and concerns went as high as the Supreme Court.[63] The case was monumental; before this case, the health of prisoners was not seen as important or a part of the rehabilitation process of incarceration, but after *Estelle*, incarcerated individual still have rights to proper health treatment and should have access to proper medications and the correct treatment, per the U.S. Constitution.[64] *Estelle* was an important shift as the Court expanded its interpretation of the Eighth Amendment.[65]

The *Scinto v. Stansberry*[66] case holds significant relevance in the evolution of diabetes treatment and access to diabetic resources within the correctional system.[67] This on-point case mirrors the experiences of numerous incarcerated individuals, offering a pertinent example of the few legal precedents addressing federal obligations for diabetic care. Notably, it stands as one of the most prominent rulings in this arena, emanating from the Fourth Circuit. The principal question is about expert testimony, but *Scinto* lays the foundation for Eighth Amendment claims, specifically related to diabetes. In *Scinto*, an incarcerated individual alleged that the doctor responsible for his diabetic care violated his Eighth Amendment rights by denying his request for insulin, which was necessary to manage his diabetic condition.[68] This plaintiff initiated this

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[62] *Id.*

[63] Estelle v. Gamble, 429 U.S. 97, 107 (1976).

[64] *Id.*

[65] *Id.*

[66] Scinto v. Stansberry, 841 F.3d 219, 230 (4th Cir. 2016).

[67] *Id.*

[68] *Id.*

action against prison officials, alleging violations of his rights under the Fourth, Fifth, Eighth, and Fourteenth Amendments.[69] This occurred in 2005 at a federal prison camp, where the doctor prescribed the individual morning and evening insulin injections, along with supplemental insulin injections. These supplemental doses were determined by a sliding scale, adjusted according to the individual's current blood sugar levels.[70] The incarcerated individual requested additional insulin injections due to his dangerously high and rapidly increasing blood sugar levels.[71] The doctor repeatedly refused to prescribe more insulin injections.[72] In *Scinto*, the incarcerated individual alleged that his doctor inadequately treated his diabetes, leading to an "unnecessary exacerbation of his serious diabetic condition."[73] More specifically, the plaintiff, due to this mistreatment and inadequate treatment, suffered serious health problems, ranging from kidney malfunctions to eyesight issues.[74] The plaintiff's well-being was also affected by this mistreatment, a common consequence in cases of diabetic individuals receiving inadequate care.[75] The Court acknowledged, noting it as a "[w]ell-known fact" that diabetes is a "common yet serious illness that can produce harmful consequences if left untreated for even a short period of time."[76] The *Scinto* court ruled that a jury composed of peers could understand the

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[69] *Id.*

[70] *Id.*

[71] Scinto v. Stansberry, 841 F.3d 219, 230 (4th Cir. 2016).

[72] *Id.*

[73] *Id.*

[74] *Id.*

[75] *Id.*

[76] Scinto v. Stansberry, 841 F.3d 219, 230 (4th Cir. 2016).

implications of not receiving proper diabetes treatment.[77] A jury is competent enough to understand the importance and risks associated with a doctor failing to provide an incarcerated individual with necessary diabetic insulin injections.[78] The plaintiff was not required to present expert testimony for the jury to understand the implications and risks associated with the mistreatment of diabetes in prison.[79]

In *Farmer v. Brennan*[80], the Supreme Court established specific factors to consider in cases where prison officials are accused of violating the Eighth Amendment. First, prison officials are held liable under the Eighth Amendment for denying human conditions to incarcerated individuals, but only if they are aware that the individual faces a "substantial risk of serious harm"[81] and they disregard that risk by failing to take reasonable steps to mitigate it.[82] Second, in determining whether the prison officials should be held responsible for failing to prevent further harm, remand may be required and necessary.[83] The Court further elaborates that incarcerated individuals are not constitutionally guaranteed the right to comfortable prison conditions.[84] However, there is a constitutional guarantee ensuring that incarcerated individuals

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[77] *Id.*

[78] *Id.*

[79] *Id.*

[80] Farmer v. Brennan, 511 U.S. 825.

[81] Scinto v. Stansberry, 841 F.3d 219, at 226 (4th Cir. 2016).

[82] *Id.*

[83] *Id.*

[84] *Id.*

are placed in prisons with humane conditions.[85] The Eighth Amendment mandates that prison officials provide "humane conditions of confinement."[86] Prison officials are obligated to provide "adequate food, clothing, shelter, and medical care, and . . . [take] reasonable measures to guarantee the safety of inmates."[87] The Court, expanding on the rationale from *Estelle v. Gamble,* clarifies that there is a distinction between deliberate indifference to the real and serious needs of incarcerated individuals and mere negligence in treating or diagnosing a disease or illness.[88] To substantiate a claim of an Eighth Amendment violation, a plaintiff must show more than mere negligence.[89] Additionally, a plaintiff must demonstrate that there was more than just a standard lack of proper care for the incarcerated individual's safety or interests.[90] These cases indicate that to avoid Eighth Amendment violations, the U.S. Bureau of Prisons should establish and enforce sufficient standards for diabetic care and management that all institutions are required to follow or they will face consequences.

III. Current State of Diabetes under the U.S. Bureau of Prisons

A. Obstacles to Diabetes Treatment

The occurrence of diabetes in the population is determined by its prevalence, which is the proportion of individuals in a specific population who have diabetes over a given period.[91] This

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[85] *Id.*

[86] Scinto v. Stansberry, 841 F.3d 219, at 226 (4th Cir. 2016).

[87] *Id.*

[88] *Id.*

[89] *Id.*

[90] *Id.*

[91] *What is Prevalence?*, NIMH (2022), https://www.nimh.nih.gov/health/statistics/what-is-prevalence.

is calculated by dividing the number of people with diabetes in a sample by the total sample size.[92] The prevalence of diabetes in correctional facilities is rising, largely due to the increasing age of the incarcerated population. [93]

Many obstacles prevent federal correctional facilities from achieving the proper standards of diabetic care.[94] First, prisons are not well equipped with the medical resources necessary for proper diabetic care, especially for individuals with complex diabetic needs.[95] Prisons do not provide proactive diabetic care, but most of the treatment and care is focused on reactive care meaning that prison systems are intended to only manage care for those who already have diabetes not those who are pre-diabetic.[96] These barriers are not always accidental; because of stringent budgeting allocations for treating chronic conditions, prison officials often cut diabetic care.[97]

The second obstacle to diabetic care is medication lines—when incarcerated individuals stand in line to receive their medications.[98] These medication lines are arranged in a way to keep order within the prison or jail while also maintaining efficiency.[99] There are often delays in

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[92] *Id.*

[93] *Managing Diabetes in Correctional Facilities*, AM. DIABETES ASS'N, https://diabetesjournals.org/spectrum/article/18/3/146/2268/Managing-Diabetes-in-Correctional-Facilities (last visited Feb. 4, 2024).

[94] *Id.*

[95] *Id.* at 147.

[96] *Id.*

[97] *Id.*

[98] *Id.* at 148.

[99] *Id.*

supply of medications, causing disruptions in medication lines and certain medications may not be readily available.[100] Also, diabetics should receive their medications in synchronization with their meals, which is difficult because medication lines are organized during off times of the schedule, not during meals.[101]

Another obstacle to proper diabetic care out of the incarcerated individual's control is the transfer of diabetic inmates to another correctional facility.[102] When an inmate is transferred, there may be a delay in medications ,which could lead to a pause in care.[103] One of the essential components of transfer protocols is communication between the two facilities.[104] One of the many issues that arises during any type of transfer is the transferring of medical information from one facility to another.[105] This can become a large problem if the medical records are not electronic due to paper files' propensity to be lost.[106] In addition, if the transfer facility is not within a close proximity, the paper charts can take days by mail to get to the next facility.[107] Ideally, the transfer of medical records and medical charts will be discussed as a part of the

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[100]Robert A. Bowen et.al,, *Medication Management and Practices in Prison for People with Mental Health Problems: A Qualitative Study*, 3 INT'L J. MENTAL HEALTH SYS. (2009), /.

[101] *Id.*

[102] *Managing Diabetes in Correctional Facilities*, AMERICAN DIABETES ASSOCIATION (2005), https://diabetesjournals.org/spectrum/article/18/3/146/2268/Managing-Diabetes-in-Correctional-Facilities.

[103] *Id.*

[104] *Id.*

[105] *Id.*

[106] *Id.*

[107] Gregory T. Woods et. al.,, *Accessing Prison Medical Records in the United States: a National Analysis*, *2018,* 34 J. GEN. INTERNAL MED. 2331 (2019), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6848436/.

transfer plan, but this is often not the case as transfers may be unplanned and not communicated to even the incarcerated individual.[108]

IV. Agencies Involved in Diabetic Care of Incarcerated Individuals in Federal Prisons

A. Department of Justice

The U.S. Bureau of Prisons is a federal agency under the Department of Justice, and as such, the Department of Justice plays an important role in diabetic management of incarcerated individuals.[109] The prevalence of diabetes among non-incarcerated individuals is high, but the prevalence is "considerably worse in our prisons and jails."[110] According to the Department of Justice, in 2011, almost forty percent of federal and state prisoners had a chronic health condition.[111] Incarcerated individuals are almost two times more likely than non-incarcerated individuals to have diabetes.[112] Almost ten percent of incarcerated individuals in 2011 had diabetes.[113] The Department of Justice is one agency in charge of diabetic care, treatment, and management in federal prisons throughout the United States.[114] The Federal Bureau of Prisons

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[108] *Managing Diabetes in Correctional Facilities*, AMERICAN DIABETES ASSOCIATION (2005), https://diabetesjournals.org/spectrum/article/18/3/146/2268/Managing-Diabetes-in-Correctional-Facilities.

[109] *Historical Information*, FED. BUREAU OF PRISONS, https://www.bop.gov/about/history/ (last visited Feb. 8, 2024).

[110] *Shocking National Data Pale by Comparison to Prison Diabetes Data*, COLLINS & COLLINS, P.C. (May 13, 2019) https://www.collinsattorneys.com/shocking-national-data-pale-by-comparison-to-prison-diabetes-data/; U.S. DEP'T OF JUST., NCJ 248491, MEDICAL PROBLEMS OF STATE AND FEDERAL PRISONERS AND JAIL INMATES, 2011–12, (2015).

[111] U.S. DEP'T OF JUST., NCJ 248491, MEDICAL PROBLEMS OF STATE AND FEDERAL PRISONERS AND JAIL INMATES, 2011–12, (2015).

[112] *Id.*

[113] *Id.*at 3.

[114] *Id.*

spends around 1.34 billion dollars on healthcare on individuals placed in federal correctional facilities.[115] Ninety-seven percent of individuals incarcerated in federal correctional facilities serve sentences of more than one year, which is an appropriate and adequate amount of time for the Bureau to properly enact diabetic management.[116]

B. Centers for Disease Prevention and Control

Even though the Federal Bureau of Prisons has set diabetic management guidelines, care and treatment varies from facility to facility and is often inadequate compared to the standards set forth by the ADA.[117] Furthermore, federal prisons often use private contractors and set forth only a small portion of their budgets for diabetic care.[118] This creates a large incentive for federal prisons to cut costs as much as they can, which leads to adverse consequences for individuals who are incarcerated and simultaneously have diabetes.[119] Private contractors' priority is not the health and well-being of incarcerated individuals, but rather to maximize profits, which means costs have to be cut in the process.[120] The CDC acknowledges that no prison will probably ever be known for their healthcare, however under the Eighth Amendment, every incarcerated

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[115] Alyssa Fine, et. al., *Prevention in Prison: the Diabetes Prevention Program in a Correctional Setting*, 32 DIABETES SPECTRUM 331 (Nov. 2019), https://diabetesjournals.org/spectrum/article/32/4/331/32472/Prevention-in-Prison-The-Diabetes-Prevention.

[116] *Id.*

[117] *Diabetes behind bars: challenging inadequate care in prisons*, THE LANCET 347, (May 2018),https://www.thelancet.com/action/showPdf?pii=S2213-8587%2818%2930103-7..

[118] *Id.*

[119] *Id.*

[120] *Report: How Private Prison Companies Cut Corners to Generate Profit*, PRISON LEGAL NEWS (Aug. 2, 2016), https://www.prisonlegalnews.org/news/2016/aug/2/report-how-private-prison-companies-cut-corners-generate-profit/.

individual in a federal prison is guaranteed adequate and sufficient healthcare.[121] The Federal Bureau of Prisons set forth requirements and guidelines for diabetic management with the most updated version being in 2012.[122] This 2012 document is thorough and addresses co-morbidities, as well as the various implications of being incarcerated while diabetic.[123] The Federal Bureau of Prisons is the healthcare provider for the incarcerated community,[124] and thus need to be knowledgeable of these standards and guidelines, as well as the resources that need to be provided to incarcerated individuals.[125] The Federal Bureau of Prisons has made progress towards reaching the standards, but still does not meet the ADA national standards, which were updated in October 2021.[126]

The CDC has enacted the Diabetes Prevention Program in correctional facilities, and it has shown great improvements in diabetic individuals.[127] Initially, it was started to help

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[121] *Diabetes behind bars: challenging inadequate care in prisons*, THE LANCET 347, (May 2018),https://www.thelancet.com/action/showPdf?pii=S2213-8587%2818%2930103-7..

[122] *Id.*

[123] FED. BUREAU OF PRISONS, FEDERAL BUREAU OF PRISONS CLINICAL PRACTICE GUIDELINES: MANAGEMENT OF DIABETES (June 2012). The document was last revised in 2010. *Id.* The 2012 revisions included: new section on diabetic periodontitis, seriousness of diabetic complications statistics, importance of blood glucose monitoring, hypertension recommendations, nutritional information updates, and a note on screening for microalbuminuria. *Id.*

[124] Virginia Giroux, *A Comparison of Diabetes Management in a Federal Prison with the National Standards of Care Published by the ADA in 1998*, UNIFORMED SERVS. UNIV. OF THE HEALTH SCIS. (May 2000), https://apps.dtic.mil/sti/pdfs/ADA421148.pdf.

[125] *Id.*

[126] *Diabetes Management in Detention Facilities*, AM. DIABETES ASSOC. (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[127] Alyssa Fine, M. Shayne Gallaway, & Angela Dukate, *Prevention in Prison: the Diabetes Prevention Program in a Correctional Setting*, 32 DIABETES SPECTRUM 331, 332 (Nov. 1, 2019), https://diabetesjournals.org/spectrum/article-pdf/32/4/331/344995/331.pdf.

individuals at a high risk for diabetes commit to lifestyle changes; they worked with a lifestyle coach who made a diabetic plan of action with then which included wellness, exercise, and nutritional aspects.[128] The program seeks to prevent individuals from getting further comorbidities which are common in diabetic individuals, especially if there is little control and management being done.[129] There has also been success in implementing this program in diverse communities as well as in adapting the program to other situations, not just the correctional facility setting.[130] A big milestone for the program has been that Medicare now will reimburse services provided by programs that become recognized and follow proper protocol.[131]

V. Other Organizations Involved in Trying to Improve Diabetic Outcomes

A. American Diabetes Association

The American Diabetes Association has been known to critique the work of law enforcement because law enforcement struggles to quickly respond to emergencies related to diabetes.[132] They argue that the root of diabetic mistreatment not only occurs in prisons but begins even as early as the time of arrest.[133] Law enforcement officers are not trained in diabetic management and diabetic emergencies, so they often think individuals suffering from a diabetic emergency are intoxicated or are not complying with orders.[134] The danger in not being able to

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[128] *Id.*

[129] *Id.*

[130] *Id.* at 334.

[131] *Id.* at 332.

[132] *Law Enforcement*, AM. DIABETES ASSOC. (2022), https://diabetes.org/tools-support/know-your-rights/discrimination/rights-with-law-enforcement.

[133] *Id.*

[134] *Id.*

recognize these diabetic emergencies is that these individuals may suffer serious health complications during the arrest, as well as long term complications due to a lack of treatment after the arrest.[135] The ADA has set forth clear recommendations and guidelines for diabetes management in detention facilities.[136] They recommend that the Federal Bureau of Prisons institute a multi-step process to mitigate the increasing diabetes complications occurring in federal prisons.[137] According to the ADA, the percentage of diabetes and its associated health conditions are predicted to continue increasing within individuals who are incarcerated, especially in youth populations.[138] Also, there is a disproportionate percentage of racial minorities who are more likely to have diabetes when entering incarceration, which often goes ignored.[139] The ADA emphasizes early intervention strategies and identification for diabetic individuals as this will decrease medical complications and would ultimately save money for the prison while also helping these diabetic individuals receive the preventative treatment they need.[140]

B. CoreCivic Lawsuit

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[135] *Id.*

[136] *Managing Diabetes in Correctional Facilities*, AM. DIABETES ASS'N, https://diabetesjournals.org/spectrum/article/18/3/146/2268/Managing-Diabetes-in-Correctional-Facilities (last visited Feb. 4, 2024).

[137] *Id.* at 149.

[138] *Id.* at 146.

[139] *Id.*

[140] *Id.* at 149–50.

The ADA has engaged in many lawsuits against federal prisons operating under the U.S. Bureau of Prisons.[141] In 2018, the ADA joined a federal lawsuit representing incarcerated individuals at Trousdale Turner Correctional Facility in Tennessee.[142] This facility is operated and managed by the second largest private prison firm in the United States, CoreCivic.[143] Although President Biden signed an executive order in 2021 abolishing the use of private federal prisons, CoreCivic has found ways to circumnavigate the executive order and continues to manage federal prisons and often comes under attack through lawsuits.[144] The Trousdale lawsuit is ongoing; it alleges that during a three-week prison lockdown, employees and staff denied access to insulin shots for the incarcerated individuals.[145] However, for-profit prisons often purposely understaff in order to save money and "maximize profits,"[147] which leads to frequent prison lockdowns.[148] During lockdowns, inmates are routinely denied access to diabetic medications, which if not used, can lead to life-threatening health situations.[149] This lawsuit has

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[141] *CoreCivic Lawsuit*, AMERICAN DIABETES ASSOCIATION (2022), https://diabetes.org/tools-support/know-your-rights/discrimination/rights-with-law-enforcement/trousdale-turner-lawsuit.

[142] *CoreCivic Lawsuit*, AM. DIABETES ASSOC. (2022), https://diabetes.org/tools-support/know-your-rights/discrimination/rights-with-law-enforcement/trousdale-turner-lawsuit.

[143] *Id.*

[144] AM. FRIENDS SERV. COMM., *CoreCivic Inc*, INVESTIGATE (May 25, 2024), https://investigate.afsc.org/company/corecivic.

[145] Brett Kelman, *At Tennessee's largest prison, diabetic inmates say they are denied insulin to 'maximize profits,'* THE TENNESSEAN (Aug. 7, 2018), https://www.tennessean.com/story/news/2018/08/07/corecivic-diabetic-inmates-denied-insulin-trousdale-turner/925297002/.

[147] *Id.*

[148] *Id.*

[149] *Id.*

since become a class action suit with over sixty diabetic incarcerated individuals joining the suit.[150] The for-profit prison alleges that the individual-plaintiffs are "responsible for their own diabetes complications,"[151] arguing that these individuals are exacerbating their own diabetic symptoms by "buying sugary snacks at the prison store"[152] and engaging in a "willful non-compliance" lifestyle and diet.[153] Although this is an ongoing case, lawsuits related to diabetes have been successful and incarcerated individuals are finding some monetary relief from these lawsuits; however, long-term change has been more difficult.[154]

C. COVID-19 Lawsuits

COVID-19 affected aspects of everyday life and especially affected those with pre-existing illness and disease, particularly diabetes.[155] Dr. Giuseppina, who overlooks diabetes prevention and treatment at the CDC, stated that it is "hard to overstate just how devastating the pandemic has been for Americans with diabetes," so it is relevant in a discussion regarding

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[150] *Id.*

[151] *Id.*

[152] *Id.*

[153] *Id.*

[154] *Legal Rights of Prisoners and Detainees with Diabetes: An Introduction and Guide for Attorneys and Advocates*, AMERICAN DIABETES ASSOCIATION, http://main.diabetes.org/dorg/living-with-diabetes/correctmats-lawyers/legal-rights-of-prisoners-detainees-with-diabetes-intro-guide.pdf.; *see also* Olivia Prentzel, *Bureau of Prisons to pay $300,000 to settle lawsuit after diabetic prisoner was allegedly deprived of insulin at Supermax facility*, COLO. SUN (June 7, 2022), https://coloradosun.com/2022/06/07/bureau-of-prisons-settles-lawsuit-after-diabetic-prisoner-allegedly-deprived-i/. Most recently, in 2022, the U.S. Bureau of Prisons has settled a lawsuit with a diabetic prisoner who was denied insulin and suffered serious medical complications which could have led to coma or death. *Id.* The U.S. Bureau of Prisons settled the case for $300,000 but there were no other short-term or long-term changes made to ensure this does not happen again in the future. *Id.*

[155] Andrew Jacobs, *Covid and Diabetes, Colliding in a Public Health Train Wreck*, N.Y. TIMES (Apr. 13, 2022), https://www.nytimes.com/2022/04/03/health/diabetes-covid-deaths.html.

diabetes treatment to address COVID-19.[156] Multiple studies show that thirty to forty percent of all COVID-19 deaths in the U.S. were of diabetic individuals.[157] Diabetic individuals have a greater chance of experiencing more serious complications if they become infected with COVID-19.[158] Thus, when infected with COVID-19, a diabetic individual's immune system is compromised infection, so they cannot combat the infection as well as a non-diabetic.[159]

Incarcerated individuals in federal prisons were considered earlier for receiving the COVID-19 vaccine as they were seen as higher risk than non-incarcerated individuals.[160] The Federal Bureau of Prisons published a clinical guidance document for other federal prisons to follow.[161] The Federal Bureau of Prisons placed diabetics in priority level two for receiving the COVID-19 vaccine, where incarcerated individuals who were over sixty-five and had type 2 diabetes met the CDC criteria for "increased risk for severe illness from SARS-coV-2."[162] These individuals were cited to have a greater chance of severe illness resulting from COVID-19.[163]

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[156] *Id.*

[157] *Id.*

[158] AM. DIABETES ASSOC., COVID-19 Letter to Detention Centers (2020), https://diabetes.org/sites/default/files/2020-03/COVID-19%20Letter%20to%20Detention%20Centers.pdf.

[159] *Id.*

[160] FED. BUREAU OF PRISONS, COVID-19 VACCINE GUIDANCE: FEDERAL BUREAU OF PRISONS CLINICAL GUIDANCE (Mar. 11, 2021).

[161] *Id.*

[162] *Id.* at 7.

[163] *Id.*

The Federal Bureau of Prisons made this clinical guidance document so facilities could adapt to "unique situations that present within BOP correctional facilities."[164]

In one lawsuit against CoreCivic, Douglas Dodson claimed that during a lockdown he was denied access to his life-saving insulin and as a result suffered serious health complications.[166] The court in 2019, in the Dodson case, ruled that CoreCivic had to now properly and adequately train correctional employees that diabetic individuals in their prisons had to be taken to a different area at least thirty minutes before they ate any meal to check their sugar.[167] During this time, they would also have access to their diabetic medications and insulin.[168] This requirement for correctional employees was subsequently added to their employee training manuals.[169] Sarah Fech-Baughman, a lawyer for the ADA compared incarcerated individuals in CoreCivic correctional institutions to children because incarcerated individuals are "at the mercy of prison staff to provide them with access to the health care tools, medications and reasonable accommodations necessary to manage their diabetes" and are discriminated against because of their diabetic condition.[170] This already vulnerable population

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[164] *Id.*

[166] Brett Kelman, *At Tennessee's largest prison, diabetic inmates say they are denied insulin to 'maximize profits,'* THE TENNESSEAN (Aug. 7, 2018), https://www.tennessean.com/story/news/2018/08/07/corecivic-diabetic-inmates-denied-insulin-trousdale-turner/925297002/.

[167] Dodson v. CoreCivic, 2018 U.S. Dist. LEXIS 171132.

[168] *Id.*

[169] *Id.*

[170] Brett Kelman, *At Tennessee's largest prison, diabetic inmates say they are denied insulin to 'maximize profits,'* THE TENNESSEAN (Aug. 7, 2018), https://www.tennessean.com/story/news/2018/08/07/corecivic-diabetic-inmates-denied-insulin-trousdale-turner/925297002/.

was even more vulnerable to complications during the COVID-19 pandemic and although incarcerated individuals have had some positive outcomes with various lawsuits, more preventative measures should be instituted.[171]

VI. Position Statement of the American Diabetes Association: A Multi-Step Process Recommendation for the U.S. Bureau of Prisons

The ADA has set forth recommendations for the U.S. Bureau of Prisons to adopt an order to decrease the prevalence of diabetic complications in incarcerated individuals.[172] They have set forth a multi-step process, which begins with a more proactive approach to diabetic care, and have pushed for the agency to hold itself accountable to improving diabetic standard of care in federal prisons.[173] The first step of the process would begin with a reception screening, which is especially important because correctional officers and the warden should know the baseline for new inmates who come in.[174] If correctional officers and the warden are aware, these diabetes prescriptions are less likely to be seen as contraband and kept from those who need the medication.[175] There is a growing trend in which some federal prisons under the U.S. Bureau of Prisons are confiscating prescribed diabetic drugs, including insulin pumps, because they see

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[171] *CoreCivic Lawsuit*, AMERICAN DIABETES ASSOCIATION (2022), https://diabetes.org/tools-support/know-your-rights/discrimination/rights-with-law-enforcement/trousdale-turner-lawsuit.

[172] *Diabetes Management in Detention Facilities*, AMERICAN DIABETES ASSOCIATION (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[173] *Id.*

[174] *Id.*

[175] *Id.*

them as contraband.[176] However, insulin pumps are a lifesaving drug for diabetics, especially when diabetics are hypoglycemic or hyperglycemic.[177] After a push for medication and adequate healthcare for diabetics, the U.S. Bureau of Prisons instituted regulations and standards, but some of these standards are not clear and they leave most of the onus on individual prisons to institute regulations.[178] There are no adverse consequences for not following the standards and guidelines.[179] The U.S. Bureau of Prisons often seeks advice from the CDC, but they are not a watchdog agency and do not hold the Bureau of Prisons accountable.[180]

The second step of the ADA recommendation is an intake screening where the individual's current state of diabetes would be assessed.[181] The doctor speaks to the individual to find out what medications the individual is on and what going forward they need from the doctor.[182] Then, the individual would undergo an intake physical exam.[183] Diabetes can often have physical symptoms that are observable, so this physical check would be used to determine if any more treatment needs to be instituted in the medical plan.[184] The next step would be a

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[176] Christie Thompson, *When Your Insulin Pump is Contraband*, THE MARSHALL PROJECT (Apr. 2015), https://www.themarshallproject.org/2015/04/22/when-your-insulin-pump-is-contraband.

[177] *Id.*

[178] *Id.*

[179] *Id.*

[180] *Id.*

[181] *Diabetes Management in Detention Facilities*, AMERICAN DIABETES ASSOCIATION (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[182] *Id.*

[183] *Id.*

[184] *Id.*

screening for diabetes if an individual who was coming into the prison was pre-diabetic or poses high risk for diabetes.[185] Then, if an individual was diagnosed with diabetes, a management plan would be created and instituted for the remainder of the individual's incarceration.[186] The goal of the management plan is to try and get the individual's blood sugar to a normal steady level.[187] Medical professionals emphasize that instead of trying to reach one specific blood sugar amount, individuals should have a goal range of healthy blood sugar.[188] Although this is a general goal for all diabetics who are incarcerated, there should also be more individualized goals which are specific and change from person to person.[189] Part of the management plan would be the incorporation of nutrition and food services. The ADA does not advocate that diabetic individuals necessarily need separate meals; however, they do advise that diabetic individuals have access to supplements that they can eat with their regular meals.[192] Maintaining a steady and stable blood sugar is essential.[193] Through steady and healthy eating habits, an individual who is incarcerated is less likely to experience unstable blood sugar changes.[194] There should also be specific procedures and guidelines for individuals coming into the facility to immediately

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[185] *Id.*

[186] *Id.*

[187] *Id.*

[188] *What Should My Blood Glucose Level Be?* MEDICAL NEWS TODAY (Apr. 22, 2022), https://www.medicalnewstoday.com/articles/249413.

[189] *Diabetes Management in Detention Facilities*, AMERICAN DIABETES ASSOCIATION (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[192] *Id.*

[193] *Id.*

[194] *Id.*

get any needed medications to ensure their first few days of incarceration do not involve a diabetic emergency as they are adjusting to the facility and the heightened levels of security. [195]

The last few steps of the recommendation include proactively addressing any future diabetic complications that may arise.[196] These steps include: urgent and emergency issues, medications, using technology, specialty referral, and telemedicine.[197] The ADA recommends that all the staff in the prison who interact with the individuals be trained in the diabetic signs and symptoms.[198] This would help in case of any emergency, so they can identify that it is an emergency and escort the individual to see a doctor.[199]

The ADA believes that all individuals with diabetes should experience treatment that meets national standards and that "being incarcerated does not change these standards."[201] The best way to address the unique needs of diabetic incarcerated individuals is a "comprehensive, multidisciplinary approach" to prevent future diabetic complications and treat current conditions.[202] This type of multidisciplinary approach can help to delay and even entirely prevent "acute and chronic complications of this disease."[203] These policies need to be

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[195] *Id.*

[196] *Id.*

[197] *Id.*

[198] *Diabetes Management in Detention Facilities*, AMERICAN DIABETES ASSOCIATION (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[199] *Id.*

[201] *Id.*

[202] *Id.*

[203] *Id.*

uniformly established in all federal prisons because there is no overseeing organization ensuring that individual prisons adhere to the national standards and guidelines set forth by the ADA.[204]

VII. Other Recommendations to Overcome Obstacles to Diabetes Care

A. Quality of Care Programs

There are certain standards for diabetic care within the correctional system instituted by the National Commission for Correctional Health, which include monitors to assess the quality of care a diabetic individual may receive while incarcerated in a correctional facility.[205] The steps that correctional facilities should implement to ensure quality of care are as follows: (1) Assess the incarcerated individual's current situation when entering the facility (easier when done in quantifiable terms), (2) clearly define the lapses in diabetic care, (3) identify possible causes of these lapses in care, (4) identify possible solutions that would be efficient and effective, (5) pick the best solution that is also the most practical, (6) plan the proposed intervention, (7) enact the proposed solution, (8) measure the progress of the plan with scheduled regular time periods and, (9) continue to adjust and adapt the plan by the measures of the outcome.[206] By increasing these monitors and ensuring outcomes meet the measures, the correctional facilities can quantitatively see what specific areas they need to improve to reach the standards set forth by both the ADA and the National Commission for Correctional Health.[207]

B. Educating Law Enforcement and Correctional Employees

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[204] *Id.*

[205] *Legal Rights of Prisoners and Detainees with Diabetes: An Introduction and Guide for Attorneys and Advocates*, AMERICAN DIABETES ASSOCIATION, http://main.diabetes.org/dorg/living-with-diabetes/correctmats-lawyers/legal-rights-of-prisoners-detainees-with-diabetes-intro-guide.pdf.

[206] *Id.*

[207] *Id.*

One way to address the mismanagement of diabetes at the beginning of incarceration and throughout incarceration is by educating law enforcement agencies. ADA advocates in the United States are "helping to educate local police and sheriff departments about how to best respond to people experiencing diabetes emergencies, and how to provide adequate care to them while in custody."[208] First, many of the signs of hypoglycemia resemble signs of someone who is drunk or has used illegal substances.[209] Hypoglycemia has the potential to be fatal if not immediately treated.[210] Even though law enforcement goes through training programs on medical emergencies, they are advised not to make the assumption that the individual is under the influence.[211] Law enforcement officers are encouraged to "remember that any individual experiencing an altered state of mind as being in a medical emergency."[212] Law enforcement officers should first check for any medical identification jewelry the individual may be wearing such as a necklace or bracelet.[213] They should also see if they have any identifying health cards.[214] Then, health professionals advise checking for diabetic supplies, including but not

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[208] *Law Enforcement*, AMERICAN DIABETES ASSOCIATION (2023), https://diabetes.org/tools-support/know-your-rights/discrimination/rights-with-law-enforcement.

[209] Pamela Kulbarsh, *Diabetic Emergency Training for Law Enforcement - Refresher*, OFFICER.COM (Feb. 23, 2018), https://www.officer.com/tactical/ems-hazmat/article/20993702/diabetic-emergency-training-for-law-enforcement-refresher.

[210] *Id.*

[211] *Id.*

[212] *Id.*

[213] Pamela Kulbarsh, *Diabetic Emergency Training for Law Enforcement - Refresher*, OFFICER.COM (Feb. 23, 2018), https://www.officer.com/tactical/ems-hazmat/article/20993702/diabetic-emergency-training-for-law-enforcement-refresher.

[214] *Id.*

limited to: glucose meters, blood testing strips, finger prick devices, and insulin pumps.[215] Lastly, officers should check if the individual has an emergency supply of snacks, as a person with diabetes may experience low blood sugar and would keep snacks nearby.[216] The ADA has researched and published training resources for law enforcement that correctional institutions should keep, which could help to avoid previously mentioned lawsuits.[217]

C. Self-Management Education

The ADA emphasizes the importance of self-management of diabetic conditions because that is the best way to ensure long-term health.[218] Incarcerated individuals should have access to educational materials regarding diabetes and, if possible, have time to discuss with their medical conditions with their doctors.[219] Through understanding how diabetes works and the current state of their medical conditions, incarcerated individuals may gain back some bodily autonomy that they so often lose while incarcerated.[220] The ADA recommends a diabetic self-management education program, which would include a certified diabetes care specialist and education

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[215] *Id.*

[216] *Id.*

[217] *Law Enforcement Training,* AM. DIABETES ASS'N, https://diabetes.org/tools-support/know-your-rights/discrimination/rights-with-law-enforcement/law-enforcement-training.

[218] *Diabetes Management in Detention Facilities*, AMERICAN DIABETES ASSOCIATION (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[219] *Id.*

[220] Khurshid Choudhry, David Armstrong, Alexandru Dregan, *Prisons and Embodiment: Self-Management Strategies of an Incarcerated Population*, 25 J. OF CORR. HEALTHCARE 338, 350 (2019).

specialist educator who would teach the individuals how to manage their diabetes.[221] The educators should teach about survival skills and daily management issues.[222] Survival skills include sick day management, hypo/hyperglycemia, medication, monitoring, and foot care.[223] Daily management issues include disease process, physical activity, nutritional management, psychosocial adjustment, risk reduction, medications, goal setting/problem solving, monitoring acute complications, and preconception care/gestational diabetes management/ pregnancy.[224] Incarcerated individuals have a right to receive adequate medical care, and through educating these individuals they can take agency over their diabetes and improve conditions in conjunction with prison medical professionals.[225] Although the U.S. Bureau of Prisons and private prisons may be wary of funding educational programs, there are monetary benefits in addition to the empowerment incarcerated individuals would receive.[226] Through instituting these measures, diabetic conditions will improve which would in the long-run save correctional institutions money as the U.S. Bureau of Prisons spent $9 billon on healthcare from 2009 to 2016, and

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[221] *Diabetes Management in Detention Facilities*, AMERICAN DIABETES ASSOCIATION (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[222] *Id.*

[223] *Id.*

[224] *Id.*

[225] *Id.*

[226] *Id.*

healthcare costs continue to increase on chronic diseases.[227] If this proves true, an educational program would benefit both the incarcerated individual and the U.S. Bureau of Prisons.[228]

D. Complete Care Model on Glycemic Control in California Prisons

California has introduced a new diabetic intervention program that other prison systems may now look to as an example for diabetes management.[229] The California model—which is still in its early stages—has shown strong indications of improvement of diabetic conditions in correctional facilities.[230] California understands that non-incarcerated individuals must go through high medical costs to properly manage and control their diabetes.[231] Therefore, the same reasoning applies in the correctional facility setting, and California does have a large budget

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[227] *Bureau of Prisons: Better Planning and Evaluation Needed to Understand and Control Rising Inmate Health Care Cost*, GAO (June 29, 2017), https://www.gao.gov/products/gao-17-379#:~:text=From%20fiscal%20years%202009%20through,increase%20of%20about%2037%20percent. "Since the 1990s, BOP has attempted to increase the efficiency and economy of health care delivery to prisoners through various cost-containment initiatives, such as restructuring medical staffing, obtaining discounts through quantity or bulk purchases . . . and even privatizing medical services at selected facilities." *Containing Health Care Costs for an Increasing Inmate Population*, GAO (Apr. 6, 2000), https://www.prisonpolicy.org/scans/gao/gg00112t.pdf.

[228] *See Diabetes Management in Detention Facilities*, AMERICAN DIABETES ASSOCIATION (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

[229] Diane O'Laughlin, *Complete Care Model on Glycemic Control in California State Prisons*, SJSU (2019), https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1101&context=etd_doctoral.

[230] *Id.*

[231] *Id.*

allocated to diabetic care of incarcerated individuals.[232] California budgets 2.3 billion taxpayer dollars to go to healthcare in correctional facilities.[233]

Prior to the implementation of the care model the state saw many lawsuits regarding the violation of healthcare rights in individuals who are incarcerated.[234] The mission of this model is to "reduce avoidable morbidity and mortality and protect public health . . . ."[235] The model is based off of the chronic care theory, which prioritizes patient-centered care.[236] This includes elements of the chronic care theory, which includes patient management self-support and evidence-based clinical guidelines.[237] For diabetics, this means that correctional facilities should give them the tools to self-manage their diabetes.[238] The main way the correctional facilities encouraged self-support is by giving diabetic individuals their own glucometers, so they could measure their blood sugar themselves throughout the day.[239] Through this, diabetic individuals

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[232] *Id.* Individuals with diabetes on average have higher medical costs (about double) than those who do not have diabetes. Not only is this a high burden, but the treatment costs are seeing an upward trend as treatment has increased by 66% in the ten-year period from 2007 to 2017. *Id.*

[233] *Id.* Similar to trends outside of the correctional facility setting, diabetic treatment costs are also seeing an upward trend in the correctional facility setting. This can be attributed to various factors including an aging incarcerated population, increased risk of comorbidities, and the general increase of healthcare costs for chronic conditions. *Id.*

[234] *Id.*

[235] *Id.*

[236] *Id.*

[237] *Id.*

[238] *Id.*

[239] Diane O'Laughlin, *Complete Care Model on Glycemic Control in California State Prisons*, SJSU (2019), https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1101&context=etd_doctoral. A glucometer is essential to diabetic management and care because it helps to monitor the various effects food, stress, and exercise have on a diabetic individual's blood sugar. Using the glucometer throughout the day, diabetic individuals can make sure their blood sugar levels are not too high or too low which is

can maintain some sense of autonomy in their diabetic care instead of losing this aspect of their personal freedom.[240] California correctional facilities based their guidelines on research they collected and also the ADA guidelines.[241] Through using these evidence-based guidelines, they were able to set forth a clear protocol for diabetic care in their correctional system.[242] Their guidelines modeled the ADA guidelines, but also addressed California specific issues that individuals may face while incarcerated.[243] By addressing these unique factors, the outcomes in California correctional facilities are better as they are more narrowly tailored.[244]

VIII. Conclusion - Moving Forward

Diabetes is a silent killer, and with such a large population of incarcerated individuals with this chronic disease, it is no longer feasible to ignore the problem. Since there is no cure for diabetes, management and control are the only ways to combat the chronic disease.[245] Although there are many agencies involved in the management of diabetic care such as the Bureau of Prisons, the Department of Justice, and the Centers for Disease Prevention and Control, there is

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essential to preventing any risk of potential comorbidities in the future. The individual can also see patterns in their blood sugar and identify various triggers for their high or low blood sugar, so they know how to prevent these fluctuations in the future. *Blood sugar testing: Why, when and how*, MAYO CLINIC (2022), https://www.mayoclinic.org/diseases-conditions/diabetes/in-depth/blood-sugar/art-20046628#:~:text=It%20can%20help%20you%3A,reaching%20your%20overall%20treatment%20goals.

[240] Diane O'Laughlin, *Complete Care Model on Glycemic Control in California State Prisons*, SJSU (2019), https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1101&context=etd_doctoral.

[241] *Id.*

[242] *Id.*

[243] *Id.*

[244] *Id.*

[245] *What is Diabetes?*, CENTERS FOR DISEASE CONTROL AND PREVENTION (June 21, 2022), https://www.cdc.gov/diabetes/basics/diabetes.html.

little uniformity. The guidelines set forth by the ADA should be implemented across correctional institutions to improve care and to monitor if conditions are improving or getting worse in these individuals who are incarcerated. The right to medical care and appropriate medical care is a constitutional right guaranteed under *Estelle v. Gamble*, so choosing to ignore diabetics in correctional facilities is not an option.[246] It is predicted that the prevalence of diabetes will continue in an upward trend and this pattern is predicted in incarcerated individuals as well.[247]

There are various recommendations that the Bureau of Prisons can enact to improve diabetic care in correctional facilities. The first recommendation would be to institute quality of care programs within correctional facilities that run under the Bureau of Prisons. Next, it should require self-management education and law enforcement educational training regarding diabetes, and what to do if an individual is experiencing a diabetic emergency as these can resemble intoxication or drug use. Finally, correctional facilities should look to the California Glycemic Control Model to enact those suggestions since there have been promising results.

Since diabetes affects millions nationally, and incarcerated individuals face unique circumstances that make them more vulnerable to worsening diabetic conditions, the U.S. Bureau of Prisons needs to implement and renew their programs to address this rising problem. Some view incarceration as a consequence of an individual's actions, but incarceration should not include a dual punishment—the consequence to incarceration should not be inadequate access to diabetic treatment. As the prevalence of diabetes increases, the diabetic management

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[246] *See* Estelle v. Gamble, 429 U.S. 97, 106 (1976).

[247] *Diabetes Management in Detention Facilities*, AM. DIABETES ASSOC. (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf.

and treatment of individuals will only increase.[248] By working in conjunction with other agencies such as the Department of Justice and Centers for Disease Prevention and Control, the U.S. Bureau of Prisons can improve diabetic conditions for incarcerated individuals and prevent them from getting further life-threatening comorbidities.

[248] *See id.*