

FORENSIC ISSUES IN HIV INFECTED PSYCHIATRIC PATIENTS IN CORRECTIONS

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OUTLINE

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DEFINITIONS: FORENSIC PSYCHIATRY

Overlap of psychiatry and the law

“Forensic psychiatry is a subspecialty of psychiatry in which scientific and clinical expertise is applied to legal issues in legal contexts embracing civil, criminal, correctional or legislative matters.”¹

¹ 1995 American Academy of Psychiatry and the Law Ethics Guidelines

DEFINITIONS: CORRECTIONS

Corrections: Inmates in Jail, Prison, Federal Penitentiaries
(Also Includes Non Institutional Probation & Parole Supervision)

Jails – County, City - Accused (Indicted) but Not Convicted of Crime
Persons with Misdemeanor Convictions
Felony Convictions with Short Sentences (Less than One Year)

State Prisons- Felony Convictions
Murder, Rape, Robbery, Possession, Prostitution, Assault Police

Federal Prisons – Federal Convictions
Tax Evasion, Counterfeiting, Importing Illegal Drugs

DEFINITIONS: MENTAL HEALTH

Mental Health Inmates:

Major Psychiatric Diagnosis (Schizophrenia, Bipolar)

Taking or Refusing Psychiatric Medications

Diagnoses Generally Not Treated by Psychiatrists in Corrections:

Depression Unless Suicidal or Suicide Attempt History

Drug & Alcohol Addiction

Insomnia, Sleep Disorders

Attention Deficit, ADHD (Except with Non Stimulants)

Due to Limited Resources and Stigma

Case One

Brian is a 24 year old prisoner with AIDS and a history of depression with multiple suicide attempts. He has a low CD4 count of 48 and declines antiretroviral medications. He was diagnosed recently with psychosis and probable schizophrenia. He has not had improvement with antipsychotic medications and he is now combative and has a temperature.

CASE #1

1. How common is psychiatric illness in prison?
2. How common is psychiatric illness with HIV infection?
3. Is it possible that he has a opportunistic infection or some other AIDS related problem complicating his psychiatric presentation?
4. If he was taking medications are there other issues to consider?

EPIDEMIOLOGY and PREVALENCE

Increased Prevalence HIV Infection in Prison

General Population % Prison %

United States	0.4 ¹	1.7 ²
South Africa ³	18.1	41.4

¹MMWR 2011 , ²Maruschak 2008 US Bureau Justice Statistics, ³WHO 2007



The Three Largest Residential Mental Institutions in the Nation:

Can you name them?

LA County Jail, Los Angeles, CA



B Bay



The Three Largest Residential Mental Institutions in the Nation:

Cook County Jail, Chicago, IL



B Bay



The Three Largest Residential Mental Institutions in the Nation:

Riker's Island Jail, New York, NY



B Bay



The Three Largest Residential Mental Institutions in the Nation :

- LA County Jail - 21,000
- Cook County Jail - 9,000
- Riker's Island Jail - 17,000



B Bay

EPIDEMIOLOGY and PREVALENCE

Increased Prevalence Psychiatric Illness in USA Corrections¹

	FEDERAL	STATE	JAIL
	%	%	%
Any Symptom	40	49	61
Major Depression	16	24	30
Psychotic Disorder	10	15	24

¹James 2006 US Bureau Justice Statistics

EPIDEMIOLOGY and PREVALENCE

Increased Prevalence of Psychiatric Disorders in HIV Patients

	HIV Infected %	Community %
Depression ¹	36	8
Anxiety ¹	16	2
Schizophrenia ²	4	1
Bipolar/Mania ^{3 4}	8	4
AIDS Dementia ⁵	32	

¹Bing 2001 Arch Gen Psych ²Blank 2002 Psych Services ³Lyketsos 1993 Am J Psych

⁴Kessler 2005 Arch Gen Psych ⁵Sacktor 2002 J Neurovirol

EPIDEMIOLOGY and PREVALENCE

Increased Prevalence of Psychiatric Disorders in HIV Patients In Texas Prison System¹

	General Prison Population %	HIV Infected %
Depression	2.2	6.1
Dysthymia	0.8	3.2
Bipolar	1.0	1.5
Schizophrenia	1.0	1.8
Schizoaffective	0.5	1.1
Psychotic (Non Schizo)	0.6	2.2

¹Baillargeon 2003 Ann Epidemiology

EPIDEMIOLOGY and PREVALENCE

Increased Suicide with Psychiatric Disorders In Texas Prison System¹

	Prevalence n/100,000	Adjusted Relative Rate
General Prison Population	18	1.0 (Reference)
Major Depressive	61	5.1
Bipolar	49	4.6
Schizophrenia	91	7.3
Non Schizophrenic Psychosis	144	13.8

¹Ballargeon 2009 J Am Acad Psych Law

HEALTH CARE ISSUES:

CORRECTIONAL ACCESS

Most Correctional Systems Challenged by Timely Access

Important Because HIV Patients Can Deteriorate Quickly

Mental Health Patients May Not Have Life Skills to Access System

Limited Physician Access – You May be the Only Provider

Psychiatrists Confronted With Non Psychiatric Issues

Example: Lower Extremity Pain - Usually Neuropathy, LBP

Consider Avascular Necrosis Hip, CMV Myelitis

Medication Administration & Distribution

Irregular Antiretroviral Medications Results in HIV Resistance

HEALTH CARE ISSUES:

DIAGNOSIS IN HIV INFECTED PSYCHIATRIC PATIENTS

Depression

Overlapping Symptoms With HIV

(Fatigue, Sleep Disturbance, Weight Loss)

Suicide Increased With Recent Incarceration, Long Sentences

Associated With Poor Antiretroviral Adherence¹

Altered Mental Status in AIDS - Low CD4 <200

Rule Out Opportunistic Infections (Crypto, CNS TB, PML)

Rule Out CNS Lesions (Toxo, Lymphoma)

Can Be Medication Induced (Sustiva, Interferon, Steroids, AZT)

AIDS Dementia^{2,3}

Cognitive Impairment But Clear Sensorium

Can Present With Acute Mania

¹Olatunji 2006 Top HIV Medicine, ²Lyketsos 1993 Am J Psych ³Kakimili 2006 Am J Psych

HEALTH CARE ISSUES:

TREATMENT IN HIV INFECTED PSYCHIATRIC PATIENTS

Increased Bone Marrow Suppression –

Caution with Combinations (Example: Depakote & AZT)

Increased EPS with HIV Infection – Caution with Antipsychotics¹

Drug – Drug Interactions – PI, NNRTI and Many Psychotropic Medications Metabolized by Hepatic P450 System, Result Increased or Decreased Levels of Either^{2 3}

¹Cardoso 2002 CNS Drugs, ²www.hiv-druginteractions.org, ³www.HIVwebstudy.org

CASE #1

1. How common is psychiatric illness in prison?
 - A. In US Jails the prevalence of a psychotic disorder is 4%.
 - B. In US Jails the prevalence of depression is 30%
 - C. Both are true.

CASE #1

1. How common is psychiatric illness in prison?

A. In US Jails the prevalence of a psychotic disorder is 4%.

Correct Answer: B.

B. In US Jails the prevalence of depression is 30%

C. Both are true.

CASE #1

2. How common is psychiatric illness with HIV infection?
 - A. Anxiety is less common in HIV infected patients than in the general population.
 - B. Onset of Schizophrenia is increased after HIV infection.
 - C. Depression, anxiety, schizophrenia, and bipolar are all more common in HIV infected patients than in the general population.

CASE #1

2. How common is psychiatric illness with HIV infection?
- A. Anxiety is less common in HIV infected patients than in the general population.
 - B. Onset of Schizophrenia is increased after HIV infection.

Correct Answer: C.

- C. Depression, anxiety, schizophrenia, and bipolar are all more common in HIV infected patients than in the general population.**

CASE #1

3. Is it possible that he has a opportunistic infection or some other AIDS related problem complicating his psychiatric presentation?
 - A. With advanced AIDS, central nervous system opportunistic infections and tumors must always be considered and ruled out
 - B. His combativeness and temperature is consistent with AIDS dementia.
 - C. Opportunistic infection is unlikely with a normal cranial CT.

CASE #1

3. Is it possible that he has a opportunistic infection or some other AIDS related problem complicating his psychiatric presentation?

Correct Answer: A.

- A. With advanced AIDS, central nervous system opportunistic infections and tumors must always be considered and ruled out**
- B. His combativeness and temperature is consistent with AIDS dementia.
- C. Opportunistic infection is unlikely with a normal cranial CT.

CASE #1

4. If he was taking medications are there other issues to consider?
 - A. Potential drug-drug interactions between antiretroviral and antipsychotic medications.
 - B. Involuntary movement, extrapyramidal (EPS) side effects are rare with HIV infection.
 - C. Both A & B

CASE #1

4. If he was taking medications are there other issues to consider?

Correct Answer: A.

- A. Potential drug-drug interactions between antiretroviral and antipsychotic medications.**
- B. Involuntary movement, extrapyramidal (EPS) side effects are rare with HIV infection.
- C. Both A & B

Case Two

Sam is a 38 year old prisoner with bipolar disorder convicted of assault and rape while he was alcohol intoxicated, manic, and not taking his medications. He also has HIV infection but he has not revealed this since incarceration. He is worried that he will be forced to take an HIV test and will be placed in segregated housing if it is discovered that he is HIV infected.

Case Two

1. Is HIV screening mandatory in corrections?
2. What are the risk behaviors and transmission rates in corrections?
3. Will he be placed in segregated housing while incarcerated?

FORENSIC LEGAL ISSUES: HIV TESTING In CORRECTIONS MANDATORY SCREENING & SEXUAL OFFENDER TESTING

Mandatory Testing at Intake¹

46% States & All Federal Prisons

0% City & County Jails

(ID, NV, WA but not AK, CA, OR)

Center of Disease Control Recommendation²

Opt-Out Testing in Corrections

Mandatory Testing Sexual Offenders³

36 States - Convicted Sexual Assault (CA, OR, WA)

18 States - Arrest or Indicted (AK, ID, NV)

¹2009 US Dept Justice (2005 survey), ²2009 CDC Guidelines,

³2010 Nat Cnt Victims of Crime

FORENSIC LEGAL ISSUES:

RISK BEHAVIORS & TRANSMISSION IN CORRECTIONS

- 0.2-0.4% Annual Incidence Rate HIV Infection in Prisons¹
Compared to US Population 0.02%²
Unknown Rate in Prisoner Sub-Population in Community
- Fewer Incidents Sexual & IDU in Prison than in Community,
But Higher Risk Due to Lack of Condoms & Clean Needles³
- Condoms Available
Prisons - Vermont & Mississippi
Jails – NYC, LA, SF, Philadelphia
Most Prisons in Europe for Past 10 Years³
- Needle Exchange Programs
19 Prison Programs in Europe, None in US³

¹Hammett 2006 AJ Public Health, ²Hall 2008 JAMA, ³Kantor 2006 UCSF HIV InSite

FORENSIC LEGAL ISSUES: SEGREGATED HOUSING

Prison HIV Housing Segregation

Ineffective in Reducing Transmission & Misleading
20% of HIV Infected are Undiagnosed¹

1990 – Nine States²

1992 – Five States²

Current – South Carolina & Alabama Only

Mississippi Discontinued 3/2010³

¹MMWR 2011, ²Polonsky 1994 Public Health Reports, ³2010 ACLU

FORENSIC LEGAL ISSUES:

CRIMINAL (INTENTIONAL) TRANSMISSION CONVICTIONS¹

Richard Schmidt 1998 – Louisiana Physician Injected his RN Lover with HIV Pt Blood When She Ended Their Relationship, 50 Yr Prison, Louisiana v Schmidt²

Brian Stewart 1998 – Illinois Medical Technician Injected His Son with HIV Infected Blood to Kill Him to Avoid Paying Child Support, Life Prison, Missouri v Stewart³

Anthony Whitfield 2004 – Washington Unemployed Methamphetamine Addict Exposed 17 Women and Infected his Wife & 4 Others with HIV, 178 Yr Prison, Washington v Whitfield⁴

Willie Campbell 2008 – HIV Infected Homeless Texan Who Spat at Arresting Police Officer's Face, 35 Yr Prison (Officer Did Not Become HIV Infected)⁵

¹2010 www.avert.org, ²Metzker 2002 PNAS, ³LA Times 1-1-99,

⁴Seattle Weekly 12-4-04, ⁵NY Times 5-16-08

Case Two

1. Is HIV screening mandatory in corrections?
 - A. Yes in Idaho, Nevada, and Washington
 - B. No in Alaska, California, and Oregon.
 - C. Both A and B are true.

Case Two

1. Is HIV screening mandatory in corrections?
 - A. Yes in Idaho, Nevada, and Washington
 - B. No in Alaska, California, and Oregon.

Correct Answer: C.

C. Both A and B are true.

Case Two

2. What are the risk behaviors and transmission rates in corrections?
 - A. The incidence rate of HIV infection in prison is the same as in the US population.
 - B. Condoms and needle exchange programs are common in US prisons and jails.
 - C. Both A and B are false.

Case Two

2. What are the risk behaviors and transmission rates in corrections?
 - A. The incidence rate of HIV infection in prison is the same as in the US population.
 - B. Condoms and needle exchange programs are common in US prisons and jails.

Correct Answer: C.

C. Both A and B are false.

Case Two

3. Will he be placed in segregated housing while incarcerated?
 - A. Only if he tests positive for HIV antibody.
 - B. Only if he is in prison in Alabama or South Carolina.

Case Two

3. Will he be placed in segregated housing while incarcerated?
- A. Only if he tests positive for HIV antibody.

Correct Answer: B.

B. Only if he is in prison in Alabama or South Carolina.

Case Three

Joel is a 43 year old prisoner with AIDS, major depression, and facing a possible 10 year sentence. He has not been receiving his psychiatric, seizure, and antiretroviral medications consistently and he has not had a Depakote blood level checked since dosing change last month.

Recently there has been an increase in prisoner on prisoner violence on his unit and several episodes of excessive force by officers resulting in prisoner injury. He is worried about his health and his safety.

He has heard that the US Justice Department is investigating his prison and remembers his Uncle was part of a prison lawsuit in California. He wonders if he has any legal options for remedy.

Case Three

1. What are his legal rights to health care and safety?
2. What is the Justice Department doing and what is CRIPA?
3. Can he take legal action against the prison? What happened in California.

FORENSIC LEGAL ISSUES:

INSTITUTIONAL RIGHTS

- Eighth Amendment: Prisoners Entitled to Protection from “Cruel & Unusual” Punishment and to a “Safe and Humane Environment”
- Estelle v Gamble (1976) Prohibits “Deliberate Indifference to Serious Medical Need.”
- Davis v Hopper (1990) Upheld Mandatory HIV Testing, Segregation In Alabama Prisons and Prisoners Not Entitled to “State of the Art” Treatment, Only Reasonable Care

FORENSIC LEGAL ISSUES:

CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT (CRIPA)

1980 Federal Law to Protect Civil Rights of Institutional Persons

Enforced by US Dept Justice Civil Rights Division

Purpose: Investigate & Protect Safety of Persons in the
Care of State Institutions

Includes Government:

Prisons & Jails

Juvenile Correctional Facilities

Mental Health Facilities

Developmental Disability Facilities

Nursing Facilities

FORENSIC LEGAL ISSUES:

CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT (CRIPA)

CRIPA Procedure:

1. Justice Department Receives Complaint of Civil Rights Violations
2. DOJ Conducts Investigation
3. Finding Letter Sent if Pattern of Violations Uncovered
4. Institution Attempts Corrective Action
5. Settlement (Court-Endorsed Agreement, Consent Decree)
6. Or Federal Lawsuit Litigation

FORENSIC LEGAL ISSUES: CRIPA INVESTIGATION EXAMPLE: UNCONSTITUTIONAL CONDITIONS AT MIAMI-DADE JAIL

CRIPA Investigation Finding Released August 29, 2011:

Miami-Dade = Eighth Largest US Jail System with 7,000 Prisoners

Violations Include:

- Inadequate Medical Care
 - Failed to Provide Medications to HIV and Seizure Patients
 - Deaths from Alcohol & Drug Withdrawal – 5 since 2008
- Inadequate Mental Health Treatment & Suicide Prevention -
 - 8 Suicides since 2007
- Use of Excessive Force by Staff on Prisoners
 - Abusive & Retaliatory Conduct Resulting in Prisoner Injury
- Inadequate Protection from Prisoner Violence –
 - 675 Prisoner-on Prisoner Assaults in 6 months

FORENSIC LEGAL ISSUES:

LEGAL SETTLEMENTS, CALIFORNIA DEPT OF CORRECTIONS

Federal Class Action Lawsuits by CA Prison Law Office*

Eighth Amendment Violations

Resolved with Court Ordered Settlements

- Gates v Deukmejian (1993)

HIV Healthcare & Overcrowding at CMF Prison Inadequate

- Colman v Wilson (1995)

Entire CA Prison Mental Health System Inadequate

- Plata v Davis (2002)

Entire CA Prison Medical System Inadequate

*Non Profit, Free Legal Services CA Inmates, Conditions Confinement

FORENSIC LEGAL ISSUES:

LEGAL SETTLEMENTS, CALIFORNIA DEPT OF CORRECTIONS

Prison System Placed in **Federal Receivership** (2005)

Due to Inability to Meet Stipulated Injunctive Relief of Plata

Brown v Plata (May 23, 2011)

US Supreme Court Rules Prison Overcrowding Unconstitutional
Eighth Amendment and ADA Violation

Orders Reduction in Prison Population

to 137.5 % Capacity - Down from Current 200%

Current Population of 163,502*

* CDCR Average Daily, FY 2010-11

Case Three

1. What are his legal rights to health care and safety?
 - A. Legal protection from cruel and unusual punishment.
 - B. Legal protection from negligence of medical healthcare.
 - C. Both A and B are true.

Case Three

1. What are his legal rights to health care and safety?

Correct Answer: A.

A. Legal protection from cruel and unusual punishment.

B. Legal protection from negligence of medical healthcare..

C. Both A and B are true.

Case Three

2. What is the Justice Department doing and what is CRIPA?
 - A. US Justice Department enforces the 1990 Civil Rights of Institutional Persons Act (CRIPA)
 - B. CRIPA applies to Prisons and Jails only.
 - C. Both A and B are true.

Case Three

2. What is the Justice Department doing and what is CRIPA?

Correct Answer: A.

A. US Justice Department enforces the 1990 Civil Rights of Institutional Persons Act (CRIPA)

B. CRIPA applies to Prisons and Jails only.

C. Both A and B are true.

Case Three

3. Can he take legal action against the prison? What happened in California.
 - A. There have been multiple class action lawsuit settlements regarding inadequate healthcare in CA prisons.
 - B. CA prisons system was court ordered to build new facilities because of over crowding.
 - C. Both A and B are true.

Case Three

3. Can he take legal action against the prison? What happened in California.

Correct Answer: A.

A. There have been multiple class action lawsuit settlements regarding inadequate healthcare in CA prisons.

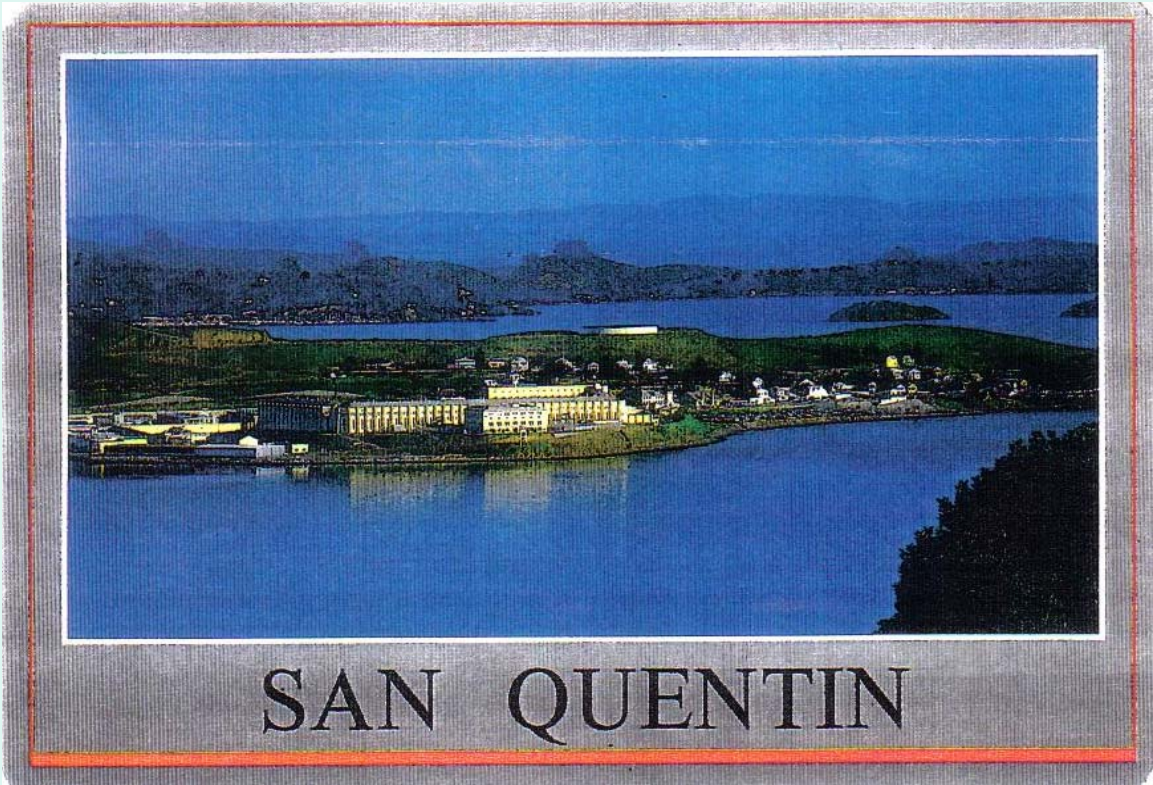
B. CA prisons system was court ordered to build new facilities because of over crowding.

C. Both A and B are true.

SUMMARY

- HIV Infected Patients with Psychiatric Disorders are Over Represented in Correctional Facilities.
- Diagnosis, Treatment, and Access to Care is Challenging for Incarcerated HIV Psychiatric Patients.
- Increased Transmission Incidence of HIV Infection in Prison, but Limited Access to Condoms and Needle Exchange.
- Correctional Patients Have Legal Right To Healthcare for Serious Illnesses.
- Level of Correctional Healthcare is Often Inadequate and Frequently Litigated.

San Quentin State Prison



Thank You

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