

MAT for Prisoners is a Human Right

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Background

- Since 1999, more than 600,000 people have died from an opioid overdose. (CDC/WASHPOST)
- Between 2001 and 2018, drug overdose deaths:
 - in U.S. state prisons rose by more than 600%. (NPR)
 - in U.S. jails rose by more than 200%. (NPR)
- 36% of individuals with a heroin use disorder (over 200,000 individuals) pass through U.S. correctional facilities each year. (EARJ/JSTOR)
- Fatal drug overdose is the leading cause of death among formerly incarcerated individuals. (NIH)
 - In Massachusetts, the opioid-related overdose death rate is 120 times higher for people released from prisons and jails compared to the general public. (*Pesce v. Coppinger*)

What is opioid use disorder (OUD)?

- NIH, AMA, and ASAM hold that OUD is a chronic, relapsing brain disease:
 - involving brain reward, motivation, memory, and related circuitry. (ASAM)
- Following opioid detoxification, 77% of individuals will relapse within the first year with an abstinence only program. (AAPL)
- At least ¼ of the U.S. incarcerated population has an active OUD. (ACLU)
- Most prisoners must undergo forced opioid withdrawal, which puts them at increased risk for illicit opioid use, HIV and hepatitis C transmission, and fatal overdose. (ACLU)
- The most effective way to treat OUD is with Medication Assisted Treatment (MAT), but most prisons and jails have blanket anti-MAT policies unless an inmate is pregnant. (EARJ/JSTOR)

What is Medication Assisted Treatment (MAT)?

- MAT is FDA approved pharmacotherapy:
 - Utilizes one of three medications: methadone, buprenorphine, or naltrexone.
 - Methadone and buprenorphine relieve withdrawal symptoms, reduce cravings, block euphoric effects of illicit opioids, and normalize brain chemistry. (SAMHSA)
- MAT is the medical standard of care for OUD. (ACLU)
- MAT is effective in:
 - decreasing rates of relapse, promoting retention in treatment, decreasing transmission of HIV and Hepatitis C, overdose prevention, and reducing criminal activity and rearrests. (SAMHSA)
- One study showed MAT reduces prisoners' risk of unnatural death (overdose and suicide) by 87%. (ACLU)
- Studies have shown MAT reduces overdose mortality by up to 61% and 85% for recently released individuals. (AAPL, ACLU)

- Despite MAT's effectiveness, less than 30 out of 5,100 prisons and jails in the U.S. offered MAT to prisoners in 2017 (less than 1%). (SAMHSA)
- These policies force individuals on MAT to discontinue their physician prescribed medication and undergo abrupt withdrawal.
- Prisons and jails deny access to MAT due to cost, concerns over medication diversion, and stigma. Some corrections officials believe we "shouldn't give addicts drugs." (SAMHSA, *Smith v. Aroostook*)

Question

- Does this denial of MAT during detention:
 - violate prisoners' human rights to be treated with dignity under Article 10 of the ICCPR;
 - and to be free from cruel, inhuman, and degrading treatment under Article 7 of the ICCPR?

United Nations International Human Rights Treaty

- International Covenant on Civil and Political Rights (ICCPR)
 - The U.S. is a party to this treaty.
 - Article 7 states: No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.
 - Article 10 states: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

International Instruments

- Standard Minimum Rules for the Treatment of Prisoners
- The Basic Principles for the Treatment of Prisoners

Theoretical Framework

- Law, Diversity, and Justice major
- Human rights
- Critical Legal Studies
- Denial of MAT in corrections is:
 - A disability, feminist, and racial justice issue
 - a public health issue
 - a prisoners' rights issue
 - a human rights issue
 - a constitutional rights issue
 - a civil rights issue

Methodologies

- Critical analysis
- Case law and reports:
 - *Raul Sendic Antonaccio v. Uruguay*, HRC (1982)
 - *Daniel Pinto v Trinidad and Tobago*, HRC (1990)
 - *García-Asto and Ramírez-Rojas v. Peru*, IACHR (2005)
 - *SŁAWOMIR MUSIAŁ v. POLAND*, ECHR (2009)
- Records and reports: CPT and CAT
- Literature reviews: EARJ and IJPH
- Statistics from case studies, reports, and articles: CDC, NIH, SAMHSA, FDA, AAPL, ACLU, NPR, WASHPOST
- Articles, reports, case briefs: ACLU, LAC, HRW, NYT, NPR, PLN, WASHPOST

Results

- Human Rights Committee:
 - denial of adequate medical care during detention violates Article 7 and 10 of the ICCPR.
- Inter-American Court of Human Rights and European Court of Human Rights:
 - denial of adequate medical care during detention violates the prohibition on cruel, inhuman, and degrading treatment.
- Committee Against Torture:
 - denial of adequate medical care during detention violates the prohibition on cruel, inhuman, and degrading punishment.
- The U.S. has an obligation to provide adequate medical care to prisoners under Article 7 and 10 of the ICCPR.
- Since MAT constitutes adequate medical care for prisoners with OUD, denial of MAT violates prisoners' human rights:
 - to be treated with dignity under Article 10
 - to be free from cruel, inhuman, and degrading punishment under Article 7

Intervention

- *Provide all prisoners with OUD with access to all three MAT medications in every prison and jail.*
- Litigation against prisons and jails to achieve access to MAT:
 - *Pesce v. Coppinger*, 355 F. Supp. 3d 35 (D. Mass. 2018)
 - denial of MAT likely violates Pesce's rights to be free from cruel and unusual punishment under the Eighth Amendment. The jail was required to provide Pesce MAT.
 - *Smith v. Aroostook*, 376 F. Supp. 3d 146 (D. Me. 2019)
 - denial of MAT likely violates Smith's rights to be free from disability discrimination under the ADA. The jail was required to provide Smith MAT.
 - The First Circuit affirmed this decision.
 - *Kortlever v. Whatcom County*, No. 2:18-cv-00823-jlr (W.D. WASH Apr. 29, 2019)
 - Settlement between the Whatcom Cnty. Jail and ACLU to provide MAT to *all* inmates with OUD.
- Legislation: federal, state, and local mandating MAT in corrections
- Executive action mandating MAT in corrections.
- Grant programs to fund MAT in corrections