



Challenges Facing People with HCV in the Criminal Legal System

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NVHR is a national coalition working together to eliminate hepatitis B and C in the United States. NVHR's vision is a healthier world without hepatitis B and C.



I have no real or
apparent
conflicts of interest to
report.



Overview of challenges and barriers to care

- Laws that enhance penalties for people with HCV
- Illegality or lack of syringe services programs (SSPs)
 - Injection drug use is primary cause of new HCV infections
- Drug use or possession can lead to incarceration
 - Enhanced sentencing for fentanyl possession is increasingly popular
- Unavailability of treatment once incarcerated
- Collateral consequences once incarcerated or convicted



Discrimination

Many laws that criminalize HIV status also criminalize HCV status.

- *Example:* Indiana code § 35-42-2-1
- Battery is normally a class B misdemeanor, but:
- (f) Battery is a Class 6 felony if the accused in a rude, angry, or insolent manner places bodily fluid/waste on another person AND knew or recklessly failed to know that his or her bodily waste or fluid was infected with hepatitis
- (h) Battery is a Class 5 felony if the accused in a rude, angry, or insolent manner places bodily fluid/waste on another person AND knew or recklessly failed to know that his or her bodily waste or fluid was infected with hepatitis AND places the bodily fluid/waste on a public safety official
- Class 6 felony: 6 months to 2.5 years (advisory 1 year) and may be fined up to \$10K
- Class 5 felony: 1-6 years (advisory 3 years) and may be fined up to \$10,000



Stigma

Laws and policies that punish people who inject drugs also punish people who have or are at risk for HCV

- Possession of drug paraphernalia (i.e. syringes)
- Possession of heroin/fentanyl
 - Penalty increases depending on amount
 - Penalty increases if government can prove intent to sell
- State Medicaid policies that unlawfully bar people who inject drugs from receiving HCV treatment



Incarceration

A disproportionate number of incarcerated people have HCV.

- Approximately 1 in 3 individuals in U.S. jails and prisons has HCV.
- In state prisons, which house about 90 percent of all incarcerated people, an estimated 17 percent of inmates are infected (compared to about 1 percent of the non-incarcerated population).

Sources: Bureau of Justice Statistics, National Prisoner Statistics, 2004-2014. Updated Sept. 2015; Beckman, et al. New Hepatitis C Drugs Are Very Costly And Unavailable To Many State Prisoners. HEALTH AFF 2016;35:893-1901.



Lack of treatment

Very few incarcerated people with HCV receive treatment.

Health Affairs study (October 2016):

- 32 states (65 percent) do not perform routine opt-out testing of inmates
 - Main criteria for testing: abnormal labs, HIV, or reported substance use
- Only 17 states (35 percent) perform routine opt-out testing
- In 41 states reporting data, 106,266 of their inmates were known to have HCV on or about January 1, 2015
- **Less than one percent (0.89 percent) of those known to have HCV were receiving some type of treatment**
- States reporting financial data spent a median \$76,085 on Solvadi and a median \$63,509 on Harvoni

Source: Beckman, et al. New Hepatitis C Drugs Are Very Costly And Unavailable To Many State Prisoners. *HEALTH AFF* 2016;35:893-1901.



Punishment post-incarceration or -conviction

Once incarcerated or convicted, people with HCV may face:

- Barriers to education
- Barriers to employment
- Disenfranchisement
- Denial of treatment for HCV, if not abstinent from drugs or alcohol for requisite period of time (in states with discriminatory Medicaid policies)



Solutions?

- Tell your state's Medicaid director to lift discriminatory treatment restrictions (visit www.stateofhepc.org)
- Oppose legislation that exploits the opioid crisis to reignite the War on Drugs
- Support the Reverse Mass Incarceration Act
- Urge pharma companies to negotiate discounts with state prisons
- Support initiatives to establish safe injection sites and enhance access to syringe services
- VOTE

