

Eliminating Hepatitis C: A Pathway through Corrections

People behind bars are dying from a curable disease. But the public health community says that treating them could help eliminate the epidemic of hepatitis C infections nationwide. Here are the facts:

Hepatitis C is deadly.

In the United States, hepatitis C kills more people per year than all 60 reportable infectious diseases – including HIV/AIDS – combined.¹ Almost 4 million Americans are now infected. From 2010 to 2015, the number of reported new infections increased by 294 percent, with the highest rates among suburban and rural young people who inject drugs.¹ Injection drug use is the primary risk factor for new infections. From 2006 to 2012, hepatitis C infections increased by 364 percent in four states heavily impacted by opioid overuse (Kentucky, Tennessee, Virginia, and West Virginia).² Hepatitis C is also a leading cause of liver cancer, rates of which – unlike other cancers – have steadily climbed since 2003.²

Hepatitis C is curable.

Eight to twelve weeks of treatment with direct-acting antivirals will cure the disease in more than 95 percent of patients. The nonpartisan National Academies of Sciences, Engineering, and Medicine has concluded that because hepatitis C is preventable and curable, the disease can be eliminated in the United States by 2030.³ However, the National Academies warned that federal and state governments and agencies **must act** to expand testing and treatment to realize this goal.³

Hepatitis C is especially widespread in prisons.

The disease is so prevalent in prisons that public health experts say elimination is impossible without treating imprisoned people. An estimated 17 percent of state prisoners are infected, compared with about 1 percent of non-incarcerated people.⁴ Since roughly 10 million Americans cycle through prisons and jails each year, treating the infected in a confined setting would prevent the spread of hepatitis C in the community.⁵ About 90 percent of people leave prison within a few years of their sentence.⁶ Treating people while they are working toward release will stop new infections and save more lives.

Hepatitis C treatment is cost prohibitive for state prison systems – which house 87 percent of the U.S. imprisoned population.

Although the Federal Bureau of Prisons receives at least a 24 percent discount on drugs for its prisoners,⁷ state governments have few avenues to negotiate lower prices.⁸ As a result, less than 1 percent of state prisoners with known hepatitis C infections receive treatment.⁹ More states are being sued for denying treatment to prisoners with hepatitis C, and at least one federal judge has declared that withholding treatment from a state prisoner constitutes cruel and unusual punishment.¹⁰

To stop hepatitis C, our federal and state governments must act to treat people who are incarcerated.

As the opioid epidemic rages and infection rates soar, hepatitis C is costing lives and bankrupting states. And as more people with opioid use disorders are sentenced to prison, infection rates in prisons will soon skyrocket. One statutory fix would enable state prisons to purchase the drugs at a reasonable cost. If the federal government amended 42 C.F.R. 447.505 (which promulgates rules under §1927(c)(1)(C) of the SSA) to exclude state prisons from being forced to buy medications at the “best price” that drug companies offer, prisons could negotiate prices lower than Medicaid and receive discounts like those available to the Department of Veterans Affairs and Indian Health Service.¹¹ Or if the federal or state governments purchased the rights to a hepatitis C medication from a drug company via a patent licensing agreement, more prisoners could be treated and more deaths averted. Pharmaceutical firms could continue to profit, while governments would save money in the long term. **Treating incarcerated people doesn’t just make sense from a fiscal perspective, but also from a public health and moral standpoint.**

¹ Campbell, Canary, Smith, et al. State HCV Incidence and Policies Related to HCV Preventive and Treatment Services for Persons Who Inject Drugs — United States, 2015–2016. MMWR MORE MORTAL WLY REP 2017;66:1-2.

² U.S. Department of Health and Human Services, Viral Hepatitis in the United States: Data and Trends (June 2016), available at <https://www.hhs.gov/hepatitis/learn-about-viral-hepatitis/data-and-trends/index.html>.

³ The National Academies of Sciences, Engineering, and Medicine, Committee on a National Strategy for the Elimination of Hepatitis B and C, A National Strategy for the Elimination of Hepatitis B and C: Phase II Report (March 2017), <http://www.nationalacademies.org/hmd/Activities/PublicHealth/NationalStrategyfortheEliminationofHepatitisBandC.aspx>.

⁴ Spaulding, et al. [FORTHCOMING] 2017.

⁵ Rich J, et al. Responding to Hepatitis C through the Criminal Justice System, 20 N ENGL J MED. 1871, 1872 (2014).

⁶ Spaulding A, et al. Review: Impact of New Therapeutics for Hepatitis C Virus Infection in Incarcerated Populations. 21 TOP ANTIVIR MED. 27 (2013).

⁷ Beckman A, et al. New Hepatitis C Drugs Are Very Costly And Unavailable To Many State Prisoners. HEALTH AFF October 2016 vol. 35:1893-1901.

⁸ Bureau of Justice Statistics, National Prisoner Statistics, 2004-2014. Updated Sept. 2015; see also AASLD-IDSA. Recommendations for testing, managing, and treating hepatitis C. <http://www.hcvguidelines.org>. July 2016.

⁹ Beckman A, et al. New Hepatitis C Drugs Are Very Costly And Unavailable To Many State Prisoners. HEALTH AFF October 2016 vol. 35:1893-1901.

¹⁰ Abu-Jamal v. Kerestes, Case No. 15-CV-00967 (M.D.Pa. 2016).

¹¹ 42 C.F.R. § 447.505(c).

¹² 42 C.F.R. § 447.504(c)(21).