

# Working with Correctional Populations: People Not Prisoners

David Wyatt Seal, PhD

Center for AIDS Intervention Research, Department of Psychiatry  
and Behavioral Medicine, Medical College of Wisconsin  
National Minority AIDS Education and Training Center Symposium  
“HIV and Minorities: Cultural Competence and the Quality of Care”  
March 28, 2008

# Presentation Goals

---

To increase insight about:

- The unique issues related to working with people who are incarcerated
- Special considerations related to issues of privacy, confidentiality, and consent when working with correctional populations
- Working effectively in correctional institutions
- The importance of conceptualizing of correctional populations as people, not prisoners
- The forgotten victims: families of those who are incarcerated

# Presentation Limitations

---

- This presentation does not make specific recommendations for best medical practices related to the treatment of HIV-positive people who are incarcerated
  - Rather, the focus is on the fundamental issues that must be addressed to create an environment in which best medical practices can be implemented when working with correctional populations
- Nor does this presentation specifically address racial or ethnic minorities
  - Rather, incarceration is implicitly viewed as a societal phenomena that is predominantly and disproportionately experienced by racial and ethnic minorities

# People Who Are Incarcerated-1

---

- The United States has one of the highest incarceration rates in the world
- The number of people under correctional jurisdiction in the US continues to grow
  - At mid-year 2006, over 2.2 million adults were incarcerated
  - Over 5 million people were on probation or parole at year-end 2006
- The majority of these individuals are male and a racial or ethnic minority
- Rates of HIV/AIDS, hepatitis, and other sexually transmitted infections (STIs) are higher among people with a history of incarceration
  - Most infectious disease risk occurs in the community

# People Who Are Incarcerated-2

---

- Incarcerated populations are overrepresented by people who face multiple life challenges
  - Social barriers
    - limited occupational skills
    - economic impoverishment
    - low level of education
  - Personal barriers
    - history of poor family and personal relationships
    - alcohol and drug abuse
    - STI or hepatitis history
    - mental health issues
  - Structural barriers
    - racism
    - disparate arrest rates and sentencing policies
    - limited access to social service and healthcare programs
    - lack of health insurance

# People Who Are Incarcerated-3

---

- These multiple challenges make it difficult for incarcerated people to prioritize more distal life goals when faced with immediate life concerns
- Applied to people with HIV:
  - Resource priorities: Do I spend money on medication or food?
  - Mental priorities: Do I worry about medication adherence or parole adherence?
  - Time priorities: Do I seek medical care or a job?
- Understanding the broader life context and the multiple and often competing life needs of a person who is incarcerated is essential

# Informed Consent-1

---

- **Is this a voluntary or mandatory program?**
  - If a mandatory program, ethically, how much information should be provided to participants?
    - Consider the practice of mandatory HIV testing during prison intake
  - If a voluntary program, how do you ensure that an incarcerated person has the freedom and the capacity to give consent to participation?
    - Consider the practice of “voluntary but routine” HIV testing procedures
- **How do you ensure a person can comprehend informed consent?**
  - Incarcerated populations are characterized by factors associated with diminished comprehension
    - low literacy, mental illness, substance abuse, and other issues

# Informed Consent-2

---

- **How do ensure that people are freely giving consent?**
- Correctional institutions are by nature a coercive environment that constrains the freedom of people to provide voluntary consent
  - There are few opportunities for people who are incarcerated to refuse participation in programs
  - Refusal to participate in required programs typically results in disciplinary action
- People may feel coerced to participate in voluntary programs because they have no experience in refusing participation without negative consequences
  - Giving people who are incarcerated the capacity to freely make a decision can be an empowering experience

# Informed Consent-3

---

- **How do you ensure freedom from undue influence?**
- Advantages of participation must not impair a person's ability to make a free choice to participate
- The potential for undue influence in correctional settings is pervasive and subtle
  - People may volunteer to participate in programs to get access to better medical services, investigational drugs, or additional care and services that are otherwise not available
  - Compensation (e.g., toiletries, small amounts of money) that seem modest in the free world may be so enticing in correctional settings that people "cannot" refuse to participate
  - In response to this threat, correctional populations are often denied the opportunity to participate in cutting edge biomedical research (e.g., HIV-related clinical trials)

# Informed Consent-4

---

- **How do you ensure people understand the potential implications or consequences of consent?**
- Consider a prevention program that includes HIV testing...Or, “routine but voluntary” HIV testing that occurs during intake into prison
- Do participants understand the possible consequences of a positive HIV test
  - Segregation or relocation to another unit?
  - Loss of privacy or confidentiality?
  - Stigmatization
  - State mandated reporting
  - Loss of work privileges

# Confidentiality & Privacy-1

---

- Protecting confidentiality and privacy in correctional settings is a major challenge
- Institutional-level challenges can include
  - Protection of medical records
  - Protection of personal disclosures in group settings
  - Protection of reports of behavior that violate security rules or threaten the safety of the correctional facility
- Even when medical or program records are adequately secured, a person who is incarcerated can face disclosure and stigmatization by virtue of the public nature of programs in correctional settings
  - Private meeting space can be difficult to obtain

# Confidentiality & Privacy-2

---

- In many correctional settings, it is virtually impossible to protect people's privacy and confidentiality without complex safeguards
  - Unwanted disclosure of participation in HIV-related programming can leave a person vulnerable to discrimination and the threat of violence from prison staff and other incarcerated individuals due to homophobic fears and other stigmas
  - In some correctional systems, HIV-positive people are segregated
  - People who are identified with HIV or at risk for HIV may require additional social support and protections from assault and battery in addition to protection of privacy and confidentiality

# Working with Correctional Systems-1

---

- Safety and security are the primary concerns of correctional institutions
  - Anything that jeopardizes safety will be problematic
- Correctional systems operate within a hierarchical chain of command
  - Know who controls the gate for your programs
  - May or may not be the person who approves your program
- Flexibility is essential
  - Lockdowns and other disturbances are normal correctional occurrences
  - Patience and a willingness to work within the systemic framework greatly enhance a program's sustainability

# Working with Correctional Systems-2

---

- Trust is not the norm in correctional settings
  - Takes time and sincerity
  - Violations of trust are almost always fatal to a program
- Don't make promises you can't keep
- Negotiate written boundaries of confidentiality and privacy before starting a program
- Being powerless in a power driven environment
  - Should the goal be to change the system or to help incarcerated people better navigate and manage their interactions within the system?
  - Programs need corrections more than corrections needs programs

# Working with Correctional Systems-3

---

- It is important to remember that involvement with the correctional system is more than just incarceration in a prison facility
- Correctional involvement also includes incarceration in jails or other detention facilities, probation, and parole
- The type of correctional jurisdiction that people are under will impact the salient issues affecting their lives
- This may be particularly relevant for HIV-positive people as they transition from one correctional system to another
  - For example: from jail to prison to parole in the community

# People Not Prisoners

---

- People who are incarcerated remain PEOPLE first and foremost
  - Labels which humanize people while describing the state or condition of their current life situation
    - People in prison
    - People recently released from prison
    - People on probation or parole
    - People with a criminal conviction or incarceration history
  - Labels that are commonly used to describe incarcerated populations which objectify and dehumanize people
    - Inmates, convicts, prisoners, felons, parolees
    - Predators, offenders, animals, and other derogatory terms
- Your work is with people
  - A person's current life situation (e.g., incarceration) is the parameter within which you work

# The Forgotten Victims

---

- The forgotten victims: family and significant others
  - Millions of people in the U.S. are indirectly affected by incarceration
- Incarceration has been traditionally conceptualized as a legal problem in the U.S.
- Fortunately, there is a growing awareness of the importance of treating incarceration and its impact on individual, family, and community health as a social problem
- Strong family or social support is a key predictor of successful community reintegration

# Creating An Environment for Best Medical Practices-1

---

- Culturally competent care is NOT a question of what are the best medical practices for the treatment of HIV among incarcerated people who may also belong to a racial or ethnic minority group
  - Standard of medical care for HIV in the U.S. is well-documented
- Rather, culturally competent care is about the creation of a environment in which best medical practices can be safely accessed and implemented

# Creating An Environment for Best Medical Practices-2

---

## **Do HIV-positive people who are incarcerated**

- Have safe access to needed medical services?
- Understand their treatment options and the potential benefits or side effects?
- Have knowledge of and capacity to freely consent to medical treatment?
- Have assurance that their medical records will be confidentiality maintained?
- Have assurance that the privacy of their medical treatment will be protected?

# Creating An Environment for Best Medical Practices-3

---

## **Do HIV-positive people who are incarcerated**

- Receive treatment in a medical system designed to provide optimal care in a private and confidential setting?
- Receive treatment from a provider who views them as an autonomous patient (“person”) rather than as a confined prisoner?
- Receive assistance with broader interpersonal and psychosocial needs addressed?
- Receive transitional health care management and support during community re-entry?

# Concluding Thoughts

---

Culturally competent care is NOT the delivery of medical treatment to prisoners

Rather, it is the delivery of medical services using best medical practices to HIV-positive people who are incarcerated

An environment which does not support delivery of culturally competent care can never truly deliver best medical practices

# Presenter Contact Information

---

David W. Seal, Ph.D.  
Associate Professor  
Center for AIDS Intervention Research  
Medical College of Wisconsin  
2071 N. Summit Avenue  
Milwaukee, WI 53202  
414-955-7750  
dseal@mcw.edu