Module 13. Incarceration
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Objectives:

1. Understand the health implications of incarceration and the Prison Industrial Complex.
2. Understand the rights of detained patients in the emergency department.
3. Understand the right to access care for patients.

Case:

A 19-year-old man is brought into the ED with police after being arrested. Per police, he was arrested after running from police for presumed drug possession and resisting arrest, requiring a physical "takedown". The patient is dressed in street clothes and is in four-point restraints. He shows signs of craniofacial trauma and blood over his shirt and pants. He states he was assaulted by police. The patient, who appears coherent, is refusing medical examination. You formally run through each of the components of capacity assessment: understanding, expressing a choice, appreciation, and reasoning. According to your assessment, the patient has capacity. The police, however, are requesting the patient be "medically cleared" for booking.

You see the same patient 2 months later. This time he is coming in for left arm pain after being assaulted while in custody. The x-ray shows a healing fracture. The patient tells you this happened 2 weeks prior and he had been asking to see a doctor but the guards told him to suck it up. Patient wants to talk to you alone but the officer refuses to leave the room.

Discussion Questions:

1. What are some of the unique barriers to care encountered by prisoners?
2. What are the rights of an arrested patient?
3. What are the standards for access to care while in custody?

Teaching Points:

1. Patients affected by the prison industrial complex (PIC) may face significant structural, biopsychosocial, and institutional barriers to healthcare. The number of people in US prisons has tripled since 1987. As of 2014, almost 3% of the US population is under correctional supervision. Incarcerated patients are at increased risk of illness including injury, communicable disease, and poor mental health, a risk that continues following release.
2. Restriction on movement, skepticism towards incarcerated patients by correctional employees and medical staff concern regarding malingering, lack of confidentiality, and institutional constraints to medical care are just some of the many factors that may contribute to under-diagnosis and mismanagement of disease and/or decompensation of existing illness including substance dependence and mental illness.
3. Arrested patients are deprived of many constitutional rights but retain their eighth amendment rights, particularly protection against cruel and unusual punishment. Per court rulings, refusal of medical evaluation and treatment constitutes cruel and unusual punishment. As such, incarcerated individuals are entitled to medical care and provision of care recommended by health care providers.

4. Except for cases and conditions that endanger population health (e.g. possession of substances and weapons), providers should strive to maintain confidentiality in doctor-patient relationship. While this may be limited by constraints of detainment and proximity of correctional staff, providers may take certain measures to protect confidentiality and potentially promote patient openness in discussion. This may include asking correctional staff or law enforcement to move outside of earshot and sealing confidential patient information for transfer with law enforcement.

Practical Questions:

1. What are local policies to protect both healthcare staff and patient privacy?
2. What are local resources for patients who feel that their rights have been violated?
1. If you have a conflict with law enforcement, to whom to you raise the concern?

Recommended Screening Question(s):

The LA County Health Agency SBDOH workgroup has not developed any recommended screening questions for this domain. It recommends taking a thorough approach in investigating each patient's chief complaint.

Paired Reading:

Recognizing the Needs of Incarcerated Patients in the Emergency Department. *American College of Emergency Physicians 2006*.Available at: https://www.acep.org/Clinical---Practice-Management/Recognizing-the-Needs-of-Incarcerated-Patients-in-the-Emergency-Department/

Discussion Points from the Reading:

1. The National Commission on Correctional Healthcare publishes standards for the care of detainees. They have outlined basic rights of detained persons regarding healthcare and state that they maintain the right to access healthcare, the right to care that is ordered by providers, the right to a professional medical judgement, the right to have proper medical records, the right to confidentiality, and the right to refuse medical treatment.
2. All patients in shackles are not necessarily prisoners. Depending on the charges, the person may be brought to court and bail set. If they are able to post bail they may be released until a future court date. If they do not pay bail, they may be brought to a jail where they undergo an intake process. This intake process may bring to light medical issues, but also may fail to identify medical needs. Because of the uncertainty of what medical resources the detained patient may have access to at the next step in their process, it is important for the ED provider to take extra care that the patient receive any evaluation or medication that is critical during their visit rather than schedule outpatient follow up when possible.

Additional Reading:

1. Binswanger, I, Elmore, J. Care of Incarcerated Adults. In: UpToDate, Post, TW (Ed), UpToDate, Waltham, MA, 2016.
2. Institute of Medicine and National Research Council. 2013. Health and Incarceration: A Workshop Summary. Washington, DC: The National Academies Press. doi:https://doi.org/10.17226/18372. *Available at:* https://www.nap.edu/catalog/18372/health-and-incarceration-a-workshop-summary