

Denial and Delay of Prisoners' Dental Care in Correctional Facilities: Public Health Risks and Legal Issues*

Clarissa Freitas Dias
Department of Criminal Justice
Georgia State University
P.O. Box 4018
Atlanta, GA 30302-4018
404-651-3660
404-651-3658 Fax
cdias@gsu.edu

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- Dental care is a critical component of overall health care (U.S. Department of Health and Human Services, 2003)
- Poor oral health contributes to diabetes, strokes, heart attacks, and even early delivery and low birth weight (MacGregor, 2005; Gura, 1998; Hobday, 2005; Oral Health Coordinating Committee, 1993)
- Dental care is one of the most important medical needs in correctional facilities (Ormes, Carolyn, Thompson, & Brim, 1997)

Oral Health Status of Prison Population

- ✍ Socio economic class from which inmates and pretrial detainees originate uses more tobacco, drugs, or alcohol, and have poorer oral hygiene and poorer dietary choices (Brunswick, 2005)
- ➔ Periodontal or gingival diseases adversely impacts most prisoners, compromising their oral health and functioning (Salive, Carolla, & Brewer, 1989)
- ✍ Tooth decay or dental caries is the most common chronic disease in correctional facilities (Mixson, Eplee, Fell, Jones, & Rico, 1990)
- ➔ Toothache is a common acute ailment in correctional facilities

Dental Standards of Care

- Standards of dental practice articulated by the National Commission on Correctional Health Care (2003), American Correctional Association (2003), and American Public Health Association (2003) require:
 - Routine mandatory preventive oral hygiene
 - Periodic check-ups
 - Providing basic dental hygiene items, such as a soft-round bristle toothbrush and toothpaste
- Standards of care mandated by accrediting agencies frequently do not match correctional dental care practice
- Juxtaposition between free world dentistry to prison dentistry

Free World Dentistry

- Overriding goal: Preservation and restoration of natural teeth (Friedman, 1990)
- Priority: restore and maintain quality of oral health
- Natural teeth are to be saved at all costs (Lewis, 1996)
- Routine care includes regular cleanings, consultations with oral hygienist, filling cavities as early as possible, and early diagnostic and treatment of dental problems (Doring, 2004)

Prison Dentistry

- Extraction only policies: pulling teeth is the treatment (Frencken, Pilot, Songpaisan, & Phantumvanit, 1996; Ramos-Rodriguez, Schwartz, Rogers, & Alos, 2004)
- Little maintenance, no oral hygienist absent periodontal disease, few regular cleanings, rarely filling cavities, and no early diagnosis of dental problems (Balsa & McGuire, 2003)
- Quality of life without teeth is not a concern (Mendonça, 2001)

Under Federal Law, Eighth Amendment of U.S. Constitution Can Be Violated

- Under federal law (Title 42, U.S. Code, Section 1983), inmates and/or pretrial detainees can sue prison/jail officials for delaying and denying their serious dental needs
- The U.S. Supreme Court in *Estelle v. Gamble* (1976) ruled that a Section 1983 lawsuit requires inmates to show: prison/jail officials are deliberately indifferent to inmates' and/or pretrial detainees' serious medical/dental needs

Methodology

- Procedure: Search of “all cases” database in the Westlaw on-line computerized system for dental care cases from 1980 to March 9, 2005
- Search Strategy: Dental or Dentist w/25 Prison! or Jail!
- Results: 144 relevant cases on Section 1983 inmate dental care lawsuits, litigated in the U.S. Courts of Appeals

Denial and Delay of Prison and/or Jail Dental Care Resulting in Liability

→ Denial of care that results in:

- ∅ Serious dental injury
- ∅ Life threatening dental complications
- ∅ Prohibition of doctor-prescribed dental care
- ∅ Unnecessary weight loss and/or punishment
- ∅ Lack of treatment for serious dental conditions

→ Delay of care that results in:

- ∅ Systemic health problems
- ∅ Unnecessary pain and suffering
- ∅ Unnecessary extraction of teeth
- ∅ Excessive waiting periods prior to treatment

Denial that Results in Serious Dental Injury

- Deprivation of toothpaste and a toothbrush resulted in bleeding gums and receding teeth (*Penrod v. Zavaras*, 1996)
- It is inhumane to deny basic oral hygiene (toothpaste and a toothbrush), causing inmate's tooth decay and the loss of several teeth (*Board v. Farnham*, 2005)

Denial that Results in Life Threatening Dental Complications

- Edental (toothless) inmate had his Soft Mechanical Diet (SMD) stopped in retaliation for filing a malpractice lawsuit. Inmate suffered pain, soreness, bleeding gums, and had difficulty chewing (*Mitchell v. Duckworth*, 2000)
- Refusing to replace an inmate's dentures resulted in suffering, humiliation, shame, disfigurement, bleeding, headaches, and the inability to chew (*Wynn v. Southward*, 2001)

Denial that Results in the Prohibition of Doctor-Prescribed Dental Care

- Refusing to proceed with follow-up care prescribed by the dentist interfered with the inmate's recovery from surgery (*Lopez v. Smith*, 2000)
- Prison medical director overruled the prison doctor's recommendation to send an inmate to the hospital for appropriate treatment for his mouth infection (*Wilkins v. Correctional Medical System*, 1991)

Denial of Dental Care that Results in Unnecessary Weight Loss and/or Punishment

- Refusing to provide a soft food diet resulted in the inmate losing 9 to 22 pounds and caused permanent damage to the inmate's jaw (*Creech v. Nguyen*, 1998)
- Jail officials refused to refer inmate to jail dentist, punishing him because of a previous complaint against the jailer, which caused the inmate to suffer severe tooth pain (*Brownlee v. Conine*, 1992)

Denial of Dental Care that Results in Lack of Treatment for Serious Dental Conditions

- Lack of 24-hour emergency dental services forced an inmate with a broken jaw to suffer excruciating pain (*Harris v. Hegmann*, 1999)
- Failure to diagnose serious dental conditions resulted in loss of several teeth (*Dillier v. Williams*, 1994)
- Dispensing an over-the-counter medication instead of a stronger prescription pain medication caused the inmate to suffer from a severe toothache (*Mallette v. Dunning*, 1990)

Delay of Dental Care that Results in Systemic Health Problems

- Edentulous (toothless) inmate who waited 4 months for dentures developed bleeding gums, broke his remaining teeth, and developed an infection (*Hunt v. Dental Department*, 1989)
- After 7 months without treatment for a decayed tooth, the inmate experienced swelling of his face and neck, a high fever, and pus discharging from his eyes and nose (*Moore v. Jackson*, 1997)
- 15 months without dentures resulted in severe soreness, swollen and bleeding gums, and difficulty eating hard food (*Farrow v. West*, 2003)

Delay of Dental Care that Results in Unnecessary Pain and Suffering

- 3 months without treatment resulted in an extremely swollen jaw, an infection and pus oozing from the inmate's eyes (*Patterson v. Pearson*, 1994)
- Prison dentist with knowledge of the inmate's pain allowed the prisoner to go untreated from an impacted wisdom tooth (*Boyd v. Knox*, 1995)
- Inmate with a broken jaw was subject to treatment delays for 7 months causing severe pain (*Stack v. McCoutter*, 2003)

Delay of Dental Care that Results in Unnecessary Extraction of Teeth

- Delay filling an inmate's tooth for 8 months resulted in extraction of the tooth (*Kaifasz v. Haviland*, 2003)
- Prison dentist delayed inmate's cavity treatment for 1 year until the inmate agreed to have another salvageable tooth extracted (*Harrison v. Barkley*, 2000)
- Delay filling cavities led the prison dentist to extract inmate's teeth (*Chance v. Armstrong*, 1998)

Delay of Dental Care that Results in Excessive Waiting Periods Prior to Treatment

- Letting inmate suffer pain for 3 months is excessive and unjustified (*Jones v. Greer*, 2002)
- Delay in treating an infected tooth until the inmate pays for previous dental treatment in jail (*Fields v. Gander*, 1984)
- Toothache developed into an abscess after excessive delay of treatment (*Beauchamp v. Love*, 1986)

Conclusion

- Principle of Less Eligibility: Limiting basic inmate dental care results in inmates not being entitled to the same quality dental care that is available to free-world citizens
- To prevail in Section 1983 litigation, prisoners must show that correctional health providers and prison officials were deliberately indifferent to their serious dental needs
- Inmates and pretrial detainees are less likely to file lawsuits when prison officials and prison dentists follow dental care standards articulated by health care associations

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