

DEATH YARDS:



Continuing Problems with Arizona's Correctional Health Care

By Caroline Isaacs
American Friends Service Committee—Arizona

OCTOBER 2013

PUBLISHED BY
American Friends Service Committee—Arizona
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Acknowledgements

This document is dedicated to those who have died in prison, in the hopes that their stories will lead to change.

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Table of Contents

I.	Executive Summary	4
II.	Background	6
	A. Parsons v. Ryan	6
	B. Privatization of Correctional Medical Care	7
III.	Continued Problems with Medical Care in Arizona Prisons	13
IV.	Case Studies	17
	A. Delays and Denials	17
	B. Emergency Treatment	19
	C. Medications	21
	D. Staffing Shortages	23
	E. Inadequate Care	24
	F. Chronic Diseases and Infectious Disease	25
	G. Specialty Care	26
	H. Mental Health	27
V.	Conclusions and Recommendations	30
VI.	Appendix	33

Executive Summary

On March 6, 2012, the American Civil Liberties Union (ACLU) filed suit against the Arizona Department of Corrections (ADC) charging that prisoners in the custody of the Arizona Department of Corrections receive such grossly inadequate medical, mental health and dental care that they are in grave danger of suffering serious and preventable injury, amputation, disfigurement and premature death.

This class action lawsuit has the potential to force the state of Arizona to improve its prison medical care. But legal battles are long and costly. The state is fighting tooth and nail, including an upcoming challenge to the suit's class action status. The final resolution will likely take years.

But what has changed in the day-to-day provision of medical care to prisoners in Arizona? Have conditions improved in light of the charges brought by the suit? Has the transition in management of the medical care from one for-profit corporate contractor (Wexford) to another (Corizon) addressed any of the previous health care lapses?

Sadly, the answer appears to be no. Correspondence from prisoners; analysis of medical records, autopsy reports, and investigations; and interviews with anonymous prison staff and outside experts indicate that, if anything, things have gotten worse.

MAJOR FINDINGS

1. **The same problems**—delays and denials of care, lack of timely emergency treatment, failure to provide medication and medical devices, low staffing levels, failure to provide care and protection from infectious disease, denial of specialty care and referrals, and insufficient mental health treatment—**have continued and, arguably, worsened under Corizon**. These problems are not isolated to one or two units, but clearly represent system-wide dysfunction. This report contains 14 specific case studies to illustrate these issues.
2. **There have been 50 deaths** in Arizona Department of Corrections custody in just the first eight months of 2013. That is a dramatic increase from previous years. The *Arizona Republic* reported 37 deaths in 2011 and 2012 combined.
3. **There were eight suicides** in the first eight months of 2013. The majority (5) occurred in maximum security units.
4. **One contributing factor appears to be the process of privatization** of medical services. Delays and a reissue of the RFP made the process drag out for over two years. In the meantime, medical staffing levels plummeted and health care spending in prisons dropped by nearly \$30 million. The hasty departure of Wexford, followed by the award of the contract to Corizon created additional upheaval, delays, and changes in staff, procedures, and medications.

These findings and the revealing case studies contained in the report are intended as a call to action for state leaders and to Arizona taxpayers. There appears to be no independent state or public oversight over the contracts, the performance of the contractor, or over the Department of Corrections.

The American Friends Service Committee is limited in its ability to access all the documents necessary to fully assess the scope of the problem and to identify solutions. Nevertheless, the issues documented in this report make a strong case that the situation in our state prisons has reached a crisis point and requires immediate intervention.

There is sufficient evidence to indicate that the problems are not limited to a few isolated locations, “bad apples,” or individuals. They are the result of policies, organizational culture, and an operating model that prioritizes cutting costs over delivering adequate and timely care. Contracting out the medical care at ADC has resulted in more bureaucracy, less communication, and increased healthcare risks for prisoners.

What is required to correct the problem is transparency and accountability. Privatization functions only to hinder those processes. Immediate intervention is required to correct these issues and prevent needless suffering and more deaths in the Arizona Department of Corrections.

RECOMMENDATIONS:

1. **That the Arizona Auditor General immediately initiate an audit and independent investigation into the issues raised in this report.** The Auditor General should complete the report within six months, and this report should be made available to the public. In the future, such audits should be completed on a regular basis, at least biannually, to ensure that care remains at acceptable levels.
2. If the results of the Auditor General’s investigation confirm that there are systemic deficiencies in provision of medical and mental health care, **the Governor’s Office should act immediately to ensure these issues are immediately addressed and insist that ADC be in full compliance with established medical practices and standards of care.** Any correctional or contract staff found to be responsible for these problems should be held accountable, including senior administration.
3. **That the Arizona State Legislature permanently reinstate and reconstitute the Joint Select Committee on Corrections** and expand its purview to any and all contracts held by the Department of Corrections and the contracting entities.
4. **That the legislative requirement for privatization of medical care at ADC be immediately rescinded and any contracts cancelled as quickly as possible.**

The findings in this report are intended as a call to action for state leaders and to Arizona taxpayers. While some may argue that those who commit crime are not deserving of quality medical and mental health care, the Constitution of the United States says otherwise. Governments and societies who choose to imprison their citizens then become responsible for their wellbeing.

While our society’s prevailing “throw away the key” attitude would have us forget about those serving time behind bars, the reality is that over 90% of prisoners come home. It is in the public’s interest to ensure that they return to our communities healthy, mentally sound, and able to reintegrate and become productive citizens once again.

Background

The Arizona Department of Corrections, like many corrections agencies, has a long history of problems in provision of health care and mental health care. Health care is expensive, and most state departments are underfunded. Medical expenses are rising across the board annually, and often state budgets cannot keep up. This is particularly true if they are grappling with exploding prisoner populations, as many states were up until 2010 or so. At the same time, there is a ‘prison culture’ in which corrections staff are deeply suspicious of prisoner’s health complaints, assuming in many cases that they are ‘malingering’—faking symptoms in order to get medication, moved to different cells, changes in diet, etc.

The American Friends Service Committee of Arizona has corresponded with incarcerated people and their families since 1997. In that time, the single most cited complaint with prison has always been the medical care. As far back as 2005, the *Tucson Weekly* was reporting on serious cases of denial of care or inadequate treatment of prisoners, raised at one point by a registered nurse who had quit working for the Department after just two months because she was so disgusted by what she observed at the Tucson Complex. At the time, the Department of Corrections was suffering a 34% shortage of full-time nurses. Nurse Pamela Fields remarked in the *Weekly*, “with that lack of steady staff, there is absolutely no direction, absolutely no leadership. It creates a very hostile environment.”¹

“There were several instances where I felt that patient care was not delivered correctly,” she says, “people not getting medications, no follow-ups without outside appointments in a timely manner, someone in quite a bit of pain after a surgery—where there was obviously something wrong—and not being allowed to get back to the surgeon.”²

Fast forward to 2009. Following Governor Jan Brewer’s appointment of Charles Ryan as Director of the Arizona Department of Corrections (ADC), the number of prisoner deaths—particularly suicides—became extraordinarily high. The prison suicide rate in Arizona escalated to more than double the national average, with 14 reported suicides in the fiscal year that ended in June of 2010. This prompted an investigation into the situation by the American Civil Liberties Union (ACLU). They discovered that many of the fatalities stemmed from the chronic and systemic denial of medical and mental-health care for inmates, violating state and federal laws and the U.S. Constitution.

PARSONS V. RYAN

On March 6, 2012, the ACLU filed suit against the Arizona Department of Corrections (ADC) charging that prisoners in the custody of the Arizona Department of Corrections receive such grossly inadequate medical, mental health and dental care that they are in grave danger of suffering serious and preventable injury, amputation, disfigurement and even death.

Critically ill prisoners have begged prison officials for medical treatment, according to the lawsuit, only to be told to “be patient,” that “it’s all in your head,” or that they should “pray” to be cured. Arizona prison officials

1 Tim Vanderpool, “House of Pain: A veteran prison nurse alleges dire conditions,” *Tucson Weekly*, November 25, 2005

2 Tim Vanderpool, “Death and Detention: More questions arise after a Wilmot prison inmate dies,” *Tucson Weekly*, December 1, 2005

have repeatedly been warned by their own medical staff of the inadequacy of the care, echoing complaints from prisoner advocates and families that prisoners face a substantial risk of serious harm and death. Yet, they have failed to ensure that minimally adequate health care is provided as required by the Constitution.

The lawsuit does not seek monetary damages. Instead it asks, among other things, that constitutionally adequate health care be made available to prisoners, that medications be distributed to patients in a timely manner, and that prisoners not be held in conditions of isolation.

The case was filed in U.S. District Court on March 22, 2012, with Victor Parsons as the lead Plaintiff and several other prisoners whose circumstances are representative of the many different ways in which ADC neglects medical and mental health care for prisoners. The ACLU then filed a Motion for Class Certification so that any judgment regarding the treatment of the named Plaintiffs would also apply to other, similarly situated prisoners.

“A MAN WITH A GROWTH ON HIS PENIS WAS DENIED MEDICAL TREATMENT FOR TWO YEARS. DOCTORS ULTIMATELY DIAGNOSED A CANCEROUS TUMOR ON HIS PENIS; THE ORGAN HAD TO BE AMPUTATED, AND DOCTORS TOLD HIM THE CANCER HAD SPREAD TO HIS STOMACH.”

—Arizona Republic, December 5, 2011

The Motion was granted on March 6, 2013. The state of Arizona appealed the decision to the 9th Circuit Court of Appeals and requested a stay of all further proceedings and discovery until the appeal could be decided. The ACLU opposed the Motion to Stay on the grounds that class members are suffering irreparable injury during the case, and in some cases even dying from medical neglect. The 9th Circuit agreed to an *expedited appeal*, and the 9th Circuit is set to hear arguments this fall.

PRIVATIZATION OF CORRECTIONAL MEDICAL CARE

One factor that appears to be exacerbating the existing problems with prison medical care has been the effort to privatize these services. The state is essentially relinquishing control over the health and wellbeing of 40,000 people to a private, for-profit corporation in an effort to cut costs.

In fact, many of the problems cited in the Parsons case originated during the period just after the state legislature’s decision to privatize prison medical care. The FY 2010 state budget bill (HB2010) included the following language:

“Effective from and after September 30, 2009, requires the ADC to issue a request for proposal to privatize correctional health services, including medical and dental services. The request for proposal must be submitted to JLBC before it is issued. This contract must:

- Cost less than these services did in FY 2007-08; and
- Be awarded by May 1, 2010.”³

The process of bidding out the contract dragged on over several years, largely due to the requirement for the contractor to provide medical care for 40,000 inmates for less than it cost in 2008. Given the reality that

3 Arizona House of Representatives, “HB 2010: Criminal justice; budget reconciliation,” 2009.

medical costs in every area have been rising dramatically for year, this requirement was clearly unrealistic.

This episode illustrates one of the fundamental fallacies of correctional privatization: State leaders are operating under the belief that privatization of prisons and correctional services will somehow allow them to defy the basic laws of economics. Essentially, politicians want to believe that they can have large prison populations without spending large amounts of money. This has repeatedly been proven false, in numerous contexts and in a variety of states, including Arizona. It is flatly impossible to run safe prisons or provide adequate medical care without substantial funding.

Unsurprisingly, ADC got few, if any, bids for the contract. No company could deliver adequate care for so little money. Two years later, Rep. John Kavanagh, Republican chairman of the House Appropriations Committee, removed language from the bill that had required bidders to meet or better the Corrections Department's costs. Although the push to privatize was based primarily on the promise of saving money, the legislature chose to move forward with the plan, *even if there would be no resulting cost savings*. A second RFP was issued in December of 2011, stipulating that the contract be awarded to the "most qualified bidder."

While the RFP process dragged on, many state prison medical staff resigned, concerned they may not be hired by the new contractor. Staff vacancies became a serious problem—fewer doctors and nurses meant longer waits to be seen, treated, and receive medications. And the department was reluctant to spend money on outside referrals to specialists, expensive surgeries, or costly medications. In many cases, care was delayed so that the department could defer these costs to the contractor, whenever one was chosen. The *Arizona Republic* reported that:

MEDICAL PRIVATIZATION TIMELINE

2009: Legislature mandates privatization
2010: RFP issued
2011: Legislature amends bill to no longer require cost savings
2011: Second RFP issued
April 2012: Contract awarded to Wexford
January 2013: Wexford replaced with Corizon

"Corrections officials... say that pending plans to privatize prison health care have made it harder to fill medical-staff vacancies and that rule changes two years ago that cut payment levels to outside contractors also crimped access to care."⁴

Incredibly, during those three years, health-care spending by the Corrections Department dropped by nearly \$30 million.⁵ In FY2011, 20-25 percent of health care positions were vacant.⁶ While this may have been good news for the state budget, it proved deadly for many prisoners.

The contract was finally awarded to Wexford Health Sources Inc. in July of 2012. It is unclear why this particular corporation was chosen, given their well-published history of problems in other states. As Bob Ortega reported in the *Arizona Republic*:

- Wexford opted not to renew a contract with Clark County, Wash., that expired at the beginning of 2010 after an independent audit concluded that "Wexford has systematically failed to comply" with its contract and had failed to provide adequate staffing, properly licensed staff, and adequate and timely medical service.

4 Bob Ortega, "Prison inmates in Arizona crying foul over medical care," *Arizona Republic*, Dec. 5, 2011.

5 Bob Ortega, "Prison inmates in Arizona crying foul over medical care," *Arizona Republic*, Dec. 5, 2011.

6 Bob Ortega, "Critics cast doubt on new Arizona prison health care contractor," *Arizona Republic*, April 16, 2012.

- In Mississippi, a 2007 audit was harshly critical of both the company and state corrections officials for failing to provide timely, adequate medical care. It also found that Mississippi's Department of Corrections failed to collect \$931,310 in fines its chief medical officer recommended against Wexford after the company charged the state for more staff members than it actually provided.
- Wexford has also faced fines for similar problems in numerous other states, including a \$12,500 fine by New Mexico's Department of Corrections in 2006; a \$106,000 fine by Ohio's Correction Department in 2009; \$50,000 by Chesapeake, Va., in 2006 for staffing shortages; three fines totaling \$273,000 by Florida's Department of Corrections in 2005 for what it described as "service-delivery issues that were resolved" before the contract's end; and a \$68,000 fine by the Broward Sheriff's Office in Florida in 2003 for delays in providing medical services.⁷

The contract stipulated that Wexford would be paid \$116.3 a year, more than what the Department of Corrections spent on medical care in FY2011.

On August 27, 2012, a Wexford nurse exposed 103 inmates at the Buckeye state prison to hepatitis C by contaminating the prison's insulin supply. State and local health officials were not alerted for more than a week.⁸ The incident made headlines, drawing unwanted attention to the medical care in Arizona's prisons.

A Cure Notice sent by ADC to Wexford on September 21st lays out a litany of problems related to the quality of care under Wexford. While the Hepatitis C incident is certainly among them, the letter also cites:

- Prisoners on one yard had to lick powdered medication from their own hands after Wexford ran out of plastic cups and did not attempt to resupply them.
- Wexford failed to renew expired prescriptions for medications, resulting in a significant number of prisoners not receiving their medications.
- A prisoner who had not received his psychiatric medications for 23 days was found hanging in his cell.
- A case of pertussis, a very contagious disease which must be reported to state health authorities, was not reported to ADC for 30 days.⁹

Then, on September 28th, The Arizona Department of Corrections levied a \$10,000 fine against Wexford. The *Arizona Republic* reported, "[t]he DOC called on Wexford to fix staffing problems, properly distribute and document medication for inmates, show a sense of urgency and communicate better with the state when problems occur."¹⁰

A document recently unsealed in *Parsons v. Ryan* provides additional evidence that the Department of Corrections was out of compliance with medical standard practices, and may have actually been violating the law. In response to the Cure Notice, Wexford staff presented to ADC its list of complaints regarding what it claimed were significant problems and gaps in service not disclosed during the RFP process, as well as "cultural issues" that contributed to resistance and outright undermining of Wexford staff by ADC guards.

7 Bob Ortega, "Arizona prisons' health care to be run by PA company," *Arizona Republic*, April 3, 2012.

8 Craig Harris, "Prison nurse tied to Hepatitis C exposure at Buckeye facility," *Arizona Republic*, September 4, 2012

9 Joe Profiri, "Written Cure Notification-Contract N. 120075DC," Arizona Department of Corrections, September 21, 2013.

10 Craig Harris, "Arizona fines provider of prison health care," *Arizona Republic*, September 28, 2012.

The PowerPoint presentation, which was publicly released by the *Arizona Capitol Times* on September 25, 2013, reveals that prior to Wexford's contract:

- ADC was not routinely testing inmates at intake for TB and was not screening for Hepatitis B and C.
- There was a backlog of *thousands* of approved but yet-to-be-completed referrals for specialty care and procedures. There were 850 such consults backlogged at the Tucson complex alone.
- ADC had no negative airflow infirmary beds in which to quarantine prisoners with TB or other infectious diseases.
- ADC was in violation of the Arizona Nurse Practice Act, allowing nurses to pre-pour medications for other nurses to administer. A nurse can lose his or her license for doing this.¹¹

Wexford concluded, "After working within the ADC inmate care systems for four months—Wexford finds the current class action lawsuit to be accurate. The ADC system is broken and does not provide a constitutional level of care."¹²

On Wednesday, January 30th 2013, the Department of Corrections announced that it had severed its contract with Wexford Health Sources Inc. and had already reached an agreement with Corizon, Inc. of Brentwood, Tenn., to become the health care provider for all state-run prisons as of March 4. Reportedly, the divorce was initiated by Wexford, which claimed its "performance was hindered by state monitors and a lack of cooperation by corrections."

Corizon's track record is similarly marred. Corizon was created after the merger of two other huge for-profit prison health care corporations—PHS Corrections and Correctional Medical Services (CMS). Prior to the merger, PHS had 57 contracts in 150 jails across 19 states, serving about 165,000 prisoners. CMS served 250,000 prisoners in 19 states. When the two merged, Corizon became the largest prison health care provider in the country, operating in 400 correctional facilities in 31 states.

It is unclear how or why, after the disaster with Wexford, Corizon would be given a contract without the state conducting a thorough investigation into its background and performance in other states. A quick internet search of just *three years* of articles on the corporation's misdeeds yielded enough evidence of medical neglect, wrongful death lawsuits, financial mismanagement, and outright abuse to give anyone pause:

A REPORT ON THE IDAHO STATE CORRECTIONAL INSTITUTION CHARGED THAT PRISON CARE UNDER CORIZON "AMOUNTS TO CRUEL & UNUSUAL PUNISHMENT."

- A wrongful death and malpractice lawsuit was filed in St. Louis in 2012 over the death of a jail inmate from complications of a heart problem. The suit alleges that the prisoner collapsed and died an hour after a doctor instructed jail staff to send him to a hospital immediately. Records show that a Corizon nurse believed that the prisoner's episodes were 'staged,' and point to numerous instances of doctor's orders not being consistently followed.¹³
- A federal lawsuit against the Minnesota Department of Corrections was filed last year after an inmate with a history of seizures was denied emergency care by a Corizon nurse who overrode doctors' orders

11 Wexford Health Sources Incorporated, "ADC Meeting, November 7, 2012." PowerPoint presentation.

12 Wexford Health Sources Incorporated, "ADC Meeting, November 7, 2012." PowerPoint presentation.

13 "Suit blames St. Louis medical care in inmate's death," St. Louis Post Dispatch, 5/24/12.

for an ambulance. Within an hour, the man suffered irreversible brain damage that led to his death. Records indicate that Corizon’s “rationed care philosophy” is at the root of many such problems.¹⁴

- In 2012, a report on the Idaho State Correctional Institution charged that prison care under Corizon “amounts to cruel and unusual punishment.” The report states that Idaho Department authorities are “deliberately indifferent to the serious health care needs of their charges.” According to the report, Corizon failed 23 of 33 audit categories in 2010—and despite feedback and follow-up—failed 26 of 33 categories in 2011.¹⁵

Since signing the contract here in Arizona, Corizon’s problems have continued elsewhere. In September of 2013, Corizon abruptly cancelled its contract to provide medical care to inmates at Kentucky’s Metro Corrections jail. The resignation came on the heels of investigations into the deaths of seven prisoners in 2012 and a slew of lawsuits over the poor quality of care provided by the company. Six Corizon staff reportedly resigned amid the investigation, which found that they may have contributed to the deaths of two prisoners by delaying or denying care when they were in medical crisis.¹⁶

Given the multiple examples of long-standing problems with both corporations (as well any others that might bid on the contract), it is clear that **privatization is not a solution to the serious deficiencies in medical care at the Arizona Department of Corrections**. If anything, privatization complicates the problem further by inserting an entire corporate culture and structure inside the existing state agency bureaucracy, providing both parties an opportunity to dodge responsibility and pass the buck. The result is more delays, less transparency, and little accountability.

The only way to save money on medical care in prisons is to provide less care, or substandard care. Because these are for-profit corporations, not only do they need to promise cost savings, they also need to make a profit from the contract. The result, more often than not, is a corporation cutting corners, running staff vacancies, denying procedures, hospitalizations, and medications. This is more likely to *worsen* problems, not improve them.

This situation is not the result of a few bad actors. It is inherent in the *business model* of for-profit prison medical corporations. These companies consistently prioritize the needs of their shareholders above those of the prisoners they purportedly serve. There is ample evidence of this in Arizona’s experience with Wexford and Corizon. But it is certain to be a problem with any such corporation. This is why the Arizona legislature’s decision to change the language in the law to allow a contract to be awarded to the “most qualified bidder” is so problematic. It allows the state to give a contract to the ‘best’ out of a pool composed of deeply flawed, incompetent, and ineffective companies.

Documents obtained by the American Friends Service Committee vividly demonstrate these issues, as expressed through the organizational cultures of both Wexford and Corizon.

The Wexford PowerPoint presentation in response to ADC’s Cure Notice, referenced above, outlines Wexford’s objections to ADC’s “media relations philosophy.” It complains that “ADC’s “transparency” policy encourages

14 “Prisoner dies after denial of care,” Minneapolis Star Tribune, 7/9/12.

15 “Federal court unseals report on prison health care,” KIVI News, 3/19/12.

16 Jason Riley, “Controversial jail medical provider Corizon leaving town,” September 1, 2013.

negative press.” It cites media coverage of a riot that occurred in the Tucson complex, saying that this “deterred potential candidates” who might have applied for positions with Wexford. One can only presume that Wexford’s approach would be to not report such incidents to the public. In another section, Wexford raises the “ongoing issue” of transparency, criticizing “ADC[s] habit of creating detailed email correspondence documenting alleged problems prior to fact checking. ALL EMAIL IS DISCOVERABLE.” This last sentence clearly refers to *Parsons v. Ryan*, and Wexford’s concern that the attorneys may discover documentation that would be damaging to the state.¹⁷

Wexford’s presentation also objected to ADC’s willingness communicate with and respond to questions from prisoner family members. “ADC emphasis on responding to inquiries from inmate family members and friends disrupts patient care and creates opportunities for the misinterpretation of medical information by non-clinicians.”¹⁸ Instead of viewing prisoners’ family members as taxpaying citizens whom the criminal justice system is designed to serve, Wexford views them as a nuisance.

This attitude is echoed in a Corizon response to a prisoner’s request for surgery for a very painful hernia. The response from Corizon states:

“Per DOC policy, clinical decisions and actions regarding health care services provided to you are the sole responsibility of qualified health care professionals. *You do not have the right to dictate treatment or who provides treatment.*”¹⁹ [emphasis added]

These statements reveal an organizational culture that is unaccustomed to outside scrutiny or oversight and which views those undergoing treatment not as clients or patients, but as budgetary units. This is consistent with a corporate culture rather than one that is oriented toward public service.

17 Wexford Health Sources Incorporated, “ADC Meeting, November 7, 2012.” PowerPoint presentation.

18 Wexford Health Sources Incorporated, “ADC Meeting, November 7, 2012.” PowerPoint presentation.

19 Corizon, HNR/Inmate Letter Response.

Continued Problems With Medical Care In Arizona Prisons

According to reports from prison medical staff, inmates, and their families, the quality of medical care since the ACLU filed *Parsons v. Ryan* in March of 2012 has actually gotten *worse*.

Over the past 6-8 months, the American Friends Service Committee has observed a marked increase in the number of letters from prisoners and phone calls and emails from family members complaining of issues with medical care in state prisons.

To demonstrate the nature and extent of the problems, AFSC collected testimonies from over 30 prisoners and their families, as well as other concrete documentation to illustrate the continuing problems with medical care. This includes prisoners' HNR's, grievances, medical records and other paper work documenting their efforts to access care; autopsy reports and internal ADC investigations into prisoner deaths; and internal documentation from ADC and its contractors. AFSC also consulted with health care professionals both inside and outside the prison system for their independent assessment of the situation. Finally, press accounts and other published articles and studies were used to provide additional information.

Deaths in Custody

In June of 2012, the *Arizona Republic* ran a four-part series on the high number of deaths in Arizona Prisons. The series began with this statement:

"Arizona's prison system has two death rows. One is made up of the 126 inmates officially sentenced to death... The other death row, the unofficial one, reaches into every prison in Arizona's sprawling correctional system. No judge or jury condemned anyone in this group to death. They die as victims of prison violence, neglect and mistreatment."²⁰

DEATHS IN ADC CUSTODY

2011-2012 *combined*: 37 deaths
Jan-Aug 2013: 50 deaths

The article goes on to report that there were 37 deaths in Arizona prisoners between 2011 and 2012. Nineteen of them were suicides—a rate of suicide 60% higher than the national average. Seven were homicides.

Research conducted by the American Friends Service Committee found that **there have been 50 deaths in custody in the first eight months of 2013** (January 1-August 28). Eight were suicides and two were reported as homicides.

The Tucson Complex had the highest number of deaths—15 in total. This complex houses prisoners with ongoing medical and mental health needs, including many elderly and physically disabled individuals and those with chronic illnesses. This fact may partially explain the high rate of fatality. However, this complex was also the site of one suicide and one homicide.

The second highest number of deaths—fourteen—occurred at the Florence Complex, including two of the suicides. The third highest number of deaths—eight—occurred at the Eyman Complex. Exactly half of these (4) were suicides.

20 Bob Ortega, "Arizona prison system sees high numbers of deaths," June 2, 2012.

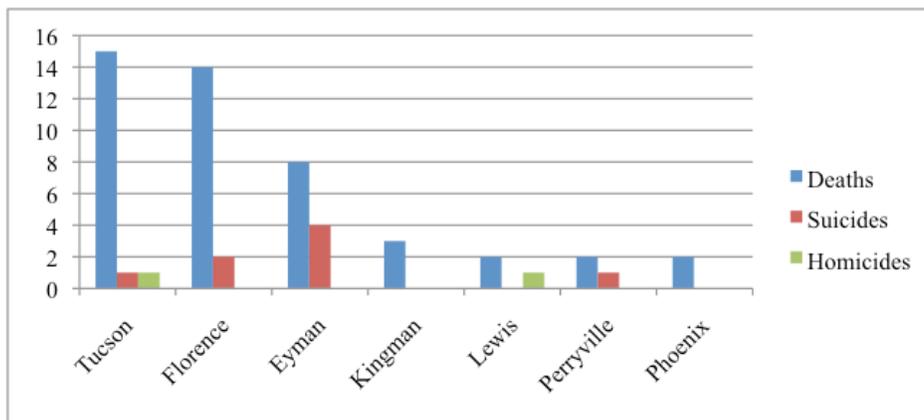
Three deaths occurred at Kingman; two at Lewis (including the other homicide); two at Perryville (including one suicide); and two at Phoenix. Winslow, Yuma, Safford and Douglas each had one death so far this year.

Without a formal explanation from the Department of Corrections, we are left to speculate as to why the rate of prisoner deaths would be so much higher this year than in previous years. However, the fact that Corizon has been in charge of medical and mental health care for the majority of this year is one factor to consider.

It may also be that the high number of deaths is the cumulative effect of the poor and worsening quality of medical care over the past three years. It is possible that it is the natural result of so many prisoners going untreated or receiving incomplete or incompetent care at the hands of ADC or its medical contractors. At the very least, this high fatality rate should raise alarms within the state and prompt an independent statewide investigation to discover the cause(s).

Cause of Death

Upon the death of a prisoner, the Department of Corrections issues an official public announcement. It is essentially a press release, called an “Inmate Death Notification.” These notifications generally list the death as being due to “apparent natural causes.” Occasionally, it will reveal that the death is of “unknown causes” or is “under investigation.” Suicides and homicides are generally noted.



However, these notices are generally issued just after death, and before autopsies or investigations are completed. The results of the autopsy or investigation are rarely publicly issued and these Death Notifications are not updated, so in some cases what was initially listed as an “unknown cause” may actually be a drug overdose.

Of particular interest are the deaths ascribed to “natural causes.” This benign designation belies the reality that may lie beneath. While cancer is a naturally occurring illness, a person who dies of *untreated* cancer, who may have suffered for months or even years with symptoms and asked repeatedly for medical attention only to be denied—this is a *preventable* death. Not a peaceful, natural one.

The American Friends Service Committee has conducted a limited investigation into prisoner deaths that have occurred in the last two years. Autopsy reports, medical files, and/or internal ADC investigation reports were obtained for fourteen prisoners who have died in custody between March of 2012 and June of 2013. The results raise a number of “red flags” regarding conditions that, if treated in a timely manner, might have been resolved. It also reveals issues with the availability and abuse of drugs inside prisons, which contributes both to the number of suicides as well as accidental overdoses.

Out of the fourteen, three were from drug overdoses. One of these was ruled a suicide while the other two were labeled accidental. One was related to heroin while two (including the suicide) were from amitriptyline intoxication. Amitriptyline is one of several cyclic antidepressants (CAs) prescribed for pain, insomnia, and depression, and therefore it is likely that these drugs were prescribed by Corizon to prisoners who either sold them to other prisoners or hoarded them for overdose.

Cyclic antidepressants (CAs) were first used in the 1950s to treat clinical depression. The first report of the adverse effects of tricyclic overdose came within 2 years of their clinical use. They are known to be highly toxic and require low dosage and careful patient monitoring.

A prison medical staffer, who spoke to AFSC on condition of anonymity, stated: “the amitriptyline family are old tricyclic meds and are on the formulary but are “absolutely watch swallow”. They are now used in place of gabapentin for neuropathic pain. So security either did not really watch [the prisoners] swallow the meds or security let [them] obtain the meds from someone else.”²¹

These deaths raise questions regarding the dosages made available to prisoners and the monitoring of those inmates who have such prescriptions. Given the high propensity toward suicide in the prison population, as well as high rates of substance abuse, it is critical these medications are delivered responsibly.

Of additional concern is the fact that ten of the fourteen deaths involved medical conditions that were in highly advanced stages. Three were for coronary atherosclerosis and hypertension, in two cases leading to heart attacks. Atherosclerosis is a progressive condition that, for most people, is caught early by routine screenings for high blood pressure and high cholesterol and treated by medications and changes in diet and lifestyle.

Six out of fourteen were for metastatic cancers—cancers that had advanced to the point that they had spread to affect other parts of the body. This clearly indicates that the conditions were long-standing and suggests that these deaths might have been preventable had the individuals received more timely care.

AFSC consulted with a licensed MD and certified forensic pathologist for this report who, due to her current employment with a public agency, requested anonymity. Upon reviewing the autopsy reports for these prisoners, the doctor stated that the number and types of conditions “raised her antennae” and that the reports, taken together, indicate that there could be problems with either lack of follow-up care, delays, and/or denial of care. She also stated that for these types of cancer, the individuals would likely have symptoms that would lead a rational person to seek medical attention.²²

Three of the case studies outlined later in this document—those of Benny Joe Roseland, Mackie McCabe, and Ernie Lopez—provide clear evidence of delays and incompetent care in the treatment of cancer at ADC. This evidence, combined with the prevalence of such cases in AFSC’s random sample indicates a pattern that bears further investigation.

Obviously, outside consultations with specialists, surgeries, and anti-cancer medication regimens are extremely expensive. A for-profit medical care provider may be tempted to hold off on these interventions for as long as possible in an effort to cut costs.

21 Personal communication, Anonymous 1, September 25, 2013.

22 Personal communication, Anonymous 2, September 20, 2013.

For a spreadsheet showing the different cases, how they were initially characterized in the Death Notification, and the final autopsy or investigation reports, please see the **Appendix**.

Unfortunately, we are left with many unanswered questions about these cases. Because the prisoners are deceased, it is impossible for them to sign a release of information to allow AFSC to access their medical records to determine what, if any, treatment they received. When the American Friends Service Committee inquired as to the availability of these records, the ADC Legal Support Unit Supervisor responded, “such records are not public records. My understanding is that they remain privileged and [their] access [is] governed by specific state and federal laws.”²³

With no way to locate the next of kin in these cases, AFSC is left only with the option to publicize what is known in a plea for greater public oversight and accountability.

23 Personal communication, ADC Legal Support Unit Supervisor, September 23, 2013.

Case Studies

In the following section, we will present recent examples of the continued deterioration of medical and mental health care in Arizona's prisons. We use as a guide the categorization of problems laid out in *Parsons v. Ryan*. We will use prisoner's names whenever possible, but in some cases, the prisoner or family has requested the individual not be named.

I. Arizona Department of Corrections (ADC) deprives prisoners of constitutionally adequate health care in violation of the 8th amendment.

Prisoners face lengthy and dangerous delays in receiving and outright denials of health care

Robert Murray (Eyman Complex):

On September 16, 2013, the *Arizona Capitol Times* published an article exposing the medical neglect and needless suffering of Mr. Murray at the hands of prison medical bureaucracy. A lab test revealed that he had throat cancer and he was recommended for radiation treatment. Mr. Murray was never told of the diagnosis, nor did he receive the treatment until seven months later. Here are excerpts from the article:

"A lab discovered death-row inmate Robert Murray had cancer the same day a Scottsdale surgeon removed his tonsils, but his disease went unknown to him and untreated for seven more months.

As Murray, 48, and his lawyers try to figure out what went wrong with his medical treatment, one thing is certain. The breakdown coincided with the turmoil surrounding the Department of Corrections' transition to a private health care provider for Arizona prisoners, and his situation didn't improve after the first company parted ways with DOC and a new company came under contract.

"HE SAID, 'YOU HAVE CANCER, YOU DIDN'T KNOW,'" MURRAY SAID. "IT WAS KIND OF AN ASTOUNDING MOMENT, SURREAL. I KIND OF EXPECTED SOMETHING WAS NOT RIGHT"

Murray endured long, painful delays between doctor's appointments, a misdiagnosis, and a time in which blood from a burst abscess on his tonsil gushed from his mouth. He came to learn he had cancer when the surgeon he hadn't seen in months asked him if he was finished with radiation to treat the illness, a treatment he never had...

"He said, 'You have cancer, you didn't know,'" Murray said. "It was kind of an astounding moment, surreal. I kind of expected something was not right."²⁴

Larry Mallory (Tucson Complex):

Mr. Mallory a 69 year old man who developed a hernia in his testicular sac. His condition has progressively worsened, and the area had grown to the size of a grapefruit. It was, needless to say, extremely painful. He reports that when he sat on the toilet, his testicle was so heavy that it hung in the water and cut off his circulation, producing dizzy spells whenever he had a bowel movement. He has been seen and diagnosed, and a surgeon at St. Luke's Hospital in Tempe recommended him for surgery in the summer of 2012.

24 Gary Grado, "Prison ordeal," *Arizona Capitol Times*, September 16, 2013

The procedure was denied by Wexford. Mr. Mallory writes, “The provider for Wexford...told me to hire a lawyer because my operation would cost too much and Wexford wouldn’t want to pay for it.”²⁵ Mr. Mallory has filed numerous requests for treatment and grievances since Corizon took over, and has been approved for a hydrocelectomy on 4/22/13 by a urology specialist and approved for “surgical repairs of both inguinal and ventral hernias” on 4/4/13 by a surgeon.²⁶

AFSC has been advising his daughter in her advocacy on his behalf, and this office had also submitted a request to Corizon for his medical records. As of this writing, AFSC has not received a response to its inquiry, despite several follow-up calls.

After waiting almost a year and a half, Mr. Mallory finally received the needed surgery to correct his hernia in September of 2013. However, in another letter dated October 1, 2013, Mr. Mallory reported that his trip back to the prison from the hospital after surgery was an unnecessarily painful ordeal:

“They put me in a paddy wagon, a hunk of metal junk, to bring me back...We left at 9:00pm and never got here until 4:15 am. They were supposed to pick up another inmate at some other hospital along the way. We drove around for three hours looking for this hospital. I was in a lot of pain. So when we got here they won’t give me anything for the pain and wouldn’t even look at my surgery. It took them 6 days before they changed my bandages.”²⁷

The last two lines in this letter raise concerns regarding adequate follow-up care after surgery, which is another common complaint.

Velma Dickson, 1953-2012 (Perryville Complex)

Ms. Dickson died in prison on April 17, 2012. The ADC Inmate Death Notification indicated that her death was “under investigation.” In truth, Ms. Dickson died of renal failure, dehydration, and starvation due to a goiter on her neck that had grown so large it prevented her from eating, drinking, and even breathing.

The autopsy report states that she was found in her cell “minimally responsive with lethargy, weakness, and altered mental status.” At the hospital, she was diagnosed with severe dehydration, elevated sodium levels in her blood, rhabdomyolysis (a breakdown of skeletal muscle tissue associated with dehydration), and acute renal failure. The hospital also found a large goitrous mass in her upper neck, which was pressing against her trachea and pushing it out of place.

The goiter (follicular adenoma) was measured at 10 cm (4 inches) in size.

It is logical to assume that Ms. Dickson had sought treatment of her condition and was denied. It is difficult to imagine how a person could be suffering from this condition and not request medical treatment. The autopsy reports that, when she arrived at the hospital:

“Following resuscitation with fluids, the decedent was able to state that she had experienced progressively worsening dyspnea (shortness of breath) for some period of time related to her neck

25 Personal communication, September 10, 2013.

26 Charles Ryan, Medical Grievance Appeal to the Director; Director’s Response, dated 6/17/13.

27 Personal Communication, Larry Mallory, October 1, 2013.

mass and poor intake of food and fluids as a result.”²⁸

It is even harder to imagine that the prison staff, medical or otherwise, would ignore someone in this condition and fail to intervene until the person is in acute distress.

Because of the advanced nature of her condition and a prior history of hypertension and diabetes, Ms. Dickson died in the hospital shortly after surgery to remove the mass. It is difficult to speculate, but certainly plausible to suggest that earlier intervention might have saved her life.

The internal investigation into Ms. Dickson’s death was requested from the Arizona Department of Corrections on August 23, 2013 but has not been received as of this writing.

ADC (and its contractors) does not provide prisoners with timely emergency treatment

Botulism Outbreak (Eyman Complex):

In July of 2012, there was an outbreak of botulism in the SMU-I unit at the Eyman Complex affecting four prisoners. According to a lawsuit filed on behalf of one of the impacted prisoners:

“Plaintiff consumed contaminated food and quickly began to exhibit symptoms of poisoning, along with three other inmates who all consumed the same food. Plaintiff and the other three inmates alerted prison staff to the serious symptoms they were experiencing. Prison staff either ignored Plaintiff entirely or accused him of malingering, consuming contraband, or having sexual intercourse with other prisoners, and repeatedly denied him medical care. After approximately 8 days, Plaintiff was finally taken to the hospital where he was given anti-toxin and his condition began to improve. Plaintiff continues to suffer the effects of the toxin, and asserts that prompt treatment would have prevented the severity of effects that he has experienced.”²⁹

Interestingly, the episode was reported to the public as an incidence of prisoners making homemade alcohol or “pruno.” Yet the prisoners contend that they were sharing food, not alcohol. One of the prisoners had made a “tamale” using food that was provided by the prison itself, from both the cafeteria and the commissary, from which prisoners can purchase additional food items. This food was contaminated, and the prisoners became ill.

The prisoners report that the staff was indifferent to their suffering, in part due to their belief that the prisoners became ill from making ‘hooch’ which is forbidden. They continued to insist that they had not made nor consumed alcohol. They were told by the prison staff that they would not receive treatment until they admitted to having made pruno.

In the meantime, the effects of the toxin in their bodies was causing general weakness, increasing difficulty breathing, chewing, swallowing, eating, walking, writing, and speaking.

One prisoner reported that he was having trouble walking back to his yard from one of his many fruitless visits to the medical unit. When he told the guard that he was not able to walk, the guard responded, “you’ll walk or I’ll slam you to the floor and drag you.” The lawsuit confirms that a video was made of the prisoner

28 Office of the Medical Examiner, Maricopa County, Report of Autopsy, Velma Dickson, Case 12-02394. May 28, 2012.

29 Lopez v. Ryan, Case 4:13-cv-00691-RCC, Filed 07/22/13.

being removed from his cell on a stretcher.³⁰

This prisoner was told that he would not be transported to the hospital unless he admitted to having made alcohol. He ultimately relented and lied to satisfy the guards, because he believed he would die otherwise.

Anthony Brown, 1969-2012 (Lewis)

Phoenix news station KPHO reported that Mr. Brown's widow, Jami Brown, had filed a wrongful death lawsuit against Wexford for her husband's death. She clearly chafed at the characterization of her husband's death resulting from "natural causes." "Nothing natural about a 42 year old man that laid there for three or four days and died slowly. There's nothing natural about that."³¹

Her investigation into the circumstances of his death reveals a disturbing lack of response on the part of medical staff to a person clearly in a medical crisis:

"On the Friday after her last visit, Anthony Brown came down with a severe migraine headache. "The pain got worse, the pain got worse," Jami Brown said. "He was vomiting and his balance was off and he fell." She said her husband and other inmates were begging for medical help, but that corrections officers blew them off. "There were probably 15 to 20 officers and medical staff that had seen him in that condition and not one person did their job. Not one," she said."

The lawsuit claims:

- "Tony died a painful, tortuous, and barbaric premature death"
- "...[staff] denied Tony medication he was prescribed, ignored obvious signs of serious skull fracture and at one point refused to so much as examine Tony."³²

The autopsy report, obtained by AFSC, states that Mr. Brown died of "complications of metastatic esophageal cancer." The report notes that he had completed chemotherapy and radiation therapy, but that his prognosis was poor due to metastases in his lymph nodes and possibly his bone.³³

However, the evidence provided in the lawsuit indicates that, although the cancer was present in his body, Tony Brown may have actually died from the injuries he sustained when he fell, and from a lack of emergency treatment for those injuries. The autopsy notes "Blunt Trauma" including:

- Abrasions and contusions of skin of head, torso, and extremities
- Subgaleal [the inner lining of the scalp] contusions (two)
- Small linear fracture of right supraorbital bone, skull base³⁴

It is significant to note that the Medical Examiner listed the cause of death as "complications of esophageal cancer" rather than the cancer itself. The autopsy summary notes:

30 Lopez v. Ryan, Case 4:13-cv-00691-RCC, Filed 07/22/13.

31 Adam Longo, "Woman claims inmate husband died after lack of medical help," KPHO, October 12, 2012.

32 Adam Longo, "Wrongful death lawsuits could cost Arizona taxpayers millions," KPHO October 9, 2013.

33 Maricopa County Medical Examiner, Autopsy Report, Anthony Brown, October 12, 2012, Case 12-06133.

34 Maricopa County Medical Examiner, Autopsy Report, Anthony Brown, October 12, 2012, Case 12-06133.

“Abnormal behavior, including agitation and combativeness can be seen in association with profound hypoglycemia. Hypoglycemia, often refractory, can be seen in association with advanced cancer, including gastrointestinal cancers.”

It appears that the Medical Examiner attributed the fall and resulting skull fracture to these “complications.” However, if the allegations in the lawsuit are true, the cause of death may actually have been the unreasonable delay in treatment.

ADC (and its contractors) fails to provide necessary medication and medical devices to prisoners

Medications:

AFSC and other prison advocacy organizations have received numerous complaints regarding delays, interruptions, and outright denials of necessary medications. Taken together, these letters present a clear indication that there are significant problems with distribution of medications in the Department of Corrections.

According to a medical professional currently employed by Corizon (previously by Wexford, and before that by the Arizona Department of Corrections), serious and sometimes life-threatening delays in provision of medication have continued under Corizon. He reports that medications are typically two to three weeks late. This includes asthma medications. The pharmacy is located in Kentucky and is owned by Corizon. He believes he distance is largely responsible for the delays.³⁵

MEDICATIONS AT ADC ARE TYPICALLY TWO TO THREE WEEKS LATE.

The following represents the typical letter to AFSC regarding medications. It has been edited to remove personal and confidential medical information.

“I have severe chronic degenerative spinal disease throughout my entire spine that causes me debilitating pain. I have MRI’s to verify this. On 8/13/13, I saw the in-house healthcare provider. He renewed my Rx for [medication] but decreased the dose from the effective dosage of 3600 mg/day to the ineffective dosage of 1800 mg/day because he said Corizon will not let him prescribe above 1800 mg. He also renewed my other pain med. Both Rx’s were written for 120 days. On 9/13/13, the nurses refused to give me the second medication and claimed the Rx had expired on 9/12/13.”³⁶

Two days later, AFSC received a second letter from the same prisoner.

“Today the Corizon nurse refused to give me my other prescribed med. [The prescription] does not expire until 11/13/13, so there is no excuse for them not giving it to me. How do they get away with this? Doesn’t anybody care?”³⁷

He reports that this has been an ongoing problem, and indicates that, rather than a clerical error or minor oversight, it is actually the result of Corizon’s standard procedures:

“The pharmacy does not deliver the next month’s supply of medication before the current month runs out. So if my [medication] supply runs out on the 19th, the 30 day supply often does not

³⁵ Personal Communication, Anonymous 1. August 24, 2013.

³⁶ Personal Correspondence, Prisoner 1, September 15, 2013.

³⁷ Personal Correspondence, Prisoner 1, September 17, 2013.

arrive for days to a week later, causing me to go completely without my pain medication, even though the Rx is valid and not expired.

A second problem is that when an Rx does expire, medical staff wait until it expires before starting the renewal process. This can take anywhere from a couple days to a couple months.”³⁸

If this account is accurate, it would seem that these interruptions in medications are completely avoidable and the situation easily remedied.

Ronald Gene Ferguson (Tucson Complex)

Mr. Ferguson, age 57, has contacted Faith Lutheran Prison Ministry for assistance with multiple medical problems. He is confined to a wheelchair due to a back injury. The following is an account, pieced together from emails and excerpts of his letters over the course of a year.

“Today [March 14, 2012] I received a very sad letter from Gene, and in it he tells of the almost unbearable pain from a dislocated shoulder. He had been denied assistance in transferring from his wheelchair, and was injured in a fall. I believe that was at least three weeks ago. He finally was x-rayed about a week ago, but has not received any care. He needs bladder surgery and is in pain from that too. He has written requests for medical care, but he suspects that they are screened and not sent in. He has not received the care he needs. While the bladder surgery is frightening, he also knows that without it chances of survival are slim. A friend in his unit just died.”³⁹

On July 6, Gene wrote:

“I just spoke to the med pass nurse, and I have no pain medication (that was 4:17 pm, 7/6/12). I asked for the name of the medical supervisor or the Facility Health Administrator or anyone in authority with Wexford and no one, and I mean no medical staff or security staff knows who is in charge of medical here at Tucson... there are 8 other inmates here in the “hospital unit” (HU 9) that don’t have medications (ie: IV antibiotics, blood pressure meds, psych meds; so far I am the only one in need of pain meds.)”⁴⁰

Gene also wrote that the charge nurses and the doctor spent the entire day (7/3/12) on the phone and on the computer trying to get pain meds for him and cancer medication for another inmate. They were not successful. They could not locate anyone who would claim authorization to resolve the problem, not even temporarily.”⁴¹

After waiting several years and suffering painful infections from catheters, Mr. Ferguson received surgery to remove his bladder. He was supposed to see the doctor for a follow-up visit, but this was never scheduled. In June of 2013, he wrote the following:

**“I AM STARTING TO
THINK CORIZON WANTS
ME DEAD.”**

“I was beginning to feel better, then 2 days ago, they stopped my pain medication. This new doctor we have... He had them stopped, no step down. I’ve been taking these, methadone, for almost 8 years...

38 Personal Communication, Prisoner 1, September 30, 2013.

39 Personal communication, Faith Lutheran, March 14, 2012.

40 Personal communication, Faith Lutheran, July 16, 2012.

41 Personal communication, Faith Lutheran, July 16, 2012.

30mg 3x's a day to nothing. I started vomiting at 12:30 today when I ate lunch. It's 1 PM and I am still dry heaving 30 minutes later. This morning my back and shoulder pain were so bad I could not even sit up myself. I finally had to have the CNA help me up, get me dressed and into my wheelchair...⁴²

Now they want me to get out of bed without assistance or I'm going to go hungry because my food has been left in the food slot, eight ft. away from my bed. For some reason, Corizon has me in their spot light. They stopped another medication. My Coumadin, the blood thinner I was put on because of the blood clots (DVT) in my legs. This new doctor did not ask why I was on it, talk to me, or allow me to ask questions, [discontinued] the med yesterday. No one told me until 5 PM today. I am starting to think Corizon wants me dead."⁴³

Shawn Smith (Florence, Lewis)

Mr. Smith is 39 years old and confined to a wheelchair. He has been writing to the Faith Lutheran Church's Prison Ministry program, seeking assistance.

"In a recent letter Shawn described how he was suddenly moved to Whetstone in Tucson on Dec. 26th. After arriving there, the medical staff and people in charge at Whetstone realized they could not accommodate all of his ADA [Americans with Disabilities Act] needs, and on the same day he was returned to Florence.

While being returned to Florence, a stop light changed and the driver slammed on the breaks. Since Shawn was not secured in the wheelchair, he fell out of the chair, and broke his right leg in two places and his left in one. It took three days before medical was convinced that they were broken. Shawn then spent three days in a hospital and then left to lie in bed for 6 months after the breaks in his legs were taken care of.

He has been promised "an air mattress, a fat boy bed, and a shower chair" but has not received any of these items. He is especially worried about bed sores. He had to have surgery and bone removed to get bed sores healed. It was a painful process."⁴⁴

ADC (and its contractors) employs insufficient health care staff

Understaffing:

In the Tucson Complex, which is now the designated complex for prisoners requiring medical and mental health treatment, the staffing levels have actually gotten *lower* since Corizon was awarded the contract. There is only one MD for the entire complex. Despite the fact that the complex houses only men, this doctor is an OB-GYN. There are four new Nurse Practitioners, all recent graduates. The psychology unit previously had 8 Psychologists. Corizon laid off six and hired one PRN. The initials stand for "pro re nata," a Latin phrase that roughly translates to "as needed" or "as the situation arises." A PRN employee works when called, to fill in for an absent employee or to cover a special situation. The unit previously had seven Psychiatric Nurses, but Corizon laid off all seven. The company then hired two who have little experience in psychology.⁴⁵

42 Personal communication, Faith Lutheran, June 7, 2013.

43 Personal communication, Faith Lutheran, June 7, 2013.v

44 Personal communication, Faith Lutheran, January 17, 2013; and August 19, 2013.

45 Personal Communication, Anonymous 1. August 24, 2013.

II. Even if prisoners see health care providers, they do not receive adequate medical, dental, or mental health care

Benny Joe Roseland (Florence)

Mr. Roseland is 59 years old, held in the Central Unit in Florence. Below is an excerpt from a letter dictated to a fellow prisoner:

“I’ve had a hernia for about five years now, which I incurred while in ADOC custody. About two years ago, after little to no treatment for it, it started to hurt pretty much every time I got out of bed. When I got up to walk, either long distance or to the bathroom, it hurt. I kept putting in HNR’s [Health Needs Requests] and about a year and a half ago I was sent to the hospital twice for assessment. They (the “street” doctors) said that I definitely needed an operation, but that it needed to be approved by Central Office. Central office said that they wouldn’t do anything until it strangulated... The medication they finally gave me was Naproxen. I took it for a couple of weeks and it really didn’t do any good.

During that time period, my chest started hurting. First, just a few minutes a day, then a half an hour, then an hour or two and so on. I thought it might be the Naproxen...I went back to medical and was seen by... the same doctor who prescribed the Naproxen. He told me that it wasn’t the Naproxen giving me the chest pain, but that he would schedule me for an EKG. He never did schedule me and about two months later, my chest hurt so bad that I thought I was going to die...

Two weeks later I started throwing up... the guards took me up to the main medical center on complex. They put me on an EKG, told me that my heart was good for someone my age, but that I had acid reflux and that’s why my chest was hurting... I continued to throw up and the pain got worse... the following Wednesday after breakfast, I returned to the housing unit and threw up six times...

They sent me to the outside hospital. The first thing they did was take blood from me. They came back in less than an hour and said they had bad news for me. I had a tumor (softball sized) in my left upper chest. After more x-rays and a CAT scan, they took a biopsy... They told me I have terminal cancer, with 2-6 months to live.”⁴⁶

Ernesto “Ernie” Lopez, 1957-2013 (Tucson Complex)

Mr. Lopez was admitted to Tempe St. Luke’s Medical Center on December 26, 2012 and evaluated for a liver mass (tumor). However, once he was discharged back to the prison, he received none of the recommended follow up. He was sent back to the hospital on January 8, 2013, “because his LFT’s [Liver Function Test] were getting worse and he was deteriorating.” At that time, the hospital staff noted,

“The patient was supposed to follow up [with] pathology and receive a PET scan; unfortunately none of that workup has been done at this time. The patient says that he has requested [but] no oncology consults [have] even been performed at this time either. The patient’s pathology does show that he had metastatic adenocarcinoma, so therefore it is felt that the patient does have cancerous etiology and does need to receive further workup.”⁴⁷

46 Arizona Prison Watch blog, “Cancer in custody: Benny Joe Roseland, 59, is dying to save us money,” August 1, 2013. Letter dated July 3, 2013.

47 Tempe St. Luke’s Hospital, “History and Physical” January 8, 2013.

He was released again on January 17, and discharged back to the prison infirmary. The discharge summary states “the patient needs immediate follow up with oncology service for possible palliative chemotherapy and follow up as an outpatient with oncology.”⁴⁸

It is unknown at this time whether any of the follow up treatment was provided. Mr. Lopez died in prison almost exactly one month later, on February 18, 2013.

Travis Watson (Yuma)

Mr. Watson is a 38 year old who is fortunate enough to have a mother who is a registered nurse and who actively advocates on his behalf. She contacted the American Friends Service Committee seeking assistance with a disciplinary matter that relates directly to her son’s medical problems. The case reveals how delayed and/or insufficient medical care can have far-reaching impacts on a prisoner’s life, beyond their physical health.

His mother has extensive documentation of Mr. Watson’s numerous requests for treatment, recommendations for treatments or procedures that were never provided, and medical reports that demonstrate the severity of his condition.

Mr. Watson underwent chemotherapy in January of 2011. The following April, he first complained of difficulty urinating, and this problem has continued to the present day. He is only able to urinate 1-2 times per day, and a post-void catheterization revealed that he was unable to empty his bladder completely. He has submitted numerous HNR’s, and the condition has been noted repeatedly in his medical files. He was prescribed several medications for the problem. During several visits to medical staff other tests were ordered but never done. He was finally seen by a urologist in November of 2012, and diagnosed with an enlarged prostate, hypotonic bladder, and enlargement of the lobes of the bladder. The urologist and other medical providers have recommended that Mr. Watson have a follow-up Urodynamic Study, which has not been done to this day.

In the meantime, Mr. Watson has gotten at least two major tickets for “refusal” to submit urine for a drug test. Despite his repeatedly explaining to the guards that he is unable to urinate, and the medical staff’s longstanding knowledge and documentation of this fact, he has not been able to get these tickets overturned. All visitation and phone privileges have been taken from him for months as punishment for his “refusal.” Mr. Watson has never had a positive drug test during his incarceration.

ADC (and its contractors) fails to provide prisoners with care for chronic diseases and protection from infectious disease

Tuberculosis Outbreak at Whetstone Unit in Tucson

On August 22, 2013, a prisoner was sent to the hospital because he was coughing up blood. He tested positive for Tuberculosis (TB). The Whetstone yard is a large minimum security unit housing 1,200 prisoners. Many of these prisoners are permitted to work outside the prison during the day. Therefore, it is possible that this prisoner infected others in the community. It is unclear whether or when the Department of Corrections notified the Health Department that there had been an outbreak.

48 Tempe St. Luke’s Hospital, “Discharge summary,” January 17, 2013.

The yard from which the affected prisoner had come was “quarantined” for only one day. On this day, the prisoners were not sent out on work detail. However they were permitted to go to meals, recreation, and classes with the other prisoners. In addition, family visitation was conducted as usual for the weekend of August 24th. The quarantine was lifted on Tuesday, August 20th, and the prisoners returned to work in the community *without being tested for TB*.⁴⁹

Over the objections of medical staff, Corizon decided not to test any other prisoners. Staff were told that, if the prisoner who tested positive continued to test positive a third time (a second test was already positive), then they would consider testing just a few prisoners who lived or worked close to him.⁵⁰

This clearly represents a threat not only to the health of the prisoners and staff in the facility, but also endangers public health. Prisoners who may have been exposed to TB have had visits with their family members, including small children. They have also left the prison to work in the community, putting untold numbers of people at risk.

ADC (and its contractors) fail to provide timely access to medically necessary specialty care

Mackie McCabe, 1956-2013 (Tucson Complex)

According to the Arizona Department of Corrections press release, Mr. McCabe “died June 2 at the University of Arizona Medical Center from apparent natural causes.”⁵¹ The autopsy report from the Pima County Medical Examiner, provides a pathologic diagnosis of metastatic liver carcinoma.⁵²

In fact, Mr. McCabe died of medical neglect. He had been diagnosed with cancer for over one year, but both Wexford and Corizon denied him a referral for cancer treatment. For the last three months of his life, McCabe had been rendered completely unable to speak and was confined to a wheelchair, assisted by fellow inmates in his activities of daily living. Formerly a robust man, he literally shrank in size, rapidly losing weight and muscle mass.⁵³

“TO SAY THAT I’M TERRIFIED WOULD BE AN UNDERSTATEMENT. BUT I SIMPLY DO NOT KNOW WHAT TO DO.”

A letter Mr. McCabe sent to the Prison Ministry program at Faith Lutheran Church shortly before he died demonstrates the fear and desperation prisoners experience when their medical concerns go unaddressed:

“On or about January 19, 2012, I was seen and diagnosed by an Oncologist Specialist at the Maricopa Medical Center as having Cancer of the Liver. The Oncologist also informed me that since it was still in its early stages, he felt it could be successfully treated and recommended that a Biopsy be performed as soon as possible.

Upon my return to the Tucson Complex, (after having been in the custody of the Maricopa County Jail awaiting the adjudication of a separate case), on February 27, 2012. After a six-month delay the recommendations from the outside hospital was finally followed. I have since then submitted several

49 Personal Communication, Anonymous 1, August 24, 2013.

50 Personal Communication, Anonymous 1, August 24, 2013.

51 Arizona Department of Corrections, Inmate Death Notification, June 6, 2013.

52 Pima County Medical Examiner, ML 13-01441 External Examination Report, Case # 2013-040329. June 3, 2013.

53 Personal Communication, Anonymous 1, August 24, 2013.

Health Needs Requests (HNR's), have followed up with three Informal Resolution requests as follows: 08/27/12, 11/27/12 and again on 01/18/13. I have been recommended to see another Oncologist Specialist by three separate prison doctors all to no avail.

I am a 58 year old man who is classified as SMI [Seriously Mentally Ill], my mental impairment is such, that I recognize that without the assistance of an advocate helping me to maneuver through this web of misdirection, confusion, and uncaring medical caregivers, I will simply be allowed to continue deteriorating at a fatally unhealthy rate. To say that I'm terrified would be an understatement. But I simply do not know what to do."⁵⁴

Clearly, in the time he spent waiting for corrections and its contractors to act, the cancer spread and became terminal. It is reasonable to conclude that if Mr. McCabe had been treated promptly and according to the recommendations of the oncologist, he could be alive today.

ADC (and its contractors) deny mentally ill prisoners medically necessary Mental health treatment, including proper management and administration of psychotropic medication, therapy, and inpatient treatment

Defendants deprive suicidal or self-harming prisoners of basic mental health care

Between 2011 and 2012, there were 19 confirmed suicides in the Arizona Department of Corrections. This was noted as being 60% higher than the national average. Research conducted by the American Friends Service Committee found that **there have been 8 suicides in ADC in just the first eight months of 2013.**

The majority (five) of these occurred in maximum custody units. Two occurred in "close" custody units, which are the second highest security yards and feature some of the same restrictive elements, including being confined to their cells for 22-24 hours a day. The main difference is that maximum security inmates are single-celled. Here is the description of the two custody levels, from the ADC policy manual:

"Maximum Custody—Inmates who represent the highest risk to the public and staff and require housing in a single cell setting. These inmates have limited work opportunities within the secure perimeter and require frequent monitoring. These inmates require escorted movement in full restraints within the institution.

Close Custody—Inmates who represent a high risk to the public and staff. These inmates shall not be assigned to work outside the secure perimeter of an institution. These inmates require controlled movement within the institution."⁵⁵

An investigation into the use of long-term solitary confinement conducted in 2007 by the American Friends Service Committee reached the following conclusions:

1. **Prisoners in supermax units have higher rates of mental illness.** People with mental illnesses are more likely to wind up in supermax because their symptoms cause them to repeatedly break prison rules, resulting in a gradual increase in their security classification. *One in four prisoners in the Arizona Department of Corrections' Special Management Unit is mentally ill.* A study of Washington

54 Personal Communication, Faith Lutheran, January 23, 2013.

55 Arizona Department of Corrections, Department Order 801: Inmate Classification.

state prisoners similarly found that prisoners with mental illness were five times more likely to be placed in supermax.

2. **Supermax units are damaging to prisoners' mental health.** Mental Health experts have found that long-term isolation conditions have exacerbated and even *produced* mental illness in otherwise healthy people. Supermax prisoners can develop a syndrome involving visual and auditory hallucinations, hypersensitivity to noise and touch, paranoia, uncontrollable feelings of rage and fear, and massive distortions of time and perception. Studies have also found that supermax confinement increases the risk of prisoner suicides. New York State found that 53 percent of all mentally ill inmates in supermax confinement had attempted suicide.⁵⁶

Nelson Johnson, 1981-2012 (Florence Complex)

Mr. Johnson committed suicide on July 1, 2012, less than two months after he arrived at Florence. A Phoenix prisoner advocacy group reported that he “had such severe symptoms of schizophrenia and depression that before he hung himself in his cell in Florence prison, he attempted to starve himself to death and had to be tube-fed. According to his family, he was feeling unsafe in the general population and was desperate to get into protective custody; they don’t know if he had been assaulted or if some other trauma triggered his panic. Nelson was in an isolation cell when he died.”⁵⁷

Mr. Johnson was 31 years old. He was serving a sentence of one year and nine months for “resisting arrest.”⁵⁸

Dale Hausner, 1973-2013 (Eyman Complex)

Clearly, Mr. Hausner, popularly characterized as a “serial shooter,” is not a particularly sympathetic character. According an ADC press release:

“Hausner was serving a death sentence after being convicted of 80 crimes, including six counts of 1st degree murder, attempted murder, aggravated assault, cruelty to animals and other charges.”⁵⁹

However, Mr. Hausner’s recent suicide raises grave concerns regarding the treatment of mentally ill and suicidal inmates in ADC. The autopsy report reveals that the cause of death was amitriptyline intoxication. Amitriptyline is an antidepressant. The toxicology report reveals positive results for amitriptyline, at a concentration of 13348 ng/ml. The therapeutic range is listed as 10-250. He also tested positive for Noritriptyline, but no concentration was given.⁶⁰

Mr. Hausner was on death row for the severity of his crimes. He had been battling with his defense attorneys because he wanted to waive his appeals and be executed as soon as possible. At the time of his death, his attorneys were attempting to arrange for a hearing to determine whether he was competent to waive his appeals.

56 Matthew Lowen et al, “Buried Alive: Solitary Confinement in Arizona’s Prisons and Jails,” American Friends Service Committee, Arizona. 2007.

57 Arizona Prison Watch blog, “Victims of Despair and Suicide,” August 10, 2012.

58 Arizona Department of Corrections, “Inmate Death Notification,” July 2, 2012.

59 Arizona Department of Corrections, Media Advisory, “Pinal County Medical Examiner Releases Report on Hausner’s Death,” July 11, 2013.

60 Pinal County Medical Examiner, “Dale S. Hausner, ML 13-01623, Autopsy Report,” Case # 2013-030099, June 21, 2013.

The *Arizona Republic* reported that “Hausner had attempted suicide before, in jail in December 2006, four months after he and his codefendant, Samuel Dieteman, were arrested at their Mesa apartment...”⁶¹

The article goes on to say,

“A prison spokesman said that he could not say whether Hausner had a prescription for the drug because of the investigation and because he could not release medical information.

Randy Hausner said that, to his knowledge, his brother was not being treated with the drug. Tim Agan, who was one of Hausner’s defense attorneys during his trial, said, “He’s been thinking about suicide for years.

Agan said it was an open secret on Death Row that Hausner was hoarding drugs.

“My understanding is the other inmates knew it was coming,” Agan said.

And a friend of Hausner’s from outside the prison told *The Arizona Republic*, “He told me a few times that he was able to get things in there.”⁶²

Clearly, Mr. Hausner was a known suicide risk. As discussed earlier, amitriptyline is a highly toxic medication that has led to numerous patient deaths. This, combined with the persistent problem of drug trafficking inside prisons, should lead any medical provider or prison administrator to exercise extreme caution. If Hausner had a prescription for this medication, he should have been watched closely whenever those medications were administered so that he could not hide the pills in his mouth (commonly referred to as “cheeking”) in order to hoard enough to kill himself. And if he purchased them from other prisoners for whom they were prescribed, the same is true of those other prisoners—they should have been closely monitored for the same reason. Unfortunately, the internal ADC investigation into Hausner’s death did not assess this issue or provide any documentation to indicate exactly how he obtained the medications.

61 Michael Kiefer, “Death of Phoenix serial shooter Dale Hausner ruled a suicide,” *Arizona Republic*, July 11, 2013

62 Michael Kiefer, “Death of Phoenix serial shooter Dale Hausner ruled a suicide,” *Arizona Republic*, July 11, 2013

Conclusions and Recommendations

The quality of medical care in the Arizona Department of Corrections has worsened since Parsons v. Ryan was filed in March of 2012.

It is evident from the documentation provided in this report that the problems are not limited to a few isolated locations, “bad apples,” or individuals. They are the result of policies, organizational culture, and an operating model that prioritizes cutting costs over delivering adequate and timely care.

This report presents data collected on 50 deaths that have occurred in the first eight months of 2013 as well as 14 detailed case studies. A review of the complexes on which these prisoners live(d) reveals that problems with medical care are widespread throughout the Department of Corrections. Deaths, case studies, and/or suicides detailed in this report occurred on eleven of the fifteen Arizona Prison Complexes.

Complex	Case studies	Deaths	Suicides
1. Tucson	5	15	1
2. Florence	3	14	2
3. Eyman	3	8	4
4. Perryville	1	2	1
5. Lewis	1	2	0
6. Yuma	1	1	0
7. Kingman	0	3	0
8. Phoenix	0	2	0
9. Winslow	0	1	0
10. Safford	0	1	0
11. Douglas	0	1	0

Some complexes had higher numbers of fatalities and other concerns. These tended to be those with high populations and/or medical facilities. Those complexes located in “medical corridors” or having medical facilities onsite would logically house more sick prisoners. They are also the units where more medical staff are located and medical procedures are supposed to be performed. It may be that the high concentration of deaths is simply due to having more sick inmates in these locations. However, it may instead be an indication of the dysfunction of the medical system itself. Further investigation is needed to determine where the breakdowns occur and how the state can address the problem in a meaningful way.

One thing is clear: **These problems cannot be corrected through privatization.** This report provides evidence that the cost-cutting, bottom-line focus of for-profit prison medical providers stands in conflict with the public interest and civic nature of Corrections, and directly contributes to delays, denials, and insufficient medical care. Contracting out the medical care at ADC has resulted in more bureaucracy, less efficiency, and decreased quality of care. What is required to correct the problem is transparency and accountability. Privatization functions only to hinder those processes.

The situation may be summed up with this truism: “Pay now or pay later.” Prisons and medical care are inherently expensive. As any health care professional will attest, the best way to save money in medicine is through preventive care. Treating conditions early is vastly less expensive than waiting until the disease progresses to a crisis point, requiring surgery and more aggressive therapies and medications.

'Paying later' in this case refers not only to the expenses associated with treating advanced and chronic conditions, but also to the cost of defending the state against wrongful death lawsuits and larger class-action suits such as *Parsons v. Ryan*. KPHO in Phoenix reported recently on just two wrongful death suits on behalf of deceased prisoners' families that could cost Arizona taxpayers millions of dollars.⁶³

The American Friends Service Committee is limited in its ability to access the documents necessary to fully assess the scope of the problem and to identify solutions. Nevertheless, the issues documented in this report make a strong case that the situation in our state prisons has reached a crisis point and requires immediate intervention.

There appears to be no independent or public oversight over the contracts, the performance of the contractor, or over the Department of Corrections. As it stands now, it is up to the Department of Corrections to monitor and hold accountable the contractor, Corizon. As a publicly-traded for profit corporation, Corizon is not held to the same standards as a state-run agency, and therefore is not required to make any information available to the public. The Department of Corrections Director answers to the Governor, making this appointment inherently political.

The fact that it required a small, non-profit agency to complete this review and raise these issues is a testament to the need for independent oversight and public accountability for both the ADC and any for-profit contractors it may employ.

Based on the findings in this report, the American Friends Service Committee makes the following **Recommendations:**

- 1. That the Arizona Auditor General immediately initiate an audit and independent investigation into the issues raised in this report.** The Auditor General should complete the report within six months, and this report should be made available to the public. In the future, such audits should be completed on a regular basis, at least biannually, to ensure that care remains at acceptable levels.
2. If the results of the Auditor General's investigation confirm that there are systemic deficiencies in provision of medical and mental health care, **the Governor's Office should act immediately to ensure these issues are immediately addressed and insist that ADC be in full compliance with established medical practices and standards of care.** Any correctional or contract staff found to be responsible for these problems should be held accountable, including senior administration.
- 3. That the Arizona State Legislature permanently reinstate and reconstitute the Joint Select Committee on Corrections** and expand its purview to any and all contracts held by the Department of Corrections and the contracting entities.
- 4. That the legislative requirement for privatization of medical care at ADC be immediately rescinded and any contracts cancelled as quickly as possible.**

The findings in this report are intended as a call to action for state leaders and to Arizona taxpayers. While some may argue that those who commit crime are not deserving of quality medical and mental health care,

63 Adam Longo, "Wrongful death lawsuits could cost Arizona taxpayers millions," KPHO October 9, 2013.

the Constitution of the United States says otherwise. Governments and societies who choose to imprison their citizens then become responsible for their wellbeing.

While our society's prevailing "throw away the key" attitude would have us forget about those serving time behind bars, the reality is that over 90% of prisoners come home. It is in the public's interest to ensure that they return to our communities healthy, mentally sound, and able to reintegrate and become productive citizens once again.

Appendix

Deaths in ADC Custody Investigation Results

Date of ADC Notification	Last	First	ADC#	Age	Complex	Year Admitted	Reason: ADC Notification	Autopsy Result	Investigation	Other Source
3/27/2012	Hunt	David	109305	36	ASPC-Lewis	1992	Under investigation	Amitriptyline intoxication. Manner of death is "Accident."	Another inmate slipped pills under cell door—11 percocet and 10 gabapentin.	
4/26/2012	Venegas	Joseph	#185473	29	ASPC-Yuma	2010	Under investigation	N/A	Injured during 'horseplay' with other inmates, later complained of pain in his side. Two weeks in pain, difficulty breathing, not eating. Refused to go to medical. Autopsy redacted.	
4/17/2012	Dickson	Velma	#033766	58	ASPC-Perryville	1983	Under investigation	Complications of large thyroid follicular adenoma	Requested 8/23/13	
10/11/2012	Brown	Anthony	#077701	43	ASPC-Lewis		Under investigation	Metastatic esophageal cancer		KPHO: Wrongful death lawsuit claims he was denied medication, staff ignored a serious injury, and refused to examine him.
2/1/2013	Dawson	Charles	#067938	56	ASPC-Phoenix	2007	Unknown causes;	Hypertensive and atherosclerotic cardiovascular disease, refused tx	Requested 8/23/13	
2/19/2013	Sweepe	Robert	#093822	63	ASPC-Tucson	1992	Unknown causes	Coronary arteriosclerosis, MI	Requested 8/23/13	
2/22/2013	Lopez	Ernie	#133681	55	ASPC-Tucson	2010	Apparent natural causes	Metastatic adenocarcinoma		Hospital discharge paperwork: No follow up at ADC after last hospitalization
3/12/2013	Guevara	Rafael	#254097	23	ASPC-Lewis	2010	Unknown causes;	Heroin overdose		
4/4/2013	Church	Gary	#039345	53	ASPC-Florence	2003	Unknown causes.	Atherosclerotic and hypertensive cardiovascular disease; MI	Requested 8/23/13	
4/10/2013	Lee	Billy	#037490	54	ASPC-Tucson	2008	Apparent natural causes	Metastatic gastric carcinoma		
4/16/2013	Jeffrey	Charles	#212819	38	ASPC-Tucson	2010	Apparent natural causes	Metastatic Hodgkins Lymphoma		SOAP note: Delay in receipt of lab results
4/26/2013	Clark	Russell	#059997	53	ASPC-Tucson	2009	Apparent natural causes	Metastatic lung cancer		
6/6/2013	McCabe	Mackie	#049597	57	ASPC-Tucson	2007	Apparent natural causes	Metastatic liver carcinoma		
6/19/2013	Hausner	Dale	#240702	40	ASPC-Eyman	2009	Suicide	Amitriptyline intoxication		

Index:

Drug related

Heart disease

Cancer