

Criminal Offences, Incarceration and Huntington Disease

Sometimes people with Huntington disease (HD) find themselves in conflict with the law. Their symptoms and responsive behaviours induced by HD may be a factor in the criminal offences for which they have been charged. If someone is charged with a criminal offence, here are some potential legal arguments you could review with legal counsel, for the development of a defense case.

**** Please note: This fact sheet is not intended to be legal advice. You should consult your lawyer.**

Huntington disease (HD) is a hereditary, neurodegenerative illness with neurological, cognitive and psychiatric symptoms. There are a few symptom-specific treatments, but there is no cure for the illness. Symptoms generally worsen over time. Every child of a person with HD has a 50% chance of inheriting the gene which causes the illness. As a result, numerous family members in successive generations are usually afflicted with the illness.

When do Symptoms of HD Appear?

- Symptoms usually occur between the ages of 30 and 50 years old, but **subtle changes can be present - often many years** before a diagnosis can be obtained.
- Symptoms are **variable and unpredictable**, and there is no way to foresee their onset/severity.
- Psychiatric symptoms can be brought on by traumatic life events.

Symptoms of HD (Behaviours) That Can Lead to Interactions with Law Enforcement

- Lack of impulse control and lack of inhibition
- Poor judgment and poor decision-making
- Memory impairment: difficulties learning new things, diminishing short term memory and information retrieval
- Mental disorganization, reduced speed of mental processing and communication (slower response time)
- Anxiety, irritability, temper outbursts, lowering of tolerance for frustration, reduction in flexibility, exaggeration of responses
- Broad involuntary movements (chorea) and/or rigidity resulting in loss of control of the body, loss of balance and coordination and loss of fine-motor coordination, frequent falls; stress can increase involuntary movement
- Slurred speech (mistaken for being under the influence), loss of speech, inability to verbally communicate
- Diminished ability to initiate activities and inability to foresee consequences of behaviour

Sometimes the symptoms and behaviours of HD can lead to criminal charges including (but not limited to) careless or impaired driving, assault, sexual assault, indecent acts, theft, or uttering threats.

Resources Available

- You may wish to consult with a **neurologist or psychiatrist** - ideally a specialist in HD.
- You may want to work with a **lawyer**, either private or court-appointed. The Huntington Society of Canada Resource Centre Director or Family Services Worker and/or a specialist in HD may be able to work with your lawyer, community organizations and legal aid supports to help them understand HD and how it impacts behaviour. Informing the lawyer of the opportunity to consult with these specialists would be beneficial.
- *What is HD?* and *What are the Symptoms of HD?* Fact Sheets are available on the HSC website. More in-depth information on HD is available in the HSC's [A Physician's Guide to the Management of Huntington Disease](#).

Arguments Against Sending People with HD to Prison

- Cognitive abilities are significantly impaired and will make life in prison highly challenging.
- Further progression of the disease during a prison stay, or symptoms already subtly present and undetected, **could cause serious behaviour problems**. Prison systems typically require compliance and tend to lack patience for “bad behaviour” (regardless of the reason).
- Prison would likely have **no remedial effect** on behavioural symptoms like irritability, aggression, reduced impulse control and impaired judgment, which are a part of the illness and generally beyond the control of a person with HD. A stay in prison would likely make those symptoms worse. Due to increased impulsivity and the inability to plan ahead, the consequences of a choice/action will have little impact on the decision-making process.

Some Alternatives to Court and Prison

Some provinces may have programs in place that may allow people with mental illness to use alternatives to the court and prison systems. These alternative programs are not available in all areas. You can consult your local Resource Centre Director or Family Services Worker for information on programs available in your area.

Consulting with lawyers before sharing information is suggested as it is important to note that any information shared with the office of the attorney-general could be used in a court setting.

Things to Consider if Facing Incarceration

In some instances, it may not be possible to avoid prison. Should that be the case, it is worth considering the following points, which could improve the quality of life of the person with HD.

- Plan with nursing and social work staff in the prison. The person with HD will need to be medically assessed upon arrival. Ensure that a list of medications is provided to medical staff. Consider creating and posting a profile sheet for staff and visitors with essential information about the person with HD.
- Due to potential vulnerabilities, a person with HD may not function well among the general prison population and may require protective custody, segregation or a medical cell.
- The change of routine and stress can exacerbate psychiatric and behavioural symptoms.
- People with HD are at heightened risk for suicide and should be monitored carefully in the prison system.
- Dietary needs – increased caloric intake is required; specialized food consistency (thickened fluids and soft foods to help with swallowing difficulties) and extra time to eat because of diminishing fine motor coordination – may not be met during incarceration. This can lead to rapid and significant weight loss and increase the risk for choking and aspiration incidents.
- Due to involuntary movements and potential falls, people with HD should be on a bed that is lower to the floor, not on a top bunk.
- Additional safety aids should be considered (e.g. grab bars, seats) in shower areas to increase safety
- Suggest that prison staff consult regularly with family members, for example, regarding strategies for calming the person with HD.
- Invite the Huntington Society of Canada to provide educational in-service sessions and ongoing consultation for staff in the facility.

In conclusion, people with HD have a complex, neuropsychiatric disorder which makes it challenging when facing criminal offences and incarceration. A multidisciplinary approach including HD specialists is encouraged.