

Medico-legal issues of body packing: what do clinicians need to know?

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Internal concealment and transportation of illegal substances by means of body packing is a major business with very high profits, attracting criminals all over the world. Body packing is a well-known method of international drug trafficking, and Europe represents the fastest growing market for cocaine and heroin transported through this method [1, 2]. As a result of their strategic position in Europe, countries such as Italy and Switzerland represent some of the main drug gateways to Europe and are important crossroads for international drug trafficking (especially via body packing).

Drug trafficking organisations dominate the drug market and have well-established international links to other trafficking regions, such as South America and Africa [3]. As body packers are rarely arrested, it is difficult to quantify what proportion of the general population they form and, consequently, to identify the countries involved in this kind of drug traffic; the percentage of undetected cases is undoubtedly high [4]. Body packing nowadays represents an ever-changing topic, presenting new challenges to police forces and researchers and raising important medico-legal issues.

One important practical aspect is currently described in *Swiss Medical Weekly*. In an interesting study, Heymann-Maier et al. [5] investigated the management of body packers reported in an emergency department in the Canton of Bern, Switzerland. Their work offers the opportunity to further analyse some medico-legal issues that are important for both clinicians and emergency department personnel. In particular, when dealing with people suspected of body packing, there is very frequently a disparity between the medical purpose of hospital care and police priorities, which focus on obtaining legal proof of drug concealment. Among these disparities, the most challenging issues concern:

- radiation exposure in screening of suspected body packing;
- different strategies adopted by body packers to alter radiological findings;
- false positive or negative findings and their effect on the liberty of suspected body packers;
- the opportunity to report a body packer to the authorities;

– the potential security problems encountered by health-care workers in treating body packers.

One of the most important medico-legal issues concerns the indication for performing a radiological examination in suspected body packers. This problem is handled in various ways, depending on the country; before examining a person suspected of drug smuggling, clinicians should be familiar with their country's legislative framework regarding the use of imaging techniques without medical indication. The legislative framework differs across Europe and, more generally, across the world [6, 7]. In some countries (e.g., Hong Kong) informed consent must be obtained prior to the radiological examination, whereas in other countries (e.g., the United Kingdom, Sweden), informed consent is not required and radiological examinations may be performed at the request of a customs officer or following a judicial injunction.

A very helpful document about this topic is one provided by the European Atomic Energy Community (Euratom) [8] concerning the protection of individuals from the dangers of ionising radiation in relation to medical exposures. According to this directive, exposure due to medico-legal procedures, defined as "those procedures performed for insurance or legal purposes without a medical indication", is a subcategory of medical exposure. Therefore, radiation protection in this area is covered by the common legal framework for protection of patients and individuals participating in health screening, occupational health surveillance or biomedical research programmes. The aim of the directive was to ensure that individuals subjected to medico-legal procedures were guaranteed the same type of protection as patients [9].

Despite efforts to provide a clear definition of "medico-legal exposure" in the Euratom directive, from a practical point of view it is not always easy to decide which exposures are really medico-legal and which are not. The definition contained within the directive is not sufficient to solve this problem. For example, some countries use a plain X-ray in suspected body packers, whereas others use computed tomography (CT) scans [10], which result in a potential dose of the order of milliSieverts. Because the CT is carried out as if it were a medical exposure, a dose limit is not

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applied; if this were considered to be a public exposure, a dose limit of 1 mSv would be applied.

In order to justify the use of ionising radiation, it has been argued that the detection of drugs within the body is potentially advantageous to the individual exposed because of the life-threatening consequences of the packages rupturing within the body. However, the rate of package rupture is very low and, for this reason, it is questionable whether this argument is valid, as the primary motivation for the exposure is unlikely to be related to the health of the individual being exposed. As a consequence, a number of issues arise and it is not clear if the current framework concerning medico-legal exposures is appropriate for such complex issues.

With regard to the strategies adopted by body packers to prevent the radiologist from obtaining radiological images, we should note that, in the majority of cases, body packers initially cooperate with radiologists and give their informed consent to undergo radiological examination. After this initial cooperation, they usually try to compromise the image quality and sabotage the examination by moving, becoming agitated or beginning to breathe rapidly. Another strategy, recently adopted by drug trafficking organisations, is the use of different materials, such as aluminium foil, plastic food wrap or carbon paper, in the packaging procedure to reduce the radiodensity and minimise the risk of detection, and/or increase the number of false negative imaging findings.

As a result, we face another relevant medico-legal issue: the effect of a false negative (or false positive) finding on the liberty of suspected body packers. A false negative finding will allow the release of the suspected body packer and the successful delivery of the drug, which will be sold in the drug market [11]. A false positive finding will result in deprivation of liberty for the suspected drug smuggler, raising both an important ethical dilemma and considerable extra costs owing to the unnecessary detention.

On the issue of whether or not to report body packer to the authorities, different legislation concerning the commitment to reporting drug smugglers to the authorities exists across the world. This heterogeneous legislation poses important dilemmas for clinicians, especially in those countries where laws on this topic are absent or scarce and body packing is frequent (e.g., the Caribbean islands) [12].

In the absence of clear legislation, the decision to report a body packer to the authorities is left up to clinicians, who may have different views on informing the authorities. In these countries, any decision to disclose to authorities is determined on an individual basis depending on the clinician's ethical viewpoint and guided by hospital policies. Some clinicians believe that, in the absence of a credible threat of violence, there is insufficient reason to override patient-physician confidentiality solely on the basis of the crime committed or the amount of illicit drugs involved [2].

It is noteworthy that the absence of legislation permits the drug trafficking organisations to force doctors to not report the presence of a body packer to the authorities and to give back the drug extracted from the body packer. This type of intimidation puts enormous pressure on healthcare workers, who are usually unprepared [12].

Given all the above-mentioned issues, and considering the risks related to body packing, we should solicit international, coordinated action in order to respond with adequate standards to this phenomenon, and propose shared legislation to control it.

It should be kept in mind that drug trafficking not only generates new criminal organisations and strengthens those already involved in the territory, but also contributes to producing and developing the supporting systems around them – overcoming national borders and allowing the development of trans-border criminal networks that manage all phases of the drug trafficking chain.

The study by Heymann-Maier et al. [5] emphasises that clinicians need to become more familiar with the medico-legal issues of body packing, especially in consideration of the great impact that their actions or non-actions may have on the drug smuggling, directly or indirectly. In this complex context, the paper that is the subject of this editorial is also a valuable reminder that more research is needed, as large gaps remain in our understanding of the medico-legal issues of body packing.

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