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# Marketing Antipsychotics to Correctional Facilities: A Review of Pharmaceutical Industry Documents

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## Abstract

This retrospective qualitative review describes the marketing of antipsychotics by pharmaceutical companies to prisons and jails to increase prescribing. This review relied on internal pharmaceutical industry documents released in litigation and stored in the Drug Industry Documents archive at the UCSF Industry Documents Library. At least two pharmaceutical companies directly marketed antipsychotics to correctional facilities to increase sales, using targeted promotions and indirect “educational” advertising and by seeking control of state advisory boards that made formulary decisions. Further research on how medications are marketed is needed, along with stronger conflict-of-interest policies to reduce industry involvement on advisory boards that approve medications. National regulations that restrict pharmaceutical manufacturers from involvement in formulary decisions and prescribing guidelines would likely improve the provision of health care to people who are incarcerated.

**Keywords:** drug industry, antipsychotics, mental health, prisons, vulnerable populations

## Introduction

Prisons and jails in the United States have become de facto mental hospitals (Torrey *et al.*, 2014); 37% of people incarcerated in prisons and 44% of those in jail reported mental health diagnoses (Bronson & Berzofsky, 2017) and 32% of incarcerated adults are prescribed psychiatric medications (Pew Charitable Trusts, 2017). People with mental health disorders may be involuntarily committed as a treatment strategy (Torrey *et al.*, 2014). The U.S. Supreme Court determined in *Washington v Harper* (1990) that correctional facilities could involuntarily medicate inmates without external judicial review and at least 31 states have since instituted policies to do so (Torrey *et al.*, 2014).

Involuntary medication policies raise multiple ethical concerns and among these is the risk that people who are incarcerated will become a captive market for pharmaceutical manufacturers. Aggressive pharmaceutical in-

dustry marketing of antipsychotics has been identified as a risk factor for overprescribing in nursing homes, where residents may also be involuntarily medicated (Pimentel *et al.*, 2015).

Studying the potential effects of industry marketing on use of products is challenging in part due to difficulties in collecting data (Bero, 2003; Pimentel *et al.*, 2015). Research on other industries has addressed this limitation by reviewing internal documents released in litigation, a strategy identified after journalists began reporting on industry documents in the popular media (Bero, 2003). Academic research has expanded on this strategy by using industry documents to identify ways that industries propose inappropriate treatment with the goal of increasing sales and profits (Bero, 2003). These findings have been critical in generating changes in policy and practice that protect public health (Bero, 2003).

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This article leveraged internal pharmaceutical industry documents to assess the extent to which companies have marketed antipsychotics to correctional facilities, hypothesizing that, similar to nursing homes, prisons and jails were targeted with campaigns intended to increase prescribing.

## Method

This qualitative review relied on pharmaceutical industry documents drawn from the UCSF Drug Industry Documents archive (UCSF Industry Documents Library, 2022). The archive was created in 2005 and originally housed documents from a lawsuit regarding off-label marketing filed against Parke-Davis. Over time it has expanded, archiving additional documents released in lawsuits related to medications such as opioids, antipsychotics, antidepressants, blood products, and nonsteroidal anti-inflammatories, among others. As of June 2021, it contained more than 512,000 pages in 15,909 documents.

A search for documents relevant to the research question was conducted December 2020 using the keywords “prison,” “jail,” and “corrections.” Snowball methods were used to find additional documents using author names and project titles. As this article focused on antipsychotics, documents related to other medications (e.g., painkillers and blood products) were excluded. The only documents referencing antipsychotics identified in the search were released in two lawsuits related to the drugs Risperdal (risperidone) and Zyprexa (olanzapine). Documents identified were organized by manufacturer, statements about goals and marketing plans were summarized, and quotes were extracted to illustrate key points.

The research was conducted using an existing dataset that can be accessed freely by the public without special permission or application; as a result the information is not defined as “private” and was excluded from institutional review board assessment on the grounds that it did not involve human subjects.

## Results

From 1999 to 2003 Janssen (a subsidiary of Johnson & Johnson) and Eli Lilly pharmaceutical companies marketed two competing medications labeled as treatments for schizophrenia and bipolar disorder: Risperdal (Janssen) and Zyprexa (Eli Lilly). The content of the reviewed documents indicated that promoting both drugs to correctional facilities was critical to corporate sales strategies.

Janssen’s 2000 business plan proposed as an objective that “Risperdal will be the antipsychotic treatment of choice for both psychotic and non-psychotic disorders” (Janssen, 1999, p. 1; the two on-label indications for Risperdal were psychotic disorders). The company indicated that

Timely identification and management of Risperdal business opportunities, threats, and vulnerabilities will be essential. Reimbursement managers will establish productive working relationships with payers in ... Department of Corrections ... with the overall goal of maximizing Risperdal’s formulary position and business growth (Janssen, 1999, p. 13).

These efforts were successful. In 2002, Janssen’s business plan indicated that *public health systems and reimbursement*, which included correctional facilities and Medicaid programs, accounted for 85% of Risperdal sales, and that “Department of Corrections (DOC) opportunities for Risperdal are determined to be greater than \$300M [million]” (Janssen, 2002, p. 20). In 2001, the company generated \$15 million in increased sales in correctional facilities by successfully lobbying to make Risperdal the preferred drug on state prison formularies in 13 states (Janssen, 2002).

Janssen explained that it had achieved “100% exposure to ... top 20 correctional facilities ...” (Janssen, 2002, p.23; terms such as “top 20” were generally used to refer to the size of the potential market, suggesting this was a reference to correctional facilities with the largest populations) by creating state profiles, hosting business dinners with key decision-makers, advocating at trade meetings, creating educational programs, and organizing and joining advisory boards that made formulary decisions (Janssen, 2002).

The company indicated that it had also “Influence[d] at least three treatment algorithms for schizophrenia and psychoses (favorable to Risperdal) ...” (Janssen, 2002, p. 22) by developing guidelines that were implemented in six states. Representatives from the company promoted Risperdal by offering educational programs for credit, participating in criminal justice advisory board meetings, and joining journal editorial boards (Janssen, 2002).

Janssen’s proposed 2003 strategy built on the company’s past accomplishments. The company sought to “Grow existing DOC and County Jail Risperdal business. ... Achieve [an] increase of \$5.0M v. 2001, [and] formulary decisions favorable to Risperdal...” (Janssen, 2002, p. 22).

Eli Lilly took a similar approach in marketing Zyprexa. In its 2002 marketing “Playbook” the company noted that “Prisons” represented a “10–20% growth” opportunity for Zyprexa (Eli Lilly and Company, 2002, p. 10). Sales representatives for Eli Lilly were tasked with joining advisory boards to promote use of Zyprexa (Eli Lilly and Company, 2002). The playbook indicated that “A foundational element of the brand strategy is to capture patients by providing dependable control in the Prevent Threat and Stabilize segments, many of who [sic] are seen in the

Institutional setting. ... City/State/Federal Correctional facilities (jails and prisons)...” (Eli Lilly and Company, 2002, pp. 9–10).

The company reported that sales to correctional facilities generated \$41 million annually, noting that sales were stable because the average length of incarceration was 3,090 days, an “Increased length of therapy which will increase revenues” [relative to state hospitals, which had an average length of stay of 180 days, and community hospitals, which had an average length of stay of 15 days] (Eli Lilly and Company, 2002, p. 22 [see p. 11]). The company viewed selling to prisons and jails as critical.

There are both capture and retain opportunities in this [Corrections] segment... Prisons will be an opportunistic segment in 2003. We will expand our presence in prisons through the dedicated Sales manager and Representatives. Increased activity, focus, and targeted promotions ... will be utilized to grow share in this segment. For example, several regional advisory boards are planned as well as a specific promotional video and Zydis promotional material (Eli Lilly and Company, 2002, p. 12).

The company expressed particular optimism about selling to the institutional segment, which includes prisons and jails, given that it felt that “... in this segment, Zyprexa’s brand liabilities of weight gain and diabetes are less relevant” (Eli Lilly and Company, 2002, p. 19). The same goal was emphasized in a presentation given by Eli Lilly’s executive vice president of operations indicating that correctional institutions represented a “point of capture” (Mayr, 2002, p. 6). Company representatives were aware that Zyprexa was used off-label and that people who were incarcerated were not necessarily taking it by choice, commenting favorably on articles that noted that staff psychiatrists at these facilities were using antipsychotic drugs for “... thought or mood control” (Lemons, 2003, p. 5).

## Discussion

Medications account for 15% to 32% of state department of corrections budgets, and antipsychotics are some of the most expensive (Pew Charitable Trusts, 2017). This article found that, historically, both Janssen and Eli Lilly directly marketed antipsychotics to correctional facilities to increase sales, using targeted promotions and indirect “educational” advertising and by seeking control of boards that made formulary decisions. This marketing of Risperdal and Zyprexa, particularly for off-label uses, did not go unnoticed and led to multiple lawsuits in 2012, including one claiming that manufacturers defrauded the Texas state Medicaid program, settled for \$158 million, and another for marketing practices by Janssen, settled for \$181 million (UCSF Industry Documents Library, 2022).

However, these settlements did not directly address marketing to correctional facilities and as a result peo-

ple who are incarcerated remain at risk. In 2010, Astra-Zeneca paid \$520 million in a settlement to resolve claims by the U.S. Department of Justice that it inappropriately marketed the antipsychotic Seroquel to multiple federal programs, including the Bureau of Prisons, by sponsoring speakers, ghostwriting research, and offering illegal payments to providers (U.S. Department of Justice, 2010). In 2018 and 2019, media reports suggested that pharmaceutical manufacturers, including Janssen, were using similar tactics to market long-acting psychiatric injections directly to prison administrators (Blau, 2019; Dale, 2018). Research on the use of antipsychotics in prisons suggests that they continue to be used inappropriately, with the goal of controlling behavior (Hassan *et al.*, 2016; Sawa, 2014).

This article has limitations. Documents released in legal discovery are not necessarily complete, and industry statements may overstate their own effectiveness. Nonetheless these findings provide new information about industry strategies intended to target people who are incarcerated, a uniquely vulnerable population.

These results suggest that further research on these practices is needed, along with stronger conflict-of-interest policies to reduce industry involvement on expert advisory boards that approve medications. Policymakers and administrators of correctional facilities should also consider establishing guidelines that would reduce their exposure to industry representatives, given that some pharmaceutical marketing has historically been more focused on increasing sales than promoting health. In the longer term, national policies that restrict pharmaceutical manufacturers from involvement in formulary decisions and prescribing guidelines would likely improve the provision of health care to people who are incarcerated.

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## Author’s Note

The data set supporting the conclusions of this article is available in the UCSF Drug Industry Documents archive, <https://www.industrydocuments.ucsf.edu/drug>. Unique persistent identifiers are provided for each cited document in the list of references. The funder had no role in the design or conduct of the article.

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