

# The Psychological and Legal Aftermath of False Arrest and Imprisonment

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**False arrest and imprisonment can be an extraordinarily stressful psychological trauma. This is clearly demonstrated in the evaluation of forensic cases alleging false arrest and imprisonment, a review of the recent forensic psychiatric literature and reported legal cases. A clinical vignette is presented that illustrates the psychological trauma and sequelae associated with false arrest and imprisonment. Psychiatric treatment of these individuals is discussed. A number of these cases are litigated.**

False arrest and imprisonment can be an extraordinarily traumatic event. The author's evaluation of three cases, and a review of the recent forensic psychiatric literature and reported legal cases, clearly demonstrate that serious psychological impairment may follow false arrest and imprisonment. These cases are frequently litigated.

Although no clear pattern emerges, a common scenario begins with a knock on the door and the totally unexpected confrontation with the police serving an arrest warrant for an alleged crime. The individual is summarily arrested, taken into custody, handcuffed and placed in the back of a police vehicle, sometimes in front of distraught family and shocked

neighbors. In some cases, even newspaper reporters and TV cameras may be present. Following booking and mugging, the victim of a false arrest may be placed in jail, unless bond can be posted immediately and release obtained.

If immediate release is not obtained, the false arrest victim who is often utterly confused and terrified must face the dangers of jail, some of which can be lethal. For example, the risk of suicide within the first 24 hours of incarceration is well known.<sup>1</sup> Moreover, approximately 50 percent of suicides are completed within the first 24 hours of incarceration.<sup>2</sup> Fears of physical and sexual assault with the possibility of contracting the HIV virus are very real. If the false arrest victim is alone in a cell, fear and exhaustion may further heighten feelings of isolation, terror, and helplessness. Time sense is often lost. Jail receiving procedures such as mass

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showers, delousing, being required to wear jailhouse clothes, and inedible food may produce a profound sense of humiliation and threat to one's personal identity. Being unexpectedly wrenched from one's normal, expectable existence and plunged into the sheer terror of imprisonment without apparent reason is a highly traumatic, Kafkaesque experience. This extreme, abrupt discontinuity in a person's life experience is capable of producing psychiatric disorder, particularly dissociative disorders.<sup>3</sup>

Most imprisonments following false arrest do not exceed 24 hours. The error is usually discovered within that time and the individual is released. Meanwhile, the arrest may be reported in the papers and on radio and TV.

The following fictional though representative, vignette illustrates the psychological trauma and sequelae frequently associated with false arrest and imprisonment:

Mr. X, a 53-year-old corporate executive, is awakened at 5:30 a.m. by loud knocking on his door. He answers the door in his pajamas, finding himself confronted by police who serve him with an arrest warrant and immediately handcuff him. Mr. X is arrested for extortion and attempted murder. Mr. X vehemently denies the charges. He is not allowed to call his attorney. His 17-year-old son is charged with resisting an arrest when he tries to intervene on behalf of his father. Mr. X's wife is left screaming at the door. TV reporters were alerted that the arrest would take place. TV cameras record the scene. Neighbors

congregate and watch Mr. X being led away by the police.

Mr. X is booked at the police station. Mug shots are taken. Mr. X is forced to take a group shower with other prisoners. He is deloused and given jailhouse clothes to wear. He is allowed to call his attorney. Mr. X is placed in a cell by himself. He begins to experience a severe headache, an indication that his blood pressure is elevated. Mr. X asks the guard to call his physician and quickly obtain his blood pressure medication from his home. By the time his physician is reached, Mr. X is having additional symptoms of dizziness, nausea, and blurred vision. No clock is visible. Mr. X loses track of time. His lawyer appears an hour after being called but it seems like many hours to Mr. X. By this time, the authorities recognize that they arrested the wrong person and release Mr. X. The officers apologize.

For three weeks following the arrest, Mr. X experiences flashbacks and nightmares of the arrest and incarceration. The flashbacks occur when someone comes to the front door and knocks or rings the bell. Mr. X refuses to open the front door, usually leaving the house by way of the back door. Six weeks after the accident, Mr. X is gradually able to read the newspaper and watch television. Over time, the flashbacks and nightmares abate. Mr. X is left with residual symptoms of anxiety and depression.

Mr. X and his family begin to receive crank calls after the false arrest incident. Some former friends and neighbors shun Mr. X and his family. Despite the fact

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that Mr. X is totally exonerated, he feels that doubt has been cast upon his good character. Coworkers frequently joke with him about the incident. They call him by the name of the person who was subsequently arrested. Although he takes the joking good naturedly, he is constantly reminded of the false arrest and the emotionally painful consequences. Mr. X's son is taunted by some of his peers while others support him. Mr. X's wife continues to feel embarrassed and ashamed, avoiding her former friends in the community. Mr. X and his family decide to relocate to another community.

### **Psychological Consequences**

Many individual factors determine the psychological response of the false arrest victim. Preexisting psychiatric disorders, previous experiences with the criminal justice system, unresolved guilt, personal coping styles, the ability to handle the helplessness and dissonance of a bizarre personal experience ("This can't be happening to me."), and the presence or absence of supportive relationships are just a few of the factors that influence psychiatric outcome following a false arrest. The actual circumstances of the arrest, the trauma to family members who cannot comprehend what has happened, personal embarrassment and humiliation ("treated like a criminal"), adverse publicity, and the incarceration experience itself are significant psychological stressors. The family itself may be so traumatized as to be emotionally unavailable to the arrest victim on his or her release.

The clinician must be careful not to assume, however, that persons falsely arrested automatically will exhibit symptoms of a psychiatric disorder. Some individuals who have been arrested a number of times are relatively unshaken and familiar with the experience of being jailed. In the clinical vignette, Mr. X's symptoms of PTSD remitted within three weeks of his arrest. The DSM-III-R criteria for the diagnosis of this disorder requires symptoms to be present beyond one month.<sup>4</sup> A few persons who are falsely arrested and imprisoned may show no significant symptoms of psychological distress or psychiatric disorder. Others may exhibit transient psychological symptoms. Persons predisposed by previous psychiatric illness may show an exacerbation or recurrence of prior symptomatology or even the development of a new psychiatric disorder. On the other hand, even predisposed persons may show no significant psychological consequences from a false arrest alone. False arrest in combination with imprisonment, however, is a highly traumatic experience for most people.

A variety of psychiatric disorders may eventuate from a false arrest and incarceration experience. The dissociative disorders are by far more frequent. Post-traumatic stress disorder (PTSD), adjustment disorders, generalized anxiety disorder, and dysthymic disorder also arise with some frequency. A prolonged, florid psychological response that incapacitates the individual points to the likely presence of preexisting psychiatric conditions. The exception arises when the person falsely arrested endures ad-

ditional psychological and physical abuse either during the process of arrest or during the actual incarceration. Moreover, a preexisting psychiatric or medical condition for which the person is receiving ongoing treatment may become acute or life threatening, especially if needed medications are unavailable or if medical attention is not promptly obtained. In the clinical vignette, Mr. X's hypertensive condition dramatically worsened. Headache, dizziness, nausea, and blurred vision significantly complicated and amplified the traumatic stress of the arrest and incarceration.

In addition to the acute trauma of a false arrest and imprisonment, long-term consequences ensue that are pathogenic themselves, prolonging the symptoms surrounding the acute trauma. For example, the false arrest victim may not be able to "live down" the experience. People often continue to ask questions. He or she may become the butt of jokes or experience outright ridicule. Crank calls add to the trauma. Once news of the arrest appears in the newspaper, or even on radio and television, a humiliating notoriety is achieved. As a result, individuals in high-profile jobs may be summarily fired. When a person is falsely arrested, some neighbors, acquaintances, and even friends may begin to question his or her integrity, wondering whether a criminal act was committed.

The person who is falsely arrested often becomes a reminder to others that life is not safe and predictable. The "knock on the door" can happen to anybody, even in this country. False arrests are particularly threatening to guilt-rid-

den persons who expect to be punished in some fashion. For these and other reasons, former friends and neighbors, sometimes even family members, react with lingering disapproval and avoidance of the falsely arrested person. It is not unusual for the entire story to resurface at a later date in the media following the arrest or trial of the person who was arrested subsequently. The continuing publicity can reignite quiescent psychological symptoms. The family may not be able to get over its sense of embarrassment and shame. Some persons who have been falsely arrested decide to move away with their families in order to start their lives over.

### **Psychiatric Intervention**

The immediate management of the person who is falsely arrested and incarcerated bears certain similarities to that of the newly released hostage victim. Like hostages who have been taken prisoner, the falsely arrested and imprisoned person appears to need an initial period of psychosocial decompression and protection from the media.<sup>5</sup> Both family and victims should have the opportunity to psychologically assimilate the traumatic experience in a protected situation that is clinically supportive. Lindy<sup>6</sup> coined the infelicitous term "trauma membrane" to describe the protection afforded by the family of the psychologically traumatized individual from the intrusive inquiry of others.

As with the hostage, clinical follow-up is important. Although the false arrest incident is over, the psychological consequences may persist for long periods

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of time. Unlike former hostages who are treated with respect or even are honored as heroes on their release, the falsely arrested persons may be treated with suspicion and, sometimes, even with disdain. Hostages are not stigmatized because they are viewed as being unjustly imprisoned by antisocial individuals operating outside of the criminal justice system. The false arrest of a person by duly empowered authorities entrusted with protecting the public produces an uncomfortable psychological dissonance. Thus, the person who is falsely arrested may continue to be viewed with suspicion despite his or her proven innocence.

Denial in the form of "business as usual" after the person is released from jail must be supportively confronted. Most patients will respond to brief conservative treatment, support and "tincture of time." Acutely, the use of psychodynamic psychotherapy may add insight to injury, increasing the psychological burdens of the patient. Insight psychotherapy may be beneficial, however, for the person who develops a chronic psychiatric disorder following false arrest or who experiences a recrudescence of a childhood trauma.

### **Litigation**

Recovery for mental distress on the claim of false arrest or imprisonment has been recognized for many years.<sup>7</sup> The tort of false arrest protects and vindicates the individual's freedom from unwarranted interference with his or her liberty.<sup>8</sup> Damages may be awarded for mental injuries that include embarrass-

ment, humiliation, and anxiety.<sup>9,10</sup> This article does not discuss cases of persons involuntarily hospitalized who bring claims of false imprisonment.

In litigation, the psychiatrist must consider a number of factors that are not necessarily pertinent in the clinical context. The purported injuries to the litigant are usually damage to his or her reputation and violation of civil rights. The presence of a mental disorder should not be assumed to have occurred from the alleged false imprisonment. The alleged incident of false arrest must be carefully investigated. The psychiatrist cannot rely only upon the reporting of the litigant. Employment, school, military, police, and other records should be obtained as part of the forensic examination. Whenever possible, other individuals who may have information pertinent to the litigation should be interviewed.

The possibility of suppressed or distorted information, denial of prior difficulties, or outright malingering must be actively considered.<sup>11</sup> Perr<sup>11</sup> found that the diagnosis of PTSD was strikingly misused in his cases of alleged false arrest. The precipitating event and subsequent symptoms bore no relationship to the requirements of the current diagnostic system. Clinicians should consider proposed standards for the forensic psychiatric examination of PTSD litigants.<sup>12</sup>

### **Conclusion**

The experience of false arrest and imprisonment is a traumatic psychological stressor. Psychological symptoms vary with the actual circumstances of the

arrest and incarceration as well as the susceptibility of the person to this specific stress. Crisis treatment approaches should be considered initially. The assumption that serious psychiatric sequelae are inevitable, however, must be avoided. When legal claims of false arrest and imprisonment are alleged, multiple sources of information concerning the litigant must be reviewed as part of a credible forensic psychiatric examination. Treatment and expert roles should be kept separate.<sup>13</sup> A high index of suspicion must be maintained for exaggeration and malingering.

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