

Preface

The first national HIV/AIDS in prison conference held in Australia took place in November 1990. Demand, in Australia and overseas, has encouraged the Australian Institute of Criminology to print a second edition of the conference proceedings. Some of the developments which have occurred since November 1990 are outlined in this preface.

The communique issued by the conference was distributed by Professor Bob Douglas of the National Centre for Epidemiology and Population Health to all state politicians and to Federal Ministers with relevant portfolio responsibilities. Detailed reviews of the response to the communique can be found in papers delivered by Professor Douglas and by Dr Sandra Egger at the 'Window of Opportunity Congress' held in Adelaide in December 1991. An HIV/AIDS and Prisons newsletter was produced by the Australian Institute of Criminology in November 1991.

Progress has occurred around Australia in the areas of HIV/AIDS education for prison staff and prisoners, occupational health and safety, research and in epidemiological data collection. In September 1991 correctional staff and representatives from community based organisations from each state and territory participated in a National Train the Trainer Peer Education workshop held in Sydney. HIV/AIDS Coordinators have been appointed by corrective services departments in Queensland and Western Australia. 'Dead Set', a video scripted by prisoners addressing the issues of sexual assault and drugs in gaol was released by the New South Wales Department of Corrective Services. In South Australia, a Communicable Disease Policy and Procedure Manual has been prepared and 'Just Another Day', a video dealing with HIV health and safety issues for prison officers, was produced by the NSW Department of Corrective Services.

Funding has been provided in South Australia for research on the experiences of ex-prisoners with HIV/AIDS seeking accommodation after discharge from gaol; and for a study involving the partners of HIV seropositive prisoners. In an addendum to their conference paper, Dr Matt Gaughwin and his colleagues review recent overseas research on prisoner HIV risk behaviour.

Amongst the recommendations of the 1990 Conference was the establishment of an HIV in prisons database. The National Centre in HIV Epidemiology and Clinical Research, in conjunction with the National AIDS in Prisons Information Clearing House, commenced collecting data on HIV in Australian prisons in the first quarter of 1991.

The most challenging issues addressed in the conference communique have yet to be tackled—in particular, the recommendations for a trial of condom availability and disposal, and a pilot needle exchange program. The important issue of counselling, especially post-test counselling for all prisoners irrespective of HIV serostatus is, generally, still not satisfactorily addressed. Those jurisdictions which were segregating HIV seropositive prisoners solely on the basis of their serostatus continue to do so. Statutory immunity from legal proceedings conferred on prison administrations has not been removed. Finally, methadone programs are not provided in all jurisdictions. In New South Wales, where some 500 prisoners are on methadone, the prison methadone program is under review.

Some other matters should also be recorded. New South Wales commenced compulsory testing of prisoners on reception in three prisons in November 1990. Since that time, compulsory testing on entry has been introduced in all New South Wales prisons and testing on exit is also in place. Preliminary results show an HIV seropositive rate in New South Wales prisons of about 0.5 percent.

In a report released in April 1992 entitled *Discrimination—The Other Epidemic*, the New South Wales Anti-Discrimination Board recommended that prisons legislation be amended to provide prisoners with enforceable rights to reasonable medical care and

treatment. It also recommended the cessation of compulsory HIV testing and, in those limited circumstances in which a prisoner with HIV must be segregated, that he or she should have access to the same services as other prisoners.

The ability of HIV seropositive prisoners to avail themselves of the provisions of anti-discrimination legislation was addressed at the end of 1991 by the Western Australian Equal Opportunity Tribunal. In the case of *Hoddy v. Executive Director Department of Corrective Services*, the complainant, who was HIV seropositive, had been imprisoned in a minimum security facility. The facility made employment, recreation and educational programs available to its inmates but the complainant was not permitted to participate in them. Two preliminary issues were decided by the Tribunal. First, it held that the complainant's condition of persistent generalised lymphadenopathy constituted an impairment under the *Equal Opportunity Act 1984* (WA). Second, it held that the Executive Director of the Department was a provider of services and facilities. It was therefore open to the complainant to complain of discrimination under the Act. After deciding these preliminary matters, the important substantive question of whether the Department of Corrective Services had engaged in discriminatory conduct against the complainant, remained to be determined. However, a settlement negotiated between the complainant and respondent precluded a further hearing.

While governments have been slow to tackle the difficult questions raised during the conference, high-visibility, 'get tough' responses to HIV/AIDS in prisons persist. In New South Wales, the *Prisons (Syringe Prohibition) Amendment Act* was passed in 1991. Although prisons legislation has always contained penalties for contraband, this special legislation provides increased penalties for the introduction or supply of syringes in prison. The penalty is two years imprisonment and the onus is on the defendant to prove that the introduction or supply was lawful.

The last 20 months have witnessed some encouraging developments in the area of HIV/AIDS in prisons. However, the major challenges remain. Current low seroprevalence rates in Australian prisons should not be a cause of complacency or an excuse to avoid addressing complex issues or the wider questions which are posed by the issue of HIV/AIDS in prisons—including questions of illicit drugs policy, prison reform and prisoners rights.

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