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Presidential Advisory Council on AIDS

Prison Issues Subcommittee Conference Call
Wednesday, February 4, 1998

Review of Issues

- Surveillance Recommendation
  This will be submitted to the Prevention Committee and NORA for review prior to final discussion of submission to Council

- Meeting with CDC & DoJ
  Jeremy will contact John Miles and Daniel will see who may be able to participate from Doj or CDC

- International Joint Meeting
  Jeremy will talk to Bob Fogel about this

- Department of Defense
  Mike will contact Lynn Pollen or Bopper Deaton

- Model Programs *ongoing*

- Time needed in Subcommittee
  The committee anticipates needing one session (1.5 – 2 hours) in committee plus 1.5 – 2 hours in meetings with speakers (see above)

- Meeting with NORA Working Group
  Jeremy will see if there will be a meeting Wednesday afternoon 3/18

- Presentation on Assessment *(Please read - 2-pages, following)*
  Questions to be resolved:
  Prioritization of Assessment Issues
  Report-back to full Council

- National Meeting on Prisons - Summers / Thurmon
  Todd has been requested to be on the next conference call
  Stephen will provide information on Bristol-Myers meeting

Remember to send your bio's to Daniel

Next Conference Call:
February 18th, 1998 at 8am *EST*

Committee on Prison Issues
PRESIDENTIAL ADVISORY COUNCIL ON AIDS

PRISON ASSESSMENT FOLLOW-UP MEMO

Full Council Meeting
December 15 -- 17, 1996

Department of Defense
Following upon our recommendation IV.B. (Dec. 1996); The Department of Defense in their memo of March 26, 1997 to Acting Director Goosby indicates that they have been working on the report with an anticipated completion date of April, 1997 pending input from each of the Military Departments.

Health & Human Services
Following upon our recommendation IV.B. (Dec. 1996); the Council needs to see the report dissiminated by HRSA in June 1995 entitled, *"Progress and Challenges in Linking Incarcerated Individuals with HIV/AIDS to Community Services."*

The Council needs the that HRSA specific guidance stating that CARE Act funds should only be used to supplement and enhance existing state programs, particularly state funded drug assistance programs and programs for inmates under the custody of States.

The Council also requests further elaboration concerning the draft policy regarding services for incarcerated individuals. Specifically, (a) how does the policy that *"such individuals are the responsibility of the institution and jurisdiction in which they are confined"* affect individuals in federal jails, (b) How is the use of CARE Act funds monitored when other funding for the pre-release case management and linkage services are unavailable, and (c) How are case management services *"typically including assessment of needs, development of a care plan, referral and follow-up to ensure access to needed services, and an ongoing reassessment of needs,"* monitored and evaluated.

AIDS Education & Training Centers
The Council requests the list of Federal, State and local correctional facilities which received AETC training.

We further request copies of curriculum used in such programs and scheduling information regarding frequency of use.

Department of Justice
We request the Office of National AIDS Policy to again forward them a copy of that report in conjunction with a re-forward of this set of recommendation and assessments.

The response regarding our request for information concerning Discharge Planning (Dec. '96), is hardly adequate, although the Federal Bureau of Prisons does comment upon this in its current report.

Full Council Meeting
April 5 -- 8, 1997

Department of Justice:
We request a copy of the Bureaus official procedures regarding Compassionate Release (January, 1994) and their statistical evaluative records regarding Inmates with AIDS (1990, on).

We also request copies of appropriate statuatory language for review.

Bureau of Prisons
Statistical data on both types of facilities is requested.
What are the plans for the Federal Bureau of Prisons to extend Discharge Planning to inmates in general (non-medical) facilities, specifically in conjunction with local parole boards and community-based agencies?
How is the Bureau working with HHS to "go forward with" standards of care & compassionate release?
What is the timeline?

We are in receipt of the Federal Bureau of Prisons Treatment Protocols manual. We would like to see (a) documentation that it is in use, and (b) documentation from HHS that it is compatible with their Treatment Guidelines.

The statement that protective barriers; "are not medically necessary and, therefore not authorized" is unacceptable in the context of AIDS Prevention. This is underscored by several successful state models where Protective Barriers are available in prisons.

Follow-up Required: We request copies of PS 5270.07 & PS 6100.01 and comment on how these statutes might be revised.

A request for investigation into the viability and effectiveness of improved Substance Abuse Intervention Programs, including Needle Exchange, is needed as well as improved surveillance.

Regarding counseling and psychosocial need of inmated with HIV/AIDS, additional attention to the Special Needs of Women with AIDS, and Hospice Care, must also become a part of the commitment of the Federal Bureau of Prisons.

Hoursing & Urban Development.
Thanks and other housing options for ex-offenders, such as HOPWA, SPNS, USCM, etc.

Proposed Recommendation on Surveillance

The Administration should direct the CDC to conduct an HIV surveillance of all prisoners within the Federal Correcton System. Specific funding shouldbe earmarked for this project. The data should be used to plan for improving health and psychosocial needs of inmates, to develop appropriate prevention strategies, and to make informed decisions with regard to funding allocations *and inmate needs.*

Presidential Advisory Council on AIDS

Prison Issues Subcommittee Conference Call
Wednesday, February 18, 1998 @ 10am EST
Access # : 888 - 422 - 7101 • ext # : 460626
[NOTE: SSS may change this dial-in # -- check your faxes & e-mail]

AGENDA

This meeting will last approximately 1-hour

1. **Welcome and Review**

2. **ONAP Update**

3. **Final Overview of Issues for March Meeting**
   - Surveillance Recommendation - Abel *(see page-2, following)*
   - Meeting with CDC & DoJ - Landau
   - International Joint Meeting - Fogel
   - Department of Defense - Rankin
   - Model Programs - Gerus
   - Time needed in Subcommittee - Montoya
   - Meeting with NORA Working Group - Landau
   - Presentation on Assessment *(Please read - 2-pages, following)*
   - National Meeting on Prisons - Summers / Thurmon

6. **Adjournment**

Next Conference Call:
As Needed

BRIEFING DOCUMENTS

FEDERAL BUREAU OF PRISONS
ONAP PRISON ISSUES

March 9, 1998

○FBOP BACKGROUND

Mission Statement The FBOP protects society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, and appropriately secure, and which provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

Personnel	29,654	
Institutions	90	
Total Population	109,716	98,573FBOP 11,143Contract
Security Levels	5	Minimum(Camp), Low, Medium, High, Administrative (Penitentiary)
CCCFs	600	(Community Corrections Contract Facilities) 6 Regional Offices, 13 Management Center Administrator, 29 Community Correctional Management Offices

○PACHA RECOMMENDATIONS

December 15-17, 1997 Meeting

IV.B.1 **FBOP/DOD Report-**

Request for a comprehensive and specific report from the FBOP and the DOD, within 90 days , addressing the inclusion of HIV/AIDS issues in all services of the FBOP prisons and DOD prisons and brigs (including D.C. jails).

Response-

No response from FBOP or DOD. HRSA responded specifically to case management description.

IV.B.2 **HHS Discharge Planning-**

Request Secretary of HHS develop oversight language appropriate for discharge planning, including accessing benefits)

Response-

HHS responded by explaining their SPNS program (Special Projects of National Significance) as a model program builder for discharge planning.

April 5-8, 1997 Meeting

1. **Compassionate Release-**
   Request the Director of FBOP revise administrative and judicial standards for compassionate release.
   Response-
   FBOP believes their current procedure is sufficient.

2. **Discharge Planning-**
   Request that HHS develop standards for discharge planning.
   Response-
   FBOP concurs with this recommendation.

3. **Standards of Care-**
   Request that the FBOP incorporate the Report from the HHS Panel on Clinical Practices for Treatment of HIV Infections in all correctional medical facilities.
   Response-
   FBOP states that current and future HHS guidelines for the medical management of HIV infections have been and will continue to define the community standard of care for FBOP inmates. Additionally, ten anti-retroviral medications, including all four FDA-approved protease inhibitors have been added to their drug formulary.

4. **Protective Barriers-**
   Request for distribution of condoms and dental dams.
   Response-
   FBOP states that this recommendation is inappropriate since inmate sexual activity is prohibited. (On several conference calls they have also alluded to safety considerations. We have asked for a follow-up.)

5. **Substance Abuse-**
   Request for a report, within 90 days, of the various options for providing comprehensive substance abuse treatments for individuals with multiple diagnoses.
   Response-
   Subject to the availability of appropriations, the FBOP provides residential drug abuse treatment to all eligible inmates. Since the FBOP does not require HIV testing for all inmates, the HIV status of all inmates is unknown.

December 7, 1997 Meeting

1. **National Prison Meeting on HIV/AIDS-**
   For ONAP to convene a community and government meeting on AIDS in Prisons. Include advocates and experts, ex-offenders, representatives of relevant government agencies, correctional health providers and departments, international experts, and other relevant persons or organizations.

PACHA Prison Subcommittee - March 9, 1997

- Still in the process of resolving where they are going as a group.
- They feel stonewalled by DOJ and BOP.
- Willing to wait on their last recommendation (12/7/97 - Natl Prison Meeting) until Fall.
- They want to know what has been dealt with, what DOJ/BOP will not change and move on.
- This is an opportunity for ONAP, DOJ and BOP to help set the agenda for the subcommittee. What specific areas in common exist?

○COMMON GROUND ISSUES TO CONSIDER

❂FBOP v. DOCs

How can the FBOP influence the State DOCs, specifically in the area of standards of care and discharge planning? What mechanisms are already in place?

❂STANDARDS OF CARE

How can we work together in coordination to improve upon the standards of care?

What safety mechanisms are in place to insure these standards are met?

Is there a possibility that a pilot/demonstration project could be agreed to with the AETCs for training in-house?

❂DISCHARGE PLANNING

What safety net is there for those leaving FBOP with HIV? How can we work together to strengthen, and expand if needed, the existing safety net?

What are the standards of care that relate to discharge planning? And more specifically, that relate to Community Corrections half-way house contracts? How are they monitored and enforced?

Is there a possibility of a joint HHS/HUD/FBOP Special Project of National Significance (SANS) for the dissemination of model discharge planning efforts?

Could a model program be instituted through the National Institute of Corrections? (The NIC falls under the FBOP jurisdiction and provides TA, training, and information to State Departments of Corrections.)

U.S. Department of Justice
Office of Justice Programs

Bureau of Justice Statistics Bulletin

August 1997, NCJ-164260

HIV in Prisons and Jails, 1995

Highlights

HIV-positive State and Federal prison inmates

Year	Number	Percent of custody population
1991	17,551	2.2%
1992	20,651	2.5
1993	21,475	2.4
1994	22,717	2.4
1995	24,226	2.3

- Between 1991 and 1995 the number of HIV-positive prisoners grew at about the same rate (38%) as the overall prison population (36%).

- At yearend 1995, 4.0% of all female State prison inmates were HIV positive, compared to 2.3% of male State prisoners.

HIV-positive prison inmates

Jurisdiction	Number	Percent of custody population
New York	9,500	13.9%
Florida	2,193	3.4
Texas	1,890	1.5
California	1,042	.8
New Jersey	847	3.7
Georgia	828	2.4
Federal system	822	.9
Connecticut	755	5.1
Maryland	724	3.4

Based on jurisdictions with more than 700 HIV-positive inmates.

- New York held more than a third of all inmates (9,500 inmates) known to be HIV positive at yearend 1995.

- Of all HIV-positive prison inmates, 21% were confirmed AIDS cases. In State prisons, 21% of HIV-positive inmates had AIDS; in Federal prisons, 16%.

- The overall rate of confirmed AIDS among the Nation's prison population (0.51%) was more than 6 times the rate in the U.S. population (0.08%).

- Inmates in local jails, who have been tested for HIV, report similar HIV-infection rates:

Tested jail inmates who reported results

	Number	Percent HIV positive
All inmates	289,991	2.2%
Male	258,019	2.1
Female	31,972	2.4
White	110,023	1.4%
Black	125,259	2.6
Hispanic	45,759	3.2
Age 24 or younger	81,228	.7%
25-34	116,532	2.1
35-44	70,776	3.8
45 or older	21,455	3.0

From the 1995-96 Survey of Inmates in Local Jails.

- Jail officials in the last national Census of Jails (conducted in 1993) reported that 6,711 inmates were known to be HIV positive and 1,888 had confirmed AIDS. The infection rate was highest in the largest jail jurisdictions.

Prisons

IV.R.1a

Passed on: 12/15/96 **Resolved?** No

The Council requests a comprehensive and specific report be from the Federal Bureau of Prisons, and the Department of Defense within 90 days, addressing the inclusion of HIV/AIDS issues in all services of the Federal Bureau of Prisons (including D. C. Jails) and DoD prisons and brigs. This should minimally include the following

a. Content and frequency of prison staff educational efforts paying particular attention to issues of women at-risk for HIV, substance use, prevention, and the medical management of HIV disease.

Administration Response (DOD) **Date:** 4/23/97 **Formal?** Yes

In a letter to Sandra Thurman, dated April 23, 1997, Ed Dorn, Under Secretary of Defense for Personnel and Readiness, stated the following:

Each Service Secretary has authority to establish and administer necessary correctional facilities under 10 U.S.C. 951. Uniform policies and procedures for the administration and operation of military correctional programs and facilities are contained in DoD Directive 1325.4. A DoD Corrections Council, with representatives from each Service, meets quarterly to discuss issues relating to the administration and operation of correctional facilities and corrections policy. Each Military Department has issued implementing regulations to provide guidance and procedures for its corrections program. These regulations are the Secretary of the Navy Instruction 1640.9B, Department of Navy Corrections Manual; Army Regulation 190-47, Army correctional Facilities; and Air Force Instruction 31-205, Corrections Program.

The Office of the Secretary of the Defense has designated the Army as the Executive Agent for long-term corrections (sentences to confinement over 5 years). The Army currently provides long term confinement to approximately 1,000 Army, Navy, Marine Corps and Air Force prisoners at the U.S. Disciplinary Barracks, Fort Leavenworth, Kansas. Currently, seven inmates are HIV positive.

Pursuant to an agreement with the Federal Bureau of Prisons (FBOP), DoD may transfer up to 500 inmates to FBOP facilities to serve sentences to confinement. The FBOP assumes responsibilities for the costs associated with these prisoners. Currently 161 DoD prisoners are in FBOP facilities. None of these inmates is HIV positive.

The Army, Marine Corps, and Navy operate ten medium-term (one to five year sentences to confinement) confinement facilities. Approximately 1,500 inmates are currently incarcerated in DoD medium term correctional facilities. Nine of these facilities are located in the United States and one is in Okinawa, Japan. The Services have entered into agreements to accept prisoners from other Services in facilities they operate. Presently, three HIV positive inmates are incarcerated in Army medium-level confinement facilities: one is confined at Fort Sill, OK, and two are confined at Fort Know, KY.

Additionally, the Military Services operate 47 short-term correctional facilities. Most of these facilities are located in the U.S.; however, prisons or brigs are also located in Germany, Korea, Spain, Panama, and Japan. These facilities are maintained to incarcerate pre-trial prisoners and those with sentences to confinement of less than one year. Currently, there are no HIV positive inmates at DoD short-term correctional facilities. Initial medical screening includes testing for the HIV virus.

Administration Response (DOJ) **Date:** 11/22/97 **Formal?** Yes

There has been no response given to date from the Federal Bureau of Prisons.

Larry Meachum - OJP -
1,030 HIV+ fed prisons
80% on triple who are eligible
- month's supply on release

Laurie Robinson

Administration Response (DOD) **Date:** 4/23/97 **Formal?** Yes

Continuation

DoD HIV Policies -- Oversight over DoD medical policies and programs is provided through and under the Defense Health Program managed by the Assistant Secretary of Defense for Health Affairs. The Secretaries of the Military Departments are responsible for establishing their respective Service procedures, and standards for the identification, surveillance, education, and administration of personnel infected with HIV, based on and consistent with DoD Directive. The Military Departments Surgeon General are responsible for HIV/AIDS treatment programs and the quality of health care in medical treatment facilities administered by the Department.

DoD Directive 6485.1 sets forth the DoD policies concerning HIV/AIDS. It is DoD policy to control transmission of HIV through an aggressive disease surveillance and health education program. Military members, including those serving in DoD correctional facilities, are screened at least bi-annually for serologic evidence of HIV infection. Individuals who are evaluated as HIV seropositive are provided initial counseling. Each Military Service has appointed an HIV/AIDS education program coordinator to serve as the focal point for all HIV/AIDS education program issues and to integrate the educational activities of the medical and personnel departments.

Military Services must conduct an ongoing clinical evaluation of each active duty service member with serologic evidence of HIV infection at least annually. Appropriate preventive medicine counseling is also provided to all individual patients.

The Army has been designated the lead Agency for infectious disease research within DoD. The Army research program focuses on the epidemiology and natural history of HIV infections in the military; in improving methods for rapid diagnosis and patient evaluations; and on studies of the immune response to HIV infection.

The clinical HIV/AIDS Research Program is funded, managed, and executed from Walter Reed Medical Center Army Institute of Research Division of Retrovirology. Clinical sites include major Service teaching medical facilities and, under a new plan, the number of sites will be expanded to include HIV positive personnel who desire to enroll in such protocols.

The Navy also conducts an AIDS Research Program. The Navy currently has clinical protocols underway at the National Naval Medical Center, Bethesda, MD; the Naval Medical Center, Portsmouth, VA; and the Naval Medical Center, San Diego, CA. Additionally, the Navy has recommended the appointment of a Senior Medical Officer Research Investigator to head a newly created clinical Research Department with the Division of Retrovirology.

In conclusion, relatively few HIV positive inmates are currently incarcerated in DoD correctional facilities. Prisoners diagnosed as HIV positive receive quality health care from trained medical personnel. HIV positive prisoners and correctional facility staff receive training on HIV/AIDS issues. The Military Departments consider the medical condition of HIV positive prisoners as a basis for early release from confinement through the clemency and parole process (see DoD response to IV.R.1d).

Administrative Response (DOD) **Date:** 4/23/97 **Formal?** Yes

In response to IV.R.1a
All of the Services have extensive education and training programs addressing HIV and AIDS. Training programs have been established at each DoD correctional facility regardless of whether there is an HIV positive prisoner population.

Army correctional staff are required to attend annual HIV/AIDS instruction. This instruction is offered through lectures and slide presentation. Content includes definitions, epidemiology, clinical spectrum diagnostic tests, transmission, HIV/AIDS in women, and preventing and managing HIV infection.

The Navy Training Program content includes training on the nature of the disease, how the disease is transmitted, contributory role of high-risk behavior and effective methods of prevention. Current policy calls for annual basic and refresher training, as well as training for new staff as required. Training content and presentation is a responsibility of the Navy Surgeon General. The course content may includes basics in modality.

Marine Corps staff receive HIV awareness training during pre-service and in-service training sessions. Included are universal precautions, blood-borne and air-borne pathogens, and special handling. Awareness classes are conducted for the entire prisoner population.

In the Air Force, all corrections officers and inmates receive training on measures to protect against HIV transmission and medical management during inprocessing. Corrections officers are required to work with the public health office to establish and regularly update training programs addressing these issues.

IV.R.1b

Passed on: 12/15/96 **Resolved?** No

b. Accessibility of all FDA approved HIV/AIDS therapeutic modalities for prison inmates with HIV/AIDS and numbers of prisoners availing themselves of these therapies.

Administration Response (DoD) **Date:** 4/23/97 **Formal?** Yes

HIV positive military prisoners receive the same medical care and treatment that other service members receive. Inmates in advanced stages of HIV will be transported to medical facilities which are able to provide specialized care.

All FDA approved HIV/AIDS therapeutic modalities are available to inmates, limited only by the national availability of the drugs. Treatment modalities for prisoners in Army facilities are prescribed by the infectious disease physicians at Brook Army Medical Center, San Antonio, Texas. Currently, six of the seven infected inmates at the U.S. Disciplinary Barracks in Fort Leavenworth, Kansas, avail themselves of these therapies.

Medical personnel assigned to correctional facilities have medical oversight for all inmates, including those who are HIV positive. Approved medications are administered as prescribed by trained medical personnel.

IV.R.1c

Passed on: 12/15/96 **Resolved?** No

c. Availability of mainstream clinical drug trials for prison inmates, the nature of any access barriers -- and means to remove such barriers, and numbers, sites and principal investigators of these programs.

Administration Response (DoD) **Date:** 4/23/97 **Formal?** Yes

Inmates in DoD correctional facilities may be enrolled in mainstream clinical drug trials. No inmate is currently participating or has volunteered to participate in a protocol. No HIV positive inmate has volunteered to participate in a clinical drug trial.

IV.R.1d

Passed on: 12/15/96 **Resolved?** No

d. The status of quality assurance criteria and certifications, (including nondiscrimination guidelines) with a demonstrable high level of compassionate care available for the ill and dying.

Administration Response (DoD) **Date:** 4/23/97 **Formal?** Yes

Health care is provided to all HIV positive prisoners by military medical facilities. Quality assurance and clinical privilege requirements are the responsibility of the medical facility commander. The Joint Commission on Accreditation of health Care Organizations specifies and monitors strict quality assurance requirements for military medical facilities. Peer review committees at military medical facilities provide accountability.

HIV positive inmates who are terminally ill are admitted to medical treatment facilities for supportive care and are treated no differently than any other terminally ill eligible beneficiary. All the Services have procedures authorizing early release from confinement on conditions of parole and or clemency based on medical needs of an inmate or other compassionate reasons. The Secretaries of the Military Departments have considered requests from HIV positive inmates with advanced disease progression for early release. Several of these requests have been granted. The Services carefully weigh the medical and compassionate needs of these inmates upon consideration for early release through the clemency and parole process.

IV.R.1e

Passed on: 12/15/96 **Resolved?** No

e. Description of case management for prison inmates with HIV/AIDS.

Administration Response (DoD) **Date:** 4/23/97 **Formal?** Yes

Case Management for all DoD inmates currently diagnosed as HIV positive is provided through the Directorate of Treatment Programs (DTP). These services include individual psychotherapeutic counseling and rehabilitation case management, formal group treatment aimed at both crime-specific and non-crime-specific factors, and delivery of organized self growth activities. HIV positive inmates receive extensive psychological testing and development of a comprehensive psychological history to determine individual rehabilitation and mental health needs. A DTP case manager is assigned to each prisoner for counseling and monitoring. Social Work Services personnel are also involved in case management to provide individualized counseling and assistance with issues such as medical health care directives, availability of medication, and specific point of contact for a designated location. Medical personnel assigned to correctional facilities provide case management under the supervision of a Senior Nurse or Medical Officer.

Assessment of Response **Date:** **Formal?** Yes

We appreciate receiving a complete response from the Federal Bureau of Prisons to one out of ten items in this recommendation and look forward to other complete responses.

Administration Response (DHHS) **Date:** 4/5/97 **Formal?** Yes

The Health Resources and Services Administration (HRSA) has several programs to help address the HIV related needs of incarcerated populations. Historically over the last six years, numerous local communities and States, under Titles I and II of the Ryan White CARE Act, have identified HIV positive incarcerated individuals as a priority population in terms of linking those about to be released to essential health and supportive services in the community (such as primary care, drug reimbursement and housing) prior to their release. In addition, four programs received Title II CARE Act funding as Special Projects of National Significance to develop model programs that address the linkage of incarcerated and recently released inmates with HIV/AIDS and their families to community-based services. This combination of efforts has demonstrated considerable success in linking inmates to medical and community services, providing support to people who are trying to change behaviors and reacclimate to community norms, and reducing recidivism rates related to parole violations and medical compliance. A report was disseminated by HRSA in June 1995 entitled, "Progress and Challenges in Linking Incarcerated Individuals with HIV/AIDS to Community Services".

Recently, the Office of the Inspector General issued a draft report, "Audit of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Title II, Administered by the Health Resources and Services Administration," which included a recommendation that HRSA issue specific guidance that CARE Act funds should only be used to supplement and enhance existing State programs, particularly State funded drug assistance programs and programs for inmates under the custody of the States. The Division of HIV Services, the organizational unit within HRSA that administers Titles I and II of the CARE Act, has established a Policy Review Board with responsibility to develop and disseminate program guidance and direction for grantees. It does so in conjunction with the Office of General Counsel, HRSA AIDS Advisory Council and Office of Grants Management, and with a public comment period.

The Division of HIV Services has a draft policy regarding services for incarcerated individuals with a clear understanding that such individuals are the responsibility of the institution and jurisdiction in which they are confined, not Federal CARE Act funding/programs. However, it also acknowledges that where other funding for pre-release case management and linkage services is unavailable, CARE Act funds may be used to provide case management services to HIV positive incarcerated individuals who are about to be released with the purpose of linking them to essential health and support services in the community. Such case management services typically include assessment of needs, development of a care plan, referral and follow-up to ensure access to needed service, and an ongoing reassessment of needs.

Additionally, the AIDS Education and Training Centers (AETC) Programs provide funding for training programs in correctional facilities. During the period June 1, 1995 - May 31, 1996, the AETC network conducted 289 programs on HIV/AIDS care in Federal, State and local correctional facilities. These educational and training programs were attended by 2, 863 health care providers from the correctional facilities.

During 1995 to 1996, several additional AETC HIV/AIDS training programs specifically were targeted to health care providers in Federal, State and local correctional facilities, were transmitted by satellite and down linked into correctional facilities. These programs were transmitted to an average of thirty-one States. The programs covered HIV/AIDS topics such as: oral management; medical management; wasting/opportunistic infections; antiretroviral therapy; and non viral opportunistic infections. Total attendance at these satellite presentations was 5, 811 correctional facility health care providers. Additional programs are scheduled for May and September 1997.

The AETC program also sponsors an HIV Clinical Conference Call Series which is available in the U.S. and internationally. This quarterly conference call brings together a panel of experts who discuss a current HIV topic and then takes calls from the audience on that topic. Health care providers from correctional facilities have been strongly encouraged to participate in these calls.

Administration Response (DOJ) **Date:** 5/9/97 **Formal?** Yes

See VI.R.3 "Administration Response (DOJ)"

IV.R.1f

Passed on: 12/15/96 **Resolved?** No

f. Availability of voluntary peer education opportunities for HIV+ inmates. (Please include curriculum participation, site, and frequency statistics.)

Administration Response (DoD) **Date:** 4/23/97 **Formal?** Yes

Voluntary peer education opportunities are available for HIV positive inmates on a weekly basis at the U.S. Disciplinary Barracks. Peer sessions are conducted through support group method. Information on related HIV/AIDS topics is available to inmates through newspaper and magazine articles, videos, and guest speakers to include HIV Positive individuals. All prisoners diagnosed as HIV positive are authorized to subscribe to the magazine Positively Aware.

IV.R.1g

Passed on: 12/15/96 **Resolved?** No

g. Accessibility of condoms and barrier protection against HIV transmission to prison inmates.

Administration Response (DoD) **Date:** 4/23/97 **Formal?** Yes

DoD correctional facilities do not distribute condoms or barrier protection to prison inmates. No known transmission of HIV has occurred in a military confinement facility.

IV.R.1h

Passed on: 12/15/96 **Resolved?** No

h. Specific details concerning the availability of ongoing (at least every 6 months) educational programs for incarcerated individuals regarding all aspects of HIV, including substance abuse issues and sexuality.

Assessment of Response **Date:** 11/11/97 **Formal?** Yes

This seems inadequate given this recommendation. We further request copies of curriculum used in such programs.

Administration Response (DOJ) **Date:** 5/9/97 **Formal?** Yes

The Department of Justice in their memo of May 9, 1997, indicates that "inmates receive education on the dangers of HIV and other sexually transmitted diseases during Admission and Orientation at each institution, and following any transfer."

Follow-up Action **Date:** 11/11/97 **Formal?** Yes

We further request copies of curriculum used in such programs and scheduling information regarding frequency of use.

Administration Response **Date:** 4/23/97 **Formal?** Yes

Correctional facilities with HIV positive inmates offer educational programs and training opportunities on all aspects of HIV/AIDS. Medical Department personnel provide training to inmates on substance abuse and sexuality on a routine basis. This training emphasizes high-risk behaviors and preventive measures.

IV.R.1i

Passed on: 12/15/96 **Resolved?** No

i. Definition of the limits of jurisdiction which differentiate the authority of the federal government in all correctional facilities; District of Columbia, military, federal, state, and local correctional institutions, including federal funding streams.

Administration Response (DoD) **Date:** 4/23/97 **Formal?** Yes

Title 10 U.S.C., chapter 47, authorizes the Secretaries of the Military Departments to establish and maintain correctional facilities. All DoD facilities are operated in accordance with applicable federal laws and regulations

DoD Directive 1325.4, Confinement of Military Prisoners and Administration of Correctional Programs and Facilities, sets forth DoD guidance on the administration of correctional facilities. The Military Departments budget for and receive appropriated funds to construct, maintain, and operate correctional facilities. Congress authorizes and appropriates these funds through the annual DoD Authorization and Appropriations Acts.

IV.R.1j

Passed on: 12/15/96 **Resolved?** No

j. The scope of implementation of the seven major recommendations of the National Commission on AIDS (March, 1991).

Assessment of Response **Date:** 11/11/97 **Formal?** Yes

The Department of Justice in their memo of May 9, 1997, indicates that they "have not had the opportunity to review the recommendations of the National Commission on AIDS (1992) and accordingly, are unable to comment on its implementation." We find this problematic.

Administration Response (DOJ) **Date:** 5/9/97 **Formal?** Yes

We note at the outset that we have not had the opportunity to review the recommendations of the National Commission on AIDS and accordingly, are unable to comment on its implementation. However, we will be pleased to review and comment on any information that the Office of National AIDS Policy wishes to provide in this regard.

Follow-up Action **Date:** 11/11/97 **Formal?** Yes

We request that the Office of National AIDS Policy to again forward them a copy of that report in conjunction with a re-forward of this set of recommendations and assessments.

Administration Response (DoD) **Date:** 4/23/97 **Formal?** Yes

The 1991 National Commission on AIDS Report, entitled "Living with AIDS" contains recommendations addressing major areas such as disease characterization of epidemiology; prevention through education, training, and early diagnosis; accessibility to care and treatment; and aggressive, basic, applied, and clinical research programs. Military policies and programs are consistent with the recommendations contained in this Report. Service members who are HIV positive, including those who are incarcerated, are closely monitored within the military medical system and are provided the most effective drug therapy available. Additionally, the Army as the Lead Agent for HIV research has expanded the Clinical HIV/AIDS Research Program. The Navy is conducting basic and applied research efforts targeted at elucidating the evolving epidemiological changes in the worldwide distribution of HIV, developing novel immuniological approaches to early diagnosis and treatment, and developing and assessing the effectiveness of behavioral modification strategies to reduce disease incidence. Under Army leadership, the Services are working together and with other Federal agencies to ensure a coordinated, aggressive research effort.

IV.R.2

Passed on: 12/15/96 **Resolved?** No

The Administration should direct the Secretary of Health and Human Services to develop oversight language appropriate for discharge planning (including accessing benefits) for ex-offenders with HIV/AIDS designed to assure their continuity of care through Probation Departments in various locales as well as the accessibility of appropriate linkages within the community.

Assessment of Response **Date:** 4/5/97 **Formal?** Yes

The response on the part of HHS regarding our request for information concerning Discharge Planning (Dec. '96), is hardly adequate, although the Federal Bureau of Prisons does comment upon this in its current report.

Progress (HUD) **Date:** 7/31/97 **Formal?** Yes

(The following information was received in a letter from Secretary Cuomo to Sandy)
In 1994, HUD created the Office of HIV/AIDS Housing (OHH) within the Office of Community Planning and Development. A primary function of this office has been the management of the Housing Opportunities for Persons with AIDS (HOPWA).... The Department is also seeking to increase resources that address housing needs. For FY98 the Administration has requested $204 million for HOPWA, an increase of $8 million over current funding.... HUD anticipates that 10 new jurisdictions will qualify for formula allocations in 1998 and that all areas will experience increased needs.... An on-going dialogue with AIDS Housing providers and residents has provided this Department with up-to-date information about the epidemic and changes in care, to address challenges in meeting the housing needs of persons living with HIV/AIDS, and to seek ways that HUD could improve its responsiveness and programs.

Housing in Discharge Planning:
The OHH will develop HOPWA guidelines and technical assistance publications which highlight the need for transitional services and discharge planning for recently discharged prisoners/parolee's with HIV/AIDS.
Furthermore, the OHH will work in collaboration with national technical assistance providers, such as AIDS Housing of Washington (AHW), to address HIV/AIDS housing issues unique to recently incarcerated persons. Our collaboration will develop appropriate and replicable guidelines to better evaluate a community's current efforts, if any, and to expand or develop programs that would address these needs. The collaboration will also explore creative ways to coordinate efforts with other federal programs, such as resources available through HRSA's AIDS Educational Training Centers (AETC's), the Federal Bureau of Prisons, Ryan White Care Act Planning Councils, as well as HOPWA Planning Councils.

We can also learn from HOPWA projects that have been funded with Special Projects of National Significance (SPNS) competitive grants that address the needs of prison populations. One such project, the Tarzana Treatment Center in Tarzana, California, was funded in 1994 and focuses on emergency and transitional housing to State prison parolees with HIV/AIDS. Other projects funded through HOPWA formula grants have successfully integrated recently released prisoners into their client services programs. A review of HOPWA Annual Progress Reports identifies 1.5% of clients receiving housing assistance by HOPWA grantee's are clients who were recently incarcerated.... The Department will seek to use these projects as models to help other jurisdictions develop appropriate efforts in their communities.

Administration Response (HHS) **Date:** **Formal?** Yes

One of the least served and most needy of populations is that of the HIV infected ex-offender. The most effective method for reaching this population is through existing community based organizations providing linkages of health care services to under served populations. The Health Resources and Services Administration has funded through its program Special Projects of National Significance a model project that provides a partnership approach for engaging and retaining HIV infected ex-offenders and their families in primary and HIV-specific ambulatory medical care. The project is under the auspices of the Fortune Society and through a linkage with the Institute for Urban Family Health provides clients with medical care, discharge planning, intensive case management and a family focus. The model is designed with the goal of developing, evaluating, and disseminating a holistic model of care that reaches and retains one of the most difficult populations to reach through traditional medical models.

Follow-up Action Recommended **Date:** 11/11/97 **Formal?** Yes

A more complete analysis of this issue is necessary.

VI.R.1

Passed on: 4/5/97 **Resolved?** No

The President should direct the Justice Department and the Director of the Federal Bureau of Prisons to revise administrative and judicial standards of compassionate release for use in all Federal and Federally-funded prisons. Prisons will do this in accordance with American Bar Association (ABA) Standards. Furthermore, equivalent compassionate release programs should be required in state and local prisons as a condition of these institutions receiving federal funds. The Federal Bureau of Prisons also should be directed to maintain statistical and evaluative records concerning the compassionate release policy and file an annual report to the President, Secretary of Health and Human Services and the Office of National AIDS Policy.

Administration Response (DOJ) **Date:** **Formal?** Yes

There are two models for compassionate release legislation:

ADMINISTRATIVE MODEL FOR COMPASSIONATE RELEASE LEGISLATION

Many of the concerns underlying the model legislation are already addressed pursuant to the above referenced statute and Bureau of Prisons regulations and policy. The model legislation would however, substantially alter the procedure followed by the Bureau of Prisons with respect to requests for a Compassionate Release. In addition, it is presumed that this legislation would not be restricted to inmates diagnosed with HIV/AIDS, but would apply to all serious medical conditions.

In section (a), Authorization, it appears that the proposed language would authorize either the United States Parole Commission or the Bureau of Prisons to directly grant parole or release for an inmate with a terminal medical condition. As such, there would be no need for the sentencing court to modify the inmate's sentence as currently required. We advise against changing this process. The sentencing court should have the final decision making authority. The Bureau of Prisons serves an advisory role, but should not be the sole decision maker.

Administrative Response (DOJ) **Date:** **Formal?** Yes

[continued]
In addition, section (b) replaces the discretion currently granted to the Director of the Federal Bureau of Prisons with mandatory release language. Under the proposed model, the Director would be required to release an inmate upon finding that the inmate is likely to die within one year, unless there is a finding that the prisoner poses a danger of committing additonal crimes, that the prisoner will not receive adequate care upon release, or that the release would denigrate the seriousness of the offense*. This mandatory language could conceivably create an entitlement to a compassionate release. As drafted, there is a presumption in favor of releasing terminally ill inmates, thereby placing the burden on officials to preclude release. Furthermore, there is no explanation for the removal of discretion, such as an abuse of discretion. Therefore, the Bureau would strongly advise maintaining discretion with the Director, as opposed to mandating a release.

* These issues and others are currently taken into consideration by the Bureau of Prisons.

In section (c), Application Process, as drafted, only the inmate or a medical officer of the Department of Corrections may file an application of release. According to current Bureau of Prisions policy, anyone, including the inmate's family may request a compassionate release on behalf of an inmate. The model language may want to provide similar language. In addition, under current Bureau policy, the United States Attorney 5 Office is consulted throughout the process, but receives a formal request to file a motion on behalf of the Bureau of Prisons only upon final approval by the Director**. One reason for this is that a request may be denied prior to the Director's review. Thus, a copy of a request for release need not be served upon the prosecutor immediately upon receipt as required in section (c).

With the various levels of review required by the Bureau and the need to achieve a consensus with the United States Attorney's Office, the time lines listed in section (d) Medical Report and section (e), Summary Disposition of Unmeritorious Applications, may be unrealistic. The Bureau of Prisons appreciates the urgency of a request for compassionate release and all efforts are made to ensure expedient review. However, in addition to possibly being unrealistic, statutorily mandated time lines may create liability for the agency if not strictly adhered to.

The Bureau of Prisons would also advise against requiring a hearing, and thereby creating a due process interest, as indicated in section (f), Procedure for Hearing. The Bureau has operated the compassionate release program for years and based upon agency experience, there is no need for a hearing in this process. If the inmate's medical condition has deteriorated so severely and there are no policy concerns such as those listed in section (a) of the model language, the inmate's request will generally be granted. In addition, there are grievance procedures available to the inmate if he or she is denied a compassionate release.

** According to current Bureau of Prisons policy, the request is first reviewed at the institutional level. If approved by the designated committee and Warden the request is then forwarded to the Regional Office. Upon approval, the Regional Office then forwards the request to the Office of General Counsel in Central Office which reviews the request with consultation from the Health Services Division. The request is then presented to the Director for final approval.

Assessment of Response **Date:** **Formal?** Yes

Of special concern is whether inmates or their representatives may "motion" for compassionate release. What are the plans for the Bureau to improve treatment protocols consistency to ensure continued health to inmates with AIDS? Suggesting that, "revision of the current process for a compassionate release is necessary," does not adequately address our concerns.

Administrative Response (DOJ) **Date:** **Formal?** Yes

[continued] In section (g), Decision, the Bureau would again advise against statutorily mandated time lines. In addition, under subsection (3), the Bureau proposes using the term parole officer or probation officer as inmates ineligible for parole would report to the United States Probation Office. Also, the provision for periodic re-examination of the inmate's medical condition is prudent. Current Bureau policy does not provide such a condition.

The Bureau of Prisons recommends that section (h), Review, explicitly state that if an inmate's request for release is denied, he or she must exhaust administrative remedies prior to seeking judicial review.

There are no objections to section (1), Revocation of [medical parole] [conditional release].*** Subsection (2) is prudent as advances in medical care could dramatically change an inmate's prognosis and life expectancy.**** With this provision, the Bureau could regain custody of an individual if there is such a change in his or her medical condition. Currently, the Bureau of Prisons has no such provision.

There are no objections or concerns with sections (j) and (k).

*** There could be some legal challenges to subsection (2) based on the common law rule prohibiting the imposition of a sentence in installments. Dunne V. Keohane, 14 f.3d 335, (7th Cir. 1994). However, if the inmate receives credit for time on release, courts may interpret the sentence as continuous and uninterrupted.

**** In addition, this provision could be used to alleviate the current dilemma regarding organ transplants. The Bureau could propose that language be included in section (a), Authorization, providing for release of an inmate in need of an organ transplant. If the inmate is so released and receives an organ transplant, subsection (2) could enable the Bureau to regain custody of the individual. The language in section (a) could be easily modified to read: "...whose medical condition is terminal within the meaning of paragraph (b), below" or is in need of an organ transplant.

JUDICIAL MODEL FOR COMPASSIONATE RELEASE LEGISLATION

The Bureau of Prisons has substantial concerns with the proposed Judicial Model for Compassionate Release. Initially, in section (a), Authorization, the court may reduce an inmate's sentence on motion of the defendant, the Department of Corrections, or on its own motion. In this model, an inmate could completely circumvent agency review by filing a motion with the court directly. This would dramatically increase costs as it would shift from an administrative review to litigation, involving the United States Attorney's Office from the onset. The Bureau of Prisons would strongly urge against such legislation. Even allowing the court to reduce the sentence on its own motion is cautioned against. There are enough safeguards in a purely administrative policy to guard against abuse of discretion or other concerns.

In addition, the proposed language states that the court may reduce a sentence of imprisonment upon "proof that the defendant has a medical condition that is critical." This language is troubling in that there are very few, if any, conditions that the Bureau of Prisons cannot accommodate. According to this language, however, an inmate with any critical medical condition, even one which the Bureau can accommodate, may file a motion for modification of sentence.

In section (c), Motion, the proposed language states that a motion filed by the defendant be accompanied by an affidavit of the medical officer attesting to the nature of the defendant's illness. The Bureau of Prisons would require full review of the medical conditions and the policy implications by the Office of General Counsel, the Health Services Division, and if necessary, the Director, prior to providing any documentation to the court.

For the remaining sections, the same concerns regarding time lines and hearings apply to this model as with the Administrative Model discussed above.

Administrative Response (BOP) **Date:** 10/15/97 **Formal?** Yes

The Federal Bureau of Prisons (BOP) has provided extensive comments to the Council in the past regarding the administrative and judicial standards for compassionate release proposed by the American Bar Association. A copy of these comments is enclosed for your reference.

In general, the BOP does not believe that revision of the current process for compassionate release is necessary. The BOP revised the compassionate release procedures in January, 1994, in accordance with 18 U.S.C. ** 3582 (c)(1)(A) and 4205 (g). Pursuant to these statutes, the Director of the BOP may make a motion for modification of sentence under "extraordinary and compelling circumstances." The BOP has chosen to restrict the application of this statute to those inmates suffering from a serious medical condition. Generally, the condition must be terminal, with a determinable life expectancy. However, an inmate with some other serious and debilitating medical condition may also be considered. Additionally, the severity of the illness must be of such nature that it could not reasonably have been foreseen by the court at the time of sentencing. Thus, where an inmate's physical health has deteriorated severely, and his or her current medical condition is critical, the BOP may make a motion for modification of sentence even if the court was aware that an inmate was seriously ill at the time of sentencing.

We believe that the Bureau's current procedure regarding compassionate release is sufficient to address all serious medical conditions, including HIV/AIDS. Furthermore, the BOP currently maintains statistical and evaluative records on compassionate release requests. From July, 1990 to the present, 90 compassionate release requests for HIV/AIDS inmates have been forwarded to the courts for disposition. Sixteen such compassionate release requests have been denied by the BOP.

Compassionate release does not apply to Immigration and Naturalization Service (INS) detainees due to the transient nature of their detention. All INS detainees are destined to be released in a very short period of time.

Progress (DOJ) **Date:** 10/15/97 **Formal?** Yes

There are two models for compassionate release legislation which are being considered: The Administrative Model and the Judicial Model. (See DOJ memo to ONAP Director, Sandra Thurman; October 15, 1997)

Follow-Up Action Recommended **Date:** 11/1/97 **Formal?** Yes

We request a copy of the Bureau's official procedures regarding Compassionate Release (January, 1994) and their statistical evaluative records regarding Inmates with AIDS (1990, on). We also request copies of appropriate statutory language for review.

VI.R.2

Passed on: 4/5/97 **Resolved?** No

The President should direct the Secretary of Health and Human Services to develop standards of care to ensure that, prior to release, ex-offenders with HIV/AIDS are provided timely, thorough, and appropriate case management/discharge planning. These standards should address behavioral and social service needs; continuity of care; and appropriate linkages to local community services, medical services, social service benefits, appropriate case management, and housing assistance programs to ensure against homelessness.

Assessment of Response **Date:** 10/15/97 **Formal?** Yes

The Federal Bureau of Prisons maintains six medical referral centers with discharge planning. That this service is not available at general institutions where non-patient HIV/AIDS inmates reside is of great concern.

Progress **Date:** **Formal?** Yes

See IV.R.2 "Progress"

Administration Response (HUD) **Date:** **Formal?** Yes

In 1994, HUD created the Office of HIV/AIDS Housing (OHH) within the Office of Community Planning and Development. A primary function of this office has been the management of the Housing Opportunities for Persons with AIDS (HOPWA). The Department is also seeking to increase resources that address housing needs. For FY98 the Administration has requested $204 million for HOPWA, an increase of $8 million over current funding. HUD anticipates that 10 new jurisdictions will qualify for formula allocations in 1998 and that all areas will experience increased needs. An on-going dialogue with AIDS Housing providers and residents has provided this Department with up-to-date information about the epidemic and changes in care to address challenges in meeting the housing needs of persons living with HIV/AIDS and to seek ways that HUD could improve its responsiveness and programs.

Housing in Discharge Planning:
The OHH will develop HOPWA guidelines and technical assistance publications which highlight the need for transitional services and discharge planning for recently discharged prisoners/parolees with HIV/AIDS. Furthermore, the OHH will work in collaboration with national technical assistance providers, such as AIDS Housing of Washington (AHW), to address HIV/AIDS housing issues unique to recently incarcerated persons. Our collaboration will develop appropriate and replicable guidelines to better evaluate a community's current efforts, if any, and to expand or develop programs that would address these needs. The collaboration will also explore creative ways to coordinate efforts with other federal programs, such as resources available through HRSA's AIDS Educational Training Centers (AETC's), the Federal Bureau of Prisons, Ryan White Care Act Planning Councils, as well as HOPWA Planning Councils.

We can also learn from HOPWA projects that have been funded with Special Projects of National Significance (SPNS) competitive grants that address the needs of prison populations. One such project, the Tarzana Treatment Center in Tarzana, California, was funded in 1994 and focuses on emergency and transitional housing to State prison parolees with HIV/AIDS. Other projects funded through HOPWA formula grants have successfully integrated recently released prisoners into their client services programs. A review of HOPWA Annual Progress Reports identifies 1.5% of clients receiving housing assistance by HOPWA grantee's are clients who are recently incarcerated. The Department will seek to use these projects as models to help other jurisdictions develop appropriate efforts in their communities.

Follow-up Action Recommended **Date:** 11/11/97 **Formal?** Yes

Statistical data on both types of facilities is requested. What are the plans for the Federal Bureau of Prisons to extend Discharge Planning to inmates in general (non-medical) facilities, specifically in conjunction with local parole boards and community-based agencies? How is the Bureau working with HHS to "go forward with" standards of care and compassionate release? What is the timeline? A mechanism for demonstrating effectiveness has yet to be devised.

Administration Response (DOJ) **Date:** **Formal?** Yes

The BOP concurs with the recommendation to direct the Secretary of Health and Human Services to develop case management/discharge planning for appropriate linkages of medical and social services available in the local community. The BOP presently provides community discharge planning for all HIV/AIDS patients at all six Medical Referral Centers. Staff social workers contact the appropriate agencies and care providers in the community in which the inmate is to be discharged. This service is currently not available at the Bureau's general population institutions, where non-inpatient HIV/AIDS inmates are housed.

This recommendation does not apply to INS detainees due to the transient nature of their detention. However, INS provides counseling, which includes, but is not limited to, facts about the cause and progression of HIV infection, treatment techniques, and effective measures to prevent transmission of infection to others.

VI.R.3

Passed on: 4/5/97 **Resolved?** No

The President shall direct the Federal Bureau of Prisons to incorporate the upcoming Report from the HHS Panel on Clinical Practices for the Treatment of HIV Infections in all correctional medical facilities. It should be required that care providers be adequately trained to implement these standards and all appropriate therapeutic options associated with the management of HIV disease be available.

Administration Response (DOJ) **Date:** 10/15/97 **Formal?** Yes

Current and future HHS guidelines for the medical management of HIV infections have been and will continue to define the community standard of care for BOP inmates. Ten anti-retroviral medications, including all four FDA-approved protease inhibitors, have been added to the BOP drug formulary and are being prescribed through combination therapy to inmates with HIV infections as medically indicated. Infectious disease subspecialty consultation is provided to inmates through community subspecialists, BOP Medical Referral Centers, and the BOP Chief of Infectious Diseases.

The INS Manual on Policies and Procedures contains detailed information on standards of care, which should conform with the upcoming report from the HHS Panel on Clinical Practices for the Treatment of HIV Infections in correctional medical facilities.

Assessment of Response **Date:** 11/11/97 **Formal?** Yes

There is a growing concern regarding inmate reports of the noncompliance of prison officials/medical officials concerning AIDS Treatment Protocols -- especially with regard to Protease Therapies, with which compliance is crucial.

Administration Response (DOJ) **Date:** 5/9/97 **Formal?** Yes

The BOP provides medical care for federal inmates through the medical staff assigned to BOP Health Services Units. Health Services staff clinically evaluates HIV-positive federal inmates at least once quarterly and monitors them closely. The BOP contracts for local medical services and transfers seriously ill inmates who are without families to Federal Medical Centers for advanced levels of care.

In providing medical care to inmates, the BOP follows the latest clinical care guidelines published by the Centers for Disease Control and Prevention. Pharmaceuticals approved by the Food and Drug Administration for use in the treatment of HIV/AIDS and associated illnesses, such as anti-viral medication, and protease inhibitors, are provided when needed. Furthermore, the BOP offers a compassionate release program, under which seriously ill inmates may be evaluated for release by the sentencing court. Inmates who are in the advanced states of AIDS may be released to their families under this program.

BOP realizes that substance abuse treatment and HIV/AIDS awareness among inmates are crucial to curtailing the education and prevention programs on HIV/AIDS, in addition to programs on tuberculosis, Hepatitis B and C, and sexually transmitted diseases. As part of the HIV/AIDS program, all newly committed federal inmates are required to view the Department's "AIDS Awareness and Prevention" video and to attend a question-and-answer session about HIV/AIDS. In addition, the BOP provides substance abuse treatment and drug education programs for inmates. Finally, BOP's new employees are provided HIV/AIDS and infectious disease training upon initial employment, and annually thereafter.

Additionally, BOP administers HIV testing to a number of categories of inmates. As part of a routine physical examination, BOP interviews newly admitted inmates to determine if they have an elevated risk for HIV infection. When warranted, HIV testing is administered in conjunction with an education and counseling program. Additionally, a ten percent sample of newly incarcerated inmates and another the percent sample of all inmates are tested for HIV annually. Inmates are authorized volntary annual testing if they do not otherwise fall under a standardized testing category. Thus, BOP maintains that from a clinical and statistical viewpoint, it is not necessarily desirable to test all inmates. Finally, an inmate under consideration for full-term release, parole, good conduct time release, furlough, or placement in a community-based program is tested within one year before his or her new placement or release.

Follow-up Action Recommended **Date:** 11/11/97 **Formal?** Yes

We would like to see a written memo to all appropriate prison officials addressing and remedying this issue.

VI.R.4

Passed on: 4/5/97 **Resolved?** No

The President shall direct the Attorney General to direct the Federal Bureau of Prisons to ensure that condoms and dental dams are made readily available for all prisoners within correctional facilities to prevent transmission of HIV/AIDS.

Administration Response (DOJ) **Date:** 10/15/97 **Formal?** Yes

This recommendation is inappropriate for inmates incarcerated in the Federal Bureau of Prisons. Sexual activity among inmates is prohibited and highly linked to a rise in inmate violence. Policy guidance is presented in P.S. 5270.07, Inmate Discipline in Special Housing Units. Condoms and dental dams are not medically necessary for use other than during sexual activity and therefore are not authorized. Inmates receive education on the dangers of HIV and other sexually transmitted diseases during admission and orientation at each institution and following any transfer. The Health Services Unit also provides inmates educational pamphlets and counseling. P.S. 6100.01 Health Promotion Disease Prevention, February 22, 1994, is designed to increase HIV/AIDS awareness and to decrease the number of seropositive conversions.

This recommendation is also inappropriate for INS detention facilities, given the transient nature of their detention.

Assessment of Response (DOJ) **Date:** 11/11/97 **Formal?** Yes

The statement that protective barriers "are not medically necessary and, therefore not authorized" is unacceptable in the context of AIDS prevention. This is underscored by several successful state models where Protective Barriers are available in prisons.

Follow-up Action Recommended **Date:** 11/11/97 **Formal?** Yes

We request copies of PS 5270.07 & PS 6100.01 and comment on how these statutes might be revised.

VI.R.5

Passed on: 4/5/97 **Resolved?** No

The President shall direct the Attorney General to direct the Federal Bureau of Prisons to investigate and report within 90 days on the feasibility of and various options for providing comprehensive substance abuse treatment for incarcerated individuals with a dual diagnosis of chemical dependency and HIV disease.

Further Administration Response (DOJ) **Date:** 10/15/97 **Formal?** Yes

The Violent Crime Control and Law Enforcement Act of 1994 requires the BOP, subject to the availability of appropriations, to provide residential drug abuse treatment to all eligible inmates. To be eligible, an inmate must be sentenced to BOP custody, determined by the BOP to have a substance use disorder, and volunteer for treatment. The BOP makes its determination of a drug abuse problem based on the American Psychiatric Association's standards as published in the Diagnostic and Statistical Manual, Fourth Edition (DSM IV). BOP staff encourage inmates with drug abuse problems to enter the residential drug abuse treatment program, and approximately two-thirds of all inmates with drug use disorders volunteer for residential treatment.

Since the BOP does not require HIV testing for all inmates, the HIV status of all inmates is not always known. Inmates with a substance abuse problem who volunteer for treatment are admitted into residential substance abuse programs in sequential order based upon release date. To deter the passing on of HIV, each BOP drug abuse treatment program provides education on HIV transmission and high risk behaviors associated with HIV. The BOP also offers specialized group and individual sessions for inmates who disclose a positive HIV status or have close ties with others who are HIV positive. The counseling is available to inmates in the drug program with "dual diagnoses" of drug use disorders and HIV.

While INS initiates primary health care measures, comprehensive treatment is neither appropriate nor feasible due to the transient nature of detention in INS facilities.

Administration Response (DOJ) **Date:** 5/9/97 **Formal?** Yes

See VI.R.3 "Administration Response (DOJ)"

Assessment of Further Response **Date:** 11/11/97 **Formal?** Yes

Greater surveillance data is needed in order to adequately assess seroprevalence as well as greater access to Treatment programs.

Follow-up Action Recommended **Date:** 11/11/97 **Formal?** Yes

A request for investigation into the viability and effectiveness of improved substance abuse intervention programs, including needle exchange, is needed. How would the Federal Bureau of Prisons respond?

March 3, 1998

TO: PRISON COMMITTEE

FROM: JEREMY LANDAU

SUBJ: PRISON ASSESSMENT - Copy # 1,000,000

NOTES ON PREVIOUS CALL

Committee on Prison Issues
PRESIDENTIAL ADVISORY COUNCIL ON AIDS

PRISON ASSESSMENT FOLLOW-UP MEMO

Full Council Meeting
December 15 -- 17, 1996

Department of Defense
Following upon our recommendation IV.B. (Dec. 1996); The Department of Defense in their memo of March 26, 1997 to Acting Director Goosby indicates that they have been working on the report with an anticipated completion date of April, 1997 pending input from each of the Military Departments.

Health & Human Services
Following upon our recommendation IV.B. (Dec. 1996); the Council needs to see the report dissiminated by HRSA in June 1995 entitled, "Progress and Challenges in Linking Incarcerated Individuals with HIV/AIDS to Community Services."

The Council needs the that HRSA specific guidance stating that CARE Act funds should only be used to supplement and enhance existing state programs, particularly state funded drug assistance programs and programs for inmates under the custody of States.

The Council also requests further elaboration concerning the draft policy regarding services for incarcerated individuals. Specifically, (a) how does the policy that "such individuals are the responsibility of the institution and jurisdiction in which they are confined" affect individuals in federal jails, (b) How is the use of CARE Act funds monitored when other funding for the pre-release case management and linkage services are unavailable, and (c) How are case management services "typically including assessment of needs,

development of a care plan, referral and follow-up to ensure access to needed services, and an ongoing reassessment of needs," monitored and evaluated.

AIDS Education & Training Centers
The Council requests the list of Federal, State and local correctional facilities which received AETC training.

We further request copies of curriculum used in such programs and scheduling information regarding frequency of use.

Department of Justice
We request the Office of National AIDS Policy to again forward them a copy of that report in conjunction with a re-forward of this set of recommendation and assessments.

The response regarding our request for information concerning Discharge Planning (Dec. '96), is hardly adequate, although the Federal Bureau of Prisons does comment upon this in its current report.

Department of Justice:
We request a copy of the Bureaus official procedures regarding Compassionate Release (January, 1994) and their statistical evaluative records regarding Inmates with AIDS (1990, on).

We also request copies of appropriate statuatory language for review.

Bureau of Prisons

Statistical data on both types of facilities is requested.

What are the plans for the Federal Bureau of Prisons to extend Discharge Planning to inmates in general (non-medical) facilities, specifically in conjunction with local parole boards and community-based agencies?

How is the Bureau working with HHS to "go forward with" standards of care & compassionate release?

What is the timeline?

We are in receipt of the Federal Bureau of Prisons Treatment Protocols manual. We would like to see (a) documentation that it is in use, and (b) documentation from HHS that it is compatible with their Treatment Guidelines.

The statement that protective barriers; "are not medically necessary and, therefore not authorized" is unacceptable in the context of AIDS Prevention. This is underscored by several successful state models where Protective Barriers are available in prisons.

Follow-up Required: We request copies of PS 5270.07 & PS 6100.01 and comment

on how these statutes might be revised.

A request for investigation into the viability and effectiveness of improved Substance Abuse Intervention Programs, including Needle Exchange, is needed as well as improved surveillance.

Regarding counseling and psychosocial need of inmated with HIV/AIDS, additional attention to the Special Needs of Women with AIDS, and Hospice Care, must also become a part of the commitment of the Federal Bureau of Prisons.

Housing & Urban Development.
Thanks and other housing options for ex-offenders, such as HOPWA, SPNS, USCM, etc.

Review of Issues

Pending Surveillance Recommendation
The Administration should direct the CDC to conduct an HIV surveillance of all prisoners within the Federal Correcton System. Specific funding should be earmarked for this project. The data should be used to plan for improving health and psychosocial needs of inmates, to develop appropriate prevention strategies, and to make informed decisions with regard to funding allocations and inmate needs.

This was reviewed by both the NORA Working Group on Incarcerated Individuals and the PACHA Prevention Committee as well as being submitted to John Miles. General comments included; a waryness of surveillance despite the need for information. and an overall sense of vagueness in it. Comments included: How does this relate to what is already being done? What type of surveillance (i.e., blind, UI, names, etc.)? Accomplished (and funded) by whom? Will it use CDC "best practices"? Will it emerge in the same context as the Prevention Rec. on Surveillance? What will be the availability of treatment? How do other countries accomplish this? Understanding the need for information -- does this reach that goal?

Jeremy will remind John Miles to send us reports.
Steve will prepare a background piece for our March meeting.

Meeting with CDC & DoJ
John Miles will join us on Mionday, March 16th, with a focus on Surveillance. We will continue to work with ONAP to arrange for Kathleen Hawke or an individual from DoJ to participate.

Clarification -- Issues for DoJ:
In general, what previous recommendations does the Doj feel it can act further on -- and what is that action, and what issues care there that we can we expect no further action on. (This would cover many of the areas for which we have requested further clarification.)

Specifically, we request further dialogue on the following issues: Implementation, training, and monitoring of treatment guidelines in prison; Protective barriers; Substance Abuse interventions; Compassionate Release;/Discharge Planning and Women's Issues.

International Joint Meeting

Bob Fogel continues to work on this issue.

Department of Defense

Mike is working with Brad on this issue and we anticipate focusing some of our time at the June Council Meeting in this area.

Brad will contact Lynn Pollen or Bopper Deaton ort someone appropriate.

Model Programs ongoing

Kathleen Gerus continues to work on this issue.

Meeting with NORA Working Group

Meeting Wednesday afternoon 3/18.

Presentation on Assessment

We begain this review to be continued during our March 3rd. Conference Call. Please be prepared to critique this report with a goal of defining what still needs doing, what input is still needed, what reccs. may be forthcoming, and what is complete or impossible.

Steve will represent these concerns at the upcoming AETC meeting.
Lynn Cooper will be invited to join our Subcommittee.

National Meeting on Prisons - Summers/Thurmon

The recommendation on a National Meeting on Prisons was as follows:
Language Approx. The Council recommends that the Director of the Office of National AIDS Policy convene a community and government Summit Meeting on AIDS in Prisons by Fall, 1998. Key constituents should include, at minimum, participants and presenters from the following constituencies: Community Advocates and experts, PACHA, Ex-Offenders, Department of Justice, Federal; Bureau of Prisons, HRSA, CDC, and international experts where feasible.

Clarification:
The purpose of this meeting will be to bring community and government people involved with prison issues face to face, with appropriate briefings, on key and current issues facing incerated populations, and to attempt to break the stalemate regarding prison reform where appropriate.

Stephen will provide information on Bristol-Myers meeting

U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534

December 4, 1997

MEMORANDUM FOR ROBIN BEUSSE, ADMINISTRATION DIVISION

FROM: David Good, Chief, Health Programs Branch
National Health Systems Administrator

SUBJECT: Response to OMB Request for BOP Comment

This is in response to your request for our review of the documentation supplied to OMB from the President's Advisory Council on HIV & AIDS, Prisons Subcommittee. Health Services Division has had extensive contact with the President's Advisory Council on HIV & AIDS, Prisons Subcommittee, for the past two and one-half years. The Prisons Subcommittee has been critical of the Bureau's policy prohibiting inmates access to drug paraphernalia and sexual activity items such as condoms and dental dams

The Prisons Subcommittee insists the only way to adequately protect inmates from themselves is to provide them with clean needles so they can inject illegal drugs, and to provide them condoms/dental dams so they can participate in prohibited sexual activity in prison. Their argument is that inmates will participate in this activity anyway, so we should provide them with these items so they do not contract HIV

The Bureau strongly disagrees with the Prisons Subcommittee philosophy. The Bureau provides inmates and staff with extensive HIV/infectious disease education on transmission and prevention of infectious diseases in a correctional environment Inmates who engage in high risk behavior such as I.V. drug abuse and sexual activity are removed from the inmate general population and appropriate sanctions are placed on these inmates Additionally, these inmates are then monitored to prevent further similar activity What the Prisons Subcommittee fails to recognize, accept, or even discuss, is the fact that these inmates are participating in prohibited behavior within a correctional institution Correctional environments are not the same as rural, suburban, or metropolitan areas. Security is the main concern within correctional environments. The Federal Bureau of Prisons (BOP) has extensive experience in dealing with illegal inmate drug abuse and prohibited inmate sexual activity Both of these activities can result in institution security breaches, staff corruption and inmate violence. The Prisons Subcommittee cites several correctional environments that permit needle exchange for illegal drug use and condoms for

prohibited inmate sexual activity, stating that there is no increase in violence nor security breaches in these correctional systems. We find this argument unsubstantiated and not thoroughly researched. The BOP will not permit these items in the correctional environment.

Responding to the actual language under the heading "Prisons Subcommittee", we offer the following comments:

● Paragraph 1, no discrepancies.

● Paragraph 2, the Prisons Subcommittee states "information we have received from the Federal Bureau of Prisons has been incomplete and lacking the substance necessary to reassure us that the well-being of inmates in our nations prisons is not at risk." Response: As stated above, we disagree with their assessment that unless we provide condoms and drug paraphanalia, that inmates are at risk. The BOP provides not only extensive education on the prevention and transmission of infectious diseases to the inmates, we provide all FDA approved drugs to appropriately evaluated inmates.

● Paragraph 3, the Prisons Subcommittee states "we continue to believe that the ABA standards for Compassionate Release should be re-examined as an alternative to the current Federal Bureau of Prisons guidelines." Response The BOP does not agree with the ABA standards for Compassionate Release which essentially would release all HIV positive inmates. Medical Compassionate Release is reserved for those inmates with terminal illnesses, usually with a defininitive life expectancy.

● Paragraph 4, the Prisons Subcommittee states "Federal prisoners should have access to compassionate use therapies which are proven efficacious, but not yet FDA approved." Response The BOP concurs with this approach to treatment, however, with reservations. Inmates must not be used as experimental objects The BOP already authorizes on an case by case basis experimental HIV treatment modalities not yet approved by the FDA but approved by the FDA as experimental treatment modalities.

● Paragraph 5, Response: The BOP does provide appropriate substance abuse programs to all eligible inmates. The Prison Sub-committee states "discussions should continue on inmates' access to clean substance use paraphernalia" The BOP is not continuing any discussion with any group on inmate's access to illegal drug abuse paraphernalia.

● Paragraph 6, as discussed previously, condoms/dental dams are not an option in the BOP due to the security risks and concerns The comment from the Prisons Subcommittee that "our approach is short-sighted" is an uninformed opinion made by non-correctional individuals. These individuals have no experience nor expertise in correctional management.

● Paragraph 7, Response The BOP provides appropriate infectious disease treatment to all BOP inmates. These therapies are properly evaluated and administered to inmates who can tolerate the treatments and where the best result can be obtained for the inmates. The BOP puts HIV and other infectious diseases as its highest medical priority This has been the case for the past few

years. The Prisons Subcommittee does not understand and rejects all correctional necessities in favor of provding HIV positive inmates all treatments. all prevention measures such as illegal drug paraphernalia and condoms. without regard for the safety of other inmates. staff. and the community surrounding the institution. The BOP has an obligation to provide inmates a safe and humane incarceration environment as well as balancing the security of the Federal Prisons System. We believe we have this obligation in balance Some of the recommendations from the Prisons Subcommittee could place the BOP. inmates. and the community at risk.

If I can offer any further information on this matter. please contact me at (202) 307-2867. ext. 106.

Prisons CC 2/18/98

Surveillance in correctional system
- update from CDC ?

Meeting at the Council

Kathleen Hawk for Monday

NCPA Prisons 3/18 1-2:30

Next call ~~2/4~~ 3/3 @ 10:00 am

Todd -
FYI
Dan

RAPANUIJER @ aol.com
01/12/98 02:30:00 PM

Record Type: Record

To: Daniel C. Montoya

cc:
Subject: Missing Report for Conference Call

December 12, 1997

Committee on Prison Issues
PRESIDENTIAL ADVISORY COUNCIL ON AIDS

PRISON ASSESSMENT FOLLOW-UP MEMO

Full Council Meeting
December 15 -- 17, 1996

Department of Defense
Following upon our recommendation IV.B. (Dec. 1996); The Department of Defense in their memo of March 26, 1997 to Acting Director Goosby indicates that they have been working on the report with an anticipated completion date of April, 1997 pending input from each of the Military Departments.

Health & Human Services -
Following upon our recommendation IV.B. (Dec. 1996); the Council needs to see the report dissiminated by HRSA in June 1995 entitled, "Progress and Challenges in Linking Incarcerated Individuals with HIV/AIDS to Community Services."

The Council needs the that HRSA specific guidance stating that CARE Act funds should only be used to supplement and enhance existing state programs, particularly state funded drug assistance programs and programs for inmates under the custody of States.

The Council also requests further elaboration concerning the draft policy regarding services for incarcerated individuals. Specifically, (a) how does the policy that "such individuals are the responsibility of the institution and jurisdiction in which they are confined" affect individuals in federal jails, (b) How is the use of CARE Act funds monitored when other funding for the pre-release case management and linkage services are unavailable, and (c) How are case management services "typically including assessment of needs, development of a care plan, referral and follow-up to ensure access to needed services, and an ongoing reassessment of needs," monitored and evaluated.

AIDS Education & Training Centers
The Council requests the list of Federal, State and local correctional facilities which received AETC training.

We further request copies of curriculum used in such programs and scheduling information regarding frequency of use.

Department of Justice
We request the Office of National AIDS Policy to again forward them a copy of that report in conjunction with a re-forward of this set of recommendation and assessments.

The response regarding our request for information concerning Discharge Planning (Dec. '96), is hardly adequate, although the Federal Bureau of Prisons does comment upon this in its current report.

Full Council Meeting
April 5 -- 8, 1997

Department of Justice:
We request a copy of the Bureaus official procedures regarding Compassionate Release (January, 1994) and their statistical evaluative records regarding Inmates with AIDS (1990, on).

We also request copies of appropriate statuatory language for review.

Bureau of Prisons

Statistical data on both types of facilities is requested.

What are the plans for the Federal Bureau of Prisons to extend Discharge Planning to inmates in general (non-medical) facilities, specifically in conjunction with local parole boards and community-based agencies?

How is the Bureau working with HHS to "go forward with" standards of care & compassionate release?

What is the timeline?

We are in receipt of the Federal Bureau of Prisons Treatment Protocols manual. We would like to see (a) documentation that it is in use, and (b) documentation from HHS that it is compatible with their Treatment Guidelines.

The statement that protective barriers; "are not medically necessary and, therefore not authorized" is unacceptable in the context of AIDS Prevention. This is underscored by several successful state models where Protective Barriers are available in prisons.

Follow-up Required: We request copies of PS 5270.07 & PS 6100.01 and comment on how these statutes might be revised.

A request for investigation into the viability and effectiveness of improved Substance Abuse Intervention Programs, including Needle Exchange, is needed as well as improved surveillance.

Regarding counseling and psychosocial need of inmated with HIV/AIDS, additional attention to the Special Needs of Women with AIDS, and Hospice Care, must also become a part of the commitment of the Federal Bureau of

Prisons.

Hoursing & Urban Development.
Thanks and other housing options for ex-offenders, such as HOPWA, SPNS, USCM, etc.

Draft Letter to Kathleen Hawke to follow

Presidential Advisory Council on AIDS
Subcommittee on Prisons

Conference Call
Tuesday, January 13, 1998
10 a.m. EST

Issues/Agenda

1. Review Assessments - Landau

2. Review DoD Letter - Landau

3. ONAP: Federal Community Meeting on Prisons - Summers

4. March Council Meeting - Montoya
   - Site Visits
   - Meeting with CDC and DoJ

5. Ongoing Tasks Update
   - DoD - Rankin
   - Model Programs - Gerus
   - International Joint Meeting - Fogel

6. Schedule of Conference Calls

7. Other Business

8. Adjournment