U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, DC 20534

April 22, 1991

June E. Osborne, M.D.
Chairman
National Commission on AIDS
1730 K Street, N.W., Suite 815
Washington, D.C. 20006

Dear Dr. Osborne:

I support your important work on HIV issues both inside and outside of correctional facilities and have read the National Commission on AIDS report titled "HIV Disease in Correctional Facilities" issued in March 1991.

While we disagree with your recommendations regarding condom distribution, the elimination of mandatory testing, and the need for written consent before releasing test results to any employee, your other recommendations are sound. Unfortunately, you do a general disservice to the correctional health care community. There are undoubtedly some correctional agencies that are not providing the level of education and care necessary to combat this significant problem. However, I am disturbed that the Commission took such a broad approach in the report. It leaves an uninformed reader with the sense that little effort is being made in HIV education and treatment, especially on the part of the Bureau of Prisons.

As a Federal agency, the Bureau assumes the responsibility of implementing programs that serve as models to the States. In 1988, the President's Commission on the HIV Epidemic recognized the Bureau's program as exemplary. Your recent report significantly undermines the leadership efforts of the Bureau of Prisons in the area of HIV and AIDS education and treatment.

I am especially dismayed and take exception to the report's lack of differentiation among the correctional systems and the general absence of information about the Bureau of Prisons. Despite the fact that Dr. Kenneth P. Moritsugu, Medical Director for the Bureau of Prisons, testified before the Commission and provided his statement in writing to the Commission, his testimony was not used or referenced in the report as was other testimony. Only in the section on "Prevalence of AIDS and HIV Infection" was the Bureau of Prisons highlighted and our success at preventing internal seroconversion noted.

Also, the report does not mention the numerous other State and local correctional agencies with excellent HIV programs so that they too might be given deserved credit. The report gives the inaccurate impression that all or most correctional systems are providing the same inadequate level of education, counseling, and treatment.

The one major exception in our practices to the recommendations in the report concerns the distribution of condoms. While the report recommends that "condom distribution should be part of an overall health promotion and HIV prevention effort in all correctional systems," the Bureau does not endorse the distribution of condoms to inmates. The distribution of condoms is a basic contradiction to our policy of prohibiting sexual activity within our institutions. Issuing condoms would transmit a mixed and confusing message to the inmate population.

Regarding other specific recommendations in the area of Education and Prevention, the report states:

- Inmates and staff will remain at risk of HIV infection until they are taught how to reduce or eliminate that risk. Without specific education geared toward correctional personnel they will continue to impede their own and inmate's progress toward minimizing risk behaviors.

  Inmates receive AIDS education upon entering the Bureau of Prisons and on a quarterly basis. Inmates who receive testing receive special counseling. Our staff receive HIV and AIDS education upon initial employment and at a minimum of yearly thereafter in institutional annual refresher training.

- Former prisoners are re-entering their communities with little or no added knowledge about HIV disease and how to prevent it.

  Inmates receive counseling and testing prior to release from the Bureau of Prisons. Special counseling is provided to HIV-positive inmates prior to release.

In the findings on Human Rights and Confidentiality, the report states:

- Prisoners with HIV disease are often segregated from the rest of the prison community despite the fact that there is absolutely no legitimate public health basis for the practice.

Inmates in the BOP are <u>not</u> segregated as a result of their HIV status. HIV-infected inmates remain in the general populations of our institutions unless their medical care requires hospitalization.

- Segregated inmates often lose access to religious services, work programs, visitation rights, libraries, including law libraries, educational and recreational programs, and drug and alcohol treatment.

  Because they are not segregated, inmates who are HIV-infected have access to the full range of institutional programming in the Bureau of Prisons.

- Prisoners with HIV disease are being denied access to early release programs.

  Inmates with HIV infection have full access to early release programs. Early release is considered on a case by case basis.

- In small prisons, isolation because of HIV positive status can virtually become a sentence of solitary confinement. In larger prisons, inmates with HIV disease, whether from maximum or minimum security facilities, are often grouped together indiscriminately.

  HIV-infected inmates are not segregated nor isolated from the general prison population. HIV infection is not considered in the placement of inmates in BOP facilities unless hospitalization or the advanced care of a medical referral center is needed.

- Mandatory testing or screening should not be employed.

  The Bureau utilizes mandatory testing in order to develop and assess management strategies and the allocation of human and financial resources.

- Test results should never be made available to any prison employee, even prison medical employees, without the specific, written informed consent of the prisoners.

  Our HIV test results are made available to unit managers and the U.S. Probation Office, prior to an inmate's release, in order to assure proper placement in the community and to insure access to medical resources.

- In correctional facilities where segregation is not practiced, confidentiality is often violated due to the lack of privacy when meeting with medical personnel and during the distribution of medication.

  The Bureau of Prisons is greatly concerned with the maintenance of confidentiality. Medical examinations and reviews are conducted in private settings. Medications are administered as part of general population medication without the use of special medication procedures which could violate confidentiality.

- Inmates with AIDS are dying inside prisons and hospitals without release, or the support of family, friends or counselors despite the fact that they are not a threat to society.

  Inmates who are suffering from AIDS are considered for early release as are other terminally-ill inmates. One of our medical centers has developed a hospice program to assist terminally-ill inmates. Inmates are instrumental in the success of the program.

In the area of Health Care the Commission reported that:

- ...inmates are often denied access to clinical research programs...

  Currently, all HIV-infected inmates in the Bureau of Prisons are assessed on an individual basis for inclusion in FDA approved clinical trials. A number of federal inmates have participated in clinical trials or extended access programs and have received appropriate treatment and follow up.

- Inmates living with HIV disease are often denied access to specialists outside the correctional facility.

  All HIV-infected inmates in the Bureau of Prisons have access to specialists in the community as well as in our medical centers.

- T-cell counts, essential for monitoring the progression of HIV disease, are often administered erratically, if at all. Medications are not always available or administered in a consistent manner.

  All HIV-infected inmates are followed on a monthly basis with T-cell determinations based upon Centers for Disease Control guidelines. Treatments which are clinically indicated are promptly provided to inmates.

- Access to voluntary testing with appropriate counseling is in very short supply. Prisoners are often tested without their knowledge and consent and then informed of their seropositive status with inaccurate projections of life spans, treatments, etc.

  Voluntary testing is actively encouraged in the Bureau. Inmates and staff are always notified of the reason for testing. Inmates receive standardized pre-test and post-test counseling with special counseling being provided for inmates with HIV positive test results.

We share the Commission's concern and interest on the important public health issues of HIV infection. I offer the Bureau's resources in these matters to assist the Commission with subsequent inquiry and publications on HIV and AIDS in correctional facilities.

Sincerely,

J. Michael Quinlan
Director

cc: Members of the Commission