

Compulsory Testing and Integration

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My particular concern is for the prison population and the State of New South Wales. I am conscious of the difficulties which a term of imprisonment imposes on individuals and of the discomfort which is generally shared by the prison population. My administration is concerned with bringing about humane conditions within a closed environment, and at the same time fulfilling the requirements of the courts. I have a number of detractors in New South Wales, and indeed they may even spread further afield. It is not surprising that such a situation should prevail, for when real change is introduced, a number of people become threatened, alarmed and are imbued with feelings of insecurity and uncertainty.

Real change is taking place within the New South Wales prison system. Under numerous previous administrations there seemed to prevail an attitude of complacency, and the continuation of policies which dated back to the previous century. There was a general acceptance that certain criminal elements within the gaol system were the key operators. Their activities were condoned, as on the surface, it appeared that the gaols were quiet and that control was effectively being maintained.

Some disturbances have occurred within the New South Wales penal system in recent weeks. A brief allusion should be made to the necessary policy which restricts prisoners' private property. When the present administration came to Government, we found a prison system essentially dominated by the physically strong, by those who took on the role of predators and imposed a reign of terror against the weak. It was a system of fear and violence. It was a far cry from the basic requirement of having a humane and rehabilitative prison system which would cater for the needs of those many inmates needing to learn a disciplined way of life and acquire skills which would enable them to re-enter the community with a feeling of confidence.

It was discovered that a few prisoners were collecting large quantities of property, usually at the expense of other prisoners in the system. Property became a vehicle for exchange and, in addition, it was used to secrete contraband items including drugs, syringes and needles. The restrictions now imposed on prisoners' property have provided a more equitable control of the prison system and have facilitated searching of cells with the subsequent reduction in the incidence of contraband.

A reign of deprivation has not been imposed on prisoners. The standard prison issue of clothing remains in place as it was previously. The approved cell property has been divided into three classifications; maximum, medium and minimum security prisoners.

What is the connection between the restriction of prisoners' private property and the attack that must be mounted against AIDS? Excessive property has been used for the secreting of needles. The use of those needles in prison is a major concern when considering the spread of HIV. While the incident in which it is alleged that a prison officer

was assaulted by a prisoner and became infected with HIV needs to be kept in perspective, part of that perspective must be an acknowledgment of what can happen.

Let me turn now more directly to the subject of AIDS in prisons. The New South Wales correctional system is the largest in Australia. The State's gaol population has increased and, at any one time, there are in excess of 5 700 people undergoing imprisonment with a yearly turnover in excess of 15 000. Over a period of several years this amounts to a large number of people who have had contact with the prison system, although recidivism rates would indicate that a number are returning to prison on a second or third occasion.

A total of twenty-eight institutions in NSW cater for maximum, medium and minimum security prisoners, remandees and periodic detainees. It is difficult to estimate the number of prisoners who have a drug-related background - some predictions suggest that as many as 80 per cent of prisoners have this particular problem. In addition, a recent Departmental study on sexual and IV drug use behaviour of prisoners suggested that prisoners share needles in gaol (Potter & Conolly 1989).

My Government, of course, will not facilitate illicit intravenous drug use or, in fact, any type of illegal drug use amongst the prison population. It will not provide a needle exchange system or any mechanism for the provision of needles for illegal purposes. There are those who would argue that this is inhumane, that it deprives the drug user of a means to which he/she is well-accustomed and that the likelihood of HIV infection is increased by denying this facility. I totally reject that proposition. Our aim is to prevent drug use and this certainly cannot be achieved by enabling the drug user to continue with the practice while in custody.

A similar situation prevails in regard to sexual practices within the prison. We are well aware that homosexual activities do greatly increase the probability of contracting the AIDS virus. We have carefully thought about issuing condoms and have rejected the idea. In the United States only seven States allow the distribution of condoms, and these are mostly in areas where conjugal visiting rights apply. The American federal system which accommodates 60 000 prisoners does not allow condoms in the prisons. Both the United Kingdom and France decided against the distribution of condoms. No Australian State distributes condoms to its prisoners. Significantly, the Dutch system allows condoms for conjugal visits only. Let me explore some of the reasons why the distribution of condoms has been rejected.

The issuing of condoms in prisons promotes the possibility of violence and victimisation of those who request or receive condoms. An increase in the incidence of sexual assault on prisoners is likely if condoms are made accessible. It might appear safer to the potential offender to violate his victim if he is afforded apparent protection by a condom. Condoms have been widely used for the carriage of illegal drugs into prison, a further reason why they have been banned. Condoms can be used as a weapon by prisoners, either against fellow prisoners or prison staff. They can be filled with water, sand or any substance and used as missiles.

A strong emphasis has been placed on education and training throughout the prison system. This is seen as the most effective means of preventing the spread of HIV. I have appointed four AIDS Coordinators who have established in each institution AIDS information sessions, AIDS Action Committees and peer education programs for staff and prisoners. The general aim is to have the staff and prisoners within each institution manage the AIDS problem. Regular information sessions are designed to keep AIDS awareness at a high level. The AIDS Action Committees are very important in each institution. They adopt a pragmatic approach to a serious problem and are responsible for the development of songs, videos, information stalls, brochures and fun runs as part of their AIDS education strategies. The Peer Education Programme has been very successful in distributing vital information. It has been accepted into the prisoner culture and has proved invaluable.

Legislation was recently passed providing for compulsory HIV testing within the prison system. This process commenced on 5 November 1990. Initially it will be directed to all new prisoners entering the system and to prisoners, several months prior to their release. Within a short period of time all prisoners will be tested. There has been some debate about

this particular issue, but the major concern revolves around the integration or segregation of HIV positive inmates.

In a recent address Professor John Dwyer said:

The pivotal problem for most Departments of Corrective Services revolves around the question of segregation. If a policy is created whereby all individuals known to be infected with the HIV virus are to be isolated from the rest of the prison system, and confined with other prisoners similarly infected, then serious problems follow. Segregation is not justified on medical grounds.

Segregation of course imposes additional restrictions on prisoners. It has a tendency to create a leper colony in an environment which could be described as less than happy. It is not our intention to see inhumane activities operate within the system generally, and we have a particular sensitivity towards those unfortunate prisoners who contract this deadly virus.

A strong argument against segregation is the inevitable risk of creating a false sense of security from the virus amongst those in the mainstream of the prison system. One of the most forceful ways of discouraging high-risk behaviour is the fear of contracting the virus. I am firmly of the opinion that segregation would be at odds with this theme, and would be instrumental in creating a false sense of security amongst most prisoners.

What of the criticism that AIDS, like so many other issues relevant to corrections is being used for political purposes, or that the real health considerations take a poor second place to political considerations. Put more bluntly, the criticism is made that Governments seek to appeal to some base prejudice in order to justify predetermined political considerations. If that were true, segregation rather than integration would have been set in stone as the way to accommodate HIV positive prisoners.

The task of selling the reasons for integration has not been an easy one. There has been deafening silence from groups such as the Council of Civil Liberties on this issue. I suspect that, despite the merits of the issue, they opted to avoid the risk of being seen to support the individual.

The compulsory testing/integration strategy represents what the Government believes to be the best possible strategy to deal with a problem that has no comprehensive solution. In the absence of that solution, politicians, if they are being totally honest, will say that the decision has shades of what is least wrong, rather than what is most right!

A high degree of sensitivity is very much in the forefront of the introduction of HIV testing. It is also associated with the management of HIV positive prisoners. The Commonwealth AIDS Research Grants Committee report on AIDS in prisons recommended the introduction of compulsory screening with counselling. The necessary processes to conduct HIV screening are now in place in NSW. Any prisoner identified as being HIV positive will be provided with counselling by highly skilled professionals. The Commonwealth AIDS Grants Committee felt that 'the prevention of HIV transmission within prisons could be most efficiently achieved by identifying those individuals who are positive for either HIV antigen or antibody and by concentrating resources on them'.

Prisons are often referred to as incubators for the AIDS virus and many in the community identify these institutions as places emanating danger. Certainly there is a tendency to have a congregation of HIV-infected inmates in gaol. However, rather than being an incubator, the prison is a funnel as many offenders tend to come from high-risk areas in the community. Intravenous drug users are obviously at risk and prisons contain a large number of prisoners from this category.

Clearly, it is important to establish the extent of the AIDS problem within the prison system. Not only do we have that obligation but we act in compliance with the Federal Government's National HIV/AIDS Strategy (1989) which recommends the compulsory testing of prisoners when they are discharged so that the spread of the AIDS virus from the prisons to the general community can be limited.

The window period is the time between infection with the AIDS virus and the appearance of antibodies in the blood. It will, therefore, be necessary for prisoners to submit to a blood test at any time during their period of imprisonment.

Let me say something more about the segregation of HIV positive prisoners. Integration is the policy which has been firmly adopted in NSW. It should be remembered that prisoners in the mainstream of the system are, and always have been segregated for reasons which include the good order and discipline of the gaol. Obviously if a prisoner exhibits disruptive behaviour or assaults another prisoner or prison officer, he or she will be subjected to segregation irrespective of whether or not he or she is HIV positive. Some have argued that optional segregation rather than integration best describes the course chosen in New South Wales. However, in a practical sense they mean the same.

In operating a compulsory testing program we are very conscious of the need for confidentiality. Results of tests will not be available to the ordinary prison officer, nor of course will the general prison population be informed.

Clearly, no system has yet devised a perfect management strategy for this deadly disease. We must decide on the best methods available to contain it while encouraging scientists to seek a cure and an effectual prevention for what has been such a devastating experience throughout the world. We remain ever vigilant in our search to provide the very best service that will ensure the containment of the virus, and I am absolutely certain that the structures we have put in place will greatly assist in preventing the spread of this deadly disease throughout our society.

References

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