

# Action on HIV/AIDS in Prisons: Too Little, Too Late

## A Report Card

*This info sheet summarizes the main findings of a November 2002 report by the Canadian HIV/AIDS Legal Network, entitled "Action on HIV/AIDS in Prisons: Too Little, Too Late – A Report Card." The report shows that since 1996, when the Legal Network released a major report with 88 recommendations ("HIV/AIDS in Prisons: Final Report"), there have been some significant, positive developments in the area of HIV/AIDS in prisons. Some jurisdictions have implemented a number of the recommendations and have undertaken noteworthy, sometimes innovative, initiatives. However, Canadian governments are still failing to provide the resources, leadership, and vision necessary to address, in a comprehensive and progressive fashion, the issues raised by HIV/AIDS, HCV, and injection drug use in prisons. Some jurisdictions have totally and abysmally failed to wake up to the reality of HIV/AIDS, HCV, and injection drug use in prisons.*



### Background

In 1996, *HIV/AIDS in Prisons: Final Report* was published by the Canadian HIV/AIDS Legal Network and the Canadian AIDS Society. The Report reviewed the history of the response to HIV/AIDS in prisons; examined whether there is a legal and/or ethical obligation to provide prisoners with the means that would allow them to protect themselves against contracting HIV; and addressed the issue of the potential liability for not providing condoms, bleach, and sterile needles, and the resulting transmission of HIV in prisons. The goal was to assist prison systems in their efforts to reduce HIV transmission in prisons. The Report concluded that "unless the Correctional Service of Canada (CSC) and provincial/territorial prison systems now act quickly and decisively, they may be held morally and legally responsible for the consequences of their inaction for prisoners, staff, and the public." The Report was submitted to both the federal and the provincial/territorial governments for response and action.

In 2002, over five years after the release of the 1996 Report, it was time to assess whether the call for action made in the Final Report had been heard, and to document what progress, if any, had been made in Canada in responding to HIV/AIDS in prisons.

A questionnaire was developed and sent to the federal and provincial/territorial ministers of health and ministers responsible for corrections in September 2001, asking them what actions they have undertaken to respond to the recommendations in the 1996 Report. Follow-up interviews were made in September 2002, to verify and update the information provided. Responses were received from all 14 jurisdictions.

### The 2002 Report Card

The Report Card summarizes the information provided and comments on it. It highlights positive action undertaken by prison systems since 1996, and presents a detailed picture of the current state of HIV/AIDS programs and services in the prisons of each jurisdiction.

### The Extent of the Problem

Since 1996, HIV and hepatitis C (HCV) prevalence in prisons has continued to increase. In federal prisons, known cases of HIV/AIDS increased by over 35 percent in four years. Depending on the various studies undertaken, one in 100 to one in nine prisoners are living with HIV. This means that the proportion of prisoners with HIV is six to 70 times higher than the proportion of all Canadians with HIV.

HCV prevalence rates are even higher. One in 125 (approximately 240,000=0.8 percent) Canadians are living with HCV, but one in five to more than one in two prisoners (20 to 80 percent) are living with HCV.

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### Key Findings of the 2002 Report Card

- All Canadian governments are failing to provide the resources, leadership, and vision necessary to address, in a comprehensive and progressive fashion, the issues raised by HIV/AIDS, HCV, and injection drug use in prisons.
- There is a lack of coordination and harmonization of HIV/AIDS prison programs and services across the country. The standard of care available to prisoners varies widely between jurisdictions, and often between institutions within jurisdictions.
- Condoms, dental dams and lubricant are still not available to prisoners in New Brunswick, Prince Edward Island, Nunavut, and some institutions in the Northwest Territories. Even where they are available, they are often not accessible enough.
- Bleach is only made available as a harm reduction measure in BC, Québec, and the federal prison system.
- Needle exchange or distribution programs have yet to be piloted in Canadian prisons, although the experience with needle distribution programs in prisons in Western and Eastern Europe shows that such programs can be successfully implemented in prison.
- In most jurisdictions, methadone maintenance treatment (MMT) has become available at least to those prisoners who were on such treatment before being incarcerated. The only exceptions are PEI, Newfoundland and Labrador, and Nunavut, where MMT availability is also extremely limited or non-existent in the community. Alberta, however, will only allow methadone continuation for a maximum of thirty days.
- Only CSC and BC have policies that enable prisoners to begin MMT while incarcerated. In addition, initiation is sometimes available *on an exceptional basis* in Québec, Saskatchewan and the Yukon.
- With some exceptions, provision of HIV and HCV prevention education for prisoners is poor.
- In many jurisdictions, HIV training for prison health staff is rare or non-existent.
- All jurisdictions provide voluntary HIV testing through the prison health units. Anonymous HIV testing is available in BC, Saskatchewan, and Nova Scotia, as well as in some Québec institu-

tions. Anonymous testing is also being pilot tested in two federal penitentiaries.

- Significant barriers still exist in most jurisdictions to the optimal use of HIV combination therapies.
- There are few HIV programs and services designed specifically for incarcerated women and for Aboriginal prisoners.

### Harm Reduction Report Cards

Based upon the survey, a series of report cards was compiled rating the implementation of harm reduction measures in each jurisdiction. The report cards rate the availability and accessibility of condoms, dental dams, and water-based lubricant; the availability and accessibility of bleach; the availability of methadone continuation and initiation; and the availability of sterile syringes. A score was allocated to each category, and a letter grade calculated based upon a possible total of 30 points.

The BC prison system scored highest: 22 points: B. Next were the federal system (21 points: B-); and Newfoundland and Labrador (D). The other jurisdictions received a failing grade: Québec (14 points), Saskatchewan (10 points), Yukon and Ontario (8), NWT (7), Manitoba and New Brunswick (6), Nova Scotia (5 points), Alberta (3 points), PEI and Nunavut (0).

### Conclusions

It is to be hoped that governments and the prison systems in Canada will take the findings of the Report Card seriously and act immediately to implement the recommendations in the 1996 Report. As the Joint United Nations Programme on HIV/AIDS said in a statement to the United Nations Commission on Human Rights:

[B]y entering prisons, prisoners are condemned to imprisonment for their crimes; they should not be condemned to HIV and AIDS. There is no doubt that governments have a moral and legal responsibility to prevent the spread of HIV among prisoners and prison staff and to care for those infected. They also have a responsibility to prevent the spread of HIV among communities. Prisoners are the community. They come from the community, they return to it. Protection of prisoners is protection of our communities.

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Copies of this info sheet, the *Report Card*, and the 1996 Report are available on the Network website at [www.aidslaw.ca/Maincontent/issues/prisons.htm](http://www.aidslaw.ca/Maincontent/issues/prisons.htm) and through the Canadian HIV/AIDS Clearinghouse ([www.clearinghouse.cpha.ca](http://www.clearinghouse.cpha.ca)). Reproduction of the info sheet is encouraged, but copies may not be sold, and the Canadian HIV/AIDS Legal Network must be cited as the source of this information. For further information, contact the Network (tel: 514 397-6828; fax: 514 397-8570; email: [info@aidslaw.ca](mailto:info@aidslaw.ca)). **Ce feuillet d'information est également disponible en français.**

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