

September 28, 2007

Dear Commissioner Allen:

We respectfully request a meeting with you to discuss Department policies and practices that exclude HIV-positive prisoners from most prison programs for which they are otherwise qualified. ADOC categorically bars HIV-positive prisoners from nearly all educational, rehabilitative, religious, and recreational programs and activities available to similarly situated prisoners who don't have HIV. ADOC bars them from prison jobs, family visiting rooms, dining halls, sports and recreational opportunities, community corrections programs, faith-based programs, and even the religious services available to other prisoners.

The few supposedly "separate but equal" programs available to HIV-positive prisoners are distinctly inferior to the comparable programs offered to those who don't have HIV.

Alabama experts on HIV have concluded that ADOC's practice of barring prisoners from prison programs solely because they have HIV is completely arbitrary. In September 2003, the Alabama Governor's HIV Commission for Children, Youth and Adults, which was established in 2000 by Executive Order and charged with researching and developing quality options to address the AIDS crisis in Alabama, issued a "Report on Program Access for Prisoners Living With HIV/AIDS." The Report, which we enclose here, made the following key findings and recommendation:

"The Governor's HIV Commission on Children, Youth, and Adults finds the evidence is overwhelming that the exclusion of prisoners from educational, vocational, rehabilitative, or community-based corrections programs, simply on the basis of HIV status, has no public health or correctional justification.

- The policy is costly: it burdens the state with the unnecessary expense of incarcerating dozens of prisoners who would otherwise be eligible for release to community programs.
- The policy deprives hundreds of Alabama prisoners of the opportunity to gain the vocational and educational skills that prevent recidivism.
- The policy does a disservice to the community at large by perpetuating old stereotypes, baseless fears and prejudices against people living with HIV.

"We recommend that prisoners with HIV/AIDS be allowed to participate in all in-prison and out-of-prison programs on an equal basis with other prisoners. This recommendation is limited to the issue of program participation. The Governor's Commission does not currently take a position on the issue of segregated housing for prisoners with HIV/AIDS, and believes that the housing issue requires further study."

In January 2004, Governor Bob Riley announced that he was adopting the Commission's recommendation. Some months later ADOC began integrating vocational training programs at Limestone and Tutwiler, including auto mechanics, commercial sewing, office information systems, welding, construction, drafting, horticulture, and upholstery.

The integration of the vocational programs has been entirely successful. For the past three years, HIV-positive and HIV-negative prisoners at both prisons have worked together side by side all day long, Monday through Friday, with limited supervision, and without incident or any ill effects.

That the vocational programs have been successfully integrated is overwhelmingly persuasive proof that ADOC's practice of excluding HIV-positive prisoners from other prison programs, and offering them at best second-rate segregated alternatives, is arbitrary and unjust. Yet, inexplicably, ADOC's policy and practice in the vast majority of its prison programs remains essentially unchanged.

We have enclosed a memorandum detailing the facts based on interviews conducted over the past several months with dozens of prisoners at Tutwiler and Limestone. The extent of ongoing arbitrary discrimination against Alabama's HIV-positive prisoners is simply staggering.

For example, HIV-positive prisoners aren't allowed to worship together with prisoners who don't have HIV, and they have far less access to religious services, even on a strictly segregated basis. The women who don't have HIV have chapel six nights a week; the HIV-positive inmates have had access to the chapel only twice since January of this year, once on Easter Sunday -- and even then there was no live sermon but only a videotape of a church service.

Similarly, ADOC strictly segregates HIV-positive prisoners from the rest of the population in the family visitation program and provides them significantly inferior opportunities to visit with their loved ones. At Tutwiler, the women who don't have HIV have family visits in a large room with toys for the inmates' children and vending machines so the families can enjoy food and soft drinks together. The HIV-positive women are allowed to use only a very small room for their visits, with no toys or vending machines. Women who don't have HIV may use the restroom provided for the visitation room; women who do have HIV must return to the HIV dormitory to use the restroom, a trip that significantly cuts into their brief semimonthly visitation period. At Limestone, the segregation of family visits results in the HIV-positive men getting badly short-changed on visiting hours.

Women prisoners assigned to substance abuse programs all attend AA or NA meetings -- unless they have HIV, in which case they are denied access to these meetings, which are the core component of addiction recovery programs.

ADOC's categorical exclusion of prisoners with HIV from transitional programs has particularly harsh consequences. HIV-positive men and women are denied access to work release, an extraordinarily valuable program that allows prisoners to gain work experience, set aside savings for rent, begin paying off court fees, and even possibly find a permanent position. Likewise, all prisoners with HIV are barred from Project Reconnect, a program at Tutwiler that teaches women life skills to help with their transition back into society, and provides them with work clothes and information on housing and employment when they leave prison.

HIV-positive prisoners consistently report that being segregated from the general population and excluded from rehabilitative, educational and recreational opportunities available to the other prisoners makes them feel "abnormal," "less than human," and "hopeless." And there is every reason to believe that the vast majority of those who don't have HIV also feel demeaned by the segregation policy. This past Christmas, a member of the Tutwiler women prisoners' choir (from which HIV-positive prisoners are barred) requested that the HIV-positive prisoners be allowed to attend the annual Christmas program at which the choir performs. The request was denied because the HIV-positive women are barred from all celebrations for the prison's general population. Nevertheless, prison officials did allow the choir to carol through the hallway adjacent to the HIV unit. During the performance there was an outpouring of emotion not only from the women in the HIV dorm, but from the choir as well.

The Governor's Commission concluded its 2003 Report as follows: "Alabama's Department of Corrections initiated its HIV segregation policy in another era, when the AIDS epidemic was relatively new, the disease was inevitably fatal, and widespread public confusion about methods of transmission led to irrational fears of contagion. The policy has now long outlived whatever apparent usefulness it may once have had. Because it is costly, unfair, and unnecessary, the ADOC policy of barring HIV-positive inmates from programs should be ended."

We believe that when you have reviewed the facts you will agree that ADOC's treatment of HIV-positive prisoners is a remnant of an earlier era and that the time for change is long overdue. We hope that you will agree to meet with us and allow us to address any questions you may have. We would appreciate it very much if you would contact us by October 19, 2007 to propose a meeting date.

Respectfully,

Hank Sanders
Senator Hank Sanders, Esq.

Laura Hall

Representative Laura Hall
Chair, Governor's HIV Commission for Children, Youth, and Adults

Patricia Todd

Representative Patricia Todd

Joseph Mitchell

Representative Joseph Mitchell

Olivia Turner

Olivia Turner, Executive Director
ACLU of Alabama

Allison Neal

Allison Neal, Staff Attorney
ACLU of Alabama

Kathie Hiers

Kathie Hiers
Chief Executive Officer, AIDS Alabama

Margaret Winter

Margaret Winter, Associate Director
Jackie Walker, AIDS Information Coordinator
National Prison Project of the ACLU

James Esscks

James Esscks, Executive Director
HIV/AIDS Project of the ACLU

Enclosure