CHIPTS
Center for HIV Identification, Prevention and Treatment Services

HIV/AIDS Public Policy Brief

October 2012

HIV and Incarceration: Reviewing the Policy Issues

Executive Summary: Among the most glaring health disparities in California is the disproportionate prevalence of HIV among individuals in the correctional system. These individuals are also disproportionately African-American and Latino and many experience repeated arrests and releases over their lifetimes. Interventions carried out during incarceration or post-release have the potential to impact not only the HIV positive inmates, but also the communities to which they return. This Policy Brief elucidates the problem and recommends policies that prisons and jails in California could undertake to reduce new infections and treat existing ones.

Background: As the International AIDS Society planned its first meeting in the United States in over 20 years, the Center for American Progress (CAP) and Berkeley Law School convened a group of experts on HIV/AIDS health disparities to reflect on the situation facing African-Americans and Latinos. The purpose was to respond to President Obama's National HIV/AIDS Strategy and suggest policy changes that could be implemented across a range of activities in order to reduce glaring HIV/AIDS health disparities. Nina Harawa, MPH, Ph.D., who has published extensively on HIV/AIDS in prisons and jails, was asked to discuss HIV disparities and incarceration. This Policy Brief is abstracted from her essay in the CAP report.[1]

Incarcerated populations and those under criminal justice supervision (such as parole and probation) represent a large and growing segment of the U.S. population. These groups experience elevated rates of HIV, sexually-transmitted infections (STIs), and other diseases. Nearly 11 million Americans (who are disproportionately Black and Latino) are incarcerated at some point of each year. One study estimates that 17 percent of those individuals currently living with HIV/AIDS experience incarceration annually[2] – a rate substantially higher than that of the general population. Many incarcerated people experience repeated arrests and releases over their lifetimes. Hence, interventions carried out with incarcerated populations have the potential to benefit both the criminal justice system, through reduced morbidity and mortality among those whom government is legally obligated to provide medical care, and the larger society to which incarcerated individuals will return.

Methods: Literature Review.

Findings: In-custody transmission of HIV, which can occur through sexual activity, including sexual assault, needle-sharing for drug injection, and tattooing with unsterilized equipment, is an important concern. Despite the high risk, less than one percent of jails and prisons in the U.S. make condoms accessible to incarcerated individuals. In the absence of such access, those in custody may engage in unprotected sex or turn to crude methods of protection, such as barriers made from food wrappers or gloves, which are far less effective. In-custody condom distribution has been successfully implemented in most Western European countries and many countries in other parts of the world. California also has two successful condom distribution programs in jails. The program that distributes condoms to inmates in the Los Angeles County Men's Central Jail unit housing self-identified MSM and transgenders has been found to be cost-saving.[3] The San Francisco County Jail program that uses a condom-dispensing machine to supply inmates has been shown to be acceptable both to those in custody and custody personnel.[4] Furthermore, it has not been associated with any increases in sexual activity or jail safety issues. Further, although in-custody needle exchange programs have been successfully implemented in a number of international settings, no U.S. prison or jail facilities provide needle exchange.

For inmates who are diagnosed with HIV prior to or during custody, continuity of HIV-related treatment post-release is a major concern, as the National HIV/AIDS Strategy recognizes. Both HIV transitional case management programs and collaborations between treatment providers in custody and community

settings have the potential to increase the likelihood that HIV-positive people who are released from custody connect to and remain in care. Other strategies, such as releasing those on treatment with 30-days worth of HIV medication, are also promising.

Transitional case management programs have also shown the potential to reduce recidivism. For example, the California Department of Corrections and Rehabilitation found that HIV-positive offenders who received such services were less likely to return to prison than those who were released prior to the program's initiation.[5] Unfortunately, this evaluation was completed in the mid-1990s and more up-to-date information is needed for sound policy decision making. Furthermore, such programs have been substantially reduced, in recent years, because of state budget cuts.

Although a few state and local governments and organizations are employing the above-mentioned strategies, they are not sufficiently coordinating their efforts and standards to institutionalize them widely.[6] Federal and state resources to identify model programs and make available the necessary information and funding for replicating them may facilitate more widespread adoption.

Particular attention must also be focused on the on-going impact of high incarceration rates on relationship stability and male-female sex ratios in Black and Latino communities. The removal of potential and actual sexual partners from society through incarceration has dramatic impacts on the partners and families left behind. Specifically, this removal can condense sexual networks and as a result, increase HIV risk.

Criminal prosecution has additional dire consequences for individuals, their loved ones, and their communities due to the collateral consequences of conviction. These can include the termination of government benefits (including housing, food assistance, and financial aid for higher education) that are essential to keeping HIV-positive people in care, difficulty seeking employment due to requirements to disclose previous convictions (and for those convicted of HIV exposure crimes, HIV status), deportation, and the loss of parental rights.

Policy Recommendations:

•Increase HIV prevention efforts in custody settings, including prisons, jails, juvenile detention centers, and immigrant detention facilities. The Stop AIDS in Prison Act of 2011, for example, would provide condoms and routine opt-out HIV and STI testing for federal prisoners.

•Promote rapid linkage to care on release. Post-incarcerated individuals are likely to engage in sex and are at highest risk of negative health outcomes soon after release. The Office of Minority Health, Department of Justice, and other agencies providing prisoner re-entry programs and wraparound services should ensure that individuals with HIV are linked to medical care along with assistance meeting other basic needs like housing, clothing, employment, etc. Coordinated efforts among agencies are critical to safeguarding the health and wellness of both the individuals and the communities to which they return.

•Additional study of HIV risk in prison/jail. There is a need for additional research on the risk of HIV transmission within prisons and jails. Further study is needed to identify precise policy interventions to ensure that the state adequately protects prisoners and the communities to which they will return.

1. Robinson R, Moodie-Mills AC, et al., HIV/AIDS inequality: Structural barriers to prevention, treatment, and care in communities of color. Center for American Progress. July 2012. Available at http://www.americanprogress.org/issues/2012/07/hiv_aids_communities_of_color.html.

2. Spaulding AC, Seals RM, Page MJ, Brzozowski AK, Rhodes W, et al. HIV/AIDS among inmates of and releasees from US Correctional Facilities, 2006: Declining share of epidemic but persistent public health opportunity. *PLoS ONE.* 2009; 4(11): e7558. doi:10.1371/journal.pone.0007558

3. Leibowitz AA, Harawa NT, Sylla M, Hallstrom CC, Kerndt PR. Condom distribution in jail to prevent HIV infection. *AIDS Behav* 2012 May 4. [Epub ahead of print]

4. Sylla M, Harawa N, Grinstead Reznick O. The first condom machine in a US jail: The challenge of harm reduction in a law and order environment. *Am J Public Health.* 2010; 100: 982-985.

5. California Department of Corrections. (1996). *Transitional Case Management Project For Inmates with Human Immunodeficiency Virus Disease: Evaluation Number Two.* Parole and Community Services Division and Evaluation and Compliance Division. https://www.ncjrs.gov/App/publications/Abstract.aspx?id=180544

6. Springer SA, Spaulding AC, Meyer JP, Altice FL. Public health implications for adequate transitional care for HIV-infected prisoners: five essential components. *Clin Infect Dis.* 2011 Sep;53(5):469-79.

Acknowledgements:

This Policy Brief was written by Nina Harawa, MPH, Ph.D, Associate Professor at the Charles R. Drew University of Medicine and Science. We are grateful to Brook Kelly, JD of U.S. Positive Woman's Network (PWN). We thank the Center for American Progress, Aisha Moodie-Mills of Fighting Injustice to Reach Equality (FIRE), and Russell Robinson of the University of California Berkeley Law Working Group on HIV and Inequality, for granting permission to draw on the material on incarceration from their report, "HIV/AIDS inequality: Structural barriers to prevention, treatment, and care in communities of color." The full report can be accessed at http://www.americanprogress.org/issues/lgbt/report/2012/07/27/11834/hivaids-inequality-structural-barriers-to-prevention-treatment-and-care-in-communities-of-color.

Support for this research was provided by the California HIV/AIDS Research Program (Grant Number RP 11-LA-020) and the UCLA Center for HIV Identification, Prevention and Treatment Services, funded by the National Institute of Mental Health Grant P30 MH58107, M.J. Rotheram-Borus, Ph.D., Principal Investigator