



**HUMAN RIGHTS  
COMMISSION**



# **Human Rights & Needle Exchange Programs in Prisons**

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# Human Rights Commission: Mandate

- promote understanding & acceptance of & compliance with the *Human Rights Act 2004*
- subsection 41(1) review/report on effect of laws to Attorney-General, eg Audits of Quamby (2005) & adult remand centres - BRC & STRC (2007)
- Assess legal framework, policies & procedures
- Context: focus on detainees, but recognise potential HR breaches against staff & crimes perpetrated against victims
- Resolve HR systemic problems - not transfer to AMC

# Relevant UN Standards

- International Covenant on Civil & Political Rights (**ICCPR**) – rights to life, humane treatment in detention
- International Covenant on Economic, Social and Cultural Rights (**ICESCR**) – right to the highest attainable standard of physical & mental health
- United Nations **Basic Principles** for the Treatment of Prisoners – P9 ‘prisoners shall have access to the health services in the country without discrimination on the grounds of their legal situation’.
- United Nations **Body of Principles** for the Protection of All Persons under any form of Detention or Imprisonment
- **Standard Minimum Rules** for the Treatment of Prisoners

# Relevant International Standards

- **International Guidelines** on HIV/AIDS & Human Rights (1996) UNAIDS & OHCHR – G4 ‘prison authorities should provide prisoners with access to the means of prevention (condoms, bleach & clean injecting equipment)’
- **WHO Guidelines** on HIV Infection & AIDS in Prisons – A(1) ‘all prisoners have the right to receive health care, including preventative measures, equivalent to that available in the community without discrimination...’ and P24 ‘consideration should be given to providing clean injecting equipment during detention & on release to prisoners who request this’.

# Overview of Recommendations

1. Urgent matters – overcrowding; mental health care; time-out of cells; and organised activities
2. Humane treatment – cells; searches, drug testing; welfare; education; work; clothing; hygiene; contact; legal advice; media and library; information about rights
3. **Health care** – services; infection control and harm minimisation; general health (equivalence, allied health, dentistry, external consults and hospitals, medical records); limits on use of restraints in hospitals; prisoners at risk
4. Oversight
5. Systemic discrimination – sensitivity to special needs of women & minorities; indigenous people; culturally and linguistically diverse populations; interpreters; cultural activities; protection detainees; religion; food
6. Corrections Culture – training de-escalation & anti-bullying, records
7. Monitoring custody rates – ATSI, research PDC, review fine default

# Humane treatment recommendations

- Shared cells assessment criteria
- Cell searches pat-down, & strip- reasonable suspicion
- Drug testing more dignity if conducted on half body
- Education: assess for literacy & numeracy; and drug & alcohol program
- Work- meaningful offered
- Hygienic cells on arrival
- Visits
- Legal advice messages passed on same day
- Media reasonable access
- Library
- Clothing
- Information about rights etc – written, verbal & visual

## Health care and services

- contraband drugs expected - Dr Richard Matthews NSW Research 2002 : 63.3% of males and 74.5% of females abuse or are dependent on drugs or alcohol. Also 78.2% of males and 90.1% of females have mental disorders
- infection control and harm minimisation (HIV & Hepatitis C) – high prevalence in closed population  
consultation for pilot of needle & syringe exchange with safe disposal after 12 months of AMC's opening
- duty of care to detainees - returned to community
- NEPs can be tailored to suit individual prison, eg violent prisoners excluded in Spain.
- opportunity to include safer sex education & means (eg condoms, dental dams)
- security and health not mutually exclusive, but limits on use of restraints (eg not use handcuffs on hospital beds).

# Audit supporting text on NEP

- to protect the rights to life & health, a harm minimisation approach is needed;
- injectable drugs, injecting equipment and tattooing equipment have all been found in the ACT Remand Centres & remandees often share these;
- injection of drugs usually correlates with a higher levels of addiction;
- risk of transmission of blood-borne diseases such as HIV/AIDS and Hepatitis C increases when detainees return to the community;
- the ACT has a community-based needle & syringe exchange – equivalence;
- numerous studies have demonstrated the efficacy of exchanges in communities around the world, as well as prisons in some countries;
- Evaluations of NSE show reduction of needle sharing and infections, and do not increase drug consumption or demand;
- 2 Swiss prisons medically prescribe drugs;
- some ACT CS staff oppose NEP due to OHS concerns - cf research findings;
- to deny protection against disease transmission in such a high-prevalence and closed population in prison may be viewed as inhumane.

# Audit NEP recommendations

## **4.1. Infection control and harm minimisation**

- 4.2.1. A pilot program for a needle and syringe exchange with provision for safe disposal of needles should be developed for the AMC. Consideration could also be given to establishing a safe injecting room (medically supervised injecting facility).
- 4.2.2. Detainees at the remand centres (and at the AMC) must regularly be provided with information about the availability of condoms and other safeguards, as well as safe sex practices, in order to prevent sexually transmitted infections and diseases such as HIV/AIDS and Hepatitis B and C
- 4.2.3. In addition to installing a condom-dispensing machine at the AMC, adequate means for disposing of condoms should be provided. A dispensing machine for latex gloves and dental dams should be provided for women at the AMC, along with adequate means of disposing of them. In the meantime, they should be available from health staff at the remand centres.

# Government Response to Audit

Human Rights Audit – 98 constructive recommendations in 7 key areas. Govt formal response to recommendations:

- agreed with 70;
- agreed in principle with 10;
- agreed in part with 4;
- noted 10, including NEP - ‘ACT Government policy does not support a needle & syringe exchange at this time. It is an ongoing matter for policy consideration’; and
- not agree with 4 - handcuffs in hospital beds; women staff guarding women prisoners at night, use of remandees’ own clothing & information on induction

# The Future

- AMC opportunity & investment - unique opportunity for human rights compliant prison with focus on rehabilitation treat people with respect & dignity
- Synergy HR & corrections BP - integrate, not tack on
- NEP partnership experts, community & government
- Development of human rights culture long term, overnight – process of continuous improvement & benefit all
- Federal government ratifying Optional Protocol to UN Torture Convention – complaints and monitoring of humane detention in prisons by CAT in all jurisdictions
- Victorian *Charter of Rights and Responsibilities 2006* – Tasmania & WA