



Office of the Attorney General
Washington, D. C. 20530

March 15, 2011

MEMORANDUM FOR: JEFFREY S. CROWLEY
DIRECTOR
OFFICE OF NATIONAL AIDS POLICY
THE WHITE HOUSE

JACOB J. LEW
DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET
THE WHITE HOUSE

FROM:  ERIC H. HOLDER, JR.
ATTORNEY GENERAL

SUBJECT: Department of Justice Implementation of the National HIV/AIDS Strategy

On July 13, 2010, President Barack Obama issued a Memorandum for the Heads of Executive Departments and Agencies regarding Implementation of the National HIV/AIDS Strategy ("Strategy"). This memorandum is a summary of the Department of Justice's ("Department") operational plans for implementing the Strategy. These plans include assigning responsibilities to agency offices, designating reporting structures for actions identified in the Federal Implementation Plan, and identifying other appropriate actions to advance the Strategy. Further, they include steps to strengthen coordination in planning, budgeting for, and evaluating domestic HIV/AIDS programs within and across agencies. Finally, these plans reflect the Department's consideration of steps to streamline grantee reporting requirements, as well as funding announcements related to HIV/AIDS programs and activities.

Designation of Responsible Official

Thomas E. Perez, Assistant Attorney General for Civil Rights, is designated as the official responsible for coordinating the Department's ongoing efforts to implement the Strategy.

Mr. Perez, will take the lead for the Department in sharing annual progress reports with relevant agencies and the White House Office of National AIDS Policy, including status updates on achieving specific quantitative targets established by the Strategy.

Subject: Department of Justice Implementation of the National HIV/AIDS Strategy

Mr. Perez will work with Departmental components to, in consultation with OMB, use the budget development process to prioritize programs and activities most critical to meeting the goals of the Strategy.

Federal Implementation Plan

Attached is a chart outlining the Department's operational plans for implementing the Strategy. Under the Strategy the Department will continue its leadership role in eradicating discrimination against those with HIV/AIDS. In addition to utilizing existing natural alignments on this issue within Federal agencies, the Department will form new partnerships with agencies such as the Centers for Disease Control and Prevention ("CDC") to broaden distribution of the message that it is both a human and a civil right to live free from discrimination on the basis of HIV/AIDS status. The Department will continue to work internally and externally to identify and prioritize resolution of incidents of discrimination and to educate target populations of their rights under the anti-discrimination laws.

| GOAL #1: REDUCING NEW HIV INFECTION | |
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| <i>Step 2: Expand targeted efforts to prevent HIV infection using a combination of effective, evidence-based approaches.</i> | |
| 2.3 Expand access to effective prevention services: Federal funds should support and State and local governments should be encouraged to expand access to effective HIV prevention services with the greatest potential for population-level impact for high-risk populations. | |
| <i>By the end of 2011:</i> | <i>BOP will expand access to HIV, STD, viral hepatitis screening to prisoners on entry, and CDC and BOP will promote risk reduction interventions for healthy reintegration of ex-prisoners back into community settings.</i> |
| Responsible Agency Official | CAPT Chris Bina, Chief Pharmacist, Bureau of Prisons |
| Reporting Structure | Harley G. Lappin, Director, Federal Bureau of Prisons, will update Thomas E. Perez, Assistant Attorney General for Civil Rights, twice per year on efforts implementing this portion of the Federal Implementation Plan |
| Other Appropriate Actions | BOP has implemented mandatory testing for inmates with HIV risk factors. All other inmates are offered HIV testing during the intake process in accordance with CDC recommendations. The 2009 BOP Preventive Health Guidelines (http://www.bop.gov/news/PDFs/phc.pdf) encourage routine HIV testing for all sentenced inmates who have not been previously tested in the BOP and will continue to be updated as necessary. The 2008 BOP Sexually Transmitted Disease Treatment Tables (http://www.bop.gov/news/PDFs/std.pdf) include recommendations for STD screening and will continue to be updated as necessary. The 2009 BOP Guidelines for the Prevention and Treatment of Hepatitis C and Cirrhosis (http://www.bop.gov/news/PDFs/hepatitis_c.pdf) and the 2008 BOP Guidelines for the Prevention and Treatment of Hepatitis A (http://www.bop.gov/news/PDFs/hepatitis_a.pdf) provide recommendations for viral hepatitis screening and will continue to be updated as necessary. Hepatitis B guidelines are currently being drafted. BOP will continue to work with other federal partners such as the CDC and NIDA as it relates to HIV testing and community re-integration. BOP will continue to evaluate and assess its intake screening processes to identify gaps with respect to health literacy and HIV testing. BOP will continue to partner with the Veteran's Administration for the provision of viral load and CD4 cell lab testing. Currently, approximately 80% of HIV-positive inmates under BOP care are virally suppressed. BOP will continue to partner with HRSA, which provides funding to the University of California San Francisco for the provision of consultation services to BOP for difficult clinical cases |

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| | <p>within the BOP. Electronic Medical Records (EMRs) have been introduced into the BOP healthcare system and will be continually assessed for gaps in HIV related data points related to testing, treatment, and outcome measures. BOP will continue to follow HHS Guidelines for the treatment of HIV infection and provide web-based training on these guidelines to BOP Health Services Staff on a regular basis.</p> |
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| <p>GOAL #2: INCREASING ACCESS TO CARE AND IMPROVING HEALTH OUTCOMES OF PEOPLE LIVING WITH HIV</p> |
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| <p><i>Step 1: Create a seamless system to immediately link people to continuous and coordinated quality care when they learn they are infected with HIV.</i></p> |
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| <p>1.3 Maintain people living with HIV in care: Clinical care providers should ensure that all eligible HIV-positive persons have access to and are maintained on a medication regimen as recommended by the HHS treatment guidelines.</p> |
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| <p><i>By the end of 2011:</i></p> | <p><i>BOP will conduct a review of current policies and procedures and issue guidance to encourage all prisons to provide discharge planning to link HIV-positive persons to appropriate services upon release from incarceration in order to reduce interruptions in HIV treatment. This will include considering ways to promote broader adoption by nonfederal systems of BOP’s standards of providing a 30-day supply of HIV medications upon release.</i></p> |
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| <p>Responsible Agency Official</p> | <p>CAPT Chris Bina, Chief Pharmacist, Bureau of Prisons</p> |
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| <p>Reporting Structure</p> | <p>Harley G. Lappin, Director, Federal Bureau of Prisons, will update Thomas E. Perez, Assistant Attorney General for Civil Rights, twice per year on efforts to implement this portion of the Federal Implementation Plan</p> |
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| <p>Other Appropriate Actions</p> | <p>BOP is currently hiring Re-entry Affairs Coordinators (“RACs”) whose primary duty is to coordinate efforts and develop resources to assist inmates’ reintegration back into the community. Continuity of care upon release will continue to be maximized by returning most inmates to their communities, by linking them to services, and by continuing residential drug treatment as appropriate. BOP will continue to provide a 30-day supply of medication to those inmates that are released, including those placed in Residential Re-Entry Centers (“RRCs”) (i.e. Half Way Houses). BOP will continue to work with the National Commission on Correctional Healthcare (“NCCHC”) as well as the American Correctional Association (“ACA”) to encourage adoption and incorporation of the NHAS goals within the respective organizations’ healthcare goals and objectives.</p> |
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| GOAL #3: REDUCING HIV-RELATED HEALTH DISPARITIES | |
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| <i>Step 3: Reduce stigma and discrimination against people living with HIV.</i> | |
| 3.1 Engage communities to affirm support for people living with HIV: Faith communities, businesses, schools, health care providers, community-based organizations, social gathering sites, and all types of media outlets should take responsibility for affirming nonjudgmental support for people living with HIV and high risk communities. | |
| <i>By the end of 2010:</i> | <i>HHS OS, DOJ, and DOL Offices of Faith Based and Community Initiatives will develop a plan for engaging more faith leaders to promote nonjudgmental support for people living with HIV.</i> |
| Responsible Agency Official | Allison Nichol, Deputy Section Chief, Disability Rights Section, and David W. Knight, Trial Attorney, Disability Rights Section |
| Reporting Structure | Ms. Nichol and Mr. Knight will serve as the Department’s liaison and will support HHS OS, including the Office of HIV/AIDS Policy and the Center for Faith Based and Neighborhood Partnerships, in implementing this portion of the Federal Implementation Plan |
| Other Appropriate Actions | Interaction with these communities should include an educational component about HIV/AIDS as a civil rights issue and federal non-discrimination requirements. |
| <i>By the end of 2011:</i> | <i>DOL, SSA, DOJ, and HHS OS will develop a joint initiative to consider ways to help individuals living with HIV access income supports, including job skills and employment.</i> |
| Responsible Agency Official | Allison Nichol, Deputy Section Chief, Disability Rights Section, and David W. Knight, Trial Attorney, Disability Rights Section |
| Reporting Structure | Ms. Nichol and Mr. Knight will serve as the Department’s liaison and will support DOL in implementing this portion of Federal Implementation Plan |
| Other Appropriate Actions | The Department’s support of DOL will include participating in a DOL hosted HIV Employment Roundtable to identify and discuss employment issues relevant to people living with HIV/AIDS. |
| 3.3 Promote public health approaches to HIV prevention and care: State legislatures should consider reviewing HIV-specific criminal statutes to ensure that they are consistent with current knowledge of HIV transmission and support public health approaches to screening for, preventing and treating HIV. | |
| <i>By the end of 2011:</i> | <i>DOJ and HHS OS will identify a departmental point of contact and provide technical assistance resources to States considering changes to</i> |

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| | <i>HIV criminal statutes in order to align laws and policies with public health principles.</i> |
| Responsible Agency Official | Allison Nichol, Deputy Section Chief, Disability Rights Section, will serve as the Department’s point of contact |
| Reporting Structure | Ms. Nichol will report to Thomas E. Perez, Assistant Attorney General for Civil Rights, on progress implementing this portion of the Federal Implementation Plan |
| Other Appropriate Actions | DOJ will review both state and federal law regarding this issue and develop appropriate strategies and guidance on how to more closely align them with current knowledge about transmission. |
| 3.4 Strengthen enforcement of civil rights laws: The Department of Justice and other Federal agencies must enhance cooperation to facilitate enforcement of Federal antidiscrimination laws. | |
| <i>By the end of 2010:</i> | <i>DOJ and HHS OS will enter into a Memorandum of Understanding deferring, when appropriate, complaints of discrimination on the basis of HIV to the Department of Justice for investigation and prosecution.</i> |
| Responsible Agency Official | John Wodatch, Section Chief, Disability Rights Section |
| Reporting Structure | Mr. Wodatch will report to Thomas E. Perez, Assistant Attorney General for Civil Rights, on progress toward entering into this Memorandum of Understanding |
| Other Appropriate Actions | N/A |
| <i>By the end of 2011:</i> | <i>DOJ, the Equal Employment Opportunity Commission, DOL’s Office of Federal Contract Compliance Programs, and HUD’s Fair Housing Enforcement Office will prioritize and fast track investigations of discrimination charges involving HIV, as necessary and appropriate under relevant statutes, and consider additional policies to prevent discrimination from occurring.</i> |
| Responsible Agency Official | Samuel Bagenstos, Principal Deputy Assistant Attorney General, Allison Nichol, Deputy Section Chief, Disability Rights Section, and David W. Knight, Trial Attorney, Disability Rights Section |
| Reporting Structure | Mr. Bagenstos will report to Thomas E. Perez, Assistant Attorney General for Civil Rights, on progress implementing this portion of the Strategy |
| Other Appropriate Actions | <ul style="list-style-type: none"> • The Department of Justice will open all investigations of discrimination charges involving HIV as <i>priority</i> investigations. • The Civil Rights Division is pleased to report a successful Consent Decree entered by the court on January 19, 2010, in |

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| | <p><i>United States of America v. Wales West, LLC</i>, resolving a case of HIV discrimination in Alabama, and a Settlement Agreement executed December 2, 2010, with Modern Hairstyling Institute, Inc., resolving a case of HIV discrimination in Puerto Rico.</p> <ul style="list-style-type: none"> • The Civil Rights Division will work with the Equal Employment Opportunity Commission to create a joint Fact Sheet on the rights of HIV-positive individuals to be free from discrimination in employment. • The Civil Rights Division will increase outreach to affected communities to educate them about their rights and to uncover discrimination. |
| <i>By the end of 2011:</i> | <i>DOJ will examine and report on HIV-specific sentencing laws and implications for people living with HIV.</i> |
| Responsible Agency Official | Allison Nichol, Deputy Section Chief, Disability Rights Section, and David W. Knight, Trial Attorney, Disability Rights Section |
| Reporting Structure | Ms. Nichol and Mr. Knight will report to Thomas E. Perez, Assistant Attorney General for Civil Rights, on progress implementing this portion of the Strategy |
| Other Appropriate Actions | <ul style="list-style-type: none"> • The Civil Rights Division will meet as necessary with federal agency partners to address federal impact on HIV criminalization laws. |

ACHIEVING A MORE COORDINATED NATIONAL RESPONSE

Step 1: Increase the coordination of HIV programs across the federal government and between federal agencies and state, territorial, local, and tribal governments.

1.1 Ensure coordinated program administration: The Federal Government will increase its focus on coordinated planning for HIV services across agencies. States and tribal and local governments will also be encouraged to collaborate and develop coordinated planning models, including coordinated prevention and care planning and resource allocation activities.

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| <i>By the end of 2010:</i> | <i>HHS OS will work with HUD, VA, DOL, SSA, DOJ, and other relevant Departments or agencies to establish an ongoing process to discuss coordination of planning and services delivery for domestic HIV programs.</i> |
| Responsible Agency Official | Allison Nichol, Deputy Section Chief, Disability Rights Section |
| Reporting Structure | Ms. Nichol will serve as the Department’s liaison and will support HHS OS, Office of HIV/AIDS Policy, in implementing this portion of the Federal Implementation Plan |

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| Other Appropriate Actions | DOJ will develop technical assistance materials regarding federal protections against discrimination on the basis of HIV/AIDS for distribution to targeted populations. |
| <i>By the end of 2011:</i> | <i>HHS OS, HUD, VA, DOL, SSA and DOJ and other relevant agencies will produce a joint progress report on HIV/AIDS program collaboration. This report will highlight key deliverables, areas for consolidating grant awards, successes and current challenges, and proposed measurable outcomes.</i> |
| Responsible Agency Official | Allison Nichol, Deputy Section Chief, Disability Rights Section |
| Reporting Structure | Ms. Nichol will serve as the Department’s liaison and will support HHS OS, Office of HIV/AIDS Policy, in implementing this portion of the Federal Implementation Plan |
| Other Appropriate Actions | N/A |
| <i>Step 2: Develop improved mechanisms to monitor, evaluate, and report on progress toward achieving national goals.</i> | |
| 2.2 Provide regular public reporting: Progress in reaching Strategy goals will be reported by the Federal Government through an annual report at the end of each year. | |
| <i>By the end of 2011:</i> | <i>HHS OS, DOJ, DOL, HUD, VA, and SSA will submit data, as requested, to ONAP on successes and challenges in achieving the goals of the National HIV/AIDS Strategy.</i> |
| Responsible Agency Official | Thomas E. Perez, Assistant Attorney General for Civil Rights |
| Reporting Structure | Mr. Perez will submit this data at the end of each year |
| Other Appropriate Actions | DOJ will report on an annual basis the number of resolutions and lawsuits brought involving discrimination on the basis of HIV/AIDS. Likewise it will report on its technical assistance efforts including document distribution, web-based education and outreach, and public speaking and meeting engagements. |