



Prevention Justice in Jails and Prisons: *Reports from the Struggle*

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Fighting for Department of Health Oversight of NY State Prisons

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Background:

Incarcerated people are at high risk of, and have high rates of, HIV/AIDS and Hepatitis C. Lack of access to consistent, quality healthcare remains one of the biggest challenges for currently incarcerated people facing chronic diseases.

Incarcerated people in the state of New York are acutely affected by these diseases. Of over 65,000 inmates in 2004, approximately 10,000 were infected with hepatitis C and more than 5,500 were HIV positive. The Alliance for Inmates with AIDS (AlliA) has been strategizing and fighting to improve healthcare in state prisons, especially for people living with HIV/AIDS and Hepatitis C (HCV).

In 1990, AlliA began when a few individuals concerned with HIV/AIDS and prison issues who came together to discuss how a prison advocacy group might work. They organized roundtable meetings that started with five to ten people and eventually grew over time. During the early years, AlliA was housed and supported by the Correctional Association of New York, a criminal justice policy and advocacy organization. From 1996 to 2005, AlliA was housed and supported by the Latino Commission on AIDS. AlliA Co-founder Romeo Sanchez served as coordinator during the years at LCOA.

Since mid-2005, AlliA has been housed at the New York City AIDS Housing Network (NYCAHN), where it continues to advocate for prisoners living with HIV/AIDS, HCV, and their affected communities. AlliA's members are acutely aware of prison health care deficiencies through their own personal experiences and those of family members and friends. It currently has 700 individual members from all over the state of New York, including many currently and formerly incarcerated people, service providers, healthcare professionals, legal professionals, community activists and political leaders.

AlliA, along with forty community-based organizations throughout New York State, is part of the Legislative Action Coalition on Prison Health Care (LACPH). LACPH is pushing for legislation that would change who is responsible for providing health services in prisons.

Picking the campaign:

The New York State Department of Correctional Services (DOCS) is currently responsible for healthcare in state prisons. LACPH identified a number of acute problems in the NY state prison healthcare system. Perhaps most significantly, DOCS self monitors and self governs, which activists believe is a serious barrier to prisoners receiving proper treatment and care in NY state prisons.

Therefore, LACPH is fighting to put New York State Department of Health (DOH) in control of prison health care in the state. The deficiencies in Department of Correctional Services (DOCS) oversight of healthcare were very clear. According to LACPH:

These deficiencies in care have persisted in part due to the fact that prison environments are insulated from general public scrutiny and no other state agency or independent authority has consistently reviewed the care being provided to DOCS inmates. The NYS Department of Health (DOH) has not performed any systemic review of medical care in DOCS facilities pursuant to its Public Health Law authority to review health services in the state, asserting that DOH lacks legislative authority for such review under Article 28 of the Public Health Law.

LACPH worked on a series of New York State Assembly hearings on prison healthcare, sponsored by Assembly Members Richard Gottfried and Jeffrion Aubry, to bring the deficiencies in prison healthcare to public attention. These public hearings took place in November 2003, March 2004 and April 2004. A report on the outcome of the hearings has yet to be issued by Assembly Health Committee Chair Gottfried.

As a result, AlliA, along with allies, decided to create a campaign that would fight for DOH control over healthcare in state prisons.

The Campaign:

AlliA and the Legislative Action Coalition for Prison Health are fighting to change a system in which prison healthcare is treated as fundamentally different than all other forms of healthcare. Under the current system, healthcare in New York state prisons is not accountable to any regulation outside the prison system. AlliA and LACPH are working to create an equitable, uniform standard of healthcare, within prisons and jails and without.

AlliA and LACPH have identified legislation to change the oversight of healthcare in New York State prisons. The legislative memo at the end of this report provides additional details on the bills described below.

In 2003, AlliA, with the sponsorship of Assemblyman Gottfried, introduced A.3586 in the NY State Assembly and S.2819 in the Senate (Duane). These bills would amend public health law Article 28 in order to change the definition of a

hospital to include correctional health facilities. It would give the Department of Health (DOH) complete oversight of prison healthcare. AlliA believes this would bring about a more uniform standard of care in and out of prisons because the DOH would be responsible for overseeing all healthcare facilities, including prisons.

A.3586 passed the Assembly Health Committee by a vote of 15 to 5 in February of 2003 and the Assembly Ways and Means Committee by a vote of 32 to 2 in May of 2003. However, the bill was set aside in June of 2003 and has not yet been passed in the Assembly. The Senate bill has been in the Senate Health Committee since January of 2004.

In 2004, LACPH introduced a similar bill that has a greater chance of passing. Bill A.3544 (Gottfried) would make the Department of Health partially responsible for prison healthcare. DOH would annually review policy and practices regarding HIV and HCV at correctional health facilities.

LACPH's literature explains, "This would encourage DOCS and local jail authorities to utilize the expertise of DOH AIDS Institute to develop and implement HIV and HCV care policies and practices that meet community standards of care. The public reviews done by DOH would provide the prisons and jails with clear guidance on what is needed to improve care and avoid disease transmission."

Thus, DOH would make *recommendations* of DOCS healthcare but would *not* have direct oversight of prison healthcare. This bill passed unanimously in the Assembly on March 31, 2004 by a vote of 144 to 0. Since then, the bill has been in the Senate health committee under review.

AlliA and LACPH have used a legislative strategy in order to fight for better prison healthcare. Education of the public and raising consciousness about the importance and urgency of the problem has also been a key component of the fight. Both groups have organized public forums and gotten coverage in local media like the *Village Voice*. They have held lobby days and facilitated public letter-writing and phone calls to elected officials. Gaining a broad base of public support has been essential to sending a powerful message to decision-makers.

Moving Forward: Challenges, Obstacles, and the Future:

The passage of A.4204 through the NY State Assembly was a definitive victory. The coalition now aims to push the bill through the Senate and change state law on how prison healthcare works.

However, the more powerful bill, A.3692, which AlliA believes would have an even greater impact, has shown no signs of passing through the Assembly at this point.

Minor improvements have been made inside prisons, even though neither bill has yet passed. For example, in response to litigation, the 15-month residency requirement to receive HCV treatment is no longer in effect. This concrete victory is related to the work of AlliA and LACPH, which coordinated testimony of doctors at public hearings that the coalition organized.

AlliA and LACPH have faced many challenges, most notably DOCS' unwillingness to cooperate with them and take their concerns seriously. In addition, many prisoners and former prisoners who are on probation or parole are scared to share their experiences in hearings or forums out of fear of retaliation from DOCS. In addition, AlliA members have found that support on prison advocacy issues tends to fall down to party lines, with little support from Republicans in the Senate and the Assembly.

The priority for AlliA now is to get Senate sponsorship on both bills and to pass A.3544 through. AlliA, and its allies in NYCAHN and other member groups, are considering new tactics like more public rallies and protests, and perhaps even direct action to raise the stakes and convey the urgency of the issue.

Additional Resources:

Alliance for Inmates with AIDS: Romeo Sanchez, NYCAHN,
sanchez@nycahn.org, 718-802-9540

Legislative Action Coalition on Prison Health (see more info on next page):
Romeo Sanchez, NYCAHN, sanchez@nycahn.org, 718-802-9540
Michelle O'Brien, GMHC, michelleo@gmhc.org, 212-367-1234

The Correctional Association of New York: Jack Beck,
jbeck@correctionalassociation.org, 212-254-5700,
www.correctionalassociation.org

LEGISLATIVE ACTION COALITION ON PRISON HEALTH

MEMORANDUM IN SUPPORT

January 2006

Adequate correctional health care is an essential component of the public health responsibilities of the state and is good public health policy for all of us. New York State inmates suffer disproportionately from serious illness, including hepatitis C and HIV/AIDS. Of the 63,000 inmates in the custody of the Department of Correctional Services (DOCS), approximately 9,500 are infected with hepatitis C and more than 5,000 are HIV-infected. Incarceration provides an opportunity to test, treat and educate this population that has not had sufficient access to health care prior to incarceration but has experienced high incidences of chronic diseases, mental illness and substance abuse problems. Last year, approximately 26,000 inmates returned to the community. Providing essential medical care to these inmates is not only crucial to their well being, but also to their families, communities and the correctional staff with whom they come in contact.

Unfortunately, the health care provided in state prisons is not adequate. Deficiencies in care include: (a) the failure to provide inmates education about, and voluntarily testing for, chronic disease; (b) the failure to have sufficient numbers of adequately trained health professionals who have the expertise to care for the inmates with chronic diseases; (c) the failure to have access to specialists to treat these patients; (d) the failure to prescribe needed therapy for patients with chronic diseases; (e) the failure to have a chronic disease program to monitor and treat state inmates with these illnesses; (f) the failure to have an adequate quality assurance program in DOCS to monitor the care being provided; and (g) the failure to ensure continuity of care as patients are transferred from one prison to another or are released to the community.

These deficiencies in care have persisted in part due to the fact that prison environments are insulated from general public scrutiny and no other state agency or independent authority has consistently reviewed the care being provided DOCS inmates. The NYS Department of Health (DOH) has not performed any systemic review of medical care in DOCS facilities pursuant to its Public Health Law authority to review health services in the state, asserting that DOH lacks legislative authority for such review under Article 28 of the Public Health Law. However, in 1992 DOH performed a limited audit of DOCS health care at twelve prisons and found significant deficiencies in care. No follow-up to that review has occurred despite the assertions in a 1994 Memorandum of Understanding between DOH and DOCS that DOH would perform additional review of DOCS health care at the original twelve facilities and at other state prisons. This pattern of failure to monitor DOCS health care by the state's health department illustrates the crucial need for the bills described below.

We urge the legislature to pass the following legislation to address these issues:

A. 3544a (Gottfried) - This legislation would require the Department of Health annually to review the policies and practices concerning HIV and Hepatitis C (HCV) care at state prisons and local jails. This would encourage DOCS and local jail authorities to utilize the expertise of DOH AIDS Institute to develop and implement HIV and HCV care policies and practices that meet community standards of care. The public reviews done by DOH would provide the prisons and jails with clear guidance on what is needed to improve care and avoid disease transmission.

A. 3586 (Gottfried) and S. 2819 (Duane) - This legislation would amend the definition of a hospital in article 28 of the Public Health Law to include correctional health facilities. The effect of the legislation would be to give the Department of Health (DOH) oversight of local and state correctional health facilities. While prison health facilities provide patient care, they have been exempt from DOH standards and oversight. This legislation would ensure that inmates receive a uniform standard of care consistent with community standards as is required by DOH in all other state health facilities.

A.3720 (Gottfried) and S.3048 (Duane) - This legislation would require every correctional facility to implement STD/HIV education and prevention programs, including the distribution of prophylactics. By implementing these programs, which have been effective in select New York State prisons and jails and in institutions in other states, New York can help stop the spread of HIV and other STDs to other inmates, their families and others with whom they come in contact.

LEGISLATIVE ACTION COALITION ON PRISON HEALTH

ACT UP/NY	Latino Commission on AIDS
AIDS Center for Queens County	Legal Action Center
AIDS Treatment Data Network	LOLA — Latino Organization for Liver Awareness
AIDS Service Center	Lower East Side Harm Reduction
Alliance for Inmates with AIDS	Lutheran Social Services Free at Last Prison Outreach
Bailey House	Mano a Mano
Breathing Space, Inc. — Ray Rios	Minority Task Force on AIDS
Bronx HIV Care Network	Momentum AIDS Project
Brooklyn AIDS Task Force, Inc.	National AIDS Treatment Advocacy Project
Center for Community Alternatives	New York AIDS Coalition
Center for Comprehensive Care, St. Luke's Roosevelt Hospital	NY Campaign for Telephone Justice Center for Constitutional Rights
Community HIV/AIDS Mobilization Project (CHAMP)	New York Civil Liberties Union
Coalition of Persons Living with Hepatitis C	NYC AIDS Housing Network



Correctional Association of
New York

East NY/Brownsville HIV
Care Network

End AIDS Now!

Exponents/Arrive

Fortune Society

Gay Men's Health Crisis

Harlem Directors' Group

Harm Reduction Coalition

Housing Works

Incarcerated Mothers Program

Iris House

Latino Health Advocacy Coalition

Partnership for Family Health

The Partnership for the Homeless

Prison Families of NY Inc.

Prisoners' Rights Project — Legal Aid Society

Rochester Area Task Force on AIDS

Southern Tier AIDS Program

Staten Island AIDS Task Force

STEPS to End Family Violence

The Unlock the Block Coalition

Urban Justice Center

VIP Community Services

William F. Ryan Health Center

List in Progress — January 2006



Duplication Encouraged • Community HIV/AIDS Mobilization Project
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