



UNODC

United Nations Office on Drugs and Crime



World Health Organization

POLICY BRIEF

HIV testing and counselling in prisons and other closed settings



BACKGROUND

At the 2005 World Summit¹ and at the United Nations General Assembly High-Level Meeting on HIV/AIDS in June 2006,² governments endorsed the scaling up of HIV prevention, treatment, care and support with the goal of coming as close as possible to universal access by 2010. Achieving this goal requires participation by all stakeholders, including prison systems. Greater access to HIV testing and counselling for prisoners is an essential component of countries' efforts to reach universal access to HIV prevention, treatment and care.

HIV programmes have been introduced in prisons in many countries, but most are small in scale and rarely comprehensive in nature. This document promotes a strategy for improving access to HIV testing and counselling in prisons as part of a comprehensive HIV programme.

Globally, at any given time, there are over 9 million people in prisons with an annual turnover of 30 million moving from prison to the community and back again.³ The rates of HIV infection among prisoners in many countries are higher than in the general population and risk behaviours, including consensual and non-consensual sexual activity and injecting drug use, are prevalent.^{4, 5} Outbreaks of HIV infection have occurred in prisons in several countries,⁴ demonstrating how rapidly HIV can spread in prison unless effective action is taken to prevent transmission. There is a high degree of mobility between prisons and the community and therefore implementation of public health initiatives within the prison will also be beneficial to the public health of communities.⁶

In May 2007, WHO and UNAIDS released the *Guidance on provider-initiated HIV testing and counselling in health facilities*.⁷ The *Guidance* and the UNAIDS/WHO *Policy statement on HIV testing*⁸ provide a useful framework and contain important principles and recommendations that should guide the approach to expanding access to HIV testing and counselling for prisoners. In particular, they:

- ▶ Strongly support efforts to scale up testing and counselling services through diverse methods, including client-initiated and provider-initiated testing and counselling;
- ▶ Acknowledge that the scaling up of testing and counselling must be accompanied by (a) access to HIV prevention, treatment, care and support services; and (b) a supportive environment for people living with HIV and those most at risk for acquiring HIV infection;
- ▶ Unequivocally oppose mandatory or compulsory testing and counselling;
- ▶ Emphasize that, regardless of whether HIV testing and counselling is client- or provider-initiated, it should always be voluntary.

In this policy statement the term "prisons" also refers to other places of detention, including pre-trial detention, and the term "closed settings" to compulsory treatment and rehabilitation centres and settings where migrants may be detained, such as immigration detention or removal centres; the term "prisoner" has been used to describe all males and females who are held in such places. The policy statement, however, does not apply to juvenile offenders, regardless of where they are detained, as special considerations apply to them.

SCOPE AND PURPOSE

This position statement aims to ensure:

- ▶ That people held in prisons and other closed settings are not left out of efforts to scale up access to HIV testing and counselling, as part of broader efforts to scale up access to comprehensive and evidence-based HIV prevention, treatment, care and support for prisoners;
- ▶ That the *Guidance on provider-initiated HIV testing and counselling in health facilities* is not misinterpreted and used to justify coerced or other forms of testing of prisoners without informed consent.

It recognizes that:

- ▶ Guidance on provision of HIV testing and counselling in prisons cannot be limited to promoting prisoners' increased access to HIV testing and counselling, but must at the same time aim to mitigate the stigma and discrimination related to HIV and protect the rights of prisoners, including by upholding standards of informed consent and confidentiality;⁹
- ▶ While all prisoners have the right to receive health care, including preventive measures, equivalent to that available in the community,^{4, 10} currently, access to HIV prevention, treatment, care and support remains inadequate in many prison systems.⁹ Hence, improving access to HIV testing and counselling must be accompanied by sustained efforts to scale up access to HIV prevention, treatment, care and support, and to improve access to general health care in prisons.

HIV TESTING AND COUNSELLING FOR PRISONERS

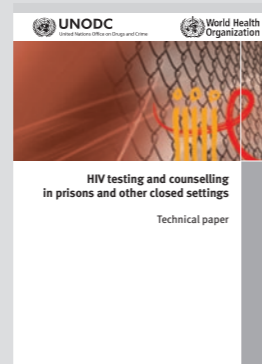
Ensuring access to evidence-based HIV prevention, treatment and care

HIV testing and counselling should not be a goal in itself, but a means to enable prisoners to access HIV prevention services, and treatment, care and support.

Knowledge of HIV status alone, even if accompanied by HIV information and education, is not sufficient to prevent HIV transmission in prisons. Prisoners need access to evidence-based measures to prevent transmission of infection including information and education, provision of condoms,¹¹ sterile injection equipment,¹² drug dependence treatment, in particular

This statement and its recommendations are based on a comprehensive review and analysis of the evidence and an extensive consultation process regarding HIV testing and counselling for prisoners.

For more details and a complete list of references:

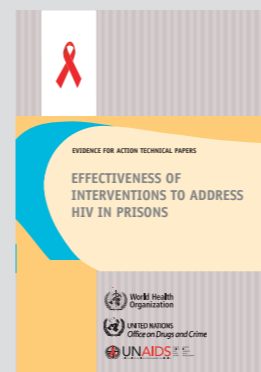


UNODC/WHO (2008). Technical Paper *HIV Testing and Counselling in Prisons and Other Closed Settings* (www.who.int/hiv/idu/en/index.html). The recommendations in this policy brief are expected to be reviewed in 2011 and revised if required by WHO and UNODC. Besides United Nations technical staff, a range of external experts were involved in the development of these recommendations who all reported no conflict of interest.

The statement is part of a set of documents produced by WHO and UNODC aimed at providing evidence-based information and guidance to countries on HIV prevention, treatment, care and support in places of detention. Countries should act on the recommendations contained in them to ensure that efforts to improve access to HIV testing and counselling in places of detention will indeed be accompanied by sustained efforts to scale up access to HIV prevention, treatment, care and support.

opioid substitution therapy, and other harm reduction interventions⁴ as well as the prevention of mother-to-child-transmission.

Linking HIV testing and counselling with care and treatment is essential to encourage prisoners to participate in HIV testing and counselling programmes. Successful HIV treatment and care requires the uninterrupted provision of antiretroviral therapy and, where clinically indicated, treatment for tuberculosis and other opportunistic infections. Large numbers of prisoners move in and out of the prison system as well as within the prison system. It is therefore essential to ensure continuity of treatment and care,



Evidence for Action Technical Papers on Effectiveness of Interventions to Address HIV in Prisons (2007). These papers provide a comprehensive review of the effectiveness of interventions to address HIV in prison settings. Currently available in English and Russian via www.who.int/hiv/topics/idu/prisons/en/index.html.

HIV/AIDS Prevention, Care, Treatment, and Support in Prison Settings: A Framework for an Effective National Response (2006). This document provides a framework for mounting an effective national response to HIV in prisons, based on the evidence reviewed in the *Evidence for Action Technical Paper* and on accepted international standards and guidelines. Available in many languages via www.unodc.org/unodc/en/hiv-aids/publications.html.



Policy Brief: Reduction of HIV Transmission in Prisons (2004). This document provides a 2-page summary of the evidence related to HIV prevention programmes in prisons. Available in many languages via www.who.int/hiv/topics/idu/prisons/en/index.html.

particularly of antiretroviral therapy. Particular attention should be devoted to discharge planning and linkage to community aftercare.

Protecting prisoners against HIV-related discrimination and abuse

HIV-positive prisoners are frequently subjected to stigma, discrimination and abuse, which are powerful disincentives to HIV testing and counselling. At an individual level, this can result in barriers for people to receive HIV prevention measures and, if HIV-positive, to treatment and care services. At a wider level, these factors can inhibit efforts to reduce HIV transmission

in prisons and in communities when prisoners are released. Therefore, prison systems should review prison policies and practices to ensure that they do not discriminate against HIV-positive prisoners. In particular, denying access to certain programmes, family visits, or jobs is not justified.

Prohibiting mandatory and compulsory HIV testing

In some countries, HIV testing is conducted on all prisoners upon admission, conviction, prior to release, or under certain other circumstances, without informed consent. In some cases, such testing is required by legislation or policy. In other cases, official policy provides for "voluntary HIV testing", but prisoners may be coerced into being tested. For example, prisoners may be treated as if they were HIV-positive and lose privileges unless they submit to HIV testing. Such mandatory or compulsory forms of HIV testing violate ethical principles and the basic rights of consent, privacy and bodily integrity. They are not necessary for the protection of prisoners, staff or visitors, and cannot be justified from a public health perspective.

Housing HIV-positive prisoners

There is no evidence that segregation of HIV-positive prisoners is an effective HIV prevention strategy. Indeed, separate housing for HIV-positive prisoners may increase the risk of TB outbreaks,^{13, 14} does not prevent transmission by prisoners who are unaware that they are infected or by HIV-positive prison staff,¹⁵ and may create a false sense of security among prisoners and prison staff.

Providing prisoners with easy access to client-initiated testing and counselling (also referred to as voluntary counselling and testing (VCT))

Currently, in many prison systems, prisoners have only limited access to HIV testing and counselling. WHO and UNODC strongly support the continued scaling up of client-initiated testing and counselling. It should be free and available to prisoners on their request at any time during their imprisonment.

Offering or recommending HIV testing and counselling through provider-initiated testing and counselling

For many reasons, prisoners may be reluctant to initiate testing and counselling themselves, including because they may not want to be perceived as engaging in high-risk behaviours, or because they do not

consider themselves to be at risk of HIV. Uptake of HIV testing in prisons can be enhanced when testing and counselling is proactively offered or recommended to prisoners by health-care providers. When a health-care provider initiates the HIV testing and counselling process, pre-test counselling must include providing adequate information in a language the prisoner can understand, obtaining informed consent, maintaining confidentiality and ensuring that the process is voluntary.

HIV testing and counselling should be offered⁷ to all prisoners during medical examinations or physical check-ups. Health-care staff should go further and, while keeping in mind the voluntary nature of the process, recommend HIV testing and counselling to prisoners with signs, symptoms or medical conditions that could indicate HIV infection, and to female prisoners who are pregnant. This should be done to assure appropriate diagnosis and, for those testing positive, access to necessary HIV treatment, care and support.

Ensuring that prisoners can give informed consent

In order to ensure that prisoners give informed consent to HIV testing, health-care providers must provide them with the information they require to understand the implications of HIV testing and counselling and follow-up procedures. Such information includes the reasons why HIV testing and counselling is being offered or recommended; the benefits and potential risks; the services available if the person tests positive (including whether or not antiretroviral therapy is available); the fact that prisoners have the right to decline the test; and an opportunity to ask the health-care provider questions.

Prisoners are more susceptible to being coerced into HIV testing and to the adverse outcomes of testing. Therefore, additional measures to ensure informed consent are necessary. To give informed consent, prisoners must understand the institutional consequences of a positive HIV test. In particular, they must be informed (a) in case the test result will not be treated confidentially, (b) whether they will be segregated if found to be HIV-positive, and (c) whether there is a likelihood that they could be denied access to certain programmes, family visits or jobs.

* The definition of the term offer is "to present for acceptance or rejection". The word recommend is defined as "to represent or urge as advisable".

In the *Guidance on provider-initiated HIV testing and counselling in health facilities*, WHO and UNAIDS recommend an approach to provider-initiated testing and counselling in which individuals, after receiving the information they require to understand the implications of HIV testing, "must specifically decline the HIV test if they do not want it to be performed".⁷ However, as mentioned above, WHO and UNAIDS recognize that this approach to informed consent may not be appropriate for certain populations that are vulnerable to coercion and abuse, such as prisoners.⁷

HIV testing and counselling should be offered to all prisoners during medical examinations and specifically recommended by the health-care provider to prisoners with signs, symptoms or medical conditions that could indicate HIV infection as well as to female prisoners who are pregnant. But with the exception noted below, testing should always only be undertaken if a prisoner specifically states that he or she wants the test. In prisons, there is a power imbalance between staff and prisoners, and in order to ensure the voluntary nature of HIV testing, the test should be done only when the prisoner explicitly agrees to it. There is evidence that prisoners sometimes feel they cannot refuse when health-care providers state that they will proceed with testing unless prisoners say no. This is often considered virtually synonymous with mandatory or compulsory testing.^{16, 17, 18, 19} Thus, WHO and UNODC recommend that the testing and counselling services provided in prison settings use an approach in which prisoners, after receiving all the information they need to be able to make an informed decision, are specifically asked whether they want an HIV test, and tested only if they respond that they do.

A different approach (under which prisoners, after receiving the information they require to understand the implications of HIV testing, must specifically decline the HIV test if they do not want it to be performed) is only advised for prisoners with signs or symptoms of HIV disease and to female prisoners who are pregnant, to assure appropriate diagnosis and, for prisoners testing HIV positive, effective HIV treatment. However, this approach should not be implemented:

- ▶ If adverse social consequences for prisoners diagnosed HIV-positive outweigh the benefits of the diagnosis being made; and/or

** In the WHO/UNAIDS *Guidance on provider-initiated HIV testing and counselling in health facilities*, this approach to provider-initiated testing is called the "opt-out" approach.

- ▶ Unless there is access to the set of HIV-related prevention, treatment, care and support services as recommended in the *Guidance on provider-initiated HIV testing and counselling in health facilities*.^{**}

In all cases in which testing is offered to prisoners, coercion in any form must be avoided and prisoners must provide informed consent before testing can be undertaken.

Training for providers of HIV testing and counselling

As prison systems scale up access to HIV testing and counselling, they will have to ensure that health-care providers are properly trained to provide testing and counselling and, in particular, on the process of obtaining informed consent. As emphasized by the WHO/UNAIDS *Guidance*, such training programmes for personnel who will perform HIV testing and counselling should be developed and conducted well in advance of the implementation of services.

Training should be based on HIV prevention, care and treatment guidelines that also cover issues such as informed consent, confidentiality and avoiding stigma and discrimination. It should also emphasize the importance of treating with respect all prisoners at risk of, or living with, HIV, as well as the need for strict adherence to confidentiality of all medical information, including HIV status.

Integrating prison HIV programmes into national strategic plans

Currently, most countries do not report on how and to what extent their prison systems provide HIV testing and counselling to prisoners and, more broadly, access to prevention, treatment, care and support services. Prison systems' HIV efforts should be integrated into national scale-up efforts or the national strategic HIV plan to achieve universal access.

*** This includes education, psychosocial and peer support for management of HIV; periodic clinical assessment and clinical staging; management and treatment of common opportunistic infections; co-trimoxazole prophylaxis; tuberculosis screening and treatment when indicated, preventive therapy when appropriate; malaria prevention and treatment, where appropriate; sexually transmitted infections case management and treatment; palliative care and symptom management; advice and support on other prevention interventions, such as safe drinking water; nutrition advice; infant feeding counselling; and antiretroviral treatment, where available in the community outside prisons.

Ensuring adequate monitoring, evaluation and research

Prison systems should closely and regularly monitor progress towards achieving universal access in prisons, including access to HIV testing and counselling, as part of a national country-level monitoring and evaluation system. In particular, this should ensure that: prisoners have easy access to HIV testing and counselling; health-care providers offer or recommend testing and counselling, and prisoners are not coerced but give informed consent for testing; and testing and counselling is linked with HIV prevention, treatment, care and support services.

Prison systems should ensure that periodic evaluations are carried out by independent experts to assess the level of uptake of HIV testing and counselling; quality and acceptance of HIV testing and pre- and post-test services; prisoners' experience of HIV testing and counselling; rates of referral to and availability and uptake of HIV prevention, treatment (including antiretroviral therapy), care and support services; and the continuity of HIV-related services between prison and the community.

Addressing issues specific to short-term imprisonment

Settings in which prisoners spend short sentences—whether they are settings where people stay for shorter periods of time during their trial or settings where they are sentenced to short periods of time—pose particular challenges for efforts to provide HIV testing and counselling. During short-term imprisonment, the responsible authorities should ensure that prisoners have access to HIV testing and counselling, and need to make special efforts to combine this with prison- and community-based care and follow-up services after release.

Summary of recommendations

- 1** Efforts to scale up access to HIV testing and counselling in prisons should not be undertaken in isolation, but as part of a comprehensive HIV programme aimed at improving health care and at achieving universal access to HIV prevention (including access to condoms, sterile injection equipment and other harm reduction interventions and prevention of mother-to-child-transmission), treatment, care and support for prisoners (including the uninterrupted provision of antiretroviral therapy when available in the community for prisoners living with HIV and, where clinically indicated, treatment of other sexually transmitted infections, viral hepatitis, tuberculosis and other opportunistic infections).
- 2** Prison systems should review and, if necessary, change prison policies and practices that discriminate against HIV-positive prisoners, recognizing that increasing access to HIV testing and counselling must go hand in hand with greater protection from HIV-related discrimination and abuse. In particular, policies that provide for segregation of HIV-positive prisoners or their exclusion from any programmes or other activity should be repealed and the confidentiality of prisoners' medical information should be protected.
- 3** WHO and UNODC do not support mandatory or compulsory HIV testing of prisoners on public health grounds. Therefore, countries should review and, if necessary, change their laws, regulations, policies and practices to prohibit mandatory or compulsory HIV testing of prisoners.
- 4** Prison systems should ensure that all prisoners have easy access to client-initiated testing and counselling programmes, at any time during their imprisonment. Prisoners should be informed about the availability of the service, both at the time of their admission and regularly thereafter.
- 5** Prison systems should ensure that health-care providers:
 - Offer HIV testing and counselling to all prisoners during medical examinations;
 - Recommend HIV testing and counselling if a prisoner has signs, symptoms or medical conditions that could indicate HIV infection, including tuberculosis, and to female prisoners who are pregnant to assure appropriate diagnosis and, for those testing positive, access to necessary HIV treatment, care and support.
- 6** In order to ensure that prisoners can give informed consent, prison systems should adopt policies according to which prisoners will be offered or recommended HIV testing and counselling, but will not be tested unless they specifically state that they want the test. A different approach (under which prisoners must specifically decline the HIV test if they do not want it to be performed) is only advised for prisoners with signs or symptoms of HIV disease, to assure appropriate diagnosis and, for those testing HIV-positive, access to effective HIV treatment. However this approach should not be implemented if adverse social consequences for prisoners diagnosed HIV-positive outweigh the benefits of the diagnosis being made; and unless there is access to a recommended set of HIV prevention, treatment, care and support services as recommended in the Guidance on provider-initiated HIV testing and counselling in health facilities.

In all cases, any form of coercion must be avoided and prisoners must provide voluntary and informed consent.

- 7** Prison systems should develop and adopt a code of conduct for health-care staff providing HIV testing and counselling, which requires that:
 - Prisoners can seek and receive sufficient information to enable them to give informed consent to testing, including information about the specific risks and benefits of HIV testing in the prison setting; and
 - Health-care providers offering or recommending HIV testing must emphasize the voluntary nature of the HIV test and the prisoner's right to decline.
- 8** Prison systems should ensure that personnel performing HIV testing and counselling receive training, particularly in obtaining informed consent, maintaining confidentiality, counselling and how to offer or recommend the test.
- 9** National HIV programmes should ensure that prison systems are an integral part of national efforts to scale up access to HIV testing and counselling and, more broadly, achieve universal access to HIV prevention, treatment, care and support.
- 10** Prison systems working with other criminal justice agencies, health authorities and non-governmental organizations should undertake efforts to ensure continuity of care, including antiretroviral therapy from the community to the prison and back to the community, as well as within the prison system.
- 11** Prison systems should carefully monitor and evaluate the provision of testing and counselling in prison as part of the national country-level monitoring and evaluation system. This should be done to ensure that prisoners have easy access to HIV testing and counselling; health-care staff offer or recommend testing, and prisoners are not coerced into testing but give informed consent; and testing and counselling is linked with increased access to HIV prevention and treatment, care and support.





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