

What the Court and TAC expects in the HIV/AIDS plan for Westville Correctional Centre

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On Friday 8th September 2006 - the South African government in particular the Minister of Health and the Minister of Correctional Services and their employees have to submit a treatment plan for inmates with HIV/AIDS at Westville Correctional Centre to the Durban High Court. Government has already been held in contempt of court. Now, it has the opportunity to demonstrate what Cabinet today promised would never again be breached - that is, respect for the Constitution and the rule of law.

The Constitution and law requires that the HIV/AIDS plan for Westville Correction Centre must be reasonable. A reasonable plan has at least four elements according to the Constitutional Court.

- The HIV/AIDS plan for Westville and any health district in our country must be reasonable in conception. This means the plan must eliminate all barriers to HIV/AIDS prevention, treatment and care. It must have clear budgets, resource needs allocation including training, support and evaluation.
- The plan must also be implemented reasonably - a beautiful policy on paper and not properly implemented will be unconstitutional.
- Reasonable coverage by the plan means reaching all those who need treatment but special consideration must be given to vulnerable and marginalised groups.
- A plan must be communicated to everyone in a reasonable manner.

The elements of a reasonable plan were identified by the Constitutional Court in the Grootboom and TAC cases.

Background:

South Africa's prisons are in crisis. Overcrowding, malnutrition, lack of adequate health-care services and a general absence of recreational, educational and work programmes all require urgent attention.

The number of prisoners who have died in custody from natural causes has risen dramatically from 211 in 1996 to over 1500 in 2005. The death rate in prison has increased from 1.65 deaths per 1000 in 1996 to 9.2 per 1000 in 2005. This

increase in the prison mortality rate is directly attributable to HIV/AIDS and its intersection with tuberculosis (TB).

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