



UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

PERSONNEL AND
READINESS

SEP 22 2014

The Honorable Carl Levin
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This report responds to section 572 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66) which requires the Secretary of Defense to submit a report on Department of Defense (DoD) personnel policies regarding members of the Armed Forces infected with human immunodeficiency virus (HIV) and hepatitis B (HBV).

The DoD and the Military Services have policies in place to address the management of individuals with these conditions. The policies were established with an understanding of these diseases and the impact on the individual and the risk to other individuals. Health care providers in the Military Health System have appropriate training to manage the acute and long-term health needs of individuals with these conditions. The enclosed report reviews the policies for accession, retention, deployment, discharge, and adverse actions. The review found that the policies for management of DoD personnel with HIV or HBV are evidence-based, medically accurate, reflect standard of care medical practices, and have been reviewed regularly and updated as practices, guidelines, and standard of care have evolved.

Thank you for your interest in the health and well-being of our Service members, veterans, and their families. A similar letter has been sent to the Chairpersons of the other congressional defense committees.

Sincerely,


Jessica L. Wright

Enclosure:
As stated

cc:
The Honorable James M. Inhofe
Ranking Member



UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

PERSONNEL AND
READINESS

SEP 22 2014

The Honorable Barbara A. Mikulski
Chairwoman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Madam Chairwoman:

This report responds to section 572 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66) which requires the Secretary of Defense to submit a report on Department of Defense (DoD) personnel policies regarding members of the Armed Forces infected with human immunodeficiency virus (HIV) and hepatitis B (HBV).

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Sincerely,


Jessica L. Wright

Enclosure:
As stated

cc:
The Honorable Richard C. Shelby
Vice Chairman



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WASHINGTON, DC 20301-4000

PERSONNEL AND
READINESS

The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

SEP 22 2014

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Sincerely,


Jessica L. Wright

Enclosure:
As stated

cc:
The Honorable Adam Smith
Ranking Member



UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

PERSONNEL AND
READINESS

SEP 22 2014

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This report responds to section 572 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66) which requires the Secretary of Defense to submit a report on Department of Defense (DoD) personnel policies regarding members of the Armed Forces infected with human immunodeficiency virus (HIV) and hepatitis B (HBV).

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Sincerely,


Jessica L. Wright

Enclosure:
As stated

cc:
The Honorable Nita M. Lowey
Ranking Member

**Report to Congressional Defense Committees on Department of
Defense Personnel Policies Regarding Members of the Armed
Forces with HIV or Hepatitis B**



2014

The estimated cost of report for the
Department of Defense is approximately

\$5100.00

This includes \$4,500.00 in expenses and
\$600.00 in DoD labor.

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EXECUTIVE SUMMARY

INTRODUCTION: This report responds to section 572 the National Defense Authorization Act (NDAA) for Fiscal Year 2014 (Public Law 113-66), which requires the Secretary of Defense to submit a report on Department of Defense (DoD) personnel policies regarding members of the Armed Forces infected with human immunodeficiency virus (HIV) and hepatitis B (HBV).

DATA COLLECTION: DoD and Service policies were reviewed to develop this report.

POLICIES PERTAINING to HIV and HBV:

1. Individuals under consideration for appointment, enlistment, or induction into the Military Services with evidence of HIV or HBV infection do not meet accession standards, which require healthy recruits free of communicable diseases or medical conditions that may require excessive time lost for treatment or probably will result in separation for medical unfitness. Recruits must also be capable of functioning in the demanding military environment without aggravation of existing medical conditions.
2. Service members already serving who have laboratory evidence of HIV or HBV infection:
 - Are referred for appropriate treatment and managed in the same manner as a Service member with other chronic or progressive illnesses. If determined to be unfit for duty, the Service member will be separated or retired.
 - May not deploy without a waiver and the approval of the Combatant Commander. The factors considered ensure the Service member will be able to perform duties.
 - May not be subjected to adverse personnel action solely due to infection status. However, a Service member with laboratory evidence of HIV infection who disobeys an order to inform current or potential sexual partners of their infected status or to engage in safe sex practices may be subject to disciplinary action.

DISCUSSION: This review found that current DoD HIV and HBV policies are:

1. Established to maintain military readiness and based on international, national and federal guidelines, and professional organization recommendations for prevention, identification and treatment of HIV and HBV.
2. Evidence-based, medically accurate and reviewed regularly by subject matter experts.
3. Established to ensure applicants can complete rigorous military training and deploy to austere environments to accomplish the demanding missions of the military without jeopardizing their health, the health of their unit, or the health of the inhabitants of the lands where our forces are deployed.
4. In support of retention of DoD personnel already serving unless there is evidence of deteriorating health or other factors that make the individual unable or unfit to perform their duties.

5. Implemented to ensure that infection with HIV or HBV will not be the basis for adverse personnel actions.

CONCLUSION: The policies for management of DoD personnel with HIV or HBV are evidence-based, medically accurate, and are reviewed regularly and updated as practices, guidelines, and standards of care evolve.

INTRODUCTION:

Section 572 of NDAA for FY 2014, which was signed into law on December 26, 2013, required the Secretary of Defense to submit a report on DoD personnel policies regarding members of the Armed Forces infected with HIV or HBV to the congressional defense committees not later than 180 days after enactment of the act. The statute states: “The report shall include the following:

- (1) A description of policies addressing the enlistment or commissioning of individuals with these conditions and retention policies, deployment policies, discharge policies, and disciplinary policies regarding individuals with these conditions.
- (2) An assessment of these policies, including an assessment of whether the policies reflect an evidence-based, medically accurate understanding of how these conditions are contracted, how these conditions can be transmitted to other individuals, and the risk of transmission.”

An interim report dated April 30, 2014 was sent to the chairpersons of the defense committees.

DATA COLLECTION:

The Assistant Secretary of Defense for Health Affairs (ASD(HA)) requested each of the Military Departments to provide a summary addressing the requirements in section 572 of the NDAA for FY 2014. The ASD(HA) reviewed DoD-level policies for enlistment or commissioning, retention, deployment, discharge and discipline of individuals infected with HIV or HBV. This report combines the Service data with the DoD assessment to provide a summary addressing the two requirements in the NDAA language.

POLICIES PERTAINING TO HIV AND HBV:

1. Enlistment or Commissioning

Standards for enlistment or commissioning of individuals into the Armed Services are stated in DoDI 6130.03, “Medical Standards for Appointment, Enlistment, or Induction in The Military Services.” Paragraph 4 states “It is DoD policy to ensure that individuals under consideration for appointment, enlistment, or induction into the Military Services are:

- (1) Free of contagious diseases that probably will endanger the health of other personnel.
- (2) Free of medical conditions or physical defects that may require excessive time lost from duty for necessary treatment or hospitalization, or probably will result in separation from the Service for medical unfitness.
- (3) Medically capable of satisfactorily completing required training.
- (4) Medically adaptable to the military environment without the necessity of geographical area limitations.
- (5) Medically capable of performing duties without aggravation of existing physical defects or medical conditions.”

Applicants with the following specific medical conditions do not meet accession standards:

- Presence of HIV or serologic evidence of infection or false-positive screening test(s) with ambiguous results on confirmatory immunologic testing, or
- Current acute or chronic hepatitis carrier state, hepatitis in the preceding 6 months or persistence of symptoms after 6 months, or objective evidence of impairment of liver function

In accordance with DoDI 6485.01, “Human Immunodeficiency Virus (HIV) in Military Service Members,” applicants to the U.S. Service Academies, the Uniformed Services University of the Health Sciences, and other officer candidate programs will be tested for laboratory evidence of HIV within 72 hours of arrival to the program and denied entry to the program if such test is positive. Reserve Officer Training Corps program cadets and midshipmen must be tested for laboratory evidence of HIV not later than during their commissioning physical examination, and denied a commission if they test positive.

Service accession policies are in compliance with DoDI 6130.03 and DoDI 6485.01.

2. Retention

Once a Service member has been trained, the goal is to retain members who acquire HIV or HBV who are still capable of performing their duties in the rigorous military environment and to deploy wherever the military serves. If any member incurs a medical condition that limits their ability to continue performing their military occupation, the Department’s Disability Evaluation System (DES) provides for the member to have a fair and full review to determine fitness for duty (see paragraph 4 below for a discussion of DES).

The screening policies for HIV and HBV identify Service members who have been infected since accession into the military. In the Army and Air Force, HBV screening for Service members is performed if clinically indicated. SECNAVINST 5300.30E currently requires all AD personnel to receive, in addition to accession testing, an HBV test every 25 months. However, since it has been determined that there is no medical or force readiness indication for such frequent testing, the Secretary of the Navy has issued a temporary deferral from this requirement. Navy is currently revising SECNAVINST 5300.30E to remove this needlessly stringent requirement. Additional screening will be in accordance with the US Preventive Task Force Recommendation Statement, “Screening for Hepatitis B Virus Infection in Non-pregnant Adolescents and Adults,” and as medically indicated.

DoDI 6485.01 requires all Service members to be screened periodically for laboratory evidence of HIV infection.

- AD and Reserve Component (RC) Selected Reserve (SELRES) personnel are screened every 2 years unless more frequent screenings are clinically indicated.

- Members of the SELRES are screened at least once every 2 years. RC personnel are screened when called to a period of AD greater than 30 days if they have not received an HIV test within the last 2 years.¹

Testing for laboratory evidence of HIV for pre- and post-deployment is conducted in accordance with DoDI 6025.19, “Individual Medical Readiness” and DoDI 6490.03, “Deployment Health.” (The requirements for screening in DoDI 6025.19 and DoDI 6490.03 are listed under the deployments section.)

The U.S. Preventive Services Task Force (USPSTF) makes recommendations for screening for HIV that are patient specific. In addition, the 2013 recommendations noted that there are no definitive data supporting specific screening intervals. These recommendations are reviewed by the subject matter experts when reviewing DoD policy for currency. It is important to note that DoD policy is population based screening based upon unique operational military requirements. For example, the safety of the U.S. military blood supply is a primary factor in determining the policy for screening. The DoD screening policy supports early detection and treatment. The USPSTF 2013 recommendations also noted that there is direct evidence of the benefits of early antiretroviral therapy for HIV infected persons and its effectiveness in preventing HIV transmission.

An AD Service member with laboratory evidence of HIV or HBV infection is evaluated and managed in the same manner as a Service member with other chronic or progressive illnesses. A treatment plan is established, any indicated treatment is initiated. The member may be allowed to continue to serve in a manner that ensures ongoing access to appropriate medical care provided that she or he is fit for duty. Infected RC members who are fit for duty are also managed in the same manner as those with chronic or progressive illnesses and their medical condition is monitored periodically.

3. Deployment

DoDI 6025.19 requires that an HIV test result, completed within the last 24 months, be on file prior to deployment.

DoDI 6490.03 requires pre-deployment serum specimens and HIV testing (or as required by HIV threat or country requirements) for all deployments greater than 30 days to areas outside the contiguous United States (OCONUS) with non-fixed Military Treatment Facilities (MTFs). The combatant command (COCOM) Commander, Service component commander, or commander exercising operational control determines requirements for serum testing and HIV testing for all OCONUS deployments less than 30 days; OCONUS deployments to areas with fixed U.S. MTFs; and deployments within the contiguous United States (CONUS). When required, pre-deployment HIV tests must have been collected within 2 years of deployment (or more recently, based on country entry requirements). HIV serum samples that are not more than 12 months old

¹“RC personnel” includes all members of the RC not in the SELRES. For example, a member in the Individual Ready Reserve is not routinely screened; however, the member is screened when ordered to AD for more than 30 days.

stored in the DoD Serum Repository may satisfy the pre-deployment specimen requirement. DoDI 6490.03 requires notification of Service members if a pre- or post-deployment serum sample will be tested for HIV.

In accordance with DoDI 6490.07, "Deployment-Limiting Medical Conditions for Service Members and DoD Civilian Employees," Service members with the following medical conditions may not deploy unless a waiver is granted:

- Known blood-borne diseases that may be transmitted to others in a deployed environment.
- Presence of HIV seropositivity with the presence of progressive clinical illness or immunological deficiency.

The Combatant Command surgeon must be consulted in all instances of HIV seropositivity and active HBV infection for consideration of a medical clearance for deployment. The Combatant Commander is the final approval authority for waivers.

AR 40-501, "Standards of Medical Fitness," directs that HIV infected members will not be deployed to a combat theater of operations. However, waivers may be granted to HIV infected individuals to serve in OCONUS duty assignments. AR 40-501 is currently under revision and will address the availability of medical care in OCONUS for members with HIV or HBV who are granted a waiver. The revised policy will direct that medical services available in the assignment area must provide the same standard of care as in CONUS.

In 2012, based on advances in medical treatment which have significantly simplified the disease management of individuals with HIV, the Navy updated its policies to allow individuals with HIV, who have had appropriate evaluation and medical clearance, to operationally deploy aboard select naval vessels. These personnel are considered to have controlled HIV infection as manifested by an unimpaired immune system, no current viremia, an established history of compliance with medical treatment, and a history of professional attitude. This policy is based on the following considerations:

- There is no demonstrated risk of transmission of infection in normal daily activities.
- An investment in training of these individuals has been made.
- The previous policy of denying deployments was making this subset of personnel less competitive in achieving career milestones or warrior qualifications.

The Air Force (AF) policy states that HIV-infected Service members cannot deploy or be stationed OCONUS without a waiver. The AF is continuing to develop guidance for non-permanent change of station (PCS) extended duty tours and/or travel to areas with increasing military operations tempo (such as United States Africa Command or United States Pacific Command).

4. Discharge From Duty or Retirement

A Service member infected with HIV or HBV is not retired or separated solely on the basis of being infected. However, an infected member whose condition deteriorates and interferes with the successful performance of their military occupation may be referred to the Disability Evaluation System (DES) for a physical disability evaluation, which provides for a fair and full review to determine fitness for duty.

DoDI 1332.18, "Physical Disability Evaluation," DoD Manual 1332.18, Vol 1, "Disability Evaluation System Manual: General Information and Legacy DES (LDES) Time Standards," and DoD Manual 1332.18, Vol 2: Disability Evaluation System Manual: Integrated Disability Evaluation System (IDES)" establish policy for determining fitness for duty and for retiring or separating Service members due to physical disability. A medical evaluation is the first step in the disability evaluation process. A Medical Evaluation Board (MEB) documents a Service member's medical conditions and full clinical information. A summary of clinical information includes a medical history, appropriate physical examination, indicated medical tests and their results, medical and surgical consultations as necessary, diagnoses, ongoing or recommended treatment, and prognosis. The medical evaluation documents the medical status and duty limitations of Service members (subject to Service departmental regulations).

If the Service member cannot perform the duties of her or his military occupational specialty, the MEB refers the case to the DES. Criteria for referral of Service members into the DES include:

- Have one or more medical conditions that may, individually or collectively, prevent the Service member from reasonably performing the duties of their office, grade, rank, or rating including those duties remaining on a Reserve obligation for more than 1 year after diagnosis;
- Have a medical condition that represents an obvious medical risk to the health of the member or to the health or safety of other members; or
- Have a medical condition that imposes unreasonable requirements on the military to maintain or protect the Service member.

In all cases, competent medical authorities will refer into the DES eligible Service members who meet the criteria within 1 year of diagnosis.

A Service member is considered unfit when the evidence establishes that the member, due to physical disability, is unable to reasonably perform the duties of her or his office, grade, rank, or rating to include duties during a remaining period of Reserve obligation. For members determined unfit due to duty-related medical impairments, the PEB determines their entitlement to benefits under Chapter 61 of 10 U.S.C. Members found unfit are separated or retired in accordance with the guidance in DoDI 1332.18.

A revision of DoDI 1332.18 and the supporting Manuals were published on 5 August 2014. As a result, the Military Services will need to review Service policies for disability evaluation to ensure compliance with the revised DoD policy.

5. Adverse Personnel Action

HIV or HBV infection may not be the sole cause for adverse personnel actions. DoDI 6485.01 directs that information obtained as a result of an epidemiologic assessment interview will not be used to support any adverse personnel action against the Service member.

The Services use a strategy of aggressive disease surveillance and health education programs to help control the transmission of HIV or HBV. An infected Service member receives training on the prevention of further transmission of HIV or HBV infection to others and the potential legal consequences of exposing others to HIV infection. All Services hold HIV infected members accountable under the Uniform Code of Military Justice (UCMJ) if they ignore orders to warn and protect others whose health might be jeopardized by sexual contact or other types of high risk exposures. Commanders may recommend that personnel who violate such guidance be considered for involuntary discharge or separation.

DISCUSSION:

International, national and federal guidelines and professional organization recommendations are considered in the development of DoD and Service policies and during the periodic reviews and updates. These guidelines and recommendations are evidence-based, and take into consideration the epidemiology and pathophysiology of how HIV and HBV are contracted and transmitted. DoD policies for HIV and HBV are consistent with the current guidelines and recommendations of the Centers for Disease Control and Prevention. Service policies are in compliance with the DoD policies. The health information and privacy of infected Service members are protected by DoD privacy policies and programs, with which the Services are also in compliance.

The Heads of the DoD Components must ensure that each issuance for which they are the office of primary responsibility is reviewed annually. The policy must be certified as current or revised, changed, or cancelled as appropriate. The DoD policy on HIV in military Service members was revised most recently on June 7, 2013 and was reviewed in June 2014 for currency.

All Department of the Army (DA) administrative publications must be no more than 5 years old. All DA Publications more than 5 years old must be updated to reflect current policies and procedures. The Army reported that their personnel policies are reviewed every 5 years at a minimum to ensure currency and that they reflect standard of care practices. AR40-501 is being revised in light of the advances in care and treatment for HIV, and normal life expectancy for those with adequate access to care and compliance with treatment recommendations. Army reports, for example, that a current policy that prevents the assignment of HIV infected soldiers to military-sponsored educational programs that would result in an additional service obligation is being reconsidered.

The Navy reported that its guidance for evaluation, diagnosis, and management options for HIV and HBV undergoes frequent and significant updates as medical capabilities, technologies, and evidence based practices evolve. Navy policy incorporates best practices to maintain a fit and ready force capable of carrying out the Navy's mission in its unique operational milieu.

Therefore, policies undergo review and revision to ensure maximum readiness at least every five years. When specific issues arise, policies are amended as needed on a case by case basis.

Recognizing the similarities in the transmission of, and risk factors for HIV and HBV infection, Department of the Navy medical, manpower and personnel policies reflect current knowledge of the natural history of these infections, the risks to the infected individual incident to continued military service, the risk of transmission of these viruses to non-infected personnel, the effect of infected personnel on commands and the mission, and the safety of military blood supplies.

The AF Medical Service reported that their HIV and HBV policies are assessed every two years to ensure they accurately reflect current evidence-based practice. Air Force Instruction 48-135, "Human Immunodeficiency Virus Program," was rewritten in 2014 in consultation with the Air Force Medical Service Infectious Disease physician and HIV point of contact at San Antonio Military Medical Center to ensure clinical accuracy. Similarly, HBV policies are reviewed by both Infectious Disease and Gastroenterology subject matter experts to ensure accuracy and adherence to up to date evidence-based practices.

To prevent hepatitis B, DoD began vaccinating all new recruits in 2002. Tri-service vaccination policy is contained in Army Regulation 40-562, *BUMEDINST 6230.15B, AFI 48-110, "Immunizations and Chemoprophylaxis for the Prevention of Infectious Diseases." Current policy continues vaccination of basic trainees and other accessions (unless sero-immune) during initial entry training. The hepatitis B vaccine is also provided for susceptible personnel who are at risk of potential exposure to blood-borne pathogens. For military purposes, this includes occupational specialties involving health care workers, emergency medical technicians, mortuary affairs personnel, search and rescue specialists, correctional facility staff, and designated special operations forces. Members deploying for more than 30 days to areas of high hepatitis B Service members who may have been exposed to Hepatitis B are evaluated and receive post-exposure prophylaxis, if appropriate.

There is no vaccine currently available to prevent HIV infection, but the Army is engaged in clinical research. Post-exposure prophylaxis is available and is provided for Service members, as appropriate, based upon the nature and timing of the exposure.

In summary, this review found that current DoD and Service policies for accession, retention, deployment, discharge, and discipline of DoD personnel with HIV or HBV:

- are based on international, national and federal guidelines, and professional organization recommendations for prevention, identification, and treatment of HIV and HBV;
- are evidence based and medically accurate in accordance with how HIV and HBV are contracted and transmitted;
- are reviewed regularly by subject matter experts at the DoD and Service level, and are updated as guidelines and recommendations evolve or new medical information becomes available;
- are consistent with national guidelines, consistently implemented across DoD, and that Service policies are in compliance with DoD-level policies;

- support retention of DoD personnel unless there is evidence of deteriorating health or other factors that make the individual unable or unfit to perform their duties;
- direct that infection with HIV or HBV will not be the sole basis for adverse actions; and
- protect the privacy of an infected individual.

Service policies reflect frequent changes and updates as medical capabilities, technologies, and evidence-based practices have evolved. The AF, which has the most recently revised policies for HIV and HBV, believes its current policies are appropriate, reflect the most current evidence-based practice, and are medically accurate based on how these conditions are contracted and transmitted. The Army and the Navy are currently revising the policies governing the management of Service members infected with HIV or HBV.

CONCLUSIONS:

DoD accession policies are consistent with the need of the military Services to recruit healthy personnel who are able to participate in demanding military training and capable of deploying to harsh and austere environments without deterioration in their health.

For those who become infected with HIV or HBV after accession, DoD policy is evidence-based and in accordance with state-of-the-art clinical guidelines. The emphasis is upon retention if the medical condition is stable with appropriate treatment.

A waiver is required for Service members with HIV or HBV infection to deploy. As with other medical conditions requiring a waiver, many factors that the Service member will encounter during the deployment are considered to determine whether it is likely the medical condition will limit the Service member's performance or cause the medical condition to deteriorate.

Service members with medical illnesses or conditions that might limit their ability to perform military duties (including HIV or HBV infection) may be evaluated for either duty limitations or medical discharge.

Adverse personnel actions based solely on HIV or other infection are precluded by DoD and Service policy. However, as with any direct order, a Service member, who violates the order to inform sexual partners of their HIV or HBV status or fails to use safe sexual practices, may be subject to disciplinary action.

The policies for management of DoD personnel with HIV or HBV are evidence-based, medically accurate, reflect standard of care medical practices, and have been reviewed regularly and updated as practices, guidelines, and standard of care have evolved.