



AUSTRALIAN INJECTING AND ILLICIT DRUG USERS LEAGUE

Public Health Association of Australia, Incarceration
Conference Human Rights...Human Wrongs...Human
Costs

**Title: “Health Rights are Human
Rights” – The Development of a
proposal and model for a trial of
Needle and Syringe Programs in
Australia’s Prisons**

Presenter: Annie Madden – Executive Officer

**Authors: Annie Madden & Nicky Bath, Australian
Injecting & Illicit Drug Users League (AIVL)**

Introduction: PP1 Intro Slide

Before commencing this presentation I would like to acknowledge the traditional owners and thank them for their invitation and welcome to their land. I would also like to thank the Public Health Association of Australia for inviting AIVL to present at this important conference. Too often the perspectives of drug users or consumers are omitted from such proceedings at great cost to us all.

The Australian Injecting and Illicit Drug Users' League (AIVL) is the national peak organisation representing the state and territory drug user organisations and issues of national significance for illicit drug users. AIVL is a peer-based organisation which means that it is run by and for illicit drug users. The membership of AIVL is made up of the state and territory drug user organisations which ensures that the organisation truly represents a national perspective on the issues that affect illicit drug users.

The AIVL Policy Program, which is the program within AIVL that is developing the model for NSPs in prisons, is funded through the HIV and Hepatitis C Section of the Commonwealth Department of Health & Ageing. The program was first funded in November 1999 and is currently funded until 30 June 2003.

Preamble: pp2 Cell Doors

AIVL has always been concerned about the gaps in service provision for injecting and illicit drug users within the prison system in Australia. As you will all know, prisoners are a group of people who experience extreme levels of discrimination and marginalisation in society. Australians are routinely led to believe, by the media and other propaganda, that the loss of liberty in itself is not sufficient punishment for those convicted of committing a crime. We are often bombarded with headlines stating that prisoners are able to access fabulous services and programs and that some prisons are more like "holiday parks" than the institutions of punishment. It is probably true to say that the average Australian has no idea of the day to day reality for prisoners - the individual fight for survival in a system that can be both brutal and inhumane. For the prisoner who is also an injecting drug user, there are even more issues and factors to deal with not only to survive but, to protect ones health.

Within this country, the laws of the Australian Government recognise that a person's capacity to access health services should not be compromised by reason of imprisonment and that all people should have the basic right to health. This recognition is also evidenced in Australia's international treaty obligations¹. Such laws however are not implemented in reality for the many injecting drug users in Australian prisons. As we gather here today, too many men and women incarcerated in our prisons are being forced to compromise their lives and health simply because collectively, the governments of Australia are preventing them

¹ Justice Action – Prisoner Health Fact Sheet – www.justiceaction.org.au/Health/ndx_hlth.html

from being able to protect themselves. The failure of our governments to provide adequate and appropriate services to drug users in prison is increasing the rates of blood borne virus transmission and other drug use related health issues. All of these problems can be avoided however, if our governments were strong and committed to meeting their duty of care in the prison context. The provision of holistic services for injecting drug users that include needle and syringe programs will save lives and improve the health of prisoners who inject drugs. This in turn, will protect and improve the health of individuals in the wider community.

PP3 WHO Logo

As is stated in the general principles spelt out in the WHO Guidelines on “HIV Infection and AIDS in Prisons”: [PP4 WHO Quote](#)

“All prisoners have the right to receive health care, including preventative measures, equivalent to that available in the community without discrimination, in particular with respect to their legal status and nationality”².

Unfortunately, AIVL believes that such principles, along with the multitude of other legislation, declarations and charters that strive to protect prisoner’s health, are quite simply being overlooked or worse, being actively ignored by Australian prisons. There may be some of you in the audience today that see that as a harsh or even unfair statement, but the fact remains that prisoners in Australian prisons do not have access to the same level and quality of healthcare as in the general community. This cannot be disputed and must be addressed as a matter of urgency.

The provision of needles and syringes in Australian prisons has been an area of debate for sometime and has received significant media coverage. Richard Lynott’s action against the state of New South Wales in the mid 1990’s increased the media’s attention with images such as this [PP5 Richard and Diana](#). In the late 1980’s Mr. Lynott who was also Hepatitis C positive, contracted HIV whilst in prison. At the time, needle and syringe programs and condoms were available in the wider community but not in prisons. He instituted a negligence claim against the authorities for failing to provide him with access to condoms and sterile syringes while he was incarcerated.³

In November 1996, he gave evidence to the Supreme Court of New South Wales confirming that he had shared syringes in prison and had engaged in unsafe sexual practices. He also testified that had he had access to clean syringes and

² WHO Guidelines in HIV Infection and AIDS in Prisons – UN AIDS Best Practice Collection, Key Material 1993

³ Canadian HIV/AIDS Policy & Law Newsletter, Vol. 3 No.2-3 Spring 1997, Canadian HIV/AIDS Legal Network.

condoms he would have used them. In December 1996, Mr. Lynott sadly died and with him his case. His efforts to provide access to the means of health protection for all prisoners however were not totally in vain. Condoms and bleach are now available in most Australian prisons and research and evaluations are being undertaken by Australians into the provision of injecting equipment in prisons overseas. AIVL is now taking forward our action plan on this issue, with our end goal being that of needle and syringe provision in all Australian prisons.

Prison-Based Syringe Exchange Programs (PSE Programs):

PP6 PSE Programs

For point of clarification, it is important to note that within the prison setting, Needle and Syringe Programs (NSPs) are referred to as Prison-Based Syringe Exchange Programs (PSE programs). While in principle, AIVL does not support needle and syringe provision that is provided on an exchange only basis, however AIVL recognises that even in an ideal world where services in prisons should mirror that of services in the wider community, at times compromises are necessary. We take each of these challenge one at a time.

PP7 Countries

Currently, PSE programs exist in various types of prisons in countries such as:

- Switzerland
- Germany
- Spain
- Moldova

The models of distribution of injecting equipment vary from prison to prison and there are several reports that have been written describing them in more detail. In summary, provision is either by:

PP8 Models

- Vending machine; or,
- Doctor, medical or NGO staff; and,
- In Moldova they have developed a model of peer distribution.

Each model has its own merits and pitfalls and while I don't have time to go into detail about each of the programs in this presentation, I will outline some of the key issues for these services...

PP9 Issues

1. Accessing the Service:

Initial access is varied. Some of the programs require that individuals need to be assessed as drug dependent by medical officers; other prisons ensure that all new prisoners have a dummy syringe and information and/or injecting "anti-AIDS" kit in their cell.

2. Storing Equipment in cells and moving around the prison in possession of used equipment:

All programs have strict controls on the storing of equipment. Specified containers must be used and these must be stored in designated areas within an individual's cell. These containers must also be used to transport used injecting equipment within the prison.

3. Who is Excluded:

Sadly, the programs are not open to everybody. Exclusion from accessing clean injecting equipment includes:

- Pregnant women;
- Individuals on methadone treatment (this is a particular problem as it means that fits continue to be a commodity within the prison environment);
- Individuals being held in reception;
- Those individuals being held in drug free areas.

4. Other service provision:

Additional services exist such as methadone treatment, support groups, education sessions, general health care, counseling and access to bleach and condoms. Switzerland however is also piloting a heroin prescription program. This service has strict criteria and, not surprisingly is always full. In these programs the individual is able to access and self administer their prescribed amount of heroin under a nurse's supervision up to three times per day.

PP10 Results

Evaluations:

Some of the PSE programs have been evaluated. While the results are specific to each program they include:

- Between 98.3% to 100% syringes returned;
- Acceptance by staff and prisoners;
- No increase in drug use;
- Reduction in sharing;
- No increased sanctions;
- No attacks or violations;
- No increase in overdose;
- No seroconversion for HIV or hepatitis;
- Decrease in abscesses;
- No effect on individuals seeking drug treatment;
- No increase in injecting drug use.⁴

⁴ Source: Prison - Base Syringe Exchange Programs, A Review of International Research and Program Development. Rutter, Dolan, Wodak, Heilpern. NDARC Technical Report no. 112

AIVL's Approach to Needle/Syringe programs in Australian Prisons:

In developing this proposal and model, it is AIVL's aim to shift the debate about NSPs in prisons away from a debate about 'whether' we should have them to 'how' we should go about implementing them. We acknowledge that achieving our aims and objectives in this area of our work will take time. For us to succeed in being able to at least trial a PSE program in just one prison in Australia will require unprecedented support from all relevant stakeholders and the wider community. We have no illusions about the enormity of this task but we are absolutely committed to doing everything in our power to address this health and human rights injustice for prisoners.

PP11 Just say no

Illicit drugs and drug users continue to be demonised within the community and this is even greater within the prison setting. The prison system at times tries to hide the topic of illegal drug use hoping that it will go away, and extreme measures are being taken to stem the availability of illicit substances within the prison system. It has to be acknowledged that it will be impossible for any prison to completely eradicate these substances while they remain illicit. And given that the prison population has a significant proportion of illicit drug users within it, demand will remain high especially when appropriate drug treatment is hard to access and/or is not available.

AIVL believes that we cannot address PSE programs in isolation and that there are a range of other issues that need to be addressed concurrently such as:

- Looking at alternatives to custodial prison sentences for drug and drug related offences; and
- Improving drug treatment in the community to reduce and minimise criminal activity.

As it stands however, the current laws dictate that prohibition will sadly and inevitably mean that large numbers of injecting and illicit drug users will continue to be sent to prison. PSE programs are not just an issue for prisons and injecting drug using prisoners. It is an issue for all of us. The majority of injecting drug using prisoners receive short sentences and some continuously go through the revolving door of being in custody and in the community. We must be responsible and approach this from a public health perspective which is grounded in basic health and human rights.

The Reality of Prison Culture:

PP12 Prison Culture

In Australian prisons, a clean fit can be worth more than the illicit drugs themselves. Syringes are rented out from person to person and reused many times. It is common place for needles to be sharpened on match boxes and other

suitable surfaces and if you are lucky enough to have your own fit, then you guard it with your life.

While I do not normally share information about strategies that users employ to survive, (AIVL often has to walk a fine line between learning and whistle blowing), it is important for you to know the level of risk that people are being forced to take just to try and protect themselves. One of the ways in which users get injecting equipment into prisons is by swallowing fits attached to say dental floss so that they can be pulled back up later in private. I do not have to explain how potentially dangerous this is, but, when there are so many other risks in play I guess people balance risks off against each other. Too often people using these types of strategies are seen as “people with a death wish” in reality however, they are people who are desperate to survive and are finding the only ways that they know how to achieve this.

Injecting drug users want to protect their lives and their health and desperately need the resources to do so. Prison culture can be scary and threatening. The rules by which we live here on the outside often mean nothing on the inside. The only way that we can really protect injecting drug user’s lives and health is by providing the resources that they need. The recently released Commonwealth Government report: “Return on Investment in Needle and Syringe Programs in Australia” shows once and for all that “NSPs are effective in reducing the incidence of both HIV and Hepatitis C and that they represent an effective financial investment by Government⁵. AIVL believes that such success would be duplicated if NSPs were implemented in the prison setting.

PP13 AIVL Model

The AIVL Model:

Although AIVL is still in the process of developing our model (which will be available at the end of June this year) there are some key principles that I can share with you today. These principles are as a result of consultation with corrections health personnel and with injecting drug users who have been in prison within the last year and are informed by the current models in place overseas.

AIVL believes that the key principles for the successful implementation of a PSE Program in an Australian prison include:

PP 14, 15, 16 & 17

- Involvement of all stakeholders;
- The provision of needles and syringes must be from both vending machines and staff;
- Initiation to the service should be by way of all new prisoners having a blood borne virus kit placed in their cell;

⁵ Return on Investment in Needle and Syringe Programs in Australia – Commonwealth Department of Health and Aging

- Vending machines need to be well placed, regularly stocked and protected from vandalism. Where possible the machine should also provide other resources such as soap and condoms to protect confidentiality;
- Staff operating the program should be from an external NGO who do not have any investment in the prison system and should be managed directly by the prison's Governor;
- In female prisons, these staff should be women;
- Staff must be well trained and where possible should have drug using experience and have experience first hand of prison culture;
- Staff should rotate so that they cannot become entrenched in prison culture;
- The service needs to be non judgmental, accessible yet confidential and well monitored and evaluated;
- A full range of injecting equipment needs to be made available. Other services should also be available such as referral to health services;
- Equipment should be kept in a designated container and area within each cell;
- Equipment should always be transported in a designated container.

The following are some of the perceived benefits and costs associated with the implementation of NSPs in prison from the drug user's perspective:

PP18 Benefits

Benefits

- Increased knowledge of blood borne viruses;
- Reduced vein damage;
- Reduced dirty hits;
- Reduced violence;
- Reduced transmission of blood borne viruses and re-infection with blood borne viruses;
- Encourage a healthy shift in power relationships amongst prisoners;
- End to dangerous practices to access clean fits;
- Increase in self esteem and self respect;
- Decreased tension;
- Improved environment;
- Reduced need for "own made syringes".

PP19 Costs

Costs

- Known users of such a service may come under more scrutiny from prison staff;
- Perception that visitors may be given a "harder time" as staff may implement harsher regimes;

- Increased tension between users and non users (however in some of the overseas prisons there is evidence that non users and staff were supportive of PSE programs);
- The removal of this particular form of ‘prison currency’ may cause tension.

It is important to note however, that the users consulted agreed that any negatives would be outweighed by the positives and that in time PSE programs would just be “the norm” in prisons.

PP201 Barriers

Barriers to implementation:

The main issue that is used to prevent the implementation of PSE programs is the potential for a syringe to be used as a weapon. In 1991, a prison officer was stabbed with a syringe filled with blood by a prisoner who was HIV positive. Sadly the prison officer became infected with HIV, developed AIDS related complications and died. In response, New South Wales Corrective Services carried out various legislative changes to the possession and supply of injecting equipment in prisons which resulted in prison riots. The Prisons Syringe Prohibition Amendment Act 1991 was passed which forbids introduction of syringes into NSW prisons with a maximum penalty of two years imprisonment. However, there does remain a clause which states that distribution of syringes can take place: **PP21 Quote**

“if the Governor of the prison has consented to the persons introducing the syringe into the prison” (s37A(2)).

Such action and significant media and union support have made it so that prison staff remain a significant hindrance to implementing PSE programs in Australia⁶. It is important to note that the evaluations of the programs overseas have shown that there has been no increase in violence or any incidence of a syringe being used as a weapon in the prisons that have PSE programs. There has been one case of needle stick injury by a prison staff member overseas however; this was due to them emptying a machine without wearing the required protective clothing. This staff member did not experience any negative health consequences. AIVL understands and acknowledges that “everyone has the right to feel safe in their workplace” and we need to balance this with the health and human rights of prisoners. I believe it is interesting to note that the Australian incident occurred in the absence of a controlled and well regulated needle exchange program.

Evaluation also shows that the majority of the prison staff overseas fully support having PSE programs and see them as a necessity. Others however, do struggle

⁶ Source: Prison - Base Syringe Exchange Programs, A Review of International Research and Program Development. Rutter, Dolan, Wodak, Heilpern. NDARC Technical Report no. 112

with the dilemma that drug use in prison is punishable and yet such provision of injecting equipment occurs. There are of course other barriers; legislation, politicians, bureaucrats, the wider community and financial implications. For the latter however there is sufficient evidence to show that there are major financial benefits to investments in NSPs for the entire community.

As has been achieved overseas we must work together to develop a model that addresses the needs and concerns of all stakeholders and helps us to resolve some of these barriers and areas of concern. We believe that it is possible to achieve this aim.

PP22 Lobby Lobby Lobby

Plan of Action:

This presentation has shown that there is a great deal of work that needs to be carried out, to make NSPs in prisons a reality. When we have completed our model the next phase will be to actively lobby all stakeholders and to get this issue on to the top of people's agendas. We will also be looking to work with legal advisers in relation to clarifying and removing legislative and regulatory barriers to implementation. There is ample evidence from overseas to show that NSPs in prisons have positive outcomes. AIVL will be meeting with all stakeholders to move this issue along. Time is of the essence and we can no longer stay silent on this issue.

PP23 Health Rights are Human Rights

Conclusion:

In concluding I would like to dedicate this presentation to all injecting drug users who have or will become infected by a blood borne virus while serving a custodial sentence. I implore you to talk with your colleagues on this issue and help us in our fight. There is already injecting equipment in our prisons today, it is an underground system and it is utterly inadequate and dangerous. The evidence is there, we know that such legitimate initiatives can provide enormous benefits to the entire community. What we need now is for a brave and compassionate governor who believes that the people in their care have the right to access the same services as the rest of the community to come forward and support us in trialing the first PSE program. Duty of care, is duty of care, and right now, there is not one prison in Australia that can say that they are completely meeting their duty of care to their prisoners.

Prisons are driving the hepatitis C epidemic in Australia. The current situation in relation to hepatitis C in Australia is nothing short of a disgrace! Every single one of us should hang our heads in shame – NSPs in prisons present an opportunity to do something that will really make a difference in relation to hep C. The time for talking is over – it is time to act!

Thank you