A Public Health and Human Rights Imperative: The Case for Prison Needle and Syringe Programs

XVII International AIDS Conference

Tuesday, August 5, 2008

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About the Canadian HIV/AIDS Legal Network

The Canadian HIV/AIDS Legal Network (www.aidslaw.ca) promotes the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally, through research, legal and policy analysis, education, and community mobilization. The Legal Network is Canada’s leading advocacy organization working on the legal and human rights issues raised by HIV/AIDS.
Acknowledgments

- Rick Lines
- Ralf Jürgens
- Glenn Betteridge
- Heino Stover
- Dumitru Latticevschi
- Joachin Nelles
- Richard Elliott
In Canada and many other countries, the prevalence of HIV and hepatitis C (HCV) in prison populations is much higher than in the population as a whole.

A survey by the Correctional Service of Canada revealed that 38 percent of federal prisoners reported having used drugs since arriving at their current institution and 11 percent reported drug use by injection.

Because of the scarcity of needles and syringes in prison, people who inject drugs in prison are more likely to share injecting equipment than people in the community, thereby increasing the risk of contracting HIV and HCV.
Objective and Methods

Undertake the first comprehensive review of prison needle and syringe programs (PNSPs) worldwide through:

- a review of existing Canadian and international literature
- site visits to PNSPs in Moldova, Switzerland, Germany, and Spain
- personal communications with staff and funders of PNSPs in Kyrgyzstan and Belarus
- legal analysis based on Canadian and international law
Results

We produced a comprehensive review of:

- what is known about HIV/AIDS, HCV and IDU in prisons worldwide
- the experiences of six countries that have introduced PNSPs
- international and Canadian law regarding access to harm reduction in prisons
- what this means for implementation of PNSPs in Canada
Results

% injecting

% sharing
As of August 2008, PNSPs have been introduced in over 60 prisons in at least eleven countries:

- Switzerland
- Germany
- Spain
- Moldova
- Portugal
- Kyrgyzstan
- Belarus
- Armenia
- Luxembourg
- Iran
- Romania
Results

PNSPs are operating in:

- well-funded prison systems and severely under-funded prison systems
- civilian prison systems and military prison systems
- institutions with drastically different physical arrangements for the housing of prisoners
- men’s and women’s institutions and
- prisons of all security classifications and all sizes
Results

PNSPs utilize various methods for distributing syringes:

- hand-to-hand exchange by nurses and/or the prison physician
- distribution by one-for-one automated syringe dispensing machines
- distribution by prisoners trained as peer outreach workers
- distribution by external NGOs or other health professionals
## Results

<table>
<thead>
<tr>
<th>Prison</th>
<th>Incidence of HIV/HCV</th>
<th>Needle Sharing</th>
<th>Drug Use</th>
<th>Injection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Am Hasenburg</td>
<td>No data</td>
<td>Strongly reduced</td>
<td>No increase</td>
<td>No increase</td>
</tr>
<tr>
<td>Basauri</td>
<td>No seroconversion</td>
<td>Strongly reduced</td>
<td>No increase</td>
<td>No increase</td>
</tr>
<tr>
<td>Hannoversand</td>
<td>No data</td>
<td>Strongly reduced</td>
<td>No increase</td>
<td>No increase</td>
</tr>
<tr>
<td>Hindelbank</td>
<td>No seroconversion</td>
<td>Strongly reduced</td>
<td>Decrease</td>
<td>No increase</td>
</tr>
<tr>
<td>Berlin (Lehrter Strasse et Lichtenburg)</td>
<td>Strongly reduced</td>
<td>No increase</td>
<td>No increase</td>
<td>No increase</td>
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<tr>
<td>Lingen 1</td>
<td>No seroconversion</td>
<td>Strongly reduced</td>
<td>No increase</td>
<td>No increase</td>
</tr>
<tr>
<td>Realta</td>
<td>No seroconversion</td>
<td>Single cases</td>
<td>Decrease</td>
<td>No increase</td>
</tr>
<tr>
<td>Vechta</td>
<td>No seroconversion</td>
<td>Strongly reduced</td>
<td>No increase</td>
<td>No increase</td>
</tr>
<tr>
<td>Vierlande</td>
<td>No seroconversion</td>
<td>Little change or no reduction</td>
<td>No increase</td>
<td>No increase</td>
</tr>
</tbody>
</table>
Results

Feared negative consequences have not materialized:

“In no case needles have been used as weapons. … Inmates involved in the NEP are required to keep their kit in a pre-determined location in their cells. This assists the staff when they enter the cell to conduct cell searches. Because syringes and needles are an approved program, there is no need for an offender to conceal them in their cells.”
Results

Evaluations have also shown:

- improvement in the health of prisoners
Results

Determinants of success:

- PNSP must suit the needs of the institution, the prisoner population, and the prison staff
- Confidential and easy access
- PNSP should be one component of broader health strategy
- Support of prison administration and staff is crucial
- Start with a number of pilot projects that are evaluated
Results

Under international law, persons in detention also explicitly retain:

- The right to the highest attainable standard of health;
- The right to equality in the enjoyment of human rights (except insofar as necessarily limited by incarceration); and
- The right to life.
Results

Principle of Retaining Rights:

• prisoners retain all civil rights that are not taken away expressly or by necessary implication as a result of the loss of liberty flowing from imprisonment

Principle of equivalence:

• entitles persons in detention to a standard of health care equal to that available outside of prisons and includes preventative measures

• requires standards that achieve equivalent health objectives
Results

• People in prison also have the right to preventative health measures.

• Providing sterile syringes to prisoners to help prevent the spread of blood-borne viruses has been considered and supported by numerous international organisations, including the WHO, UNAIDS, the Office of the UN High Commissioner on Human Rights and UNODC.
Results

• In Canada, the federal government has a statutory obligation under the Correctional and Conditional Release Act ("CCRA") to provide prisoners with essential health care akin to that available in the community.

• Both the principle of retaining rights and the principle of equivalence are reflected in the CCRA.

• Accordingly, bleach is available in all federal correctional facilities to “promote public health and a safe and healthy environment...as a harm reduction measure against the transmission of HIV and other infectious diseases.”

• In the community, Health Canada in 2001 reported that there were over 200 needle and syringe programs in the country, yet the possession of needles or syringes are prohibited in prisons and could lead to a disciplinary offence.
Results

The failure of federal authorities to provide PNSPs may also contravene the Canadian *Charter of Rights and Freedoms* ("Charter").

The Charter guarantees the right:

- to life, liberty and security of the person (section 7);
- not to be subjected to any cruel and unusual treatment or punishment (section 12); and
- to equality before and under the law (section 15).
Lessons learned

Prison authorities’ failure to provide prisoners with access to essential HIV and HCV prevention measures:

• violates their human right to the highest attainable of health and the principles of retaining rights and equivalence in prison health care;

• is inconsistent with international instruments dealing with prisoners’ rights, prison health services and HIV/AIDS in prisons; and

• may be a violation of prisoners’ rights under the Charter.
Conclusions

- PNSPs have proven safe and effective in every jurisdiction where they have been introduced and are effective in promoting and protecting prisoners’ health.

- There are no valid reasons not to introduce PNSPs in Canada.

- Pilot PNSPs should be established in all regions of CSC (and in a number of provincial institutions).