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NEW REPORT: SYRINGE ACCESS PROGRAM PARTICIPANTS CITE POLICING PRACTICES AS BARRIER TO PUBLIC HEALTH

*Study Identifies Legal Loophole & Fear of Police as Undermining Publically
Funded Programs*

*New State Data Shows over 700 Arrests in 2008 &
Nearly 600 in 1st Six Months of 2009*

Manhattan— Inconsistencies in New York’s laws allow for policing practices that undermine publicly-funded syringe access programs, which prevent the spread of HIV and hepatitis C, program participants report in a new study unveiled today.

“Syringe exchange participants are trying to protect themselves and their community by using sterile syringes and safely disposing of used ones,” said **Robert Tolbert, a leader at VOCAL**, a union of former users. “But instead, they face harassment and arrest because the laws aren’t clear and the police don’t always follow the existing guidance.”

“Both policing and public health are ultimately aimed at creating safe communities. Health agencies and the police should be working together. Instead, the health department gives drug users syringes, and the police department takes them away,” added **Scott Burris**, Professor of Law at Temple, former ACLU lawyer and the editor of the first legal analysis of HIV in the US in 1987, *Aids And The Law: A Guide For The Public*.

The report found that more than 7 in 10 (71%) of the 76 syringe exchange participants surveyed reported being charged with unlawful syringe possession. One third of those surveyed had experienced multiple arrests. Legal experts and public health researchers joined with Voices of Community Advocates and Leaders (VOCAL) and the Urban Justice Center’s Community Development Project for the release of “Stuck in the System.”

New state data confirms that hundreds are arrested in the state every year with the primary charge being possession of a syringe: in the first nine months of 2009, there were 597 arrests; in 2008 there were 710 arrests; and in 2007 there were 638 arrests, data from the NYS Division of Criminal Justice Services shows.

“For nearly twenty years, our state has supported syringe access programs because we know they work to prevent the spread of HIV and hepatitis C, while keeping our communities safe. We need to clean up New York’s laws to avoid confusion among law enforcement and make sure people aren’t afraid to practice harm reduction or safely dispose of used syringes,” said **Assembly Health Committee Chair Richard N. Gottfried**.

“The contradiction in state laws has one side of government undermining the efforts of another—unnecessarily putting injection drug users and their families at risk, harming public health, and wasting public dollars, all at the same time,” said **Alexa Kasdan, Director of Research and Policy at the Urban Justice Center’s Community Development Project**, which conducted the research and analysis for the report.

“In my 8 years interviewing active injection drug users in NYC, I have found that police presence and harassment deters them from having sterile syringes on them all the time. As they often confirm, this opens the door for more needle sharing. On top of that, the ambiguity around the legality of carrying syringes with residue leaves these drug users scared of being arrested and less inclined to safely dispose of their syringes,” said **Camila Gelpí-Acosta**, a Sociology PhD student at the New School for Social Research who studies active heroin use in New York City, including interviewing drug users.

While New York’s Public Health Law provides a legal exemption for possession of syringes obtained through certain public health programs, the New York State Penal Code continues to define possession of syringes and trace amounts of residue as misdemeanor criminal offenses. Governor Paterson submitted a bill last year that would have strengthened legal protections for people who lawfully possess new and used syringes; the bill passed the Assembly and was scheduled for a Senate vote before the leadership coup stalled further action.

The report also conducted in-depth interviews with the syringe access program participants, who confirmed the negative impact of police practices.

“I don’t carry any syringes on me, I try not to any more... when I get them I’m being stripped of them. If the police are going to strip me of my clean syringes, and then throw them away, then now I’m back where I started - now I’m taking risks using the older ones, or I’m cleaning someone else’s old ones out,” said one **interviewee**.

Of those arrested for syringe possession, approximately 9 in 10 (87%) of the syringe access participants surveyed were carrying a program identification card when arrested. Only 3% of those respondents reported their card was returned to them; the rest said the police confiscated, destroyed, or ignored it.

“The card didn’t mean nothing to them. I didn’t want to go to jail again. I thought [the police] understood it was about reducing the harm. I thought we were in this together. Less people getting hepatitis C, less people getting HIV - I thought they understood,” said another **interviewee**.

In a study published in the Harm Reduction Journal last year, 54% of drug users surveyed at syringe exchange programs in NYC reported collecting fewer syringes than they needed. This “syringe gap” similarly suggests that injection drug users, even those enrolled in syringe access programs, are re-using and possibly sharing syringes at high rates, putting them at risk for disease transmission. The report cited “fear and likelihood of police contact” as a “main” barrier to adequate sterile syringe use.

“Improvement in the relationship between and interactions among SEP participants and law enforcement is important for resolving the syringe gap experienced by these injecting drug users. Perceptions and experiences of vulnerability... could be improved if law enforcement adopted a 'health promotion' role for safer injecting... in spite of the illicit nature of injecting drug use,” wrote the study authors.

The creation and expansion of NYC syringe access programs have presided over a dramatic reduction in the prevalence of HIV among injecting drug users, from 54% in 1990 to 13% in 2001. Congress and President Obama lifted the 20-year old federal funding ban on syringe exchange in December 2009.

The full report can be viewed online at:

http://www.urbanjustice.org/pdf/publications/Stuck_in_the_System.pdf

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