



# Families and Friends for Drug Law Reform (ACT) Inc.

*committed to preventing tragedy that arises from illicit drug use*

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## STERILE SYRINGES AND MEDICALLY SUPERVISED INJECTING FACILITIES FOR PEOPLE IN CUSTODY

*The following is an extract from the submission dated 15 September 2003 of Families and Friends for Drug Law Reform to the Inquiry into support services for families of people in custody by the Standing Committee on Community Services and Social Equity of the Legislative Assembly for the Australian Capital Territory.*

*The full text of the submission is available at [www.ffdlr.org.au](http://www.ffdlr.org.au) and [http://www.aph.gov.au/senate/committee/mentalhealth\\_ctte/submissions/sub319a\\_atch1.pdf](http://www.aph.gov.au/senate/committee/mentalhealth_ctte/submissions/sub319a_atch1.pdf).*

13/11/05

### STERILE SYRINGES AND MEDICALLY SUPERVISED INJECTING FACILITIES

“About 25 percent of Australian prisoners inject drugs with shared syringes while incarcerated.”<sup>1</sup> A prisoner in New South Wales wrote the following to us:

“I’ve known people who have had pretty large habits prior to gaol but had easy access to heroin while inside which dwarfed any previous habit. . . . I heard today from one of the medical staff here that in one section of the gaol (maximum security) one needle is being used between 20 odd people.”<sup>2</sup>

This poses an enormous danger to their health, that of their fellow prisoners, the present and future families of the prisoners and the community at large. A recently

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<sup>1</sup> . K. Dolan, “Surveillance and prevention of Hepatitis C infection in Australian prisons: A discussion paper” NDARC Technical Report no. 95 (2000) p. 6.

<sup>2</sup> . Brian McConnell & Tony Trimmingham (eds), *National Families & Community Conference on Drugs: “Voices to be heard”: Conference proceedings, 10-11 November 2000* (Families and Friends for Drug Law Reform, Canberra, July 2001) p. 89. Available at [www.ffdlr.org.au](http://www.ffdlr.org.au).

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published study of a random sample of prisoners in New South Wales, where ACT prisoners are held, states:

“Our findings . . . confirm that a proportion of IDUs (approximately 50% in this study) continue to inject drugs in prison, with approximately two-thirds of this group sharing needles and other injecting paraphernalia (e.g., spoons and water) at their last prison injection.

“The high level of sharing injecting equipment in prison is a likely consequence of their limited supply within the correctional system. Supplying a syringe to a prisoner carries a one year sentence under the Correctional Centres Act and the possession of a syringe by a prisoner can lead to the imposition of a range of punitive measures. The scarce supply of needles combined with the high levels of exposure to blood borne infections in the prisoner population enhances the possibility of the transmission of viral hepatitis and HIV when sharing occurs.”<sup>3</sup>

The authors of this study included two members of the NSW Corrections Health Service.

In contrast, objections to providing clean syringes in detention centres have been expressed in strong terms. The then Opposition Spokesperson on Corrections, Mr Hargreaves, issued a press release in 2000 in which he “slammed” a decision of the then government to task “the Corrections Health Board of the ACT to examine the feasibility of a needle exchange in prisons”. The Shadow Minister gave the following reasons:

“This is a blatant admission that the fight against the use of drugs in our corrective services institutions has failed. It assumes that the issue of condoms to prevent the spread of Hepatitis C and HIV isn't working either.

‘The very thought of this is abhorrent. There are so many questions, which spring to mind that I doubt any literature search will satisfy them.

‘Who is going to supply the drug? Is the Government going to supply the heroin to prisoners? Is the Government going to stand idly by while the prisoners buy their own?

‘Will we have another social laboratory using a captive audience?

‘Will we have an ongoing supervised injecting place before a trial to prove they work?

‘Will the custodial officers be at risk from the prisoners using syringes as weapons?

‘What sort of message are we sending here?

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<sup>3</sup> . Tony Butler, Michael Levy, Kate Dolan and John Kaldor, “Drug use and its correlates in an Australian prisoner population” in *Addiction research and theory*, vol. II, no. 2, pp. 89-101 (2003) at p. 99.

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‘I agree that prisoners should have access to the same drug treatment regimes that are available to those on the outside, but not to the extent of having the wherewithal provided for prisoners to continue their habits.

‘We have to break the cycle of drug dependence and crime - not encourage it or make light of it.’ Mr Hargreaves said.”<sup>4</sup>

The present Chief Minister, Mr Stanhope, is on record as stating last December that a proposal of the Opposition to ensure that sharing of needles in ACT detention and remand centres will cease by June 2003 was “ill-founded, unworkable and irresponsible” because the result could be achieved only by providing sterile syringes.<sup>5</sup> Illustrating the inconsistencies that so often surrounds discussion of this issue, Mr Stanhope’s statement contradicted that of Mr Hargreaves in admitting the inefficacy of any means other than the provision of sterile syringes to prevent the sharing of syringes. According to Mr Stanhope, “No prison or remand centre in the world has been able to achieve this goal [of preventing needles entering remand and detention centres].”<sup>6</sup>

In evidence on 1 May this year before the Standing Committee on Health, Mr James Ryan, the Director of ACT Corrective Services, canvassed a large number of objections to a syringe program in ACT corrective institutions.<sup>7</sup> These and one or two additional objections are listed below:

- Unsupported by correctional administrators of countries whose correctional philosophies are most akin to Australia’s;
- Where implemented, provision of syringes is for only a small minority of detainees;
- Provision of syringes to detainees in the ACT would be of benefit for only a short time and probably only a small part of their detention;
- Provision of syringes would reduce the incentive and opportunity for detainees to get on top of their substance abuse;
- Grounds for the provision of syringes in terms of public health are not sustainable;
- Legislation would need to be changed to permit the provision of syringes in correctional institutions;

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<sup>4</sup> . Media Statement “Needle Exchange In Prisons?” of 13 July 2000 by John Hargreaves, Opposition Spokesperson on Corrections.

<sup>5</sup> . Chief Minister, media release no. 345/02 dated 10 December 2002.

<sup>6</sup> . Chief Minister, media release no. 351/02 dated 11 December 2002.

<sup>7</sup> . Australian Capital Territory, Legislative Assembly, Standing Committee on Health, *Reference: Access to syringes by intravenous drug users, Transcript of evidence*, 1 May 2003 pp. 47-50 at <http://www.hansard.act.gov.au/hansard/2003/comms/health12.pdf> visited 14/08/03.

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- If a prison authority supplies syringes it may lead to liability of those running detention centres for ill health resulting from injection of illicit substances;
- It is impracticable to separate those who would use syringes from those being treated for drug dependency;
- Provision of syringes would involve the supply of things that could be used as weapons to endanger other detainees and custodial staff; and
- The provision of syringes would create an occupational health and safety danger from inadvertent needle stick injury for custodial staff.

To most of these objections a short answer can be given.

### **(a) Unsupported by correctional administrators of countries whose correctional philosophies are most akin to Australia's**

Sterile syringes are provided in prisons in a growing number European countries. "As of December 2000, a total of 19 prison-based syringe exchange (PSE) programmes were identified in Switzerland, Germany and Spain."<sup>8</sup> Six of these have been evaluated with "very positive" results.<sup>9</sup> Sterile syringes are also distributed in Moldova and Kyrgyzstan.<sup>10</sup> Within the last two years or so prison-based syringe exchange programs were at the planning stage in Italy, Portugal, and Greece.<sup>11</sup> The current state of implementation is described in the following account prepared earlier this year:

Mr Ryan stated that "there doesn't appear to be any wide-based official support for these programs by the correctional administrators in Canada, New Zealand and the UK, countries whose correctional philosophies are more akin to ours" (p. 48). It is clear that the proposal should be examined with particular care but

<sup>8</sup> . Kate Dolan, Scott Rutter & Alex D. Wodak, "Prison-based syringe exchange programmes: a review of international research and development" in *Addiction*, vol. 98, pp. 153-58 (2003) at p. 154. For Switzerland see also ABC, Radio National, The Health Report, "Heroin Prescription and Needle Exchange in Prison," transcripts 10 August 1998. For Spain see also Paper delivered at 13th International AIDS Conference, Durban, South Africa - 9-14 July 2000 "Needle exchange programme (NEP) in the prison of Bilbao 2 experience years: 1997-1999" at <http://www.aegis.com/conferences/13WAC/TuOrD322.html>.

<sup>9</sup> . Kate Dolan, Scott Rutter & Alex D. Wodak, "Prison-based syringe exchange programmes: a review of international research and development" in *Addiction*, vol. 98, pp. 153-58 (2003) at p. 157.

<sup>10</sup> . Ralf Jürgens, *HIV/AIDS prevention from drug dependent persons within the criminal justice system* presented at the Commission on Narcotic Drugs Ministerial Segment: Ancillary Meetings; Ancillary Meeting on HIV/AIDS and Drug Abuse, Vienna, 16 April 2003 (2003, Canadian HIV/AIDS Legal Network) p. 7 at [http://www.aidslaw.ca/Maincontent/issues/prisons-/prison\\_presentation160403.pdf](http://www.aidslaw.ca/Maincontent/issues/prisons-/prison_presentation160403.pdf) visited 27/08/03.

<sup>11</sup> . Dolan (2003) fn 8, p. 157.

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that we should not depart from what Anglo Saxon English speaking countries do is a poor reason, particularly given the composition of Australian society. It is certainly not a reason to reject a proposal supported by sound reasons. It is relevant that Canada is actively looking into the provision of syringes in prisons.<sup>12</sup> The ACT should do no less. In June this year the Health Committee of the Canadian House of Commons recommended that:

“Correctional Service Canada provide harm reduction strategies for prevention of HIV/AIDS amongst intravenous drug users in correctional facilities based on eligibility criteria similar to those used in the outside community (as per the recommendation of the December 2002 report of the Special Committee on the Non-Medical Use of Drugs).”

This is specifically intended to refer to “needle-exchange programs for drug users within federal prisons so as to curb high rates of HIV infection among prisoners.”<sup>13</sup>

### **(b) Where implemented, provision of syringes is for only a small minority of detainees**

According to Mr Ryan access to existing syringe programmes in prison is limited to “especially identified and targeted prisoner groups who represent a small percentage of the total prison population” and he knows of no country where syringes are provided to remandees. He added that the one prison needle exchange that he had seen in operation had “worked”.

In fact syringes are provided in at least one remand centre. In “. . . a remand prison in Geneva . . . a doctor handles syringes for drug addicts.”<sup>14</sup> In any case the points that Mr Ryan make are no reason for doing nothing. The ACT should plan for the provision of syringes for at least an “especially identified and targeted” group in the new ACT prison. It should also examine extending it to all prisoners and remandees who may benefit. It is understood that the prison is being planned on the basis that it would house remandees.

### **(c) Provision of syringes to detainees in the ACT would be of benefit for only a short time and probably only a small part of their detention**

Mr Ryan pointed out that “in the event of an NSP for offenders in custody in the ACT, when a remandee is sentenced into New South Wales [as is the case until the ACT gets its own prison] he would then go from a situation where there is a

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<sup>12</sup> . Gino Vumbaca, *“Finding a better way”: a review on the policies, programs and practices currently being implemented in overseas jurisdictions to deal with HIV/AIDS, hepatitis and drug use issues both within the prison system and the wider community* (1998 Winston Churchill Memorial Trust of Australia Report, NSW Department of Corrective Services, Sydney, [1998]) p. 25.

<sup>13</sup> . *Toronto Star*, 5 June 2003.

<sup>14</sup> . ABC, Radio National, *The Health Report*, “Heroin Prescription and Needle Exchange in Prison,” transcripts 10 August 1998; Vumbaca (1998) fn 12, pp. 5 & 8-9.

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program into one where there isn't a program and in these circumstances we'd need to establish whether an NSP is appropriate merely for that remand period" (p. 48).

Even before an ACT prison is built, a syringe program for ACT remandees would have health benefits even for remandees who are ultimately sentenced to prison. Many remandees are found not guilty or of those that are many are not given a term of imprisonment. Illnesses that could threaten the life of prisoners and through them their family are contractible from just one unsterile injection.

### **(d) Provision of syringes would reduce the incentive and opportunity for detainees to get on top of their substance abuse**

According to Mr Ryan "[r]emand is an opportunity for detainees to improve their health and to reflect upon their situation. Arguably an NSP [needle, syringe programme] might reduce the opportunity for detainees to address their substance abuse programs and may even provide an excuse not to do so. It may also promote drug use with other detainees"(p. 48).

There are many answers to this objection including:

- the loss of freedom entailed in detention is itself a strong incentive for detainees to reflect on their situation including any drug problem that may have contributed to them being there;
- remandees who are yet to be found guilty should enjoy the presumption of innocence; it is inconsistent with that that they should be *expected as a matter of discipline* to reflect on their health problems (addictions);
- people should be detained for serious offences. They are not detained because they have a serious health problem in the form of a raging addiction (which is not an offence) and, under prosecutorial guidelines, should not be detained solely for a minor offence of use or possession of a small quantity of drugs for personal use;
- the questionable assumption that coerced drug treatment is effective in the long term and that it has overall health benefits for those who undergo it;
- as Mr Ryan has conceded, in the absence of counterproductive and intolerable regimes such as eliminating contact visits and isolation of prisoners, it is virtually impossible to keep drugs out of corrective institutions;
- the issue is not therefore a question of permitting the use of drugs in an environment where they did not exist but whether Corrections should lower the risk of detainees contracting serious diseases in the event that they do use;
- the question of whether the provision of syringes in detention centres may encourage drug use is no more relevant in those centres than it is in the community where clean syringes are widely provided;
- the consensus of expert opinion supported by many surveys is that the provision of clean syringes in the community has not promoted drug use. Detention centres should be no different.

**(e) Grounds for the provision of syringes in terms of public health are not sustainable**

According to Mr Ryan: “Although we agree that sharing needles and syringes presents a health problem, we don’t consider that the arguments on the grounds of public health equity for access are likely to be sustained. Nor do they outweigh, in our view, the disadvantages, at this point anyway, of introducing such a program” (p. 49). In different language Mr Hargreaves seems to have been making the same point when he criticised the commissioning of a study to examine the feasibility of a needle exchange in prisons: “This is a blatant admission,” he said, “that the fight against the use of drugs in our corrective services institutions has failed. It assumes that the issue of condoms to prevent the spread of Hepatitis C and HIV isn't working either.”<sup>15</sup>

The implications of this comment are far reaching:

- it seems to be asserting that the “health problem” of prisoners sharing syringes are overstated or even incorrect;
- it expresses the value judgement that there are disadvantages from the point of view of running a correctional institution of providing syringes that outweigh the public health benefits of doing so.

As Families and Friends for Drug Law Reform understands the situation, the overwhelming opinion among public health experts is that the use of sterile syringes is effective to reduce what is a high risk of intravenous drug users contracting blood borne diseases. Sexual intercourse, whether homosexual or otherwise, and injection are different infection pathways for the blood borne diseases of most concern. The provision of condoms helps with one but not the other. Indeed, there is a mountain of evidence in support of this conclusion. For example, research prepared for the Commonwealth Department of Health in May 2002 found from 778 calendar years of data from 103 cities around the world with HIV seroprevalence measurements that:

“... cities that introduced NSPs had a mean annual 18.6% decrease in HIV seroprevalence, compared with a mean annual 8.1% increase in HIV seroprevalence in cities that had never introduced NSPs”<sup>16</sup>

The inexpert opinion of prison administrators should count for little on the risks of unsterile injecting when it contradicts sound scientific evidence and the opinions of experts.

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<sup>15</sup> . Media Statement “Needle Exchange In Prisons?” of 13 July 2000 by John Hargreaves, Opposition Spokesperson on Corrections.

<sup>16</sup> . Health Outcomes International Pty Ltd, National Centre for HIV Epidemiology and Clinical Research & Michael Drummond, *Return on investment in needle & Syringe programs in Australia, final report* (Commonwealth Department of Health and Ageing, St Peters, SA, May 2002) at <http://www.drugpolicy.org/docUploads/ROIfinal.pdf> visited 29/10/02 p. 1.

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The value judgement is highly questionable that disadvantages from the point of view of running a correctional institution of providing syringes outweigh the public health benefits of doing so. This reflects a mindset that sees correctional institutions as quarantined from the rest of society. They are not. Just as what happens in society at large affects the clientele of corrective institutions, so does what happens in corrective institutions have implications for society outside. Those in corrective institutions have come from the community and will move back into it. They have existing and future families including sexual partners and children who will be affected by what happens to them inside. Those outside the circle of their family also have an interest in ensuring that those released do not become agents for diseases and are reintegrated as law abiding members of the community.

Assessing the balance of convenience between running a correctional institution and broader public health benefits is a matter on which the views of correctional personnel is relevant. They should not be decisive.

### **(f) Legislation would need to be changed to permit the provision of syringes in correctional institutions**

Mr Ryan stated that legislation need to be changed because “. . . the present legislation, . . . clearly recognises the importance of excluding illicit drugs, needles and syringes from correctional facilities.” If legislation stands in the way of meritorious reform it should be changed just as other legislation is continually being changed.

### **(g) If a prison authority supplies syringes it may lead to liability of those running detention centres for ill health resulting from injection of illicit substances**

According to Mr Ryan “the free access to an NSP in a custodial environment would raise . . . serious duty of care issues. The provision of syringes will not, of itself, reduce the dangers of overdoses or harm from injecting substances smuggled into the facility. The issues in the instance of an overdose resulting in death may include who is responsible for the substance taken and the dose, whether drugs for injection by detainees should be prescribed and distributed by health services perhaps to avoid harm caused by the injection of a substance the content of which is unknown, and the possibility of a person becoming an intravenous drug user while in detention. This already occurs, as we know, but at least not in an environment where needles and syringes are sanctioned” (p. 49).

These issues regarding duty of care have been faced in relation to the provision of syringes in the community. If legal advice has it that prison authorities require protection from litigation of the sort mentioned, then this should be provided for in legislation. Mr Ryan seems to make the excellent (the desirability of overcoming the dangers in using illicit substances themselves) the enemy of the good (the reduction in the high risks associated with a particular means of taking them).

The risks of litigation where sterile syringes are provided should be balanced against other credible risks of litigation from failure to provide those facilities. In particular the present unsatisfactory situation raises issues of breach of duty of care concerning:



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- failure to keep illicit substances out of prisons;
- failure to provide effective health care for a health condition of detainees in the form of an addiction;
- failure to provide conditions to minimise the known dangers of an activity known to take place in detention centres, namely injection of drugs using unsterile syringes.

These circumstances may even give rise to a right of action by a family member as well as by an ex-detainee.

### **(h) It is impracticable to separate those who would use syringes from those being treated for drug dependency**

Mr Ryan raised the practical difficulty of attempting to separate those using syringes from those being treated for their drug dependency. He described it in terms of: “exclud[ing] any group using a needle and syringe program from the mainstream of the population” (p. 49). Were such a programme introduced it would be necessary, as he sees it, “for the health services to identify those detainees who are not treatable in any other way than by giving them needles and drugs and to manage them accordingly” (p. 50). He questioned whether it would be “feasible [to do] this . . . for remandees in the ACT, given the small, mixed population that we have.” “We’re flat out,” he continued, “separating the major separations that we have already by virtue of gender, protection and so on” (p. 50).

Undoubtedly practical issues of separation arise in relation to drug treatment within corrective institutions. Even so, Mr Ryan himself suggested an even more complex scheme of separation as a means of controlling the spread of blood borne virus. This is discussed below at page 61. From experience overseas the issue is not the separation of those using syringes from the rest of the inmates – an impossible exercise given the secrecy surrounding illicit drug use – but in the separate accommodation of those who elect for treatment or otherwise to be in a drug free area. Such a unit recognises the reality of the ubiquity of drugs within corrective institutions and the need to provide an environment verified by drug testing to assist those seriously intent on addressing their drug use problem. They have, for example, been established in many English prisons.<sup>17</sup> As Vumbaca puts it, drug free units should be established “with strong community alliances to allow inmates an environment to address their drug [use] whilst in prison and when released.”<sup>18</sup>

In summary, the practical issue of providing for the separation of detainees in remand as well as prison arises from the need, irrespective of whether sterile syringes are provided, for an effective drug treatment strategy within those institutions. The case for the provision now of such a separation does not depend on whether sterile syringes are provided. It is up to the Government to provide the resources for this separation.

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<sup>17</sup> . Vumbaca (1998) fn 12, p. 18.

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A related issue that Mr Ryan raised is also a red herring. He queried whether “the introduction of a [syringe] program . . . also raises issues in relation to the provision of similar policies and practices for the use of non-injecting drugs and even, say, alcohol.” Most of those in prison are poly drug users. They will have their drug of choice but there, as in the community, will most likely use whatever it available, whether it be pills, alcohol or an injected drug (p. 49).

### **(i) Provision of syringes would involve the supply of things that could be used as weapons to endanger other detainees and custodial staff**

Fear about the use of syringes as weapons to threaten staff and other detainees is real. As Mr Ryan described the situation, “. . . offenders in custody are denied access to anything that could be used as a weapon—I’m talking about our offenders in custody on remand—such as a kitchen knife, until such time as they are classified worthy of trust. That’s usually unlikely for our remandees and only happens after careful classification as sentenced prisoners, if they go that far. Prisoners habitually as a group seek out opportunities to obtain or manufacture objects that could be used as weapons. The use of a needle or syringe as a hold-up weapon is commonplace and very often effective, mainly because of the threat of contaminated blood being associated with them” (p. 49).

The concern of staff is high. Mr Ryan explained that: “As is the case in all other jurisdictions in Australia, custodial staff in the ACT are strongly opposed to the introduction of needle exchange services” (p. 49). “[I]t remains,” he continued, “an important industrial issue in corrections. One of the reasons for this is the memory of the death from AIDS in 1999 of custodial officer Geoff Pierce, who contracted AIDS following an assault with a blood-filled syringe at Long Bay in July 1990” (p. 49).

The following considerations are relevant to these concerns:

- a programme for the provision of sterile syringes in corrective institutions would not involve the introduction of syringes where they do not already exist. As shown by a study on drugs in prisons in the *Australian illicit drug report 1997-98*, unsterile syringes are already circulating in prisons.<sup>19</sup> Mr Pierce was a victim of just such an instrument. Mr Ryan disclosed that “since January of this year we’ve found four at Belconnen and two at our new temporary remand centre” (p. 48);
- from the information available, syringes provided in corrective institutions overseas have not been associated with assaults. According to Dr Kate Dolan of the National Drug and Alcohol Research Centre who has closely studied Swiss research on the provision of syringes in Swiss prisons: “The results are promising; nobody was assaulted, and that’s a main objection to syringe exchange.”<sup>20</sup> In a survey published this year she and her co-authors reported that

<sup>19</sup> . Australian Bureau of Criminal Intelligence, *Australian illicit drug report 1997-98* (Australian Bureau of Criminal Intelligence, Canberra, March 1999) pp. 114-28 at p. 125.

<sup>20</sup> . ABC, Radio National, The Health Report, “Heroin Prescription and Needle Exchange in Prison,” transcripts 10 August 1998.

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no instance of “the use of needles as weapons” was reported in six evaluations that had taken place of prisons in Germany and Spain as well as Switzerland;<sup>21</sup>

- methods of dispensing and the requirement of use of provided syringes within designated areas as part of a clinically controlled programme can minimise the risk of them being used as a weapon;
- a lot of violence in prisons is closely associated with the possession of drugs and actions associated with addicted detainees desperate for a fix. A strategy involving first class drug treatment would reduce the frequency and intensity of violence across the board including the risk of assaults with syringes; and
- six evaluations of prison programmes in Switzerland, Germany and Spain have shown a generally favourable reaction by prison staff to the programmes. For example, it has been reported of two evaluations in Germany, one in a women’s prison and the other in a men’s one, that:

“Initially there was a high level of acceptance among staff due to the prisons initiating demands for a [syringe exchange] and the collaborative nature of the planning. However, there was some variance between the two prisons. Staff at the men’s prison were more reserved about their expectations for the success of the programmes.”<sup>22</sup>

### **(j) The provision of syringes would create an occupational health and safety danger from inadvertent needle stick injury for custodial staff**

The occupational and safety concerns of custodial staff about syringes is based not only on the risk of assault but also on the prospect of accidental needle stick injury particularly when searching for contraband. The risk of this happening would be greatly reduced if syringes cease to be contraband. In the words of Vumbaca dispensation of syringes as part of a clinically controlled programme “increases the level of safety for staff as it reduces the current practice of inmates hiding or secreting needles in various locations that will eventually be searched by staff and therefore represent serious needlestick injury risks.”<sup>23</sup>

### **Recommendation 20:**

Sterile syringes should be provided in corrective institutions where ACT prisoners are sent.

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In summary none of the objections to the provision of sterile syringes in prison are particularly strong. None is an answer to the real and immediate danger from detention centres as they are presently run to the spread of life threatening and disabling blood borne disease. Fear of assault with an infected syringe is the most serious concern and this alone demands that the utmost care should be taken in the development of any syringe programme for detention centres. However, assault with an infected syringe is a risk that already exists. It is one that would be reduced by the

<sup>21</sup> . Dolan (2003) fn 8, p. 153.

<sup>22</sup> . Dolan (2003) fn 8, p. 156.

<sup>23</sup> . Vumbaca (1998) fn 12, p. 32.

provision of syringes in conjunction with a comprehensive and high quality drug strategy for detention centres.

### **Separation of detainees with blood-borne diseases**

Before leaving the subject of syringes an alternative “approach” to limit the spread of blood borne disease should be mentioned. In recognition of “the importance of this issue” Mr Ryan suggested that “. . . we have mandatory screening on entry into custody and at a further time thereafter to cover any incubation period to enable us to make decisions about who really is likely to spread these diseases. I also think that such screening should be undertaken on exit so that we can measure what we’re trying to do” (p. 50). He observed that “screening of that type may not be feasible for remandees because of their often too short period on remand,” but added that, “I believe that perhaps it’s something we should consider for ACT-sentenced prisoners if and when they are accommodated in the ACT in the future.” Mr Ryan did not say whether syringes would be provided to either group but given the objection to the provision of syringes that be mentioned earlier, it would seem no provisions would be made.

Aside from ethical objections that Mr Ryan referred to, such a proposal would almost certainly be ineffective. This is because:

- it would, as Mr Ryan admits, not be feasible to protect uninfected short term remandees;
- there would need to be three basic separations of detainees: a pre-screened group of prisoners, a group that tested positive to a blood borne disease and a group that was tested uninfected. Those who have tested positive should also be separated further: at the very least on the basis of whether they have hepatitis C, HIV or both. In the light of the cost and difficulty of any separation of groups of detainees the practical difficulties in providing for all these separations would be much more difficult than just a separation from the mainstream based on a volunteered commitment to be drug free;
- in a mixed pool of pre-screened detainees there would be a continuous risk of fresh infection given the notorious availability of illicit drugs and injecting equipment in detention centres. It would be physically impossible to isolate a newly arrived detainee until a new infection is detectable. Unless this is done, though, it would never be certain that a detainee moving from the unscreened to the uninfected group would in fact be uninfected.
- given the practical impossibility of excluding illicit drugs and contraband including syringes from any area of a detention centre where the inmates want them enough, there is no assurance that an infected syringe would not be smuggled into the uninfected group; and
- without the provision of uninfected syringes to the infected groups there would be nothing to prevent the cross infection of different strains of the same disease which can intensify the effect of the disease on the infected person. This problem would be compounded if there was no separation between those testing positive for HIV, hepatitis C or both.

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His proposal would also augment operational health and safety risks for staff by giving a false sense of security that those who have been tested free of blood borne viruses are in fact free.