



Media Statement

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A PUBLIC HEALTH FAILURE: FORMER PRISONER AND HIV GROUPS IN COURT SUING THE GOVERNMENT OF CANADA FOR FAILING TO PROVIDE ACCESS TO EFFECTIVE PRISON NEEDLE AND SYRINGE PROGRAM

The following statement is issued by the Canadian HIV/AIDS Legal Network. Comments can be attributed to Sandra Ka Hon Chu, Director of Research and Advocacy.

December 9, 2019 — A court hearing is being held in Toronto today about Canada’s “Prison Needle Exchange Program (PNEP).” The Canadian HIV/AIDS Legal Network, along with a former prisoner and three other HIV organizations, is suing the federal government over its failure to provide prisoners with easy, confidential, and effective access to needle and syringe programs.

For more than 25 years, needle and syringe programs have been available in prison systems around the world. Studies of these programs show that they:

- reduce needle-sharing and the risk of HIV and hepatitis C (HCV) infection;
- do not lead to increased drug use or injecting;
- reduce the risk of drug overdoses and other harms to prisoners’ health;
- facilitate referrals of users to drug treatment programs; and
- have not resulted in needles or syringes being used as weapons against staff or other prisoners.

Because of the scarcity of sterile injection equipment in prison, people who inject drugs behind bars are more likely to share and re-use injection equipment than people in the community. This significantly increases their risk of contracting HIV and HCV, illnesses that they will bring with them when they return to their communities. A prison needle and syringe program protects the health and lives of all Canadians. Simply put, prison health is public health.

Spurred to take action by our lawsuit launched in 2012, the Government of Canada began implementing a PNEP in 2018 but this program is fundamentally flawed — violating prisoners’ confidentiality in many ways. Prisoners do not trust it. There is no working program in the world that uses this approach, which operates as a very strong barrier to access. At the same time, the PNEP exists only in a handful of prisons, and remains vulnerable to cancellation. While most major political parties have stated their support for a PNSP, the Conservative Party of Canada has vowed to cancel the program if they come into power. The Correctional Service of Canada also has a history of cancelling or failing to meaningfully provide proven harm reduction

measures to prisoners. That is why we need a positive decision in court: to ensure that the right to this evidence-based health program is enshrined in law.

Moreover, the Union of Canadian Correctional Officers opposes the PNEP and has advocated replacing the program with supervised consumption sites so prisoners have access to sterile equipment only at an approved site. The Union has misleadingly claimed that supervised consumption sites exist in prisons in other countries such as France. This claim is simply not true; no such sites exist in prisons elsewhere, including France, as confirmed with French authorities. And while having more harm reduction options is important, a supervised consumption site *cannot replace* an effective needle and syringe program in prison. In order for prisoners to access a supervised consumption site in prison, they must trust that they can access it confidentially, without exposing their drug use — a highly stigmatized and criminalized activity — to other prisoners and staff. The logistics of maintaining prisoners' confidentiality in the context of a supervised consumption site are hard to fathom, whereas an effective prison needle exchange program can be confidential and is already proven to work in prisons.

It is a firmly established principle of human rights law that prisoners have the right to the same standard of health care as is available in the community. We will be arguing today in court that prisoners have a constitutional right to essential health care that includes an effective prison needle and syringe program, even though government lawyers continue to cast doubt upon the benefits of such programs, which even the Government of Canada has publicly acknowledged. We will also be challenging the government's refusal to make fundamental changes to the program based on the extensive evidence of what is needed for its successful design and implementation.

To meet its legal obligation to protect the health of people in prison, the government must fix the current PNEP, including by making sure that prisoners have easy, confidential, and effective access to sterile injection equipment, and by introducing the program in every prison.

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Advisory

The court hearing is scheduled for December 9, 2019 will be heard at:

10:00 a.m. Osgoode Hall, 130 Queen Street West, Courtroom No. 5, Toronto, Ontario

There will be a rally and show of public support for prison harm reduction at 9:00am outside the courthouse.

Media and public are welcome to attend.

More information

[Click here for a policy brief and a fact sheet](#) dispelling some of the common myths about prison needle and syringe programs.

About the Canadian HIV/AIDS Legal Network

The Canadian HIV/AIDS Legal Network (www.aidslaw.ca) promotes the human rights of people living with, at risk of or affected by HIV or AIDS, in Canada and internationally, through research and analysis, litigation and other advocacy, public education and community mobilization. We have studied prison needle and syringe programs for more than 20 years and are one of the co-applicants in a lawsuit launched against the Correctional Service Canada arguing that the denial of prisoners' access to this health service is a violation of their constitutional right to security of the person, among other rights.

Contact

Emma Riach, Communications and Campaigns Officer

Canadian HIV/AIDS Legal Network

Telephone: +1 416 595-1666 ext. 236

Mobile: +1 437 985 6544

Email: eriach@aidslaw.ca

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