

*Government Response to Recommendations in the
Public Health Association Australia Report*

*Balancing access and safety: Meeting the Challenge of Blood-Borne
Viruses in Prison*

*Report for the ACT Government into implementation of a Needle and
Syringe Program at the Alexander Maconochie Centre*

August 2012

Introduction

Needle and Syringe Programs (NSPs) aim to protect the health, social and economic welfare of the community by focusing on preventing the transmission of blood-borne viruses: HIV, Hepatitis B and C; by preventing injecting related injury and disease, and by facilitating access to other health and related services. They can provide opportunities for health promotion and education initiatives. NSPs have a secure evidence base and are an established feature of national and ACT approaches to public health and harm minimisation, as reflected for instance in: the *National Needle and Syringe Programs Strategic Framework 2010-2014*; the *National Drug Strategy 2010-2014*; the *ACT Alcohol, Tobacco and Other Drug Strategy 2010-2014*; and the national strategies on Hepatitis B, C, and HIV.¹

Their effectiveness on a 'return for investment' basis has been established by a national report that finds that for every \$1 invested in NSPs, more than \$4 are returned in cost savings over the short term.²

NSPs are well established in the community but have yet to be implemented in an Australian prison, though internationally there are a number of prisons successfully operating NSPs and a consideration of the epidemiologic data of prisoner health indicates a need in greater proportion to that in the general community.³

Challenges to the implementation of an NSP in a prison context include balancing the demands of drug interdiction and law enforcement with public health and human rights principles, and strong community views on the subject.

On 28 June 2011 the Final Government Response to the Burnet Report entitled *External component of the evaluation of drug policies and services and their subsequent effects on prisoners and staff within the Alexander Maconochie Centre* was tabled in the Legislative Assembly, including its response to recommendation 69 on instigating a trial needle and syringe program (NSP) for the Alexander Maconochie Centre (AMC):

¹ *National Needle and Syringe Programs Strategic Framework 2010-2014*. Available at <[http://www.health.gov.au/internet/main/publishing.nsf/Content/0CF549E9268148FCCA2578000008F55B/\\$File/frame.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/0CF549E9268148FCCA2578000008F55B/$File/frame.pdf)>; the *National Drug Strategy 2010-2014*, Available at: <<http://www.nationaldrugstrategy.gov.au/>>; the *ACT Alcohol, Tobacco and Other Drug Strategy 2010-2014* Available at: <<http://www.health.act.gov.au/c/health?a=dlpubpoldoc&document=1967>>; and the national strategies on Hepatitis B, C, and HIV, available at: <<http://www.health.gov.au/internet/main/publishing.nsf/Content/ohp-national-strategies-2010>>

² Australian Government Department of Health and Ageing (2009) *Return on Investment 2: Evaluating the cost-effectiveness of needle and syringe programs in Australia 2009* <<http://www.health.gov.au/internet/main/publishing.nsf/Content/needle-return-2>>

³ AIHW (2011) *The Health of Australia's Prisoners 2010*. Accessed from < <http://www.aihw.gov.au/publication-detail/?id=10737420111>>.

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A process should be commenced to instigate a trial needle & syringe program at the AMC. This process should involve consultations with all relevant stakeholders to identify feasibility of such a program & appropriate models for its delivery.

Consideration should also be given to ensuring that appropriate & reliable data is currently collected & will exist over the duration of the trial to evaluate the effectiveness of an NSP (Recommendation 69, Burnet Report).

Considerable progress has been made in implementing the recommendations of the Burnet Report, and an update on the implementation is attached (Attachment 1). The Government believes that consideration of an NSP in the AMC should be part of a comprehensive approach to reducing bloodborne virus transmission at the AMC, and the progress report shows the work underway to achieve this. Key aspects of progress to date include:

- a review of clinical record-keeping in relation to blood-borne virus testing and vaccination;
- blood-borne virus testing routinely offered at admission; and
- progress towards offering harm reduction information sessions to detainees.

Recommendation 69 is 'noted' in the Government's Final Response to the Burnet report, and the response commits to the following action:

Government will be seeking additional information prior to reaching a final decision in relation to this recommendation. Further information that would inform the decision would include potential models for an NSP, how they would work within the prison setting, barriers to implementation at the AMC and how these barriers could be overcome. The Government has commissioned Michael Moore from the Public Health Association to commence this work.

The Public Health Association of Australia (PHAA) Final Report entitled *Balancing access and safety: Meeting the Challenge of Blood-Borne Viruses in Prison* was publicly released on 28 July 2011.

Key issues identified in the report are:

- An NSP in the AMC is consistent with the ACT's statutory obligations under the *Corrections Management Act 2007* and with the *Human Rights Act 2004*;
- An NSP in the AMC is consistent with the objectives of National and ACT Strategic Frameworks;

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- An NSP in the AMC is a pragmatic approach to minimising the range of possible harms;
- NSPs operating in prisons overseas have produced comprehensive benefits;
- NSPs operating in prisons overseas worked closely with demand reduction programs and;
- NSP models involving human interaction provide more scope for working with demand reduction programs than models where human interaction is not involved.

The Report makes 7 Recommendations:

- Recommendations 1 and 7 propose legislative change to a) require an NSP in the AMC and b) to protect all staff from civil and criminal liability.
- Recommendation 2 proposes that a clear set of rules, procedures and protocols be established through an appropriate process guided by the ACT *Corrections Management Act*.
- Recommendation 3 proposes a contingency process for implementing a model NSP from the range of options presented.
- Recommendations 4, 5 and 6 are discrete recommendations around supportive measures: the recruitment of an Aboriginal Health Worker for the NSP; secure syringe disposal bins; and promoting developments in retractable syringe technology.

The Government engaged in a six-week community consultation period on the recommendations of the report which closed Thursday 8 September 2011 and responses included submissions from industry representatives, alcohol and drug sector experts, and the general public.

The community consultation process returned the following broad results for and against the introduction of an NSP in the AMC:

- Total Submissions: 104
- Supporting an NSP in the AMC: 64 (61.54%)

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- Not Supporting an NSP in the AMC: 39 (37.5%)
- No indication of support: 1 (0.96%)

Arguments both in support and opposing an NSP in the AMC fall primarily into the following categories:

- a. Policy issues
 - i. Supporting – that it is a public health/harm minimisation initiative; it provides equivalence with community health services; it is a good ‘message’ to send to detainees about their health being important; it has potential for education of detainees around drug misuse;
 - ii. Opposing – that the government would be condoning/institutionalising drug use; that it conflicts with rehabilitation objectives; that it conflicts with law enforcement objectives;
- b. Safety concerns
 - i. Supporting – that international evidence shows that the net effect of an NSP in the AMC would be to decrease the risk of transmission of BBVs to detainees; that the evidence shows that the risk of staff being exposed to needle-stick injury from a contaminated needle is reduced with an NSP in operation; that a prison NSP reduces the likelihood of transmission of BBVs in the broader community upon release of detainees;
 - ii. Opposing – that needles and syringes in the possession of detainees pose a health risk to prison officers and detainees both from accidental needle-stick injury or from their possible use as a weapon; that the NSP could serve to identify those using illicit drugs to other detainees and result in pressure being applied to hand over drugs or needles;
- c. Economic issues
 - i. Supporting – that the costs of disease prevention are lower than the costs of disease treatment;
 - ii. Opposing – that the program could be resource intensive;
- d. Operational issues. Concerns were raised about the level of support/cooperation from involved staff; the level of supervision/access required; the level of equipment control; and preserving user anonymity/confidentiality); and

- e. Legal issues. Legal liability issues for the government itself, for staff and detainees were raised in many of the submissions opposing an NSP in the AMC. In summary, concerns were raised about: the potential conflict for custodial staff between law enforcement and a role in facilitating the NSP and the perception that custodial staff would be in a situation of being complicit with illegal activity; concerns with regard to who accepts responsibility for the duty of care for a prisoner using illegal drugs in the event of an overdose or death; and concerns about detainees being assisted to persist in illegal activities.

The Government response to the PHAA report accepts the merits of implementing an NSP in the AMC as part of a comprehensive blood-borne virus management strategy for the AMC where the model is consistent with the health and safety of both staff and inmates of the AMC. The Government response takes into account the range of views that have informed both the report and the broader debate in the community, together with a consideration of legal and resource implications.

The Government proposes that, as a first step, detainees be given regulated access to sterile injecting equipment on a 'one-for-one' exchange basis with the medical officer having responsibility for the equipment exchange (as opposed to nursing staff). This proposal takes into account the operational issues in relation to, and views opposing, a contained NSP in the Health Centre. It envisages that the net effect of regulated access to sterile injecting equipment on a 'one-for-one' exchange basis in the AMC would be to increase the proportion of clean to used syringes in the prison hence decreasing the risk of blood borne virus (BBV) infection for detainees and the risk of staff being exposed to needle-stick injury from a contaminated needle. This model provides opportunities for education of detainees and data collection and evaluation ahead of consideration of alternate NSP models. This proposal is an adaptation of Model 2A from the PHAA report.

Prior to introduction of this preferred model, consultation with industrial organisations on the proposed model for implementation will be undertaken to work through any concerns related to the model and to seek agreement.

Further development of the model for implementation and operating protocols will be undertaken, including a detailed exploration of similar existing models from international programs as part of a comprehensive risk assessment of the model.

The management of blood-borne viruses in the AMC requires a comprehensive suite of programs including education, prevention, clinical management and treatment. This suite of programs is outlined in the Health Directorate's Draft *Strategic Framework for the Management of Blood Borne Viruses in the Alexander Maconochie Centre 2012-2014*.

The Strategic Framework will focus on strengthening and expanding the suite of programs currently available to detainees in the AMC and monitoring the success of these programs in minimising the risk of transmission of blood borne viruses. Priority areas identified in the Strategic Framework include:

1. *Prevention and Education*

- a. Detainees have access to information and education about how to prevent and manage BBVs, including treatment of existing infections, which is considered a fundamental, necessary and effective preventative intervention;
- b. Education and counselling related to preventing and reducing the harms associated with injecting drug use is provided regularly and upon request to detainees;
- c. Detainees have regulated access to sterile injecting equipment;
- d. Detainees have ready access to full-strength household bleach and are regularly provided with information and education about its use;
- e. Detainees have access to their own razors, toothbrushes and are aware of the adoption and application of infection control procedures for barbering equipment;
and
- f. Appropriate and discreet access to prophylactics, including condoms and dental dams, is available to detainees.

2. *Workforce Development*

- a. Comprehensive education and training is provided regularly for those who work in the AMC on BBV transmission; and
- b. Infection control procedures and relevant education and training is provided regularly for those who work in the AMC in relation to BBVs.

3. *Detection, including Testing and Diagnosis*

- a. Opportunities for BBV screening and vaccinations for those coming into the AMC are in place and are offered at regular intervals during their stay in the AMC.

4. *Clinical Treatment and Management*

- a. Processes and procedures are in place and offered when clinically necessary to provide post exposure prophylaxis against HIV; and
- b. Drug treatment programs are in place and are offered to detainees.

5. *Surveillance and Research*

- a. Ensure the continuous, systematic collection, analysis and interpretation of detainee BBV transmissions and infection status to improve planning, implementation and evaluation of public health practice at the AMC.

6. *Enabling Environment*

- a. Strengthen links between government, community services and affected communities to improve coordination and delivery of services within the AMC and in throughcare;
- b. Encourage the active participation of individuals and local communities affected by BBVs in the development of policies and programs impacting on their health and relationships; and
- c. Reduce violence and barriers such as discrimination and stigma and social isolation for the detainees.

It is acknowledged that the implementation of (1)(c) above – *Detainees have regulated access to sterile injecting equipment* – will require consultation with the Justice and Community Safety Directorate and the relevant unions under the terms of Section U3.1 of the *ACT Public Service Justice and Community Safety Directorate Enterprise Agreement 2011-2013*.

Initial stakeholder feedback raised concern about how a professional tattooing service at the AMC could be practically implemented. The Government will continue to monitor the situation and revisit this issue at a later stage if appropriate.

Separate to the consultation with industrial organisations on the proposed model for implementation of an NSP, the Draft *The Strategic Framework for the Management of*

Blood-Borne Viruses in the Alexander Maconochie Centre 2012-2014 will undergo a six-week targeted consultation ahead of finalisation.

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PHAA RECOMMENDATIONS	Government Response	Actions and Timelines		Primary Response Agency/s
<p>1. Requirement under law.</p> <p>The ACT <i>Corrections Management Act 2007</i> be amended to require the establishment of an NSP at the AMC.</p>	Noted	<p>The Government understands that an NSP in the AMC is not inconsistent with the ACT <i>Corrections Management Act 2007</i> as it currently stands.</p> <p>As a consequence, it is likely that this recommendation will be unnecessary for the implementation of an NSP in the AMC.</p>	November 2012	Justice and Community Safety Directorate (JACSD)
<p>2. Rules, Procedures and Protocols</p> <p>A clear set of rules, procedures and protocols be established through an appropriate process guided by the ACT <i>Corrections Management Act</i>.</p>	Agreed in Principle	Subject to the implementation model proposed in relation to recommendation 3, a clear set of rules, procedures and protocols will be established to implement an NSP in the AMC through an appropriate process guided by the ACT <i>Corrections Management Act</i>	March 2013	Health Directorate (HD)
<p>3. Implementation through a Flexible Contingency Process</p> <p>Adopt a contingency process for the implementation of appropriate model/s for a needle and syringe program at the AMC. If the initially preferred model does not meet the needs of stakeholders the procedure should be to move to the next preference. The order should be as follows:</p> <ul style="list-style-type: none"> • Preferred Initial Model: NSP Model 3 (Contained NSP) <ul style="list-style-type: none"> ○ Model 3B: Contained NSP operated by external agency (within Health Centre) ○ Should an external provider fail to deliver the necessary outcomes, Model 3 could alternatively be operated by ACT Health. 	Noted	<p>The Government notes the PHAA report recommendation to adopt a contingency process for the implementation of appropriate model/s for a needle and syringe program at the AMC.</p> <p>The Government proposes that, as a first step, a 'one-for-one' NSP be introduced with the medical officer (as opposed to nursing staff) having responsibility for the equipment exchange.</p> <p>This proposal is made in the context of the introduction of a comprehensive BBV Strategy for the AMC that includes education, prevention, clinical management and treatment. It envisages</p>	September 2012-mid 2013	HD

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PHAA RECOMMENDATIONS	Government Response	Actions and Timelines		Primary Response Agency/s
<ul style="list-style-type: none"> ○ Model 3A: Contained NSP operated by ACT Health/Nursing Staff (within Health Centre) ● Contingency Step 1: NSP Model 2 (Equipment provision from Health Centre) <ul style="list-style-type: none"> ○ Model 2B: NSP operated by an external agency. Should an external provider fail to deliver the necessary outcomes, Model 2 could alternatively be operated by ACT Health. ○ Model 2A: NSP operated by ACT Health/Nursing Staff ● Contingency Step 2: NSP Model 1 (Vending Style Machines) <ul style="list-style-type: none"> ○ Model 1: 'One for one' Exchange Vending Style Machines <p>(see Recommendations, PHAA Report, p. 6 and diagram 8.4.1 at p. 52)</p>		<p>that the net effect of an NSP in the AMC would be to increase the proportion of clean to used syringes in the prison hence decreasing the risk of BBV infection for detainees and the risk of staff being exposed to needle-stick injury from a contaminated needle. This model provides opportunities for education of detainees and data collection and evaluation ahead of consideration of alternate NSP models. The proposal is an adaptation of Model 2A in the PHAA report.</p>	<ul style="list-style-type: none"> ● Consultation with Justice and Community Safety Directorate and any other relevant agencies and industrial organisations on the proposed model for implementation will be undertaken to work through any industrial concerns related to the model and to reach agreement. ● Further development of model for implementation and operating protocols, including a detailed exploration of similar existing models from international programs as 	

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PHAA RECOMMENDATIONS	Government Response	Actions and Timelines		Primary Response Agency/s
		<p>part of a comprehensive risk assessment of the model.</p> <ul style="list-style-type: none"> • Development of evaluation model • Implementation of NSP in AMC 		
<p>4. Aboriginal Health Worker</p> <p>Recruitment of a dedicated Aboriginal Health Worker position in an NSP and related service provision would be worthy of consideration.</p>	Agreed in principle	Subject to the implementation model adopted in relation to recommendation 3, and the service needs associated with this, recruitment of an Aboriginal Health Worker position will be further considered.	mid 2013	HD
<p>5. Secure Syringe Disposal Bins</p> <p>The installation of secure syringe disposal bins would further reduce the potential for accidental needle-stick injury and be worthy of consideration even without the implementation of an NSP.</p>	Agreed	Installation of secure syringe disposal bins to further reduce the potential for accidental needle-stick injury has merit as a safety initiative that is consistent with an overall BBV Strategy for the AMC. Disposal bins provide a means of safely disposing used injecting equipment for prisoners who do not participate in the one-for-one exchange program and therefore represent a complementary risk reduction strategy.	December 2012	HD

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PHAA RECOMMENDATIONS	Government Response	Actions and Timelines		Primary Response Agency/s
<p>6. Retractable Syringe Technology</p> <p>Future developments in retractable syringe technology will need to be considered as part of the ongoing development of an NSP in custodial settings.</p>	Noted	Subject to new developments in retractable syringe technology this recommendation will be further explored.	mid 2013	HD
<p>7. Civil and Criminal Liability</p> <p>Legislative amendments be considered to protect all staff from potential civil and criminal liability.</p>	Noted	It is proposed to approve the distribution of syringes by the medical officer under Part 3A of the Public Health Act 1997, the same provision used for the community NSP. Under the same Act, a person approved to exercise such a function is protected from civil or criminal liability for an act or omission done honestly and without negligence for this Act, under part 2, Section 17.	December 2012	HD