Law Enforcement Measures to Reduce Harms Associated With Injecting Drug Use in Western Australia

Working Party on Drug Law Reform

Second report to the Minister for Health
Harm reduction term of reference

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Terms of Reference (other matters)

1) To review the *Misuse of Drugs Act 1981* in relation to:

   a) the quantities of drugs scheduled which give rise to a presumption of intention to sell or supply;
   b) substances that should be added to the schedules;
   c) the possession of drug paraphernalia with detectable traces of substances;
   d) the seizure, management, disposal and lawful destruction of drug paraphernalia;
   e) the parity of penalties applicable to co offenders compared to principal offenders;
   f) offences concerned with involved parties in controlled delivery operations; and
   g) other matters not elsewhere covered in these Terms of Reference.

2) To consider the present legislative framework and policing practices related to drug users, including factors which undermine harm reduction measures.

3) To review the adequacy of present arrangements concerning the clandestine manufacture of illicit drugs in relation to:

   a) monitoring precursor chemicals and other drugs;
   b) the adequacy of current arrangements for the scheduling of substances; and
   c) other matters not elsewhere covered in these Terms of Reference.

4) To monitor and contribute to reviews of:

   a) adequacy of measures concerned with drug impaired drivers;
   b) proposed amendments in the law dealing with sentencing of offenders;
   c) proposed amendments to the *Poisons Act 1964* in relation to prescribing of drugs of addiction (ie Schedule 8 drugs); and
   d) proposed amendments to the Drugs of Addiction Notification Regulations that are issued under the *Health Act 1911*.

5) To review the legislative framework concerned with illicit drug use and associated criminal activity as it operates within other jurisdictions and to advise Government on the efficacy of which approaches could be adopted in Western Australia.

Chairman's foreword

The Working Party on Drug Law Reform was set up in December 2001 by the Honourable Bob Kucera APM MLA, Minister for Health, to advise the government on options for law reform in relation to the matters contained in the recommendations from the Community Drug Summit.

The Working Party's first report, ***Implementation of a scheme of prohibition with civil penalties for the personal use of cannabis and other matters***, was presented to the Minister for Health in March 2002. Most of the recommendations of the first report were adopted by the Government, were presented to State Parliament as the Cannabis Control Bill 2003 in May 2003 and passed with amendments on 23 September 2003.

This, the Working Party's second report, addresses areas of possible reforms of legislative and administrative arrangements to ensure as much as possible that law enforcement activities also achieve harm reduction goals. This should be within the broad framework under which the police operate to reduce the supply of illicit drugs and apprehend those engaging in crime.

The issues relating to harm reduction that are presented in this report are the outcome of investigations undertaken by the Working Party addressing harm reduction matters contained in Terms of Reference 1 and 2.

The remaining issues contained in the five Terms of Reference (other matters) will be the subject of investigations undertaken over the next 12 months and which will be the subject of further reports to the Honourable Minister.

John Prior
Chairman

25 February 2004

Executive summary

This report deals with three areas contained in the Terms of Reference (other matters) as follows. To consider two parts of Term of Reference 1, being to review the *Misuse of Drugs Act 1981* concerning Reference 1 (c) dealing with the possession of drug paraphernalia with detectable traces of substances and Reference 1 (d) dealing with the seizure, management, disposal and lawful destruction of drug paraphernalia. The third area is to consider the present legislative framework and policing practices related to drug users, including factors which could undermine harm reduction measures, as stated in Reference 2.

The report recognises that the WA Police Service is responsible for the administration of the *Misuse of Drugs Act 1981*. Accordingly the report is primarily concerned with ensuring that whilst the broad framework of the police is to reduce the supply of illicit drugs and to apprehend those engaged in crime, as far as possible law enforcement activities should also achieve drug harm reduction goals.

Harm reduction or harm minimisation has been a fundamental principle of Australian national drug policy since the mid 1980s. Law enforcement has recognised that it has a key role in reducing drug related harm in Australia. Clearly, supply reduction, which is the primary responsibility of law enforcement, is a major focus of police effort in this area.

However, it is now well accepted that police can institute other strategies to reduce drug related harm. These include adopting operational guidelines which support rather than undermine health services such as needle and syringe exchange and safe disposal schemes and drug treatment services. Police can also support cautioning and referral schemes and the provision of accurate and credible drug information to individuals and the wider community.

The Working Party believes that the WA Police Service has, to a large extent, identified key areas in which day to day policing activities will have significant public health impacts in the way the law is implemented in relation to injecting drug use. The significance of harm minimisation in policing practice is shown in a number of ways. Police have developed administrative directions dealing with relations between police and operators of needle and syringe programs and attendances at narcotic overdoses and these principles are explained in training for new police recruits.

In common with other drug law enforcement bodies in Australia, the WA Police Service cooperates with other sectors to reduce drug related harm arising from those who continue to use drugs. The WA Police Service's Alcohol and Drug Coordination Unit serves as a point of reference for drug harm minimisation policy and practice within the Service. There are some specific strategies the WA Police Service has implemented, such as the use of cautioning, arrest and referral schemes and court diversion, as examples of law enforcement and treatment services working together to minimise drug related harm.

Needle and syringe programs have been shown to be a cost effective intervention for reducing the transmission of blood borne viruses, including HIV and hepatitis, among drug injectors. Western Australia has one of the lowest rates of HIV infection among drug injectors (1-2%) in the western world, compared to rates of 50% to 60% in some cities in Europe and the USA. This is thought to be attributed, at least in part, to the extensive and sustained implementation of needle and syringe programs in this State from early 1987.

It should be acknowledged that since 1987 the State has promoted greater access to sterile needles and syringes through exchange programs, outreach services, vending machines and in pre-packaged dual purpose disposal containers through pharmacies. Whilst the strategy has always been based on public health goals, it has never been regarded by any State government as either explicitly or implicitly supporting injecting drug use.

The Working Party has concerns that if injecting drug users are discouraged from carrying either used or sterile needles and syringes then they will be more likely to share or re-use equipment. This brings with it the attendant risk of blood borne virus infection and injuries to the wider community through inappropriate disposal of used injection equipment. Therefore, it is important that every effort be made to ensure that the carrying of used or sterile needles and syringes by injecting drug users for safe disposal is not undermined.

The WA Police Service's Alcohol and Drug Coordination Unit has implemented procedures to support good working relationships between fixed and mobile needle and syringe exchange programs. This has resulted in individual police officers having effective and positive interactions with operators of these programs. However, at times it can appear that police may deal with people who have used or sterile injection equipment in their possession in a manner which may inadvertently impinge on the public health effectiveness of needle and syringe programs.

An excellent strategy developed by the WA Police Service in conjunction with other agencies such as the WA Substance Users' Association is for the use of a card known as the 'police reminder card'. The card explains that the holder is a client of a registered needle and syringe exchange program, outlines a brief rationale for exchange and has a contact number of police or others to ring for further information. The Working Party has recommended that an administrative direction be issued by the WA Police Service supporting the carrying of the card and that it should be regarded as a bona fide acknowledgement of the holder's participation in a BBV preventive service.

The Working Party believes that the law in this State should be amended to provide a defence for those who possess used injection equipment to ensure that they are not discouraged from returning these to exchange programs.

The majority of sterile needles and syringes are sold through community pharmacies in a number of approved containers such as Fitpacks and Sharpkitz which are designed to retain used needles and syringes and to be disposed of through the ordinary domestic waste disposal system. Whilst it is acknowledged that police may treat the possession of an approved container which contains needles and syringes as evidence of an offence, it is the view of the Working Party that additional labelling should be developed which reinforces that a person has possession of such an article as part of an endorsed public health strategy.

The Working Party has recommended that the offence of self administration which is created by Section 36 of the *Poisons Act 1964,* is anachronistic and should be repealed. Fear of being apprehended for self administration is likely to lead to hasty injection practices in public places and inappropriate disposal of used needles and syringes. This is an offence which is rarely prosecuted and in most circumstances where an individual is found in possession of injection paraphernalia they could be charged with possession of the drug involved. In addition to the relevant offence having the potential to undermine the operation of needle and syringe programs, there are also significant occupational health and welfare considerations for police in dealing with those who have in their possession used injection equipment.

There are possible public health risks that may be associated with policing practices that impact on the disposal of used injecting equipment. This is in recognition of an interpretation of law that possession of used injecting equipment on which there are detectable traces of drugs was an offence. This perception is not correct and requires clarification as it has the potential to seriously undermine one of the key principles of needle and syringe programs operated by organisations such as WA Substances Users' Association and the WA AIDS Council which emphasise the exchange of used needles and syringes.

These programs are a vital point of contact between injecting drug users who generally have limited contact with support services. The outreach workers who operate exchange programs provide comprehensive information about a wide range of issues concerning injecting drug use. They also actively encourage users of these services to seek further medical assistance and counselling related to their use of drugs and health problems.

It is also the view of the Working Party that the wider use of needle and syringe vending machines should be encouraged to increase access to sterile needles and syringes by injecting drug users who live in remote areas. A specific issue is for there to be consideration of the feasibility of providing vending machines in the Perth metropolitan area to increase after hours access to sterile injection equipment, as at the moment there is only one 24 hour pharmacy that sells needles and syringes in the whole metropolitan area.

A contentious area involves street based sex workers who have drug related problems and to whom sterile injection equipment is provided to prevent transmission of blood borne viruses. An issue with this small group is that as the possession of injection equipment may be treated by police as evidence of other offences, they may engage in tactics to conceal equipment in public areas where they operate. This includes hiding used injection equipment in places such as drain pipes, cracks in walls and in public toilets in an attempt to avoid being found in possession if apprehended by the police. Clearly such practices pose a threat to the public and police.

It is recognised that the police have responsibility to enforce the law and that this should not be undermined. It is recommended that police who are involved in operations which target high risk populations such as street based sex workers who also inject drugs should be supported and encouraged to take account of the public health risks which can arise.

The issue of harm reduction programs should be regarded as a matter involving a cooperative interagency approach rather than being dealt with on an agency by agency basis. The Working Party is therefore of the view that the Senior Officers' Group, an across government body, should conduct a review and audit of policies, guidelines and procedures concerned with drug issues in relation to consistency with harm reduction principles, continue to monitor agency compliance on a regular basis and provide the Minister for Health and other relevant Ministers with a report on the implementation and adoption of harm reduction measures within each agency's policies.

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List of abbreviations and acronyms

AD	Administrative direction of WA Police Service
AIVL	Australian Injecting and Illicit Drug Users League
BBVs	Blood borne viruses
CALD	Culturally and linguistically diverse
COAG	Council of Australian governments
DAO	Drug and Alcohol Office
DOH	Department of Health (formerly known as Health Department of WA)
DYHS	Derbarl Yerrigan Health Service
HBV	Hepatitis B virus
HCV	Hepatitis C virus
HDWA	Health Department of WA (now known as Department of Health)
HIV	Human immunodeficiency virus
IDU	Injecting drug user
MCDS	Ministerial Council on Drug Strategy
N&S	Needles and syringes
NCADA	National Campaign Against Drug Abuse
NDS	National Drug Strategy
NDSF	National Drug Strategic Framework
NIDS	National Illicit Drug Strategy
NSP	Needle and syringe program
NSEP	Needle and syringe exchange program
NSVMs	Needle and syringe vending machines
SHBBVP	Sexual Health and Blood Borne Virus Program
STIs	sexually transmitted infections
WA	Western Australia
WAAC	WA AIDS Council
WAPS	Western Australia Police Service
WASUA	WA Substance Users Association

List of recommendations

Recommendation 1 [page 18]
That the wider use of vending machines in WA be supported to increase access to sterile needles and syringes in rural and remote areas. The intent is to reduce the risk of transmission of blood borne viral infections and reduce costs to the health system.

Recommendation 2 [page 20]
That the high level administrative support in the WA Police Service for the promotion of harm reduction measures be maintained and reinforced in training provided to police and through administrative processes that disseminate information to the Service throughout the State.

Recommendation 3 [page 21]
That the Senior Officers Group:
(a) conduct a review and audit of policies, guidelines and procedures concerned with drug issues in relation to consistency with harm reduction principles;
(b) continue to monitor agency compliance on a regular basis; and
(c) provide the Minister for Health and other relevant Ministers with a report on the implementation and adoption of harm reduction measures within each agency's policies.

Recommendation 4 [page 22]
That the Sexual Health and Blood Borne Virus Program, which has overall responsibility for the management of the State's needle and syringe programs, develop an appropriate label to be included on approved needle and syringe storage devices sold through pharmacies and other approved needle and syringe programs that creates a presumption that IDUs intend to dispose of these safely and effectively.

Recommendation 5 [page 27]
That consideration be given to amending Section 36A of the *Poisons Act 1964* to include a general defence for injecting drug users to have possession of needles and syringes on which there are detectable traces of a prohibited drug until such time as they are able to dispose of them safely.

Recommendation 6 [page 27]
That Section 36 of the *Poisons Act 1964* (which is concerned with self administration) be repealed.

Recommendation 7 [page 28]
That consideration be given to providing a defence for a person in possession of used injection equipment or an approved storage device containing used injection equipment by amendment to either the *Poisons Act 1964* or the *Poisons Regulations 1965.*

Recommendation 8 [page 37]
That police involved in operations which target high risk populations such as street based sex workers who also inject drugs are supported and encouraged to take account of the public health risks which may inadvertently be aggravated as a result of some types of law enforcement activity. It is recognised that police have a responsibility to enforce the law and that should not be undermined.

1. Introduction

The Drug Law Reform Working Party released its first report, *Implementation of a scheme of prohibition with civil penalties for the personal use of cannabis and other matters*, in March 2002. The Hon Minister for Health confirmed a further set of Terms of Reference of the Working Party in November 2002. These Terms of Reference are contained in Appendix 1.

The effect of these additional Terms of Reference is for the Working Party to undertake investigations so that it can provide the Hon Minister with advice on policy matters and areas of possible reform on the operation of legislative and administrative arrangements in this State concerning drugs other than alcohol or tobacco. The thematic issue of harm reduction that will be dealt with in this report is covered by the following Terms of Reference.

No. 1
To review the Misuse of Drugs Act 1981 in relation to:

...
c) the possession of drug paraphernalia with detectable traces of substances
d) the seizure, management, disposal and lawful destruction of drug paraphernalia

No. 2
To consider the present legislative framework and policing practices related to drug users, including factors which undermine harm reduction measures.

The report provides a brief overview of the history of harm reduction in Australia and shows that this principle is accepted by all governments in Australia as the fundamental principle of drug policy, applicable to both licit and illicit drugs. It then considers in more detail the way this principle has shaped the development of public health and law enforcement measures in Western Australia.

The discussion reviews a specific public health measure, the development of needle and syringe programs in Western Australia, and how this has had a major impact on risk behaviours of injecting drug users, as shown by the comparatively low rate of infection of HIV amongst the WA drug using population. Information is presented about the pharmacy based needle and syringe program as well as exchange programs that are targeted at hard to reach groups of injecting drug users in both the metropolitan and non metropolitan regions of this State.

The other area of interest that is addressed in this report concerns the role of police and the impact of drug law enforcement approaches may have on reducing the harm associated with illicit drug use especially in relation to injecting drug users (IDUs).

The report contains recommendations for amendments to the *Poisons Act 1964* concerned with injecting drug use. Suggestions are also included in relation to administrative reforms that could be undertaken by relevant sections of the Department of Health and the WA Police Service which maintain the State's achievements in harm reduction that have been built up since 1987.

2. Harm reduction and law enforcement

2.1 Introduction

Harm reduction or harm minimisation is a pragmatic approach for dealing with drug related harm. *"It has been said that harm reduction is not what's nice, it's what works."*[1] The adoption of this approach as the underlying principle of the National Campaign Against Drug Abuse in the mid 1980's has been recognised internationally as chiefly responsible for Australia's exceptional success in minimising the spread of HIV among IDUs, their sexual partners and the wider non injecting community.

[1] Drug Policy Alliance. "Reducing harm: treatment and beyond." <http://www.drugpolicy.org/>

Harm minimisation rests on the assumption that at any one time a proportion of those who use drugs will be unable, or unwilling, to completely stop using, or even reduce their use of drugs. If all drug users wanted to stop or reduce their use then all we would need to do as a community would be to offer treatment which is 100% effective. Unfortunately the world is not like this.

For users who want to stop or reduce their use of drugs, strategies such as drug treatment need to be offered, for whom either complete abstinence or a reduction in the level of use may be set as a treatment goal. Many who try to change their drug using patterns do not succeed at their first attempt. Strategies should be available to all users, whether or not they are succeeding at stopping drug use to help them to reduce associated drug related harm to themselves, their families and the general community. Harm minimisation as an approach maintains that people can be helped to stay healthy and alive, whether or not they are trying to reduce or stop their drug use.

Harm minimisation draws as such on many of the principles developed by public health practitioners for dealing with health issues.

> *"A public health approach to the problem of illicit drug use and addiction views the problem not as a phenomenon caused by individual psychological (or moral) factors but rather as one causing extensive social problems and threatening public health. Harm reduction reflects this attitude and goes a step further, holding that many of the most destructive consequences and refractory problems of illicit drug use are not the results of the drugs per se, but rather of drug policies, ie the prohibition of drug use and the criminalisation of the drug user."*[2]

Adopting a harm minimisation approach does not imply support for or condoning the use of drugs. Governments which adopt this approach acknowledge that where risky drug using behaviours continue to occur, they have a responsibility to implement public health and law enforcement measures to reduce drug related harms. Governments also acknowledge that supply reduction has a major role to play in reducing drug related harm.

2.2 Harm reduction in Australia

A recent review of the evolution of the implementation of harm minimisation programs in Australia from the inception of National Campaign Against Drug Abuse (NCADA) in 1985 up to the present suggests that there have been a number of shifts in the interpretation and emphases of this policy.

> *"... from the mid to late 1980s (there) was broad and had a significant focus on prevention programs. From the late 1980s to the late 1990s ... (there was) a narrower focus and primarily referred to programs that sought to reduce the risk for those using drugs. In the late 1990s and early 2000s harm minimisation has developed a more inclusive meaning, at least as far as supply and demand reduction strategies are concerned. It would have to be observed, however that at least until recently, the application of this more inclusive use of the term has not found expression in terms of programs with a drug use prevention focus."*[3]

It has been pointed out that the concept of 'harm reduction' has been adopted as an approach to addressing problems associated with the use of tobacco, alcohol and other drugs for more than a hundred years even though this term has only become popularly understood as a public health strategy since the early 1980s.[4] The emergence of harm reduction has been described as representing a major shift away from the use of legal sanctions to the use of public health principles to resolve drug problems.

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[2] Drucker E. "Harm reduction: a public health strategy." (1995) 1 *Current Issues in Public Health*, 64.

[3] Conference of Commissioners of Police of Australasia and the South West Pacific Region, Drug Policy Sub-Committee. *The impact of the national focus on harm minimisation on the uptake of illicit drugs in Australia.* Payneham, SA, Australasian Centre for Policing Research (unpublished).

[4] Berridge V. "Histories of harm reduction: illicit drugs, tobacco and nicotine." (1999) 34 *Substance Use & Misuse* 35-47; Erickson PG. "The three phases of harm reduction. An examination of emerging concepts, methodologies, and critiques." (1999) 34 *Substance Use & Misuse* 1-7.

"At the conceptual level harm reduction maintains a value-neutral and humanistic view of drug use and the user, focuses on problems rather than on use per se, neither insists on nor objects to abstinence and acknowledges the active role of the user in harm reduction programs."[5]

NCADA was created following the Special Premier's Conference convened in April 1985[6] by the Prime Minister of the day, Bob Hawke, and marks the commitment by all governments in Australia that the fundamental principle of drug policy be the reduction of harm associated with the use of both licit and illicit drugs.[7] A statement by Neal Blewett, the Minister for Health at the time of the launch of the NCADA, indicated that the aim of the campaign was to

"minimise the harmful effects of drugs on Australian society. Its ambition is thus moderate and circumscribed. No utopian claims to eliminate drugs, or drug abuse, or remove entirely the harmful effects of drugs, merely to minimise the effects of the abuse of drugs on a society permeated by drugs."[8]

The NCADA was reviewed in 1992. One outcome was to re-launch the campaign as the National Drug Strategy (NDS). The new strategy, which ran from 1993 to 1997, incorporated an increase in the proportion of NDS activity that involved law enforcement, as part of an overall balanced approach towards the minimising the harm associated with drugs. A review into the outcomes of the NDS for the period 1993 to 1997 was undertaken in 1997 by Professors Eric Single and Timothy Rohl.[9] This review concluded that the principle of harm minimisation was the fundamental underpinning to the success of the Australian approach to addressing drug problems.

"Harm minimisation aims to improve health, social and economic outcomes for both the community and the individual and encompasses a wide range of approaches, including:

- *supply-reduction strategies designed to disrupt the production and supply of illicit drugs;*
- *demand-reduction strategies designed to prevent the uptake of harmful drug use, including abstinence-oriented strategies to reduce drug use; (and)*
- *a range of targeted harm-reduction strategies designed to reduce drug-related harm for individuals and communities."*[10]

Following the 1997 review, the NDS was re-launched in 1998 under the new name of the National Drug Strategic Framework 1998-99 to 2002-03 (NDSF). The NDSF places considerable reliance on the prevention of the harmful use of drugs, rather than just on preventing the use of drugs *per se*. Another feature of the NDSF is that there should be an emphasis on developing closer working relationships between health and law enforcement, as had been recommended earlier in the Single and Rohl review.

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[5] Cheung Y W. "Substance abuse and developments in harm reduction." (2000) 162 *Canadian Medical Association Journal* 1699.

[6] Wodak A. "Harm reduction: Australia as a case study." (1995) 72 *Bulletin of the New York Academy of Medicine* 339-347.

[7] A number of other terms such as harm minimisation, risk minimisation and risk reduction have been used at different times to refer to this concept.

[8] Cited in Fitzgerald Jl & Sewards T. *Drug policy: the Australian approach.* Canberra, Australian National Council on Drugs, 2002, 13.

[9] Single E, Rohl T. *The National Drug Strategy: Mapping the future. An evaluation of the National Drug Strategy 1993-1997. A report commissioned by the Ministerial Council on Drug Strategy*. Canberra, Australian Government Publishing Service, 1997.

[10] Joint Steering Committee of the Intergovernmental Committee on Drugs and Australian National Council on Drugs. *National Drug Strategic Framework 1998-99 to 2002-03: Building partnerships. A strategy to reduce the harm caused by drugs in our community*. Canberra, Ministerial Council on Drug Strategy, 1998, 1.

"The mission explicated by the Framework is to improve health and social and economic outcomes by preventing the uptake of harmful drug use and reducing the harmful effects of licit and illicit drugs in Australian society."[11]

In April 1999 the Council of Australian Governments (COAG) approved a four year $221 million package of measures under the National Illicit Drug Strategy (NIDS), also known under the title of 'Tough on Drugs'. The illicit drugs diversion initiative was formulated together with supporting measures for the enhancement of needle and syringe programs. These supporting measures included two health promotion initiatives:

- increased education, counselling, and referral provided through community based organisations by increasing rates of voluntary entry into treatment through existing community based needle and syringe programs, including increased training and recruitment of counsellors; and
- diversification of existing NSPs by increasing the number of pharmacies and other outlets distributing needles and syringes and providing them with information and training support.

Although these two health promotion initiatives are strongly related to increasing the rates of referral and as such require the reporting of referral data, it should be noted that the emphasis is on voluntary referral.

Western Australia's proportion of this funding equalled a total of $2.9 million over a period from July 1999 to June 2003. However, because of delays in finalisation of funding agreements with the Commonwealth, many projects did not commence until October 2000.

Many WA projects are funded under COAG to increase the capacity of service providers, whether exchange or hospital based NSPs. Funding is provided to enhance service delivery and can be in the form of training, improved safety and provision of consumables. All programs must address the 16 criteria contained in the *Guidelines for the establishment and operation of a needle and syringe program* (see Appendix 4) when applying for an approval to operate a NSP.

It should be noted that although one of COAG funding requirements is specifically to increase the capacity of services to conduct referrals (with the reporting of subsequent data), the provision of referrals to clients remains on a voluntary basis. Section 11 of the Department of Health's *Guidelines for the establishment and operation of a needle and syringe programs*, state that *"referrals should only be made at client's request particularly where treatment agencies are concerned."*

The rationale for the provision in Section 11 is that if a NSP provides a service to IDUs that is non-judgemental, confidential, friendly and non-threatening then those clients would be encouraged to return to the service. If and/or when that person is ready to access treatment or other health services they will be able to request assistance without fear or prejudice.

The NIDS was launched in 1997 and was primarily focussed on preventing the use of illicit drugs, including the encouragement of abstinence. The National Action Plan on Illicit Drugs 2001 to 2002-2003, which was endorsed by the Ministerial Council on Drug Strategy (MCDS) in July 2001, reiterates the significance of this concept in shaping and determining the emphasis on addressing drug issues.

"The philosophy of harm minimisation has been the cornerstone of Australia's National Drug Strategy since its inception in 1985. This philosophy includes the strategies of supply, demand and harm reduction. The mission of the NDS is to improve health, social and economic outcomes by

[11] Intergovernmental Committee on Drugs. *National Drug Strategic Framework. Annual report 2001 to the Ministerial Council on Drug Strategy.* Canberra, Commonwealth Department of Health & Ageing, 2002, 5.

preventing the uptake of harmful drug use and reducing the harmful effects of licit and illicit drugs in Australian society." [12]

The MCDS endorsement of the National Action Plan on Illicit Drugs 2001 to 2002-2003 represents an agreement by all States and Territories on the direction that should be followed in each jurisdiction in addressing illicit drug issues. Whilst the Action Plan is not prescriptive and recognises the need for flexibility within each jurisdiction, it is intended to ensure there is a consistent focus on priorities. There are seven key strategy areas in the Action Plan, one of which is specifically concerned with the reduction of drug related harm and contains three broad objectives.

1) To reduce the harm for individuals who use drugs, their families, and the community, in particular:

   - decreased drug related overdose deaths, illnesses and injuries;
   - a decrease in the spread of infectious diseases through injecting drug use and unsafe sexual practices as a result of intoxication;
   - decreased suicides and attempted suicides associated with illicit drug use; and
   - a decrease in the incidence of drug related crime.

2) Improve community amenity in areas of high public drug use, drug related crime and disruption.

3) Give law enforcement an increased capacity to contribute to the reduction of harm caused by illicit drugs.

Whilst the Western Australian Government's Drug and Alcohol Strategy 2002-2005 is described as being consistent with the directions of the National Drug Strategy, it adopts a broader focus by referring to the concept of harm minimisation which encompasses "the core functions of supply reduction, demand reduction and harm reduction". [13]

A useful analysis of the key concepts and principles that support harm reduction are in a 1996 publication by the National Working Group on Policy under the auspices of the Canadian Centre on Substance Abuse. The review offers the following working definition.

"Harm reduction approaches are restricted to those strategies which place first priority on reducing the negative consequences of drug use for the individual, the community and society while the user continues to use drugs, at least for the present time. In harm reduction approaches, the use of drugs is accepted as a fact and focus is placed on reducing harm while use continues. A harm reduction approach to a person's drug use in the short term does not rule out abstinence in the longer term. Indeed, harm reduction approaches are often the first step towards the eventual cessation of drug use. There are many possible strategies that can be taken to address drug related problems, harm reduction and abstention being two of these." [14]

2.3 The role of law enforcement

Harm reduction and harm minimisation have been a central plank of Australia's national drug policy since the mid 1980s. Law enforcement has recognised that it has a central role in reducing drug related harm in this country. Clearly, supply reduction, which is the primary responsibility of law enforcement

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[12] National Expert Advisory Committee on Illicit Drugs. *National action plan on illicit drugs 2001 to 2002-03.* Endorsed by the Ministerial Council on Drug Strategy, July 2001. Canberra, Commonwealth Department of Health and Aged Care, 2001, 19.

[13] Minister for Health. *Putting people first: the Western Australian Drug and Alcohol Strategy 2002-2005.* Mt Lawley, Drug and Alcohol Office, 2002, 10.

[14] Conley P, Hewitt D, Mitic W, Poulin C, Riley D, Room R, Sawka E, Single E, Topp J. *Harm reduction: concepts and practice. A policy discussion paper.* Ottawa, Canadian Centre on Substance Abuse, 1996. [http://www.ccsa.ca/docs/wgharm.htm].

is a major facet of this. However, it is now well accepted that police can institute other strategies to reduce drug related harm. including:

- adopting operational guidelines which support, rather than undermine health services such as needle exchanges and safe disposal schemes;
- drug treatment agencies;
- adopting cautioning and referral schemes; and
- the provision of accurate credible drug information to individuals and the wider community.

Beyond this it has been suggested that the broader goals of drug law enforcement should be changed to re-shape, rather than simply to attempt to eliminate illicit drug markets and drug distribution.[15] Although this is seen as an approach with real promise to reduce health and social harms while keeping drug related crime to a minimum, it is true to say that this approach to law enforcement has not been embraced in this country.

2.3.1 Specific harm reduction strategies in drug law enforcement

The Western Australia Police Service (WAPS) like law enforcement bodies in other Australian jurisdictions have recognised that they have a role in harm minimisation and harm reduction. WA police have been centrally involved for a number of years in cooperating with other sectors in reducing drug related harm resulting from those who continue to use drugs. A practical example of this is that harm minimisation is included as part of the alcohol and other drug related training conducted for new police recruits at the WA Police Academy and is addressed as part of ongoing in service training.

The Western Australia Police Service's Alcohol and Drug Coordination Unit serves as a point of reference for drug harm minimisation policy and practice within the WAPS. Some specific ways in which law enforcement plays a role in drug harm minimisation are outlined below.

2.3.1.1 Cautioning and referral schemes

Cautioning, arrest and referral schemes, and court diversion systems provide mechanisms through which law enforcement and treatment services can work together towards minimising drug related harm. Many such schemes are in place in various jurisdictions in WA and elsewhere. These may include referring a person to a treatment program as a condition of bail so that their court appearance is delayed until the program is completed. Cautioning may also involve attendance at an education session in lieu of a person being charged with a minor offence.[16]

2.3.1.2 Providing information about drugs and the law

Less formally, police often have valuable information about the drug scene which can help minimise harm. Results of analysis of drugs seized can help identify hazardous substances, or an abrupt increase in street purity, which may pose a threat to users. When such important and accurate information is non judgmentally conveyed by police through the media, and those in contact with users, it can be very helpful in reducing harm.

In WA a wallet sized police drug information card is given to drug users who have contact with police at the time of questioning or cautioning. It includes information about alcohol and drug services, youth services and referral and information services including the local substance users group. It also

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[15] Sutton A, James S. *Evaluation of Australian drug anti trafficking law enforcement.* Payneham, SA: National Police Research Unit, 1996.

[16] Siggins Miller consultants and National Expert Advisory Committee on Illicit Drugs. *National Action Plan on Illicit Drugs, 2001 to 2002-03*. Endorsed by the Ministerial Council on Drug Strategy, July 2001. Canberra, Commonwealth Department of Health and Aged Care, 2001; Western Australian Reference Group Working Paper. *National Illicit Drug Strategy Initiatives, Council of Australian Governments April 1999*. Perth, WA Drug Abuse Strategy Office, 2000.

includes information on safety issues such as calling an ambulance in case of overdose and notes that police won't be called unless ambulance staff are threatened.[17]

2.3.1.3 Avoiding operational policing which compromises drug service agencies

Similarly, there is now a greater level of understanding, among police and the general community, about the importance and effectiveness of methadone programs and needle exchange and provision schemes in minimising the spread of blood borne viruses through IDUs to the wider community. Good cooperation between law enforcers and such programs has meant that, in general, such schemes can operate without high profile police surveillance which could quickly scare away clients, rendering the programs ineffective, and maximising the threat to the general community posed by these viruses.

Like any intervention, harm reduction interventions should be evaluated to determine whether they result in a net decrease in harm or have an unacceptable level of unintended negative consequences.[18] An example of this was concerns that some moves to tighten up on precursor chemicals used in the manufacture of amphetamines may have lead to the use of other more hazardous substitutes, and may have encouraged more risky types of amphetamine use. Such possibilities need to be entertained, and emphasise the need for interventions to be monitored and evaluated.

2.4 A holistic view of harm reduction

A major study was conducted in 1996 which involved a detailed survey of 100 law enforcement officers across the country.[19] It was found that while the stated aims of most drug law enforcement bodies in Australia was to target major figures involved in the importation, production, financing, and/or distribution of illicit drugs (the 'Mr Bigs'), there was little evidence that this was being achieved.

Since this report drug law enforcement agencies in Australia have made considerable efforts to improve their effectiveness against those engaged in the more serious levels of drug trafficking, through greater reliance on intelligence and enhanced legislative powers. For example, in Western Australia the *Criminal Property Confiscation Act 2000,* which came into effect in January 2001, substantially expanded the power to confiscate unexplained wealth, benefits of crime, crime used property or crime derived property without the necessity of first obtaining a conviction.

The 2000-2001 annual report of the National Crime Authority illustrates the emphasis by law enforcement bodies in Australia on placing priority on detecting and acting against those operating at the highest levels of crime involved in drug trafficking and other areas.

> *"It has always been the NCA's contention that efforts against drug dealers and other organised criminals must be relentless. The NCA also urges that this challenge is not one solely for law enforcement, for such an approach has grave limitations. The NCA's firm view is that a whole of government approach will strengthen the fight against organised crime. Shortly stated, organised crime merits being treated on the same plane as threats to national security. One clear indicator of this is the well grounded link between major, lucrative organised crime and terrorism."*[20]

Despite these efforts it can be seen that in the data in the *Australian illicit drug report 2001-02* that the vast majority (77%) of arrests for drug offences continue to be against consumers, rather than suppliers of illicit drugs.[21] Thus, the observation made in 1996 by Sutton and James that the majority

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[17] Davidson P. *Design and implementation of the OOPS Emergency Department Project: Review to December 1998.* Next Step Specialist Drug and Alcohol Services; Opiate Overdose Prevention Strategy (OOPS) Review. Perth, Drug and Alcohol Office, 2001 [http://www.wa.gov.au/drugwestaus].

[18] Lenton S, Single E. "The definition of harm reduction." (1998) 17 *Drug and Alcohol Review*, 213-220.

[19] Sutton A, James S. *Evaluation of Australian drug anti trafficking law enforcement.* Payneham, SA: National Police Research Unit, 1996.

[20] National Crime Authority. *2000-2001 annual report*. Canberra, National Crime Authority, 2002, 4.

[21] Id, 127.

of people caught up in the criminal justice system were 'users' rather than 'providers' of illicit drugs continues to be true. Sutton and James observed that

> *"There also seems to be systematic inconsistency between the most frequently declared aim of drug law enforcement – to target high level financiers, importers and traffickers – and what in fact is being achieved. Reviews by the research team of Australia wide data on drug related charges and arrests show clearly that the impacts of criminal justice continue to fall mainly on lower end distributors and users rather than high level operators."*[22]

Their research also highlighted that most street level drug law enforcement activity was conducted by generalist local detectives and uniformed police, rather than specialist law enforcement groups, who were more driven by community pressures, complaints from local businesses and attempts to maintain public order instead of pursuing specific drug related goals and policies.

As a result of this research it was concluded that most law enforcement officers surveyed could not see any or only a small role for law enforcers in harm reduction, other than in supply reduction and in avoiding arrests and other high profile police activity in and around needle exchanges, methadone and other drug treatment services. Sutton and James recommended that the goals and activities of law enforcement in Australia needed to be realigned to make harm reduction at least as important as targeting and apprehending high level players in the drug trade.

A number of specific recommendations were made by the authors, including that local drug control plans be based on a premise that law enforcement will be more able to re-shape rather than totally suppress illicit drug distribution and consumption. They also believed that the overarching objective should be to ensure that laws were enforced in ways that kept health, welfare and other harms, as well as drug related crime, to a minimum.

They also recommended that local committees of law enforcement, health and drug user representatives be established to set up and maintain a set of relevant indicators of drug-related harm, to set priorities for local operations and inform strategic decisions when to apply discretion in enforcing drug laws.

A paper published in 1999 by the NSW Bureau of Crime Statistics and Research, examines the difficulties associated with drug law enforcement agencies in relation to intervening in heroin markets, and observes that often drug law enforcement and treatment are seen as contradictory approaches to resolving the problem of heroin abuse. It is suggested that these two approaches should be regarded as complementing one another and that

> *"instead of debating whether to invest public money in drug law enforcement or treatment, policy makers should concentrate on determining the optimal mix of drug law enforcement and treatment and the most appropriate policies for minimising any public health risks created by drug law enforcement."*[23]

Research commissioned in 1998 by the Secretariat of the Commonwealth Based Approach to Drug Law Enforcement reviewed drug harm minimisation training for police in each Australian jurisdiction, to enable the development of a national strategic approach to drug harm minimisation education and training programs. A number of key documents were identified including *Directions in Australasian policing 1996-1999*, which it was noted

> *"stresses the need for police to respond to a dynamic environment within a context of community confidence and the expectations of the community. Key principles include the importance of embracing coordinated, cooperative, cohesive and community sensitive approaches. A central tenet*

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[22] Id, viii.

[23] Weatherburn D & Lind B. Heroin harm minimisation: do we really have to choose between law enforcement and treatment? (1999) 46 *Crime and Justice Bulletin*, 1.

of the plan is the development of strategic partnerships and cooperation. Within this operating context, a number of goals and objectives have been enunciated that are clearly related to any current and potential involvement of police in drug harm minimisation."[24]

2.5 Harm minimisation and drug diversion

In April 1999 there was agreement by the Council of Australian Governments (COAG) that there should be an increased use of the power possessed by police to divert minor alcohol and drug related offenders to appropriate treatment programs and services. A review of police diversion practices was conducted in all Australian States and Territories to identify professional barriers and organisational structures that might affect this process. It was concluded that

"the goals of the National Drug Strategy might only be achieved if police are given the confidence to adopt a flexible approach towards alcohol and drug issues, and if they are appropriately trained in the rationale and strategies of harm minimisation. It is also recommended that police consider sharing the responsibility for 'policing' alcohol and drug problems with health agencies and community groups."[25]

The issue of training and skilling police in the use of harm reduction options and approaches was the subject of research conducted in 1999, which was funded by the Board of Control for the National Community Based Approach to Drug Law Enforcement (NCBADLE).[26] This research identified a number of studies in Australia which had found that operational police in fact spent a large proportion of their time responding to drug related harm. It was concluded that

"police do have an important role in drug harm minimisation and that such a role is consistent with the strategic directions of policing in general. However, there has been limited attention to operationalise harm minimisation for police and it has been noted that effort needs to be expended in providing relevant training."[27]

There have been a range of approaches followed in a number of other countries to introduce harm reduction measures, including the introduction of needle and syringe exchange programs, methadone programs, drug education programs targeted at high risk populations, prescribing of drugs, the development of tolerance areas and the adoption of innovative law enforcement policies.[28]

A specific example of a harm reduction approach is the introduction of an approach known as the 'responsible demand enforcement' approach by the Merseyside Police in north west England. This involves a cooperative approach between the police and the regional health authority, focusing in particular on measures to reduce the spread of HIV infection among injecting drug users. Another feature of this approach has been a greater emphasis on enforcement of laws against those involved in drug trafficking and the use of cautioning for minor offenders.

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[24] Fowler G, Allsop S, Melville D, Wilkinson C. *Drug harm minimisation education for police in Australia.* National Drug Strategy monograph No. 41, Canberra, Commonwealth Department of Health and Aged Care, 2000, 15.

[25] Morrison S, Burdon M. *The role of police in the diversion of minor alcohol and drug related offenders.* Canberra, Commonwealth Department of Health and Aged Care, 2000, xiii.

[26] Fowler G, Allsop S, Melville D, Wilkinson C. *Drug harm minimisation education for police in Australia.* Canberra, Commonwealth Department of Health and Aged Care 2000.

[27] Id, 17.

[28] Riley D, Sawka E, Conley P, Hewitt D, Mitic W, Poulin C, Room R, Single E, Topp J. "Harm reduction: Concepts and practice. A policy discussion paper." (1999) 34 *Substance Use and Misuse* 9-24.

3. The role of public health

3.1 Introduction

There are a number of public health reasons for the establishment of needle and syringe programs (NSPs). The initial impetus for the development of NSPs was part of a set of comprehensive public health measures implemented in the mid to late 1980s to reduce the risks of the transmission of the human immunodeficiency virus (HIV) due to high risk practices by injecting drug users (IDUs), including preventive activities and expanded treatment programs such as methadone treatment.

> *"Injecting drug users provide the greatest opportunity for HIV to be transmitted into the wider community, and while Australia currently has a relatively low rate of HIV infection amongst injecting drug users, treatment services will play an important role in maintaining this low rate.... Not to provide treatment to this group would greatly enhance the risk of spread of HIV both within the injecting drug using community and, through sexual contacts, to the wider population."*[29]

More recently the growing awareness of the serious public health consequences from Hepatitis B (HBV) and Hepatitis C (HCV) infection has stimulated the development of a broader role by NSPs to reduce the spread of all blood borne viruses (BBVs) amongst IDUs as well as into the general population. The need for measures to address this problem has been the subject of a review for the Australian National Council on AIDS, Hepatitis C and Related Diseases Hepatitis C Subcommittee undertaken by the National Centre in HIV epidemiology and Clinical Research. The review noted that

> *"Of people who develop HCV antibodies following exposure to HVC, at most 25%, and probably nearer 10%, experience an acute illness ... Of all people exposed to HCV, around 25% clear the HCV infection and are not at risk of long term HCV related morbidity and mortality. A small proportion of people infected with HCV will develop long term sequelae, in particular compensated cirrhosis, liver failure and hepatocellular carcinoma (HCC)."*[30]

The serious public health risk posed from HCV amongst IDUs is referred to in the Interim report of the Victorian Parliament's Drugs and Crime Prevention Committee, which cites research showing that the risk of infection substantially increases the longer drugs are injected. *"An extensive 1994 study showed that more than 80 per cent of those who have injected for over eight years are infected, and about 15 per cent of those injecting for less that two years are infected."*[31]

A review conducted in 2002 by the National Centre for HIV Epidemiology and Clinical Research involved an ecological study of changes in HIV prevalence by comparing cities with and without NSPs and compared rates of HIV and HCV infection among IDUs.

> *"The analysis found 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 (mean difference –24.7% [95% CI: -43.8%, 0.5%], p=0.06) ... Overall the results indicated little change in HCV prevalence before NSPs were introduced, followed by a decline after the introduction of NSPs."*[32]

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[29] Ali R, Miller M, Cormack S. *Future directions for alcohol and other drug treatment in Australia*. Canberra, Australian Government Publishing Service, 1992, 13.

[30] Hepatitis C Virus Projections Working Group. *Estimates and projections of the hepatitis C virus epidemic in Australia 2002*. Darlinghurst, National Centre in HIV Epidemiology and Clinical Research, University of New South Wales, 2001, 6.

[31] Victoria, Parliament, Drugs and Crime Prevention Committee. *Interim report of the Inquiry Into the Victorian Government's Drug Reform Strategy*. Melbourne, Victorian Parliament, 1997, 179.

[32] Health Outcomes International, National Centre for HIV Epidemiology & Clinical Research, Drummond M. *Return on investment in needle & syringe programs in Australia*. Canberra, Commonwealth Department of Health and Ageing, 2002, 1-2.

3.2 Positive outcomes of NSPs

There is a growing body of scientific knowledge which has identified a number of other important functions provided by NSPs, in addition to significantly reducing the sharing of needles and syringes (N&S) by IDUs. For instance, it has been found that NSPs have a major impact on the length of time that used N&S remain available to the drug using population by reducing circulation time from an average of 23 days to less than 3 days.[33]

This outcome illustrates the importance of NSPs as a cost effective means to introduce knowledge and change attitudes to reduce the risk of transmission of HIV and other BBVs through behavioural changes to remove used injection equipment from circulation within a very short time.

A study published in 1998 of the frequency of use of sterile N&S by nearly 600 active IDUs in seven US metropolitan cities found a median of three injections for the most recently used syringe and that one in five IDUs had used that syringe only once.[34]

Another study was published in 1998 which presented the results of an interview survey of 8,400 IDUs at 18 different sites in the United States. This reported high rates of re-use of used injection equipment, with one third of the respondents using injection equipment they knew had been previously used, with a mean frequency of transfer of syringes of 7.6 times in the past 30 days.[35]

A major study of the economic effectiveness of NSPs in Australia was commissioned by the Commonwealth Department of Health and Ageing in 2000. This included a review of the effectiveness of NSPs by analysis of 103 studies in the international literature which found that in cities which had introduced NSPs had a mean annual *decrease* in HIV seroprevalence of 18.6% among IDUs compared to a mean annual *increase* of 8.1% in cities that had never introduced such programs. Furthermore, in cities with an initial HIV prevalence among IDUs of less than 10%, the mean annual *decrease* in prevalence was 4.0% in cities that introduced NSPs, compared to a mean annual *increase* of 28.6% in cities without NSPs. Median prevalence of HCV among people with less than 3 years of injecting in cities with NSPs was 19%, compared to 71% in cities without NSPs.[36]

3.3 Impact on behaviour of IDUs

A West Australian survey in 1995 of just over 500 IDUs who purchased Fitpacks found in the past month that about six out of 10 respondents had neither passed on nor received a previously used syringe. It was found

> *"that those respondents who shared needles in the past month, were almost twice as likely as those who did not to be under 26 years of age, were almost twice as likely to have injected at least daily over the past month, and were almost six times as likely to have shared other equipment such as swabs, spoons, water, etc."*[37]

While relatively low rates of sharing of used N&S were found in this study, it identified high rates of sharing of other injecting equipment, such as spoons, filters, water and tourniquet. In the preceding

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[33] Journal of Acquired Immune Deficiency Syndromes and Human Retrovirology 1999; 20:73-80.
[34] Gleghorn AA, Wright-De Aguero L, Flynn C. "Feasibility of one-time use of sterile syringes: a study of active injection drug users in seven United States metropolitan areas." (1998) 18 (Supplement 1) *Journal of Acquired Immune Deficiency Syndromes and Human Retroviology* S30-S36.
[35] Wang J, Siegal HA, Falck RS, Carlson RG. "Needle transfer among injection drug users: a multilevel analysis." (1998) 24 *American Journal of Drug and Alcohol Abuse* 225-237.
[36] Health Outcomes International, National Centre for HIV Epidemiology & Clinical Research, Drummond M. *Return on investment in needle & syringe programs in Australia*. Canberra, Commonwealth Department of Health and Ageing, 2002.
[37] Lenton S, Tan-Quigly A. *The Fitpack study: a survey of 'hidden' drug injectors with minimal drug treatment experience*. Perth, National Centre for Research into the Prevention of Drug Abuse, Curtin University of Technology, 1997, 60.

month nearly 60% of respondents reported they shared these items and just under a quarter had shared these items more than 10 times.

The Youth AIDS and Drugs study conducted interviews in Perth in the early 1990s with 105 people aged less than 21 years. Of the 79 young people who had ever injected drugs, 38 (48%) had shared needles with others, 16 (42%) of whom had done so within the past month.[38]

There were 196 West Australian IDUs in the Australian National AIDS and Injecting Drug Use Study, which was conducted in 1989. The mean age of respondents was 28 years. The study found that less than 10% had never shared a N&S and that one quarter had not shared for years. However, one third had shared recently (ie within last weeks or days).[39]

A national survey of a sample of 872 IDUs in the latter half of 1994 found that 12% of respondents reported sharing of a N&S in the past month. It was noted that sharing most often involved a regular sexual partner and there were lower rates of sharing with younger respondents.[40]

A series of surveys have been conducted by the Northern Territory AIDS Council which survey clients attending the needle and syringes exchange program (NSEP) in Darwin. This research provides details of a number of BBV related issues, including methods of disposal of used N&S, the use of sterile N&S and the transfer of non sterile injection equipment. For instance, the survey conducted in July 1998 of 238 distinct clients found that

> *"(a) majority of respondents (79.8%) reported having using a new needle and syringe for every injection in the past month. ... A majority of respondents (96.9%) reported never having used a syringe after someone else (and) a majority of respondents (94.6%) reported never having used a syringe before someone else."*[41]

Similar results were found in a survey of 242 distinct clients in October and November 1998.[42]

The *AIVL national injecting equipment disposal study*,[43] was published in April 2002, as part of a two year program by the Australian Injecting and Illicit Drug Users League (AIVL) funded by Commonwealth Department of Health and Aged Care to investigate the disposal of injecting equipment. The aims of the research project were to:

- determine the current status of disposal of used injecting equipment;
- uptake of safe disposal techniques by consumers; and
- impacts on communities including safe and unsafe discarding practises.

The first stage of the project involved a Victorian survey of a total of 71 IDUs conducted in May 2001. The majority of the subjects were from the Melbourne metropolitan area with one regional location in Ballarat. The second stage of the project involved focus groups and interviews in all the major states and territories except for Victoria from mid June to mid July 2001 and obtained detailed information from a total of 92 IDUs.

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[38] Loxley W, Ovenden C. "Friends and lovers: needle sharing in young people in Western Australia". (1995) 7 *AIDS Care* 337-351.
[39] Marsh A, Loxley W. *The Australian National AIDS and Injecting Drug Use Study: Perth, 1989*. Perth, National Centre for Research into the Prevention of Drug Abuse, Curtin University of Technology, 1991.
[40] Loxley W, Carruthers S, Bevan J. *In the same vein. First report of the Australian study of HIV and injecting drug use (ASHIDU)*. Perth, National Centre for Research into the Prevention of Drug Abuse, Curtin University of Technology, 1995.
[41] Roberts C. *Snapshot II. The dry: characteristics of needle exchange clients during the 1998 dry*. Darwin, Northern Territory AIDS Council, 1998. [http://www.octa4 net.au/ntac/snapshot/].
[42] Roberts C. *Snapshot III. The 1998 wet: characteristics of needle exchange clients during the 1998 wet season*. Darwin, Northern Territory AIDS Council, 1998.
[43] Kelsall J, Lloyd S, Kerger M, Crofts N. *AIVL national injecting equipment disposal study.* Sydney, Australian Intravenous League, 2002.

The study confirmed that there is a high level of concern amongst IDUs in relation to appropriate disposal of injecting equipment, with the majority indicating that they felt a great sense of responsibility towards the rest of the community on this issue. It has been noted that

> *"(f)ar from the stereotype of the 'irresponsible junkie', the research shows that drug users are highly motivated when it comes to wanting to protect others and dispose appropriately".*[44]

The report indicates there was no individual group of IDUs who were responsible for particular patterns or consistency of inappropriate disposal of injecting equipment, rather that inappropriate disposal was most often a response to a particular situation or change in routine or circumstance. Further, the research shows that when faced with the need to dispose inappropriately, the majority of IDUs attempted, within their means, to reduce the public health dangers of that particular method of disposal.

The report also highlights a number of important education needs. Participants frequently described strategies, such as breaking off the needle after use, to reduce the potential risk to others. Another major education issue that is highlighted by the research is the relationship between disposal of injecting equipment other than N&S such as water, swabs, spoons, etc.

Participants highlighted the distinction that held in the way they thought used N&S were a recognisable risk because of their recognised potential to spread BBVs compared to other types of used injecting equipment such as swabs, filters and tourniquets. This outcome is perhaps not surprising as

> *"after many years of government campaigns focussing solely on the disposal of fits, many users do not view other injecting equipment as important in relation to disposal and BBV transmission".*[45]

The AIVL report shows that IDUs have a high level of concern about the disposal of used injecting equipment and that the small proportion of incidents where inappropriate disposal occurs is frequently due to unplanned use in unfamiliar environments.

> *"This report outlines a very different picture in relation to disposal of injecting equipment than the image that is portrayed to the community. Far from describing an intractable community problem, (it) highlights a number of recurring themes across the country for which solutions can easily be found."*[46]

The study also shows that inappropriate disposal is closely related to a lack of acceptable options for disposal, the possibility of threat of police interference or in some instances insufficient knowledge of the injecting environment.

3.4 Cost effectiveness of NSPs

A major study was commissioned in 2000 by the Commonwealth Department of Health and Ageing to evaluate the economic effectiveness of needle and syringe programs in Australia. The report, *Return on investment in needle and syringe programs in Australia*, was released in October 2002.[47] Significant returns on investment in NSPs were identified by the study in terms of both number of HIV and HCV infections prevented and cost of treatment.

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[44] Madden A. *Media release for the AIVL national injecting equipment disposal study*. August 2002.
[45] Ibid.
[46] Ibid.
[47] Health Outcomes International, National Centre for HIV Epidemiology & Clinical Research, Drummond M. *Return on investment in needle & syringe programs in Australia*. Canberra, Commonwealth Department of Health and Ageing, 2002.

"Overall, total treatment costs avoided over the life of the cases of HIV and HCV avoided by NSPs are approximately $7,808 million (before discounting). The costs of HIV treatment avoided are approximately ten times those for HCV, which reflects a combination of the number of cases avoided in the first instance (25,000 for HIV compared to 21,000 for HCV), a higher diagnosis rate for HIV than HCV, and higher average annual treatment costs for HIV than for HCV."[48]

This report identifies that in the year 1999/2000 a total of 31,848,000 N&S were distributed in Australia through NSPs.[49] The study includes a breakdown of expenditure of both government and consumer costs for each Australian jurisdiction.

With respect to Western Australia the report states that in the year 1999/2000 there was a total expenditure of $3,576,000 on NSPs of which $1,227,000 involved government expenditure and $2,349,000 was attributable to consumer expenditure.[50] It should be noted the consumer expenditure item of $2.349 million provides an incorrect attribution of the amount of public expenditure, as this total includes both public and private expenditure. This may suggest a misleading breakdown of expenditure, as about 70% of all N&S in WA are distributed through pharmacies. This program is fully self funded as all N&S are sold at full retail prices. The inclusion of private, ie consumer expenditure data contradicts the methodology, as elsewhere in the report it is stated that

"the information presented in the table excludes expenditure on, and needles and syringes distributed through pharmacies that sell these products on a commercial basis and are separate from government auspiced NSPs".[51]

Therefore, as the pharmacy program is fully self funded, the amount of $2.349 million implies that the government in this State contributes $2,349,000 for consumers to purchase N&S. Overall 68% of all N&S are retailed by pharmacies in WA with a further 26% distributed via exchange programs operated by the WA Substance Users' Association (WASUA) and the WA AIDS Council (WAAC).

4. NSPs in Western Australia

4.1 Pharmacy programs

4.1.1 Up to 1987

For a number of years pharmacies in Western Australia had informally sold sterile N&S to IDUs in a loose form. However, by the late 1980s, it was appreciated that without substantially expanded access to sterile injection equipment, there was a real risk that HIV and other BBVs would rapidly spread in IDUs in this State. There was a realisation there would be a significant public health issue as infected IDUs had readily transmitted HIV and other BBVs via heterosexual contact with non IDU sexual partners in many other jurisdictions.

Western Australia has one of the lowest rates of HIV infection among IDUs (1-2%) in the western world compared to rates of 50% to 60% in some cities in Europe and the United States. This is thought to be substantially attributed to the extensive and sustained implementation of NSPs in this State from early 1987.[52]

4.1.2 1987 to 1992

The Pharmaceutical Council was provided in 1987 with a collective approval on behalf of all its members operating in pharmacies in Western Australia. Pharmacies may apply for individual approval to provide a broader range of injecting equipment than is covered by the Council's collective approval.

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[48] Ibid, 3.
[49] Id, Table 2.1, 11.
[50] Ibid.
[51] Id, 10.
[52] Lenton S, Kerry K, Loxley W, Tan-Quigley A, Greig R. "Citizens who inject drugs: the 'Fitpack' study. " (2000) 11 (4) *International Journal of Drug Policy*, 285-297.

This approval is to the Registrar of the Pharmaceutical Council of WA and is renewable every three years and is for *"The supply of needles and syringes in Fitpacks, Sharpkitz and Fitpack Plus from registered pharmacies"*. These services are permitted to be conducted 24 hours per day, seven days per week.

In July 1987 the former Health Department of WA (HDWA) approached more than 400 pharmacies throughout the metropolitan area and in regional centres to sell N&S in a kit form which would incorporate both sterile N&S and HIV preventive materials. This mode of sale would replace the practice of selling loose N&S.

A self contained pre packaged container of sterile N&S was developed, which also had a dual function of a storage container to retain N&S after use. The first version, known as the SS5 Pack, contained literature eg on how HIV was spread through reuse of N&S, a swab, five sterile 1 ml syringes and needles, a condom and lubricant, and a rigid disposal container. The SS5 Pack was sold by retail pharmacies throughout the state between June 1987 and June 1992.[53]

The SS5 Pack was extensively promoted, and to maximise the participation of pharmacies, was supplied at no cost to pharmacies by the HDWA. In conjunction with the SS5 Pack, participating pharmacies displayed a standardised logo near their entrance, and seminars and workshops were held in the metropolitan area as well as in a number of regional areas.

4.1.3 1992 to the present

In July 1992 the subsidisation of SS5 Packs was discontinued and distribution of N&S was transferred to the state's two major pharmaceutical wholesale suppliers, Sigma and Fauldings. At this time a new plastic container, the Fitpack, was introduced which had previously been used in the Eastern States. This consisted of a compartment with five sterile 1 ml syringes and an adjoining compartment with five self locking slots for IDUs to insert used N&S.

Whilst the Fitpack did not contain the additional HIV preventive items that had previously been included with the SS5 Pack, this was replaced by a range of self adhesive labels provided by the Department of Health. These labels are attached to the side of each Fitpack at the point of packaging and provide basic health information, with topics being regularly rotated. Topics include BBV and overdose prevention information.

All N&S sold through pharmacies are sold as Fitpacks and are fully funded by consumers (IDUs), whereas the preventive initiatives delivered through outreach services provided through exchange programs are partially subsidised by joint funds from the Commonwealth and State.

More recently, labels that highlight safer injecting information have been introduced with graphic designs provided by WASUA. Referral phone numbers, a safe disposal message and a message from the Pharmaceutical Council of WA always appears on the Fitpack labels.

4.1.4 New products

Over the past ten years a variety of configurations of sterile injecting equipment have been made available to IDUs through some pharmacies in this State. These include the Fitpack Plus, which contains three 1 ml syringes, three sterile water capsules, six swabs and three mixing spoons and Sharpkitz which contains five 1 ml syringes, five sterile water capsules, five swabs and five filters but no spoons. There is also the Sterafit single syringe, which is a 1 ml syringe provided in a rigid plastic sleeve which serves the purpose of also being a disposal container.

[53] Swensen G, Westlund G, Baker MR. *Sales of needles and syringes in WA - the SS5 pack project 1987-1990*. Perth, Health Services Statistics and Epidemiology Branch, Health Department of WA, 1992.

4.2 Exchange programs

4.2.1 1987 to mid 1996

In July 1987, the WA AIDS Council (WAAC), in conjunction with the Beaufort 565 Sauna, started the first NSEP in WA, whereby IDUs were able at no cost to exchange used injection equipment for sterile injection equipment. Since July 1992, the WAAC programs started to charge a low cost for sterile N&S provided to IDUs who do not have used injection equipment to exchange.

In June 1988 the WAAC started a mobile outreach program that targeted a range of IDUs which operated from a van providing an exchange program that incorporates one to one contact with IDUs, distributes preventive literature, condoms and information about HIV assessment and makes referrals to appropriate agencies.

4.2.2 Mid 1996 to the present

The Derbarl Yerrigan Health Service (DYHS), formerly Perth Aboriginal Medical Service, operated a mobile NSEP from July 1996 to June 1999. The DYHS continues to have a role in providing N&S (as Fitpacks) and other BBV preventive resources with nursing and medical staff distributing these materials through its main office in East Perth and through outreach programs at Maddington, Mirrabooka and Gnangara. Only two Aboriginal organisations provide a NSP outside the metropolitan area, the Southern Aboriginal Corporation in Albany and the Carnarvon Medical Service Aboriginal Corporation.

In November 1997, a fixed site NSEP operated by the WASUA commenced in the Perth inner city location of Northbridge. WASUA have a diverse primary target group of IDUs, including Aboriginal and Torres Strait Islander peoples and people from culturally and linguistically diverse (CALD) backgrounds and also provide a valuable service to street based sex workers who inject drugs.

More recently they have developed a health clinic which is in premises adjoining the Northbridge NSEP site and this provides a comprehensive range of health services in addition to their core business as an exchange program. The clinic is staffed by health professionals who provide a comprehensive service including the provision of vaccinations for Hepatitis B.

WASUA has operated a mobile NSEP in Bunbury since March 2001. Previously this service operated as a trial program from October 1998 to March 1999 in conjunction with the Department of Health's South West Population Health Unit.

In the NSPs conducted by WAAC and WASUA the provision of sterile injecting equipment is conditional on the return of used items on a cost recovery basis, which is charged to the client. On average both WAAC and WASUA record monthly return rates of 95% and rely mostly on State government funding for their operations.

In addition to the pharmacy based NSP and the exchange programs operated by WAAC and WASUA, regional hospitals in WA distribute Fitpacks[54] which account for a further 6% of the total of 32% of government funded equipment distributed to people who inject drugs.

4.3 Role of government

4.3.1 Administrative arrangements

The Sexual Health and Blood Borne Virus Program (SHBBVP), which is part of the Department of Health's Communicable Disease Control Branch, is responsible for the overall management of the State's needle and syringe programs. The SHBBVP's responsibilities include the provision of consumables and training to health services and other providers, maintenance of the consumables

[54] Fitpacks are distributed through regional hospitals without the requirement for exchange.

database and liaison with the office of the Director General of Health regarding approvals to operate a NSP.

The SHBBVP has developed considerable expertise in developing services and performs a vital role in identifying issues relevant to the local context and in developing policy. A key aspect of this role is to improve the knowledge of health care providers throughout the State about NSPs and preventive strategies to reduce the transmission of BBVs.

Whilst the licensing of NSPs is vested with the Commissioner of Health under Regulation 12A of the *Poisons Regulations 1965*, the actual authority for approval of applications for NSPs has been delegated to the Principal Pharmacist.

In addition to its role as funder and for vetting applications for the establishment of NSPs, the Communicable Disease Control Branch also provides a critical point of contact with the wider community over a wide range of issues. For instance, the Branch will liaise closely with local government authorities on specific matters such as improving disposal facilities and respond to concerns from the public who contact the Department directly about discarded N&S and other issues.

A copy of the *Guidelines for the establishment and operation of a needle and syringe program* which sets out the 16 key principles which operators need to meet in order to obtain a licence is contained in Appendix 4. Copies of other materials that have been developed, *Understanding the how and why of needle and syringe programs in Western Australia* and *Safe disposal of needles and syringes,* are also reproduced in Appendix 4.

It is suggested that there be further consideration of the optimal administrative arrangements that could be developed for ensuring the efficiency in the licensing, monitoring of compliance and other aspects of the NSP program within the Department of Health.

It is noted that there has been a willingness to undertake innovative projects, such as a pharmacy education project in conjunction with the Hepatitis C Council of WA to enable pharmacy staff to provide a more informed approach in the provision of sterile injecting equipment to people who inject drugs.

4.3.2 Hospitals

The Department of Health has undertaken actions to improve access to injecting equipment by IDUs outside the metropolitan area, especially on an after hours basis. An Operational Instruction was issued by the Acting Director, Communicable Disease Control Branch on 20 December 2001. This requires rural and regional hospitals that offer emergency after hours services to provide after hours access to sterile needles and syringes to IDUs without a requirement for exchange.[55] The SHBBVP will provide N&S to regional hospitals with each Health Service being required to meet the cost of freight.[56]

The Operational Instruction aims to address the gaps in services when local pharmacies are closed or if they do not retail Fitpacks. Included with the Operational Instruction are the *Guidelines for the establishment and operation of a needle and syringe program* (see Appendix 4). These guidelines are intended to support services in addressing questions with regard to confidentiality, costs, staff training, disposal, client referral, juvenile access to sterile injecting equipment and access by clients undergoing treatment related to their drug use.

[55] Operational Circular, *Provision of sterile needles and syringes from rural and regional hospitals to people who inject drugs*. Number OP1522/01, 20 December 2001. Department of Health.
[56] In the 6 month period July to December 2001, the Sexual Health Program provided 20,170 Fitpacks, at a cost of $45,584, to rural health services.

4.3.3 Vending machines

In May 1996, following lobbying of the then Minister for Health by the Pharmacy Guild, which opposed the use of vending machines, a Ministerial Working Party was established to advise on the future use of needle and syringe vending machines (NSVMs), and whether or not a NSVM trial should be undertaken. Agreement was subsequently obtained for a trial of a vending machine at the Kalgoorlie Regional Hospital, which commenced in March 2001.

An internal memo was sent on 25 October 2002 from the Director General, Department of Health to the Honourable Minister for Health which dealt with the provision of needles and syringes in response to the Community Drug Summit recommendations on this issue.

The memo provides the Minister with advice based on the favourable trial of the vending machine at the Kalgoorlie Regional Hospital (which commenced in March 2001) and recommends the wider use of vending machines in Western Australia, especially in non metropolitan areas.

The evaluation of this trial indicates that this type of after hours service provides net benefits to hospitals such as reducing demands on staff at busy times in accident and emergency departments.[57]

Recommendation 1
That the wider use of vending machines in WA be supported to increase access to sterile needles and syringes in rural and remote areas. The intent is to reduce the risk of transmission of blood borne viral infections and reduce costs to the health system.

5. Legislative framework

Until 1994 the provision of injecting equipment to IDUs was illegal in this State as those who provided N&S to IDUs, could have been charged with criminal offences. The *Poisons Act 1964* and the *Poisons Regulations 1965* were amended in May 1994 to enable the licensing of needle and exchange services. The effect of these provisions was that those involved in running a NSP are provided with a defence if the NSP is approved by the Commissioner of Health.[58]

The relevant provisions for establishing NSPs are contained in a number of legislative amendments to the *Poisons Act 1964* and the *Poisons Regulations 1965*, as follows.

5.1 Poisons Act 1964

5. Interpretation

(1) In this Act unless the context requires otherwise –

…

"blood borne infectious disease" means Human Immunodeficiency Virus (HIV) infection, Hepatitis B, Hepatitis C or any other infectious disease that is carried in the blood;

…

"needle and syringe program" means a program to do one or more of the following –

(a) to supply persons with sterile hypodermic syringes or sterile hypodermic needles;

(b) to facilitate the safe disposal of used hypodermic syringes or used hypodermic needles; or

(c) to advise, counsel or disseminate information to persons,

principally for the purpose of preventing the spread of blood borne infectious diseases.

[57] Moloney A. *Evaluation of the Fitpack vending machine trial at Kalgoorlie Regional Hospital*. Kalgoorlie, Northern Goldfields Health Services, 2001.
[58] Now known as the Director General of Health.

36A. Defence for persons participating in the conduct of needle and syringe programs[59]

It is a defence in proceedings for an offence against section 36 of this Act or section 6 (2) of the *Misuse of Drugs Act 1981* for the person charged to prove that the offence occurred by reason only of the person –

(a) supplying any other person with a sterile hypodermic syringe or a sterile hypodermic needle;

(b) doing any act or thing to facilitate the safe disposal of a used hypodermic syringe or a used hypodermic needle; or

(c) advising, counselling or disseminating information to any other person,

in the course of the conduct of a needle and syringe program approved by the Commissioner of Health.

5.2 Poisons Regulations 1965

12A. Approval of needle and syringe program

(1) A person may apply to the Commissioner of Health for the approval of a needle and syringe program.[60]

(2) An application referred to in sub regulation (1) shall –

(a) be in the form of Form 14 in Appendix A; and

(b) nominate a person to be the coordinator of the program.

(3) The Commissioner of Health may by notice in writing require an applicant to provide further information with respect to the application.

(4) An approval of a needle and syringe program shall –

(a) be given by instrument in writing signed by the Commissioner of Health;

(b) clearly identify the program that is being approved by reference to the activity or activities, and the persons or class of persons engaging in the activity or activities, that constitute the program; and

(c) specify the period during which the program is approved.

(5) The Commissioner of Health is not to approve a needle and syringe program unless the Commissioner of Health is satisfied that the coordinator of the program –

(a) has attained the age of 18 years;

(b) is a person of good character and repute and is a fit and proper person to coordinate the needle and syringe program; and

(c) understands his or her duties as the coordinator of the program.

[59] Inserted by No. 12 of 1994 s.7.
[60] Regulation 12A inserted in Gazette 26 May 1994, 2197-8.

6. Law enforcement issues

6.1 Introduction

The West Australian Police Service has developed a set of administrative directions (AD) concerned with NSPs and the management of both fatal and non fatal overdose situations. These administrative directions are part of a much larger manual which is provided online to all police throughout WA. The relevant instructions, which are reproduced in Appendix 3, are:

- AD-24.19 Needle and syringe program;[61]
- AD-24.16.1 Non fatal drug overdoses; and
- AD-24.16.2 Fatal drug overdoses.

6.2 Relationships with NSEPs

The operators of the fixed and mobile NSEPs report that they enjoy a very good working relationship with a number of individual police officers, which has been developed through the WA Police Service's Alcohol and Drug Coordination Unit.

WASUA have attempted to improve client behaviour in the vicinity of their office which has the effect of minimising the need for visible police presence in the area. WASUA also actively discourage people attempting to use drugs in the area or to engage in other activities which would reflect adversely on the operation of the program.

Whilst there is a good relationship at a higher organisational level with the Police Service there have been instances where police have been observed searching people soon after they have collected sterile injection equipment from the mobile NSEP. Operators of the vans also indicate there have been anecdotal reports that some police have been heavy handed in the way they have dealt with people who have used and sterile injection equipment in their possession, which police have threatened to use as evidence of more serious drug related charges.

The Working Party also received information that in some regional areas there was some divergence in the interpretation by some police officers of the various administrative directions concerning drug use and drug users.

Recommendation 2
That the high level administrative support in the WA Police Service for the promotion of harm reduction measures be maintained and reinforced in training provided to police and through administrative processes that disseminate information to the Service throughout the State.

In conjunction with the recognition that the WA Police Service continue to develop harm reduction approaches which are integrated as much as possible into day to day policing practice, it is recognised that there also needs to be a 'whole of government' approach to harm reduction. This requires that a mechanism for high level guidance and direction must be established to ensure that strategies and policies of key government bodies are consistent with harm reduction principles.

As part of this process it is also important that policies and procedures are regularly examined and updated to provide consistency and to take account of developments. A body such as the Senior Officers Group, which operates across Government departments, is well suited for this role of monitoring agency performance in this regard.

The Senior Officers Group is convened by the Drug and Alcohol Office and meets on a regular basis. It is made up of representatives of key government organisations such as WA Police Service, Department for Community Development, Department of Justice, Department of Health, Department

[61] It is believed that this instruction is being updated to reflect recent developments.

of Education and Training, Department of Housing and Works, Department of Indigenous Affairs, Department of Local Government and Regional Development, Office of Road Safety and Department of Premier and Cabinet.

Recommendation 3
That the Senior Officers Group:
(a) conduct a review and audit of policies, guidelines and procedures concerned with drug issues in relation to consistency with harm reduction principles;
(b) continue to monitor agency compliance on a regular basis; and
(c) provide the Minister for Health and other relevant Ministers with a report on the implementation and adoption of harm reduction measures within each agency's policies.

6.3 Seizure of injection equipment by police

6.3.1 Current situation in WA

If IDUs are discouraged from carrying either used or sterile N&S then they will be more likely to share or re-use equipment with the attendant risk of BBV infection. Importantly, if users are discouraged from carrying used equipment to return to a NSEP or to safely dispose of them through the household waste in an appropriate container, such as a Fitpack, this is likely to increase the inappropriate disposal of used injecting equipment and thereby increase the likelihood of accidental needle stick injury occurring.

Currently, NSP outreach workers are provided with a letter from the Department of Health to provide a rationale, which refers to the defence in Section 36A of the *Poisons Act 1964*, as amended in 1994, for their being in the possession of used needles and syringes which they collect as part of their work.

A wallet sized card known as the Police reminder card or sometimes referred to by IDUs as the "Fitpack card" has been developed jointly by the WA Police Service and WASUA. The text of this card is reproduced below. This card is issued by the exchange program to a person who has accessed the NSEP.

The card is intended to provide the individual who carries it with a degree of additional credence as to why they may have sterile or used injection equipment in their possession. If shown to police this can support a person's claim that injection equipment has been obtained because the person understands the BBV risks associated with injecting drug use and/or they are intending to return any used N&S for disposal or exchange.

To Whom It May Concern

The holder of this card is a client of a WA based needle and syringe exchange program.

Needle and syringe exchange programs aim to assist with the reduction of blood borne viruses, and to facilitate the safe disposal of needles and syringes, thereby reducing harm to the community from inappropriately discarded needles and syringes.

While not condoning drug use, the following organisations support the safe disposal of needles and syringes: WA Police Service, WA Substance Users Association (WASUA), Drug and Alcohol Office (DAO) and WA AIDS Council.

For more information about safe disposal, and needle and syringe exchange, contact WASUA on (08) 9227 7866.

This card does not provide immunity for any offences that may have been committed.

Nearly two thirds of all sterile N&S distributed to IDUs in Western Australia are sold through pharmacies. Therefore it is important that IDUs are not discouraged from responsibly disposing of used N&S which have been stored in Fitpacks and other approved pre packaged products. The design of pre packaged products such as Fitpacks, Fitpack Plus and the Sharpkitz is as dual purpose storage devices, containing a set of sterile N&S and which after use are re-inserted into the container for disposal in the domestic refuse system. All of these plastic storage devices meet specified Australian Standards on rigidity of the plastic and other safety issues.

There is always the possibility that a Fitpack containing used N&S may mean these items can be used as evidence of other drug activity. This creates the potential for a person to inappropriately dispose of a Fitpack or other storage container rather than retain it to be disposed of as intended.

At present Fitpacks and other storage devices have a variety of labels, some of which are rotated with varying health warnings plus other information about assistance and a disclaimer on behalf of the Pharmacy Guild. It is recommended that Fitpacks and other storage devices include an additional label which has wording similar to the following.

> *This injecting equipment has been provided in a safe disposal container as a public health strategy and is endorsed and supported by the Department of Health, the WA Police Service, the Pharmacy Guild of WA, the WA Substance Users' Association, the Drug and Alcohol Office and the WA AIDS Council. For more information contact the Alcohol and Drug Coordination Unit of the WA Police Service on 9223 3139. This notice does not provide immunity for any offences that may have been committed.*

Recommendation 4
That the Sexual Health and Blood Borne Virus Program, which has overall responsibility for the management of the State's needle and syringe programs, develop an appropriate label to be included on approved needle and syringe storage devices sold through pharmacies and other approved needle and syringe programs that creates a presumption that IDUs intend to dispose of these safely and effectively.

In some circumstances the possession of injection equipment can form evidence that investigating police may use to form a 'reasonable suspicion' about the extent to which an individual is involved in other forms of crime and anti social behaviour. This power is contained in Section 23 of the *Misuse of Drugs Act 1981*, as follows.

> ***23. Powers of police officers when things suspected of being used in commission of offences***
> (1) Subject to this section, if there are reasonable grounds to suspect that any thing whatsoever –
>
> (a) with respect to which an offence has been, or is suspected to have been, or may be committed;
> (b) which has been, or is suspected to have been, or may be used for the purposes of committing an offence; or
> (c) which may provide evidence in respect of an offence,
>
> is in the possession of a person, a police officer may, using such force as reasonably necessary and with such assistance as he considers necessary, stop and detain the person and search him together with any baggage, package, vehicle or other thing of any kind whatsoever found in his possession, and for that purpose may stop and detain any vehicle.

An area of difficulty identified by the operators of the NSEPs arises when police confiscate used and unused N&S and other forms of injection equipment from drug users which in some circumstances could be used as evidence that a person has committed other sorts of drug offences.

It should be noted that on occasions police may undertake operations in areas adjacent to NSEPs which have other purposes such as to gather intelligence and that therefore contrary to appearances, such operations are not targeting the NSEP or its clientele per se.

6.3.2 Misuse of Drugs Act 1981 Sections 5 and 6

> ***5. Offences concerned with prohibited drugs and prohibited plants in relation to premises and utensils***
> (1) A person who –
> ...
> (d) has in his possession –
> …
> (ii) any utensils used in connection with the manufacture or preparation of a prohibited drug or prohibited plant for smoking,
>
> in or on which pipes or utensils there are detectable traces of a prohibited drug or prohibited plant;
> … commits a simple offence.

It is possible that Section 5(1)(d)(ii) of the *Misuse of Drugs Act 1981* could be interpreted as prohibiting the possession of a needle and syringe on which there are detectable traces of a drug. This would be an example of how an interpretation and application of the law may have unintended harmful effects on IDUs who wish to safely dispose of used injecting equipment.

However, this problem is not peculiar to this State. A similar issue was noted by the Burnet Institute's Centre for Harm Reduction in its 2002 review of NSEPs in New Zealand. This found the way the police applied the law had a deleterious effect on the safe disposal of used injecting equipment.

> *"The threat of arrest and prosecution ... has made IDUs reluctant to risk being caught carrying injection equipment, particularly if it has been used. IDUs are in effect being deterred from disposing of their used injecting equipment in the safest possible way ... The NSEP is funded to reduce re-use and sharing of needles and maximise return of used injecting equipment for the benefit of public health and safety, yet simultaneously police are arresting IDUs for carrying such equipment; this means public funds are being wasted and public health is at risk."*[62]

The threat of being arrested when in possession of used injecting equipment means that IDUs may be deterred from retaining used N&S. When an individual requires sterile injecting equipment they are required to purchase it from NSEPs if they do not have N&S to exchange, as exchange programs only provide sterile injection equipment at no cost if exchange can occur. This means that within the drug injecting community in this State, as elsewhere, used injecting equipment has a 'currency' or value as NSEPs operate on the basis of free provision of sterile N&S only in exchange for used N&S.

There is clearly also significant occupational health and safety risks to police through needlestick injury involved in drug law enforcement operations, such as body searches and searches of vehicles and premises. This problem was also noted in the Burnet Institute's Centre for Harm Reduction 2002 New Zealand review.

> *"The legislation also makes little sense from a police occupational health and safety perspective; if IDUs have an incentive to deny possession of injecting equipment (to avoid arrest), police may be at risk of a potentially infectious needlestick injury during a body search. During the consultation with police for this review, it was clear that needlestick injuries are their single greatest point of interest in the entire field of injecting drug use."*[63]

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[62] Aitken C, Crofts N, Brunton C. *New Zealand needle and syringe exchange program review: Final report.* Melbourne, Centre for Harm Reduction, Burnet Institute, 2002, 43.
[63] Ibid.

The manner by which policing practices may seriously undermine the promotion of broader public health goals promoted through the operation of NSPs has been identified in a number of other jurisdictions. For instance, in New Zealand under that country's *Misuse of Drugs Act* a person can be charged and prosecuted for the possession of N&S obtained through a NSEP. However, a person so charged is able to claim a legal defence of having possession of injecting equipment obtained from a NSEP which was authorised under the *Health (Needles and Syringes) Regulations*.

> *"Nevertheless, police are empowered to detain a person and bring him or her to trial for the offence, and this process itself constitutes a penalty. In 2000, more than 100 people were successfully prosecuted for possession of instruments legally obtained under the scheme. This occurs because drug users charged with possession of injection equipment simply plead guilty rather than defending the charge since this improves their chances of immediate release. The possession of needles and syringes charge is also sometimes used as a holding charge while searches are conducted and further investigations made."*[64]

An Australian national review in the early 1990s by the Legal Working Party of the Intergovernmental Committee on AIDS found that in Victoria, even though the possession of N&S was not an offence, police used possession of injecting equipment to help prove the commission of other drug related charges.[65]

> *"It is reported that needle exchange clients frequently indicate that they have reservations about use of the program, and in particular about the return of used needles and syringes, because of fears that carrying such needles makes them more vulnerable in any contact they may have with the police. In particular, a used needle and syringe may serve to help support a charge of use of a drug of dependence under s 75 of the Act. One of the problems with a minor offence like self administration, it was said, was the inconsistency with which police used it: situations which police would ignore one week might be arbitrarily "pounced on" the following week."*[66]

The Working Party sought advice from the Crown Solicitor's Office on the interpretation of Section 5(1)(d) of the *Misuse of Drugs Act 1981*, specifically, whether this section created an offence of possession of injecting equipment on which there are detectable traces of drugs. This advice was sought, as has been outlined above, as it is possible that this Section could be interpreted as extending to the possession of injecting equipment, rather than confined to smoking implements and utensils. An excerpt from the advice received follows.

> *"Subsection 5(1)(d)(i) proscribes only the possession of pipes or other utensils 'for use in connection with the smoking of a prohibited drug or prohibited plant'. (Therefore it is not believed that this section) ... can relate to utensils other than are related to smoking.*
>
> *However, subsection 5(1)(d)(ii) is expressed in broader terms and proscribes the possession of 'any ... utensils used in connection with the manufacture or preparation of a prohibited drug ... in or on which ... utensils there are detectable traces of a prohibited drug'.*
>
> *A 'prohibited drug' is one listed in Schedule 1 to the Misuse of Drugs Act 1981, and includes various narcotic drugs of addiction such as are usually injected intravenously. The police may be warranted in using this subsection to charge persons found with a used syringe or needle in which there are traces of a prohibited drug, only if it could be said that the syringe or needle had been 'used in connection with the manufacture or preparation of the prohibited drug.'*

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[64] Ibid.
[65] See Section 6.4.1 for an updated summary of relevant laws in other Australian jurisdictions.
[66] Schwartzkoff J, Watchirs H. *Legal issues relating to AIDS and intravenous drug users: discussion paper*. Canberra, Intergovernmental Committee on AIDS, Commonwealth Department of Community Services and Health 1991, 27.

Section 5 is self evidently mainly concerned with drugs that are capable of being smoked, and to use section 5 to charge a person found in possession of a used hypodermic needle or syringe is probably inappropriate as this offence is sufficiently covered by section 6."

On the basis of the Crown Solicitor's advice, the limitations of the application of Section 5(1)(d) of the *Misuse of Drugs Act 1981* may need to be further clarified in training and other materials accessed by police, such as standing operating procedures.

Another concern of the Working Party was whether Section 6(2) of the *Misuse of Drugs Act 1981* created an offence of possessing injecting equipment on which there are detectable traces of drugs.

6. Offences concerned with prohibited drugs generally

(1) Subject to subsection (3), a person who –

(a) with intent to sell or supply it to another, has in his possession;
(b) manufactures or prepares; or
(c) sells or supplies, or offers to sell or supply, to another,

a prohibited drug commits an indictable offence, except when he is authorised by or under this Act or by or under the Poisons Act 1964 to do so and does so in accordance with that authority.

(2) Subject to subsection (3) and to section 36A of the *Poisons Act 1964*, a person who has in his possession or uses a prohibited drug commits a simple offence

…

An excerpt from advice received by the Crown Solicitor's Office on this Section follows.

"By Section 6(2) a person who has in (their) possession or who uses a prohibited drug commits a simple offence, unless … authorised to do so. There appears to be no reason why the police should not use this section to charge a person who has possession of a needle or syringe in which there are traces of prohibited drugs.

There is a defence to section 6(2) of the Misuse of Drugs Act 1981 provided by section 36A of the Poisons Act 1964, (which provides):

36A. Defence for persons participating in the conduct of needle and syringe programs[67]

It is a defence in proceedings for an offence against section 36 of this Act or section 6(2) of the Misuse of Drugs Act 1981 for the person charged to prove that the offence occurred by reason only of the person –

(a) supplying any other person with a sterile hypodermic syringe or a sterile hypodermic needle;

(b) doing any act or thing to facilitate the safe disposal of a used hypodermic syringe or a used hypodermic needle; or

(c) advising, counselling or disseminating information to any other person,

in the course of the conduct of a needle and syringe program approved by the Commissioner of Health.

[67] Section 36A inserted by No. 12 of 1994 s.7.

The phrase 'needle and syringe program' is defined in section 5 of the Poisons Act 1964 to mean:

'a program to do one or more of the following –

(a) to supply persons with sterile hypodermic syringes or sterile hypodermic needles;
(b) to facilitate the safe disposal of used hypodermic syringes or used hypodermic needles; or
(c) to advise, counsel or disseminate information to persons,

principally for the purpose of preventing the spread of blood borne infectious diseases.'

Thus, it is a defence to a charge under Section 6(2) of the Misuse of Drugs Act 1981 if a person can prove that he or she was in possession of a used needle or syringe only to facilitate the safe disposal of that item in the course of the conduct of an approved needle and syringe program.

It appears that there was never any intention that section 36A of the Poisons Act 1964 would protect drug users from prosecution under section 6(2) of the Misuse of Drugs Act 1981 if they were found in possession of a used syringe or needle, unless they could prove to the court's satisfaction that they were in possession of the needle or syringe in the course of 'doing any act or thing to facilitate the safe disposal of a used hypodermic syringe or a used hypodermic needle ... in the course of the conduct of a needle and syringe program approved by the Commissioner of Health' as provided by subsection 36A(b) of the Poisons Act 1964.

Whether any person charged under section 6(2) of the Misuse of Drugs Act 1981 after being found in possession of a used needle or syringe could successfully use that section as a defence is a question of fact depending upon the circumstances of the case."

As stated previously, the Working Party believes it is critical for public health reasons that IDUs be encouraged to return all used injecting equipment to exchange programs or to dispose of them safely.

Both the police reminder card and the proposed extra label on storage devices are useful provisions that support important underlying public health principles. It has been recommended that with respect to the reminder card this be recognised by issuing an administrative direction.

It is considered by some persons that the law should be changed to remove any doubts about the possession of used injecting equipment. This would be a clear and unambiguous official statement that public health issues are paramount in relation to this issue. However, the Working Party has not formed a view on whether such a proposition should be supported.

It is acknowledged that the use of injection equipment by the police as evidential value may have unintended deleterious impacts on IDUs attending NSPs. It should be recognised that even if the law is changed to make the possession of used injecting equipment no longer an offence, police will always retain the authority to treat the possession of such equipment, together with other evidence, as grounds for reasonable suspicion that an offence has been committed and to undertake further inquiries.

There is no intention to undermine this provision, but rather to have police take into account the wider public health implications of such actions.

As indicated in the following section concerned with self administration, there is also evidence from inquiries in other jurisdictions which have documented the negative consequences of police prosecuting people for the possession of used injecting equipment.

The Working Party believes that the narrow defence provided in Section 6 (2) of the *Misuse of Drugs Act 1981* which refers to Section 36A of the *Poisons Act 1964*, which has existed since 1994 when Section 36A was added, can no longer be justified. There has been a marked shift over the intervening 10 year period in attitudes and availability to N&S which as outlined in the Statistical Overview in Appendix 5, are now widely available throughout the State.

As just under two thirds of all N&S are now provided through retail pharmacies in a variety of approved designs of disposal container to facilitate safe disposal, the law as it presently stands is not appropriate and can no longer be supported. Accordingly, the Working Party believes that defence in Section 36A of the *Poisons Act 1964* be amended to provide a broader defence that covers both operators of NSEPs and injecting drug users themselves. This amendment would thus encourage IDUs to retain used injecting equipment in their possession so long as is necessary so that they could dispose of it safely by either exchange or other means such as in Fitpacks.

Recommendation 5
That consideration be given to amending Section 36A of the *Poisons Act 1964* to include a general defence for injecting drug users to have possession of needles and syringes on which there are detectable traces of a prohibited drug until such time as they are able to dispose of them safely.

6.4 Offence of self administration

A recent example of discussion of this issue is outlined in the response by WASUA to *Issues Paper No. 7*, which was released as part of the consultation process prior to the Community Drug Summit.[68] WASUA suggested the offence of self administration should be repealed as it was believed this offence could be used by the police as a 'holding' offence until more serious charges could be laid.

The text of this offence which is contained as Section 36 in the *Poisons Act 1964* is as follows.

> ***Section 36. Drugs not to be used for self administration***
>
> Subject to section 36A, a person shall not use or attempt to use, or prescribe, any drug of addiction or specified drug for the purpose of self administration; but a person for whom a medical practitioner has prescribed a drug of addiction or a specified drug in the course of treatment of that person as a patient may take or use that drug to the extent and for the purpose for which it was so prescribed.[69]

Section 36A of the *Poisons Act 1964* provides a defence for a person charged under either Section 36 of the *Poisons Act 1964* or under Section 6(2) of the *Misuse of Drugs Act 1981* if they were participating in the conduct of a needle and syringe program and at the time they were supplying another person with a sterile injection equipment or "advising, counselling or dissemination information" to a person.

It is suggested that the offence in Section 36 may be redundant as a person charged with self administration would, in most circumstances, also be in possession of the drug and accordingly be charged with a possession offence under the *Misuse of Drugs Act 1981*. It is believed that charges have rarely been laid for this particular offence.[70]

Recommendation 6
That Section 36 of the Poisons Act 1964 (which is concerned with self administration) be repealed.

The offence that is created by Section 36 of the *Poisons Act 1964* can also undermine harm reduction strategies as it may discourage IDUs from transporting used N&S and other injecting equipment to exchange programs, as if apprehended this equipment could be taken from them and be used as evidence.

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[68] *Drugs and law enforcement, including consideration of the most appropriate legal framework for illicit drugs, diverting drug users into treatment and treating the most serious offenders in prisons.* June 2001.
[69] Amended by No. 12 of 1994 s.6.
[70] A review of recent statistical records of convictions identified only one conviction, in 1999, with the offender being fined and receiving a suspended sentence.

If police confiscate both used and unused injecting equipment this may also have the unintended effect of increasing the risk of BBVs as people would be more likely to re-use and share equipment instead of exchanging of used equipment for sterile equipment.

A concern about the use of this offence is that it involves a degree of waste of resources, because for police to be able to launch a prosecution they need to have the syringes analysed for traces of drugs.

Another issue is that people who have possession of injecting equipment that is being exchanged on behalf of others, could be charged with self administration. The possibility of this occurring may also undermine the encouragement of community values to remove used N&S from circulation.

A letter has also been developed by the Sexual Health and Blood Borne Virus Program, which is made available to WASUA to give to outreach workers, to provide them with authority, if required, as to why they have used N&S in their possession. A copy of this is reproduced in Appendix 4.

Recommendation 7
That consideration be given to providing a defence for a person in possession of used injection equipment or an approved storage device containing used injection equipment by amendment to either the Poisons Act 1964 or the Poisons Regulations 1965.

6.4.1 Situation in other jurisdictions

A comparative summary of the major legislative provisions in each Australian jurisdiction is presented below and concerns issues such as distribution of N&S through NSPs, self administration, administration of prohibited drugs by a person to another person, possession of used injection equipment, possession of equipment other than N&S and disposal and exchange of used injecting equipment is provided below.

New South Wales

Drug Misuse & Trafficking Act 1985

Needle & syringe programs	Supply of N&S by licensed or authorised persons: s 11 (2). Exemption for medical practitioners, pharmacists etc and authorised persons from committing an offence of supplying N&S: s 11 (1B), 11 (2). Pharmacists & NSP workers protected from aiding and abetting provisions of the Act in s 19. Exemption only available if participating in an approved scheme which has the object of preventing the spread of contagious disease: Reg 5. Operators of approved schemes authorised to provide sterile injection equipment to prevent the spread of contagious disease and *"the dissemination of information concerning hygienic practices in the usage of hypodermic syringes and hypodermic needles"*: Reg 6.
Self administration	Self administration Is an offence. "A person who administers or attempts to administer a prohibited drug to himself or herself": s 12 (1). Causing or permitting another to administer a prohibited drug to oneself is an offence: s 14 (1). Use or administration of a prohibited drug includes *"ingestion, injection and inhalation of prohibited drug, smoking of a prohibited drug, inhalation of fumes caused by the heating or burning of any prohibited drug and any other means of introducing a prohibited drug into any part of the body"*: s 5.
Administration to another	Administer or attempt to administer a prohibited drug to another person is an offence: s 13 (1). Exemptions exist if the drug has been lawfully prescribed or supplied, administered by a specified health worker or administered by licensed or authorised persons: s 13 (2), 13 (3).
Possession of N&S	Offence of having possession of *"any item of equipment for use in the administration of a prohibited drug"*: s 11 (1). But possession of N&S not an offence: s 11 (1A).
Duty to take reasonable precautions to avoid danger to the life, safety or health of others	Not an offence if a person fails to take reasonable precautions.
Possession of used N&S	Possession of used N&S is not an offence: s 11 (1A)
Disposal & exchange of used N&S	No provisions to require exchange of N&S or requiring disposal in a prescribed manner.
Supply of N&S to another	Not an offence to supply N&S for use in connection with the administration of a dangerous drug: s 11.
Possession of equipment other than N&S	Possession of equipment other than N&S is an offence: s 11(1).

Victoria

Drugs, Poisons & Controlled Substances Act 1981

Needle & syringe programs	Supply of N&S by licensed or authorised persons: s 80 (5). Exemption from committing an offence of supplying N&S: s 80 (5). Pharmacists & NSP workers protected from aiding, abetting, counselling, procuring, soliciting or inciting provisions of the Act: s 80 (5).
Self administration	Self administration is an offence: s 75. Involves the use, attempt to use a drug of dependence. Use defined as smoking, inhaling fumes or introducing the drug into the body of the person: s 70 (1). Exemptions if the drug has been lawfully prescribed or supplied by authorised persons: s 75.
Administration to another	Administer or attempt to administer a prohibited drug to another person is an offence: s 74. Exemptions if the drug has been lawfully prescribed or supplied, administered by a specified health worker or administered by licensed or authorised persons: s 74.
Possession of N&S	Possession of N&S is not an offence.
Duty to take reasonable precautions to avoid danger to the life, safety or health of others	Not an offence if a person fails to take reasonable precautions.
Possession of used N&S	Police have wide powers of search and seizure in relation to *"anything in respect of which an offence has been or is reasonably suspected to have been committed"*: s 81. Possession of used N&S can be used to support an offence of unauthorised use of a drug of dependence: s 75.
Disposal & exchange of used N&S	No provisions to require exchange of N&S or requiring disposal in a prescribed manner.
Supply of N&S to another	Is an offence to supply N&S for use in connection with the administration of a dangerous drug unless the person supplying is a medical practitioner, pharmacist or other authorised persons.
Possession of equipment other than N&S	Possession of other implements is not an offence.

Queensland

Drugs Misuse Act 1986

Needle & syringe programs	Supply of N&S by licensed or authorised persons: s 10 (3). Exemption from committing an offence of supplying N&S: s 10 (3). N&S may be supplied by medical practitioners, pharmacists and approved persons for the purposes of unlawful drug use.
Self administration	Self administration Is not an offence.
Administration to another	Administration of a prohibited drug to another person is an offence: ss 4, 6 (1).
Possession of N&S	Unlawful possession of N&S is not an offence: s 10 (2).
Duty to take reasonable precautions to avoid danger to the life, safety or health of others	Is an offence for a person to have possession of N&S and to fail to use all reasonable care and take all reasonable precautions so as to avoid danger to the life, safety or health of another: s 10 (4). Is an offence for a person who has used N&S to fail to dispose of it in a prescribed manner: s 10 (4B).
Possession of used N&S	Possession of used N&S with detectable traces of drugs is not an offence. *"It is lawful for a person or member of a class of persons authorised so to do by the Minister for Health (on the recommendation of the Director General of Health and Medical Services) acting in good faith and in the proper discharge of his professional duties, to receive from any person any thing which he reasonably believes to be a dangerous drug."* This exemption is subject to there being a minor amount of drug involved, ie a quantity less than the scheduled amount and that the N&S are disposed of in accordance with the procedures prescribed by regulation.
Disposal & exchange of used N&S	No provisions to require exchange of N&S. Offences concerning disposal and storage in a prescribed manner: If a person has in their possession N&S and "*fails to use all reasonable care and take all reasonable precautions"* so as to avoid *"danger to the life, safety or health"*: s 10 (4) (a) If a person has N&S that has been used to administer drug and fails to dispose of it in accordance with the procedures prescribed by regulation: s 10 (4)(b). Safe disposal is defined in Reg 9 of the Drug Misuse Act Regulations.
Supply of N&S to another	Is an offence to supply N&S for use in connection with the administration of a dangerous drug unless the person supplying is a medical practitioner, pharmacist or other authorised persons.
Possession of equipment other than N&S	Possession of equipment other than N&S is an offence: s 10.

Australian Capital Territory

Drugs of Dependence Act 1989

Needle & syringe programs	Supply of N&S by licensed or authorised persons: s 86 (1), 86 (3). Exemption available if equipment is supplied *"in the course of professional practice or occupational duties of approved person" and that the needle and syringe "might assist in preventing the spread of disease"*: s 93. Pharmacists and NSP workers protected from aiding and abetting provisions under the New South Wales Crimes Act 1900 or the Commonwealth Crimes Act 1914 (which both apply in the ACT). Persons who operate approved schemes exempt from prosecution if they *"print or publish a notice, announcement or advertisement in any form about the supply … of syringes"*: s 93.
Self administration	Self administration is an offence. A person shall not administer, or cause to be administered, to themself a drug of dependence or a prohibited substance: s 169 (2), 171 (2). Causing or permitting another to administer a prohibited substance to oneself is an offence: ss 169 (2).
Administration to another	Administration of a prohibited drug to another person is an offence: ss 169 (4), 171 (3). Exemption if the drug has been lawfully prescribed or supplied, administered by a specified health worker or administered by licensed or authorised persons: s 170 (3).
Possession of N&S	Possession of N&S is not an offence.
Duty to take reasonable precautions to avoid danger to the life, safety or health of others	Not an offence if a person fails to take reasonable precautions.
Possession of used N&S	Possession of used N&S is not an offence.
Disposal & exchange of used N&S	No provisions to require exchange of N&S or requiring disposal in a prescribed manner.
Supply of N&S to another	Is an offence to supply N&S for use in connection with the administration of a dangerous drug unless the person supplying is a medical practitioner, pharmacist or other authorised persons.
Possession of equipment other than N&S	Possession of other implements is not an offence.

South Australia

Controlled Substances Act 1984

Needle & syringe programs	Supply of N&S by licensed or authorised persons: s 31 (3). Exemption from committing an offence of supplying N&S: s 31 (3). Pharmacists & NSP workers protected from aiding, abetting, counselling or procuring provisions of the Act: s 41, Controlled Substances Act Regulations, Reg 3(a). Exemption if *"A person who … is … licensed to be in possession of syringes and needles for the purpose of distribution in accordance with a health risk minimisation program"* who sells or supplies N&S or gives advice to a person on the safe use of N&S: Reg 3(b).
Self administration	Self administration is an offence: s 31 (1) (b). Causing or permitting another to administer a prohibited drug to oneself is an offence: s 31 (1) (b).
Administration to another	Administration of a prohibited drug to another person is an offence: s 32 (1) (c), 32 (1) (d). Exemption if the drug has been lawfully prescribed or supplied, administered by a specified health worker or administered by licensed or authorised persons: s 32 (2).
Possession of N&S	Possession of N&S is an offence: s 31 (1) (c).
Duty to take reasonable precautions to avoid danger to the life, safety or health of others	Not an offence if a person fails to take reasonable precautions.
Possession of used N&S	Requirement for a person charged with a 'simple possession offence' to be referred to a drug assessment and aid panel: s 35.
Disposal & exchange of used N&S	No provisions to require exchange of N&S or requiring disposal in a prescribed manner.
Supply of N&S to another	Is an offence to supply N&S for use in connection with the administration of a dangerous drug unless the person supplying is a medical practitioner, pharmacist or other authorised persons: s 31 (3).
Possession of equipment other than N&S	Possession of other implements is an offence: s 31 (1) (c). Is an offence to consume, self administer or possess drug of dependence or prohibited substance or to possess *"any piece of equipment for use in connection with the smoking, consumption or administration of such a drug or substance"*: s 31 (1) (c).

Tasmania

Poisons Act 1971
HIV/AIDS Preventative Measures Act 1993

Needle & syringe programs	Supply of N&S by licensed or authorised persons: HIV/AIDS Preventative Measures Act 1993 (HPMA) ss 24-39. Exemption from committing an offence of supplying N&S: HPMA ss 37-39.
Self administration	Self administration (ie *"uses a prohibited substance"*) is an offence: Poisons Act 1971 s 55.
Administration to another	Administration of a prohibited drug to another person is not an offence.
Possession of N&S	Is an offence to possess *"any pipe, syringe or other utensil, or any other appliance or thing, for use or designed to be used in connection with the preparation, smoking, inhalation, administration or taking of a raw narcotic, narcotic substance, prohibited plant or prohibited substance"* is an offence: Poisons Act 1971 s 83A (1).
Duty to take reasonable precautions to avoid danger to the life, safety or health of others	An offence if a person fails to take reasonable precautions: HPMA 1993 s 36.
Possession of used N&S	Possession of used N&S is an offence: Poisons Act 1971 s 83A (1).
Disposal & exchange of used N&S	Exchange of N&S and disposal in a prescribed manner: HPMA 1993, ss 33, 35.
Supply of N&S to another	Is an offence to supply N&S for use in connection with the administration of a dangerous drug unless the person supplying is a medical practitioner, pharmacist or other authorised persons: Poisons Act 1971 s 83A (1).
Possession of equipment other than N&S	Is an offence to possess *"any pipe, syringe or other utensil, or any other appliance or thing, for use or designed to be used in connection with the preparation, smoking, inhalation, administration or taking of a raw narcotic, narcotic substance, prohibited plant or prohibited substance"* is an offence: Poisons Act 1971 s 83A (1).

Northern Territory
Misuse of Drugs Act 1990

Needle & syringe programs	Supply of N&S by licensed or authorised persons: s 12. Exemption for medical practitioners, pharmacists etc and authorised persons from committing an offence of supplying N&S: s 12(2). Authorisation is entirely a matter of ministerial discretion. There is a defence for when a person has obtained N&S from an authorised person for the use by another person to administer a dangerous drug: s 12(2).
Self administration	Self administration is an offence: s 13. Causing or permitting another to administer a prohibited drug to oneself is an offence: s 14.
Administration to another	Administration of a prohibited drug to another person is an offence: ss 3 (1) 5 (1). Exemption if the drug has been lawfully prescribed or supplied, administered by a specified health worker or administered by licensed or authorised persons: s 42 (1) (b).
Possession of N&S	Possession of N&S or other implements is not an offence: s 12(1).
Duty to take reasonable precautions to avoid danger to the life, safety or health of others	Is an offence for a person to have possession of N&S and to fail to use all reasonable care and take all reasonable precautions so as to avoid danger to the life, safety or health of another: s 12 (4). Is an offence for a person who has used N&S to fail to dispose of it in a prescribed manner: s 12 (5).
Possession of used N&S	Possession of used N&S or other implements is not an offence: s 12(1).
Disposal & exchange of used N&S	Provisions to require exchange of N&S and requiring disposal in a prescribed manner: s 12 (5).
Supply of N&S to another	Is an offence to supply N&S for use in connection with the administration of a dangerous drug unless the person supplying is a medical practitioner, pharmacist or other authorised persons.
Possession of equipment other than N&S	Possession of equipment other than N&S is an offence: s 12(1). The transfer of non sterile injecting equipment to another person is an offence: s 12(2).

Western Australia
Misuse of Drugs Act 1981
Poisons Act 1964

Needle & syringe programs	Supply of N&S by licensed or authorised persons: Poisons Act 1964 s 36A. Defence for persons conducting approved NSPs if they are supplying sterile N&S, facilitating the safe disposal of used N&S or counselling, advising or disseminating information: Poisons Act 1964 s 36A.
Self administration	Is an offence if a person *"uses or attempts to use or prescribes any drug of addiction or specified drug for the purpose of self administration"*; Poisons Act 1964 s 36.
Administration to another	Administration of a prohibited drug to another person is not an offence. However, the definition of "to supply" under the Misuse of Drugs Act 1981 may indicate that a person who administers a drug to another could be charged with an offence of supplying a prohibited drug: Misuse of Drugs Act s 6(1).
Possession of N&S	Possession of sterile N&S is not an offence.
Duty to take reasonable precautions to avoid danger to the life, safety or health of others	Not an offence if a person fails to take reasonable precautions.
Possession of used N&S	Police have wide powers of search and seizure in relation to *"anything whatsoever (a) with respect to which an offence has been, or is suspected to have been, or may be committed; (b) which has been or is suspected to have been or may be used for the purpose of committing an offence; or (c) which may provide evidence in respect to an offence"*: Misuse of Drugs Act 1981 s 23 (1). A person who has possession of a N&S on which there are detectable traces of a prohibited drug can be charged with an offence: Misuse of Drugs Act 1981 s 6(2). But there is a defence to a charge, restricted to operators of an approved NSP, if they can prove they were in possession of a used N&S only to facilitate safe disposal: Poisons Act 1964 s 36A.
Disposal & exchange of used N&S	No provisions to require exchange of N&S or requiring disposal in a prescribed manner. Definition of NSP includes a safe disposal of used N&S and advising, counselling or disseminating information to others: Poisons Act s 5; Poisons Regulations 1965, Reg 12A.
Supply of N&S to another	Is an offence to supply N&S for use in connection with the administration of a prohibited drug unless the person supplying is a medical practitioner, pharmacist or other authorised persons: Poisons Act 1964 s 36.
Possession of equipment other than N&S	Possession of *"pipes or other utensils for use in connection with the smoking of a prohibited drug or prohibited plant or any utensils used in connection with the manufacture or preparation of a prohibited drug or plant for smoking in or on which … there are detectable traces of a prohibited drug or prohibited plant"* is an offence: Misuse of Drugs Act 1981 s 5 (1)(d).

6.5 Policing and high risk populations

Another area of concern identified by operators of NSEPs was in relation to being able to provide street based sex workers with preventive resources. Both WASUA and WAAC are an important resource that is accessed by this group and from whom condoms and related products are provided on a regular basis. This is clearly an important public health service to reduce the transmission of sexually transmitted infections (STIs)[71] and BBVs.

As in some instances this population may also be involved in injecting drug use, ideally from a public health perspective street based sex workers should be able to readily access sterile injection equipment. It is important that as far as practicable, this is not undermined by a fear of police seizing such equipment ostensibly to substantiate other criminal charges.

There is anecdotal evidence that street based sex workers attempt to conceal injection equipment in places where they operate. As such used injection equipment may be hidden in places such as drain pipes, cracks in walls and in public toilets in an attempt to avoid being found in possession of such equipment if apprehended by the police. Clearly, such practices pose a threat to the public in general, to cleaners and to police themselves. While it is in no way intended to imply that police are responsible for such practices, it needs to be recognised that active policing which targets the carrying of used needles and syringes and other injection equipment may have unintended public health consequences.

It is suggested that police may achieve optimal policing and public health outcomes if they are able to carry out their policing responsibilities in a way that, as far as possible, it does not undermine outreach services which aim to meet public health goals consistent with overall policing objectives of reducing the public nuisance aspects of street based sex workers operating in the inner city areas.

In this situation police may be more likely to balance public health goals with law enforcement objectives if they are able to engage the cooperation and assistance of outreach services that work closely with street based sex workers. For example, if police conduct operations to move street based sex workers out of a particular locale, they may be able to liaise with appropriate health agencies to reduce the likelihood that hidden and otherwise discarded used injecting equipment left behind could pose a health risk to members of the public.

Recommendation 8
That police involved in operations which target high risk populations such as street based sex workers who also inject drugs are supported and encouraged to take account of the public health risks which may inadvertently be aggravated as a result of some types of law enforcement activity. It is recognised that police have a responsibility to enforce the law and this should not be undermined.

7. Description of services

7.1 WA Substance Users' Association

The WA Substances Users' Association operates a fixed site NSEP from their Northbridge premises, which commenced in November 1997. A feature of WASUA programs is that they are operated as peer based services and staffed by individuals with direct experience of injecting drug use or who have had extensive exposure to drug use involving a family member or partner.

WASUA have a diverse primary target group of IDUs, including Aboriginal and Torres Strait Islander peoples and people from culturally and linguistically diverse (CALD) backgrounds. They provide a valuable service to street based sex workers who inject drugs and offer support to families and partners of persons who inject drugs.

[71] Formerly known as sexually transmitted diseases (STDs).

WASUA also operates a health clinic two days per week in premises adjoining the NSEP. This means that WASUA provides a comprehensive range of services in addition to their core business as a NSEP. The health clinic is staffed by health professionals and covers a number of areas such as providing information and testing about BBVs and STIs, education about injecting practices and referring people concerned about issues involving BBVs. An important part of this service involves providing vaccinations for hepatitis B.

They are also a referral agency for people concerned about drug dependency and requiring further assistance or treatment and distribute a wide range of literature and products to encourage safer sex. Referrals are made to a wide range of health, treatment and other agencies.

WASUA has been funded to undertake a number of prevention projects. One of these is to employ a NSP Community Development Coordinator to provide consumer focused training to the staff of services such as hospitals and pharmacies located in regional areas. The other project is for a Hepatitis C Peer Education Officer to:

- assist those who have been diagnosed with HCV;
- develop peer prevention initiatives;
- liaise with agencies who have contact with IDUs to prevent HCV; and
- facilitate access to treatment and testing.

WASUA has operated a mobile NSEP in Bunbury since March 2001 and is funded by the Council of Australian Government's (COAG) as one of its priority areas to reduce the transmission of HCV and other BBVs. The service was initially established as a trial from October 1998 to March 1999 in collaboration with the Department of Health's South West Population Health Unit.

The mobile NSEP includes an outreach service for drug users to obtain information and support on a wide range of issues such as access to sterile injection equipment, disposal of used equipment, information about BBVs and referral to treatment services.

7.1.1 WASUA annual report 2001/2002

Over the three years a total of 822 people have been registered at the health clinic, of whom 168 were new in the year 2001/2002. There was a total of 103 people in the year 2001/2002 who started a HBV vaccination course, with a further 41 who returned to complete their vaccination. In addition, a total of 30 hepatitis A vaccinations were given and a total of 39 liver function tests were performed in the year.

In the 2001/2002 annual report it is noted that most callouts involved methamphetamine related harms. There are a variety of harms associated with the use of this type of drug, such as malnutrition, infected injection sites and amphetamine related psychosis for which the service provided assistance.

The 2001/2002 annual report indicates the magnitude and range of harms that IDUs can experience due to changes and uncertainties in the type of drugs that are available in the illicit drug market. The report notes that over the year there was an increased availability of unrefined methamphetamine free-base (which is an oily like substance) which was responsible for an increase in injecting related harms.

The unpredictability in the availability of heroin was considered to have contributed to an increase in injecting related harms that were associated with substitute drugs for heroin such as methadone, slow release oral morphine, buprenorphine and a variety of other prescribed or diverted pharmaceuticals.

Over the year WASUA's treatment referral service experienced a sustained demand for referral and ongoing support for users and their significant others. There was also a high level of consultation with other agencies about appropriate treatment options and problems related to drug use.

7.1.2 Timetable and location of services

Details of the hours of opening and location of WASUA's various services are shown in Table 1.

Table 1:
WA Substance Users' Association's timetable of services

Service	Location	Day	Time
Fixed needle & syringe exchange	444 William St, Northbridge	Monday, Tuesday, Wednesday	10.00 am – 4.00 pm
		Thursday, Friday	10.00 am – 8.00 pm
		Saturday, Sunday	10.00 am – 4.00 pm
Health clinic	444 William St, Northbridge	Tuesday, Thursday	10.00 am – 4.00 pm
Treatment referral service	444 William St, Northbridge	Monday to Friday	10.00 am – 4.00 pm
Mobile needle & syringe exchange	**Bunbury** Symmons Street beach carpark	Thursday	7.00 pm – 9.00 pm
		Saturday	6.30 pm – 9.00 pm
	Bunbury Withers Library,	Friday	7.00 pm – 9.00 pm
		Saturday	2.00 pm – 4.30 pm

7.1.3 Northbridge fixed site program

The profile of the client population shows that of the 10,839 contacts in the six month period January to June 2002, males made up just under three quarters (72%) of all contacts and just over half (55.9%) of all persons were aged 26 to 40 years (Table 2).

There were relatively few persons from cultural and linguistic diverse (CALD) groups, with a total of 319 (2.9%) contacts who were Aboriginal persons and 372 (3.4%) contacts who were Asian.

Based on information contained in WASUA's statistical report for the six month period January to June 2002, a total of 406,132 items (eg 1 ml syringes, syringe barrels, needles and infusions) were distributed through the fixed site NSEP. Over this time a total of 376,538 units were returned to the NSEP, an overall return of 92.7% (Table 3).

It should be noted that both the WASUA and WAAC mobile NSEPs also receive used N&S directly from the members of the public. This aspect of these services means that they perform an important public health function by enabling the removal of used injection equipment from circulation.

Over the past two years, comparing data for the months of September 2000 and September 2002, there has been a marked increase in the number of 1 ml syringes (+50%), 60 ml syringe barrels (+529%), needles (652%), infusions (147%) and wheel filters (722%) distributed through WASUA's fixed site NSEP (Table 4).

Table 2:
Number of contacts, WASUA fixed site NSEP, January-June 2002

	n	%
Age group		
<16	32	0.3
16-25	3,143	29.0
26-40	6,060	55.9
40+	1,604	14.8
Total	10,839	100.0
Gender		
Female	3,030	28.0
Male	7,809	72.0
Total	10,839	100.0

Source: WA Substance Users' Association.

Table 3:
Monthly distribution of consumables distributed and returned, WASUA fixed site NSEP, January-June 2002

Consumables	Jan	Feb	Mar	Apr	May	Jun	Total
1 ml syringes distr buted	55,189	51,943	58,439	58,047	62,111	60,736	346,465
3ml-60 ml syringe barrels distributed	3,659	4,024	3,861	3,778	4,659	5,665	25,646
Needles distributed	4,166	4,383	3,604	3,390	5,166	6,182	26,891
Infusions distributed	763	1,043	1,059	1,518	1,516	1,231	7,130
Units returned (excl. external bins)	58,417	56,777	61,168	61,574	68,934	69,668	376,538
% returned	91.6%	92.5%	91.3%	92.3%	93.8%	94.4%	92.7%
Condoms distributed	798	938	674	1,170	704	583	4,867
Lubricant sachets distributed	118	145	69	62	83	69	546
Gloves, finger cots distr buted	-	-	4	154	-	-	158
Dental dams distr buted	2	23	5	7	44	-	81

Source: WA Substance Users' Association.

Table 4:
Comparison of throughput, September 2000 and September 2002, WASUA fixed site NSEP

Consumable	Sept 2000	Sept 2002	Increase from Sept 2000 – Sept 2002	
			n	%
1 ml syringes distr buted	122,189	183,673	61,484	+50%
3 ml-60 ml syringe barrels distributed	2,630	16,544	13,914	+529%
Needles distributed	2,570	19,330	16,760	+652%
Infusions distributed	1,866	4,600	2,734	+147%
Units returned (excl. external bins)	115,007	205,023	90,016	+78%
% returned	89.0%	91.5%	-	-
Water	5,782	5,293	-489	-8%
Condoms distributed	2,587	1,126	-1,461	-56%
Lubricant sachets distributed	621	200	-421	-68%
Gloves, finger cots distr buted	-	44	44	
Dental dams distr buted	24	4	-20	-83%
Hirudoid cream	146	225	79	+54%
Spoons	920	317	-603	-66%
Tourniquets	94	90	-4	-4%
Wheel filters	102	838	736	+722%
Needle filters	78	31	-47	-60%
Piercing rods	20	4	-16	-80%
Sterafits (single 1 ml)	-	73	73	
Sterafits (Kits)	80	-	-80	-100%
Waste disposal ($)	$2,738	$7,849	$5,111	+187%
NSEP sales ($)	$8,851	$11,435	$2,584	+29%

Source: WA Substance Users' Association.

7.1.4 Street based outreach program

Based on information contained in WASUA's statistical report for the six month period January to June 2002, a total of 6,821 items (eg 1 ml syringes, syringe barrels, needles and infusions) were distributed through the street based outreach program. Over this time a total of 6,535 units were returned, an overall return of 95.8% (Table 5).

Table 5:
Monthly distribution of consumables distributed and returned, WASUA street based outreach program, January-June 2002

Consumable	Jan	Feb	Mar	Apr	May	Jun	Total
1 ml syringes distr buted	358	982	978	1,203	1,225	1,797	6,543
3 ml-60 ml syringe barrels distributed	5	-	50	2	5	64	126
Needles distributed	5	-	12	-	1	24	42
Infusions distributed	-	-	50	2	6	52	110
Units returned (excl. external bins)	386	982	1,143	1,219	1,125	1,680	6,535
% returned	104.9%	100.0%	104,8%	101.0%	90.9%	86,7%	95.8%
Condoms distributed	-	-	6	-	-	-	
Lubricant sachets distributed	-	-	-	-	-	-	
Gloves, finger cots distr buted	-	-	-	-	-	-	
Dental dams distr buted	-	-	-	-	-	-	

Source: WA Substance Users' Association.

7.1.5 Bunbury mobile NSEP

The profile of the client population shows that of the 300 contacts in the six month period January to June 2002 males made up two thirds and just over half (55.2%) of all persons were aged 26 to 40 years (Table 6).

Based on information contained in WASUA's statistical report for the six month period January to June 2002, a total of 24,429 items (eg 1 ml syringes, syringe barrels, needles and infusions) were distributed through the fixed site NSEP and over the period a total of 23,025 units were returned to the NSEP, an overall return of 94.3% (Table 7).

Table 6:
Number of contacts, WASUA fixed site NSEP, January-June 2002

	n	%
Age group		
<16	-	
16-25	64	21.4
26-40	165	55.2
40+	70	23.4
Total	299	100.0
Gender		
Female	102	34.0
Male	198	66.0
Total	300	100.0

Source: WA Substance Users' Association.

Table 7:
Monthly distribution of consumables distributed and returned, Bunbury mobile site NSEP, January-June 2002

Consumable	Jan	Feb	Mar	Apr	May	Jun	Total
1 ml syringes distr buted	3,673	3,962	4,483	3,176	3,657	4,097	23,048
3 ml-60 ml syringe barrels distributed	100	192	14	111	75	218	710
Needles distributed	50	150	54	45	65	216	580
Infusions distributed	-	54	2	16	13	6	91
Units returned (excl. external bins)	3,685	3,930	4,296	3,246	3,568	4,300	23,025
% returned	96.4%	90.2%	94.4%	97.0%	93.6%	94.8%	94.3%
Condoms distributed	5	25	-	144	-	-	
Lubricant sachets distributed	-	-	-	10	-	-	
Gloves, finger cots distr buted	-	2	-	-	-	-	
Dental dams distr buted	-	-	-	-	-	-	
Filters	2	45	19	12	5	15	

Source: WA Substance Users' Association.

7.2 WA AIDS Council

7.2.1 Introduction

WAAC operates a mobile NSEP service, known as the 'WAAC van' at a total of 16 sites throughout the metropolitan area, which are used by prior arrangement with the relevant local authority or the owner of private land. WAAC also operates a mobile NSEP in Mandurah on Wednesday evenings and Saturday afternoons, that is serviced by one of the Perth based vans.

COAG funding has created the opportunity for this expansion of service provision in outer metropolitan areas and an after hours service where possible. These activities are reported separately from WAAC's 'core' services in Tables 9 to 12 below.

7.2.2 Timetable and location of services

Details of the hours of opening and location of WAAC's exchange services are shown in Table 8. As at the end of 2002 the WAAC mobile exchange program operated from 16 sites over six days per week throughout the metropolitan area.

7.2.3 All services

This area of activity refers to both 'core' services provided through the mobile NSEP van that has operated for a number of years from locations throughout the metropolitan area and also additional services funded through the Council of Australian Government as part of the Commonwealth Government's illicit drugs diversion initiative. This funding which became available in April 2001 has been used to expand services in outer metropolitan areas such as Joondalup and Mandurah through the acquisition of an additional mobile unit.

The profile of the client population shows that of the total of 13,933 contacts in the 18 month period January 2001 to June 2002 that nearly one third (31.4%) of all contacts were persons aged 16 to 25 years and just over half (53.1%) of all contacts were persons aged 26 to 40 years (Table 9). Overall, from the March quarter 2001 to the June quarter 2002, nearly two thirds (63.9%) of contacts were males and just over one third (36.1%) were females.

A breakdown on the range of products that were distributed through the WAAC mobile van NSEP is separately presented in Table 10 for the 'core' services from the March quarter 2001 and in Table 11 for the additional COAG services from the June quarter 2001.[72]

It can be seen that for most quarters rates of return of 95% or greater were achieved in the COAG services and return rates of just under 95% were achieved in the core services programs. The total number of N&S distributed through 'core' services dropped from 97,115 in the March quarter 2001 to 69,991 in the September quarter 2001 and then increased to 95,789 N&S in the June quarter 2002 (Table 10). The total number of N&S distributed for the COAG services increased by 91.6%, from 32,260 N&S in the June quarter 2001 to 61,840 N&S in the June quarter 2002 (Table 11).

Table 8:
WA AIDS Council van timetable

Day	Time	Location
Monday	1.00 pm-3.00 pm	**Fremantle** Short Street opposite Post Office
	4.00 pm – 6.00 pm	**Mandurah** Peel Street, off Mandurah Terrace, Council Offices car park
Tuesday	12.30 pm – 2.30 pm	**Joondanna** Farina Drive, off Wanneroo Road close to Dog Swamp shopping centre
	2.30 pm – 4.30 pm	**Mandurah** Peel Street, off Mandurah Terrace, Council Offices car park
	3.00 pm – 5.00 pm	**Mirrabooka** Ilkeston Place, opposite bus station
	5.30 pm – 7.30 pm	**Rockingham** Dental car park, front car park, Rockingham Hospital, Elanora Drive
Wednesday		No service
Thursday	2.00 pm – 4.00 pm	**Forrestfield** Hartfield Park, side car park of rec centre, off Hale Road
	3.00 pm – 5.00 pm	**Mirrabooka** Ilkeston Place, opposite bus station
	5.00 pm – 7.00 pm	**Midland** St Brigid's Place cul-de-sac, enter via Great Northern Highway
	6.00 pm – 7.00 pm	**Joondalup** Council Offices carpark, Boas Avenue
Friday	1.00 pm – 3.00 pm	**Armadale** Neerigen Street cul-de-sac, behind shopping centre & railway line
	3.30 pm – 5.30 pm	**Gosnells** Lissiman St in car park just up and opposite Centrelink
	4.00 pm – 6.00 pm	**East Victoria Park** Edward Millan Reserve, Cnr Albany Highway & Hillview Terrace
	6.30 pm – 8.00 pm	**Northbridge** James Street cul-de-sac near Cultural Centre and Library
Saturday	1.00 am – 3.00 pm	**Fremantle** Short Street opposite Post Office
	4.00 pm – 6.00 pm	**Rockingham** Dental car park, front car park, Rockingham Hospital, Elanora Drive
Sunday		No service

Note: No service public holidays.

[72] The COAG services commenced in April 2001.

Table 9:
Number of quarterly contacts, WAAC services, March quarter 2001 – June quarter 2002

	2001 Q1	2001 Q2	2001 Q3	2001 Q4	2002 Q1	2002 Q2	Total	%
Age group								
<16	22	9	25	26	53	19	154	1.1
16-25	736	719	668	708	900	643	4,374	31.4
26-40	1,167	1,214	1,197	1,581	892	1,352	7,403	53.1
40+	384	315	252	337	346	407	2,041	14.6
Total	2,309	2,257	2,142	2,653	2,105	2,467	13,933	100.0
Gender								
Female	825	754	711	942	787	882	4,901	36.1
Male	1,484	1,503	1,431	1,709	996	1,558	8,681	63.9
Total	2,309	2,257	2,142	2,651	1,783	2,440	13,582	100.0

Source: WA AIDS Council.

Table 10:
Quarterly throughput, WAAC core services, March quarter 2001 – June quarter 2002

Consumable	2001 Q1	2001 Q2	2001 Q3	2001 Q4	2002 Q1	2002 Q2
Ultrafine 1 ml syringes	75,676	58,989	58,297	85,354	80,165	82,671
Terumo 27g needles	1,333	1,339	1,196	1,655	2,114	2,643
Terumo 29g needles	1,649	769	1,002	2,543	944	321
Needles	9,103	5,049	5,033	6,338	5,119	5,496
Barrels	6,795	3,287	3,222	4,784	3,367	3,611
Infusions	2,559	1,574	1,241	3,498	1,910	1,047
Total N&S	97,115	71,007	69,991	104,168	93,619	95,789
Units returned (excl. external bins)	89,435	68,812	64,169	96,195	87,271	88,604
% returned	92%	97%	92%	92%	93%	92%
Swabs	72,019	65,141	54,836	86,759	84,460	93,077
Disposal tubes	294	271	156	287	197	194
Disposal buckets	188	165	103	114	104	139
Water sachets	2,380	1,427	1,708	2,318	1,595	1,282
Spoons	98	32	19	16	154	32
Hirudoid cream	58	131	103	120	108	88
Filters	52	43	52	83	45	74
Tourniquets	-	-	-	-	22	16
Condoms	1,951	2,013	1,074	733	2,129	1,054
Lubricant sachets	1,702	731	768	643	1,935	652
Cots/dams/gloves	8	7	10	13	5	22

Source: WA AIDS Council.

Table 11:
Quarterly throughput, WAAC COAG funded NSEP services, June quarter 2001 – June quarter 2002

Consumable	2001 Q2	2001 Q3	2001 Q4	2002 Q1	2002 Q2
Ultrafine 1 ml syringes	18,790	26,332	32,417	32,980	38,237
Terumo 27g needles	105	4	525	801	1
Terumo 29g needles	10	80	47	50	908
Needles	7,350	9,485	10,899	9.841	14,383
Barrels	4,945	5,788	6,276	6,640	8,171
Infusions	1,060	765	860	907	645
Total N&S	32,260	42,454	51,024	51,219	61,840
Units returned (excl. external bins)	31,803	41,364	47,907	50,919	57,380
% returned	99%	97%	94%	99%	93%
Swabs	21,261	28,605	39,705	39,485	55,309
Disposal tubes	76	113	146	92	1,113
Disposal buckets	119	110	107	104	96
Water sachets	917	1,149	713	359	491
Condoms	1,589	763	1,172	1,174	927
Lubricant sachets	2,031	765	1,519	1,177	1,021
Cots/dams/gloves	-	-	3	-	8
Hirudoid cream	14	43	45	39	29
Spoons	1	23	1	1	3
Filters	3	10	25	2	30
Tourniquets	-	-	-	12	19

Source: WA AIDS Council.

7.2.4 Approvals for van locations

Over the years WAAC has sometimes experienced difficulties in obtaining permission from local authorities to establish locations from which to operate the mobile van NSEP service. Different approaches are adopted to seek and secure approval to operate through direct negotiation, then to have the application dealt with at an administrative level, go to a full council meeting for approval, or to first engage in community consultations about the operation of the service in a specific area.

WAAC has found that whereas in the early 1990s there was high levels of community opposition to the operation of NSPs per se, there has been a shift in recent years to a recognition that these are a valuable service. Thus it is now found that whilst there is now support for NSPs because of their role in preventing BBVs and of providing a point of access for treatment for IDUs, nevertheless the NIMBY[73] philosophy is often cited as one of the grounds for opposing the establishment of a service in the area.

There have been some notable successes in establishing NSEP services in a number of local government areas, in some instances after a successful trials. A number of factors have been important in securing approval, such as:

- there is a supportive local government body;
- the service is being promoted as improving the overall level of safety in the community rather than just on narrow environmental health grounds;
- site is well used and thus creates an established need in the area;
- that the NSEP will act as an important site for disposal of used injection equipment;

[73] Not in my backyard.

- that the NSEP will provide an important point for delivering education services to IDUs about BBVs;
- if the service is withdrawn the community is likely to be exposed to higher levels of risk through the inappropriate disposal of used N&S; and
- there will be increased health costs due to the spread of BBVs through re-use and sharing of equipment.

Examples of some recent successful outcomes following trials and negotiations with a number of local authorities are presented in Appendix 2.

7.3 Products distributed through NSPs

Both the WASUA and WAAC needle and syringe exchange programs distribute a wide variety of N&S and other safer injecting equipment, including disposal containers provided with N&S. The range of the services offered is clearly shown in Table 12.

Both services work on a cost recovery basis, with N&S provided free on exchange. This generally means that a person needs to purchase a sterile N&S on the first occasion and thereafter they will get a sterile N&S in exchange for each used N&S returned.

The variety of products distributed reflects both services' commitment to providing equipment and services that is tailored to the individual health needs of clients. These services are a very important contact point for sub populations within the injecting drug using population.

Table 12:
Items distributed through WASUA and WAAC NSPs

Product	Description	Cost
1 ml syringes	Ultrafine 29G, Terumo 29G, Terumo 27G	$0.25
	Box of 100 syringes	$25.00
Tips/injecting needles	27G, 26G, 25G, 23G, 22G, 21G, 19G	$0.10
Barrels/syringes	2/3ml, 5ml, 10ml	$0.25
	20ml, 50ml	$0.50
Infusions	new	$0.50
	exchange	$0.25
Sterile water	2ml, 5ml, 10ml	$0.40
	Box of 50	$20.00
Spoons	Plastic opaque	$0.20
Hirudoid	anti-bruising cream	$3.00
Needle filters	19g	$0.50
Wheel filters	5 micron, 0.8 micron, 0.2 micron	$1.00
Piercing rods	14G and 16G	$2.40
Tourniquets	disposable	$0.50
	velcro	$3.00
	clip on	$6.00
Swabs	free with purchase/exchange of syringes: 2 per syringe, extra swabs: 2 swabs for $0.05 or box of 200	$4.00
Condoms	Ansell or Glyde each	$0.20
	Ansell box of 144	$28.80
	Glyde box of 100	$20.00
Lubricant	Glyde/sachet	$0.10
	Wet stuff/sachet	$0.20
Dams	flavours: vanilla, cola, wildberry	$0.30
Gloves	per pair	$0.50
Finger cots	each	$0.10

7.4 Operational issues

There are high costs involved in the incineration of returned N&S and other injection equipment which must be disposed of by incineration at Medicollect, the sole metropolitan medical waste disposal facility. Incineration has been regarded as the most efficient method of insuring destruction of this type of medical waste.

It is a condition of the licence of WASUA and WAAC that their collected used N&S be destroyed by this means. This condition also complies with the relevant Australian Standards and Occupational Health Guidelines for the disposal of medical waste.

In addition to the incineration cost of $1.50 per kilo, both services also incur other disposal costs such as the purchase price of $38.50 per disposal bin into which returned injection equipment is placed. The scale of these costs is considerable. For instance, in the month of September 2002 WASUA spent a total of $7,849 on fees associated with disposal of returned injection equipment. These costs are ultimately met by the funder.

7.5 Young people

Whilst both WAAC and WASUA report relatively few numbers of young people who access their service they believe from reports by outreach workers and older injecting drug users who attend their service, that there are significant numbers of young people who are injecting drugs who are not directly accessing these services to obtain information about preventive activities.

This raises considerable concerns about whether young people who are injecting drugs are obtaining access to sterile injection equipment and to being able to discuss and obtain accurate preventive information to reduce the spread of BBVs in this group.

As both WAAC and WASUA provide a service which extends beyond the issues of injecting drug use to address concerns about the spread of BBVs, there is a need for approach which targets health and other concerns of young people in relation to issues such as sexual health, family issues, accommodation, treatment for drug problems, etc.

It was noted that the Noongar street patrols which are coordinated by the Derbal Yerrigan Health Service, play a significant role in engaging indigenous people who also are injecting drug users and refers individuals at risk to both the fixed and mobile NSPs. In some instances indigenous people may prefer to obtain assistance and access the products from mainstream NSPs to retain their anonymity which they may not be able to obtain because of kinship networks if they attended an identified Aboriginal NSP service.

The WAAC van, which operates from a site in James Street Northbridge on Friday nights, has developed a good relationship with the Noongar street patrol. This has resulted in this sub population, especially of persons aged between 16 and 25 years, being able to access resources provided through the NSEP. It is also believed that significant numbers of indigenous young people access the NSEP through the Mirrabooka NSEP site.

8. Conclusion

The report has outlined how in this State the approach to harm reduction programs has emphasised the need for a cooperative interagency framework rather than being dealt with on an agency by agency basis.

Harm minimisation was adopted in the mid 1980s as a fundamental principle of Australian national drug policy law enforcement. Subsequently, this principle has been introduced into various areas within the WA Police Service through the agency of the Alcohol and Drug Coordination Unit.

Specific strategies which have been implemented include the use of cautioning, arrest and referral schemes and court diversion as a process for law enforcement and treatment services to work together to minimise drug related harm.

The State's needle and syringe program which was established in early 1987 and with its gradual expansion has enabled increased access to sterile injection equipment in the metropolitan area and major regional centres. The majority of sterile needles and syringes are sold through pharmacies, with exchange programs being targeted at groups with special needs.

Appendix 1: Terms of reference

Terms of Reference (other matters)

1) To review the *Misuse of Drugs Act 1981* in relation to:

   a) the quantities of drugs scheduled which give rise to a presumption of intention to sell or supply;
   b) substances that should be added to the schedules;
   c) the possession of drug paraphernalia with detectable traces of substances;
   d) the seizure, management, disposal and lawful destruction of drug paraphernalia;
   e) the parity of penalties applicable to co offenders compared to principal offenders;
   f) offences concerned with involved parties in controlled delivery operations; and
   g) other matters not elsewhere covered in these Terms of Reference.

6) To consider the present legislative framework and policing practices related to drug users, including factors which undermine harm reduction measures.

7) To review the adequacy of present arrangements concerning the clandestine manufacture of illicit drugs in relation to:

   d) monitoring precursor chemicals and other drugs;
   e) the adequacy of current arrangements for the scheduling of substances; and
   f) other matters not elsewhere covered in these Terms of Reference.

8) To monitor and contribute to reviews of:

   e) adequacy of measures concerned with drug impaired drivers;
   f) proposed amendments in the law dealing with sentencing of offenders;
   g) proposed amendments to the Poisons Act 1964 in relation to prescribing of drugs of addiction (ie Schedule 8 drugs); and
   h) proposed amendments to the Drugs of Addiction Notification Regulations that are issued under the Health Act 1911.

9) To review the legislative framework concerned with illicit drug use and associated criminal activity as it operates within other jurisdictions and to advise Government on the efficacy of which approaches could be adopted in Western Australia.

Appendix 2: Examples of negotiations with local authorities over the establishment of NSPs

Example of letter for approval of continuation of NSP

Peter Erceg
Health Services
City of Gosnells
PO Box 662
GOSNELLS WA 6990

Dear Peter,

Following recent contact with yourself, I am writing on behalf of the WA AIDS Council (WAAC) to seek approval to continue our Needle and Syringe Program (NSEP) operation from Canning Park Avenue, Maddington.

The WAAC NSEP is supported by the Health Department of WA and a range of service providers in the Alcohol and Other Drug sector. The National Hepatitis C Strategy 1999-2000 to 2003-2004 and the National HIV/AIDS Strategy 1999 – 2000 to 2003 – 2004 identify an important role for Local Government Authorities (LGA) as key players in public health strategies, and the support of LGAs is encouraged in order for initiatives such a Needle and Syringe Programs to be successfully implemented. To this end, the City of Gosnells has played an important role in the implementation of a trial NSEP site in their local community. WAAC now seeks to extend this trial and hopes the City of Gosnells will grant continuation or permanency to the current site Canning Park Avenue, Maddington, Friday 4-6pm.

Preliminary data for the Canning Park Avenue trial indicates our service has been very well received in your area. A report of the trial site is attached. Should this NSEP site be discontinued, it is possible that there may be negative outcomes to the community. These may include an increase in the inappropriate disposal of used needles and syringes, an increase in the reuse and sharing of injecting equipment and a subsequent increase in the transmission of blood borne viruses in the local community. Longitudinal outcomes related to this may include an increase in health costs to the community and increased occurrence of absenteeism in the work or education setting and/or the possibility of increased unemployment as related to health factors. WAAC recognises that some of these outcomes may not be immediate or readily visible in the community due to their complex and far reaching nature.

In light of these potential negative factors as well as the positive data provided in the attached service report, I hope the City of Gosnells will grant approval for the WAAC NSEP to continue operation at Canning Park Avenue on Fridays between 4-6pm. The WA Police Service, the Health Department of WA and the SE Metropolitan Community Drug Service Team have all reviewed the data from the trial site at Maddington. I have obtained letters of support regarding the approval to continue our service in your locale. Please find copies attached. Should you need any further information I can be contacted on 9482 0000 in office hours.

Yours sincerely
Tania Lamond

Needle and Syringe Exchange Program Coordinator
15th April 2002

Example of letter approving establishment of NSP

Ms T Lamond
Western Australian AIDS Council
PO Box 1510
WEST PERTH WA 6005

Our Reference: PE:AC/H4/5
Your Reference: Doc ID 30638
Enquiries: Mr P Erceg
Health Services Branch

Dear Madam

Needle and Syringe Exchange Program

I advise that Council, at its Ordinary Meeting of 14 May 2002, vide resolution No. 315 and 316 determined the following:

315 "That the report to Council evaluating the effectiveness of the Needle and Syringe Exchange Programme operating within the City of Gosnells be received."

316 "That Council grant approval to the Western Australia AIDS Council to operate the Needle and Syringe Exchange Programme for a further 12 month period on a weekly basis from the Canning Park Avenue site, Maddington, on Friday afternoons between 4:00pm – 6:00pm subject to Council reserving the right to cancel consent in the event of substantiated complaints or objections from the community."

A full copy of the report by Council's Health Services Branch as prepared for Council in relation to this application, can be viewed at this office or the Gosnells, Thornlie or Kenwick Libraries or, alternatively, at Council's website which is www.gosnells.wa.gov.au.

Should you require further information or clarification in relation to this matter, please contact Mr P Erceg of Council's Health Services Branch.

Yours faithfully

ROSS WELLS
MANAGER HEALTH SERVICES

17 May 2002

Evaluation of Maddington NSP site

WA AIDS Council Needle and Syringe Exchange Program (NSEP) Maddington - Canning Park Avenue April 2001 – March 2002

Background

The overall aim of the WAAC NSEP is to minimise the spread of HIV, hepatitis C and other blood borne viruses (BBVs) amongst people who choose to inject drugs and the wider community. This aim is achieved by reducing the practice of sharing needles and syringes by providing access to sterile equipment, promoting safer sex practices and reducing other high-risk behaviours by people who choose to inject drugs.

In line with the National Drug Strategy's "Building Partnerships" broad harm minimisation model, the WAAC NSEP adopts a harm reduction approach. As with harm minimisation, harm reduction seeks to improve health, social and economic outcomes for both the community and individuals (ANCARD 2000). The WAAC NSEP, as a public health program, does not seek to condone or normalise drug use, rather is seeks to reduce the harms associated with injecting behaviour to both the individual and the community.

The provision of sterile equipment is vital in the prevention of the transmission of blood borne viruses. In WA approximately two-thirds of all needles and syringes obtained are distributed through the private sector of which local pharmacies are a major avenue of access. However, unlike local pharmacies, needles and syringes distributed through needle exchange services are distributed via a health education rather than a retail model. In comparison to local pharmacies, the WAAC NSEP offers:

- Access to a full range of sterile equipment at very low cost or free on exchange. This negates the need to re-use or sharing of injecting equipment if money for 'Fitpacks' cannot be raised. It should also be noted that most needles and syringes obtained through pharmacies do not come with swabs, these being vital to the prevention of communicable disease transmission, and a primary measure for preventing bacterial entry into the bloodstream.
- Health information and education related to drug use, designed to facilitate healthy behaviour change including early and brief intervention.
- Information and referral for people who use drugs to health treatment, detoxification and welfare services.
- Access to appropriate disposal, and education about safe disposal options including raised awareness of the context of public health.

City of Gosnells NSEP site – Canning Park Avenue Maddington

The Canning Park Avenue site commenced as a 12 month trial in April 2001. The site operates weekly for two hours on a Friday afternoon from 4 -6pm.

The location for this site was identified in October 2000 by the WAAC NSEP coordinator and City of Gosnells Health Services employee Peter Erceg. Criteria for selecting this site included lighting, shade, discretion, proximity to public transport including major traffic intersections, pedestrian traffic and residential housing with intent to ensure minimal, if any, impact on the later.

The data for the 12 month trial indicates that the site has been very successful.

This NSEP site is being accessed by both regular and new clients and the distribution of large numbers of sterile equipment with appropriate harm reduction education is ongoing. Clients began accessing this site in its first month of operation, April 2001. This occurred despite a lack of public advertising. The WAAC NSEP relies largely on access to its target group, people who choose to inject, via 'word of mouth' advertising. That is, clients visiting the WAAC NSEP sites elsewhere are made aware of newly established sites and they in turn feed this information back in to 'users peer networks'.

Most sites take anywhere between 3 – 12 months to become active, however in the Canning Park Avenue situation the site saw clients in its third week of operation. By the third month of operation this site had 27 client contacts, a good indication that it would be increasingly active. This has been the case. The data for the most recent month, March 2002 indicates 51 regular client contacts and 8 new client contacts. In comparison to other newly established sites, the Canning Park Avenue site has seen new clients in all but one month of service provision since April 2001. This would indicate that its client base has not yet reached a plateau and the site will likely see other new clients should it continue in this locale.

A further point of interest is that clients accessing the Canning Park Avenue site, have indicated that they are resident in the local area. This is not always the case for WAAC NSEP sites. At some more central site locations such as Northbridge, clients will travel from their local areas to the central site, generally as it is well established and recognised. In the Canning Park Avenue situation, this site has very quickly become well recognised by clients as a NSEP site in the local area. Clients have indicated it is very easy to locate this site as it is at the 'oval' known by all. The selection of the site location at a familiar recreational sporting oval may have contributed to the success of the site. For this reason, it would be unwise at this time to relocate the site to another location.

Feedback from clients also indicates they are comfortable accessing the Canning Park Avenue site. They have expressed an appreciation that the City of Gosnells had provided access to a public health option both sensitive and specific to their needs. While this may not seem overly significant, it should be noted that the clients we see are often highly stigmatised and low in esteem. These are important factors in the accessing of NSEP services located in public spaces. Several of our other metropolitan NSEP sites are under utilised, largely due to the target groups unease with accessing an NSEP in a public place and how such behaviour may be perceived. Therefore it is important that the City of Gosnells recognise the success of the site even in light of the broader reluctance of people who choose to inject to feel 'comfortable' to access publicly located health services specific to their needs.

The data for this site indicates a total of 37,894 units of sterile needles and syringes has been distributed over a total 477 occasions of client contact. Clients are accessing large quantities of sterile equipment from this site, therefore it is likely that WAAC has identified a pre-existing 'gap' in the provision of sterile equipment to people at risk on BBV transmission (ie. people who choose to inject) for this area. Indeed, the figures for this site suggests a high need for access to sterile injecting equipment exists in the locale.

In addition to sterile equipment, clients accessing our Canning Ave NSEP site are accessing health education and information. Our statistics show that the most commonly accessed information is prevention, transmission and treatments for BBVs, safer substance use information, vein care and safer disposal advice. While some clients make more serious requests for educational information, advice and support, it is often the case that education is provided informally in the context of casual chat. The purpose of this is to raise clients awareness of the breadth of educational resources available at the NSEP and the deliver it is a friendly and non threatening manner. Printed materials always available to clients and are regularly offered to them. Much of the printed material available contains referral information to other health services in the metropolitan area that are available to the clients. Specific treatment referral information is provided on request.

As previously mentioned, it is only through access to sterile injecting equipment and the provision of safer behaviour education and support that the transmission of BBVs amongst the target group and their significant others can be effectively reduced. The statistics for the City of Gosnells Canning Ave site suggest this is being achieved.

The WAAC NSEP also offers the wider community a safe and appropriate means for used needle and syringe disposals of any quantity. The Canning Park Avenue site has an average return rate of approximately 92%, a good indication that clients using this site are disposing responsibly and are willing to continue to do so. Information and education on the safe disposal of used equipment for the whole community is available from the WAAC NSEP. On a few occasions members of the

general public have approached the service to ask what is occurring as they have noticed the van is parked in the same location each week. The NSEP officers welcome these enquires as they afford the opportunity to undertake broader community education and awareness raising around BBVs and safer disposal. On each of the occasions the staff have provided education and literature published by the Health Department of WA on Needle and Syringe Provision in WA. The outcome of these interactions has been local community members expressing positive attitudes towards the location and operation of this specific public health service.

In conclusion, it would be fair to say that the Canning Park Avenue NSEP has and continues to be successful in providing safe and accessible health information and support to community members who choose to inject and therefore are at risk of BBV infection and other specific health issues. The provision of sterile equipment and supportive health education and advice to this target group is a recognised measure in reducing the harms associated with associated with injecting behaviour, the prevention of BBV transmission in particular. Continued service provision can only serve to further reduce the potential negative impact on the health, social and economic lives of those individuals within the community who chose to inject as well as those of the wider community in which they reside.

Appendix 3: Police administrative directions

AD-24.19 Needle and Syringe Exchange Program

Needle and syringe programs (NSP) provide sterile injecting equipment to people who inject drugs as a strategy to prevent the transmission of blood borne viruses such as Hepatitis B, Hepatitis C and the human immunodeficiency virus (HIV). NSP are a vital public health strategy that helps protect the health of everyone in the community.

Lack of access to sterile injecting equipment does not deter people from injecting. Government and non-government agencies both provide NSP to people who inject drugs through programs approved by the Director General of Health.

In WA there are three main types of services:

- pharmacy based NSP;
- health service based NSP (hospitals, community health centres and other related health services); and
- needle and syringe exchange programs (NSEP).

Approximately two third of the injecting equipment is retailed from pharmacy based NSP while needle and syringe exchange programs (NSEP) distribute the other third with a small proportion provided by health services.

The WA Substance Users' Association and the WA AIDS Council provide a NSEP at a number of metropolitan and regional locations. WASUA operates a fixed site NSEP at 440-444 William Street, Northbridge and a mobile facility in Bunbury. WAAC operates a NSEP at 14 metropolitan sites (details of the locations covered by the WAAC vans can be obtained by ringing WAAC on 9482 0000). Clients accessing NSEP are offered peer education and a range of other services such as testing and referrals. NSEP clients are issued sterile needles and syringes free of charge when they return used ones or cost recovery is applied.

Policy

In keeping with the National Drug Strategy and the Western Australian Drug Strategy approaches to harm reduction, it is the policy of the Western Australian Police Service to refrain, wherever possible, from maintaining a presence in the proximity of locations where needle and syringe program services are provided, unless operational needs dictate otherwise.

In the past, police have been known to target the clients of needle and syringe programs and methadone programs. This practice is not a recommended drug law enforcement strategy and has the potential for adverse health consequences for both the user and the wider community.

Members are also required to use their discretion with regard to any treatment agency that offers services regarding alcohol and or other drugs.

The Western Australia Police Service has no formal role in needle and syringe programs, apart from adopting the above policy; The WA Police service is not involved in any program, implementation, and/or the use by participants.

Client Card

As one of the strategies designed to reinforce the harm reduction aspects of the program a "client card" has been developed.

The purpose of this card is to reassure people who inject drugs that the Western Australia Police Service acknowledges the need for syringes to be disposed of safely.

While not guaranteeing the holder of a card will not be arrested for possession of such items, it is intended that if people who inject drugs are intercepted on their way to or from a needle and syringe program site, they can show Police Service personnel the card and as a means of corroborating that they are en route to or from such a site to exchange and safely dispose of their syringes.

For queries and assistance in these matters please contact the owner area displayed below:

Drug Education Officer
Alcohol & Drug Coordination Unit
Ph: (08) 9223 3005

AD-24.16.2 Fatal Drug Overdoses

Introduction

It is evident that circumstances surrounding any sudden and unexpected death involving prohibited drugs require thorough examination. Even in cases where the circumstances of death appear straightforward and unconnected with any criminal activity, the possibility of third party involvement or a secret homicide should be considered.

These guidelines are to be read in conjunction with the following related sections:

- Coroners Guidelines for Police;
- OP-12 (Coronial Matters); and
- OP-15.1 (Major Crime)

Statute law

Coroners Act 1996
Section 32. Restriction of access to area

1. A coroner, or coroner's investigator, investigating a death may take reasonable steps to restrict access to the place where the death occurred, or the place where the event which caused or contributed to the death occurred.

Policy

It is the policy of the Western Australia Police Service to approach the investigation of all deaths suspected of involving prohibited drugs as suspicious until the investigator is satisfied that the available evidence does not support that suspicion.

Procedures

Upon arrival at the scene of a fatal overdose that is suspected of involving prohibited drugs the attending officer will,

- Ensure the preservation of evidence by identifying and securing the incident scene.

- In the metropolitan area, immediately notify the District Incident Management Unit (IMU) or the District 24 hour Station Shift Supervisor absorbing the IMU function when the IMU is not operating of the incident and request they immediately notify/arrange the attendance of:

  a) The On Call member of Organised Crime Investigation (OCI);
  b) The Coronial Inquiry Section (CIS); and
  c) A 'scenes of crime' officer.

- In country areas, immediately notify the Officer In Charge of the local detectives office of the incident and request further direction.

AD-24.16.1 Non Fatal Drug Overdoses

In line with the National Drug Strategy's major objectives of harm minimisation and that law enforcement should be directed at suppliers rather than users, the use of discretion is encouraged at every stage of the enforcement of self-administration laws.

Where police are called to attend the scene of a drug overdose and there is evidence of other drug related activity, if the offences only relate to self administration or simple possession, it is in the greater public interest to use discretion with regard to prosecuting simple offences. This action will have the effect of removing the fear of prosecution and encourage people present at overdoses to call for assistance without delay.

In determining whether it is appropriate to charge those present at the scene with simple possession or use offences, consideration should be given to WAPS policy as outlined in the Discretionary Guidelines DP-1.2 and the following:

- the need for full co-operation from potential witnesses at the scene;
- the legal criteria for search and seizure under the Misuse of Drugs Act 1981; and
- occupational health and safety issues involving handling used drug paraphernalia.

Where illicit drugs are evident they are to be seized and processed in accordance with AD-24.

For queries and assistance please contact owner area as displayed below:

Operations Manager
Organised Crime Investigation
Ph: (08) 92233605

[Amended vide Police Gazette No. 7, 16 February 2000]

Appendix 4: Department of Health guidelines

Guidelines for the Establishment and Operation of a Needle and Syringe Program

This document is intended to support applicants in writing their application for a Needle and Syringe Program license.

Regulation 12A (4)(b) of the *Poisons Amendment Regulations 1994* states that

"an approval of a needle and syringe program shall clearly identify the program that is being approved by reference to the activity or activities, and the persons or class of persons engaging in the activity or activities, that constitute the program."

That is, a proposed program needs to identify **how** it intends to operate and **who** will be involved in its operation. For example, a program may wish to operate after hours on weekends only and be managed by nursing staff at a casualty department. The activities of a program are defined via an outline submitted by the applicant with Form 14.

The outline informs the West Australian Department of Health (DOH) of the individual policies and procedures of each program as well as ensuring that any person participating in the delivery of the program understands its operations. There are fifteen sections in the guidelines, each focussing on a particular requirement to be addressed by all applicants in their application.

Examples are provided within each section to assist applicants define operational procedures or for additional information. Most examples are indicative of a best practice approach. Some examples are relevant to NSPs operating within a pharmacy setting. Applicants are advised to choose from amongst the examples provided, those that most appropriately define their program. The examples do not represent an exhaustive list of possibilities and, if applicants wish to write their own content, consideration will be given to the intent and meaning of other wording.

If further clarification is needed, assistance can be sought from the Needle and Syringe Program Senior Project Officer at the Sexual Health Program (08) 9388 4841.

Where possible, please enclose the outline of your program policies and guidelines with the Application Form 14. Should the development of the guidelines and policies not be completed at the time of your application, it would be appreciated if a copy of the final document were forwarded within two weeks to Sexual Health Program, Health Department of Western Australia, PO Box 8172, Perth Business Centre, WA 6849.

Guidelines for the Establishment and Operation of a Needle and Syringe Program

Include all sections (1-15) in your written outline, and submit with form 14.

1. Aim of the needle and syringe program (NSP)

The overall purpose of any NSP is to minimise the spread of blood borne infections among and from people who inject drugs.

Examples

- The aim of the NSP is to minimise the spread of hepatitis C, hepatitis B and HIV amongst the community.
- The aim of the NSP is to access hard to reach injecting groups in rural settings.
- The aim of the NSP is to provide education, counselling and referral to people who inject drugs

2. State the person or class of persons operating the program

The Poisons Amendment Regulations 1994 requests that " the person or class of persons" who operates the program be stated. This means NSP staff needs to be identified by their employment status or their role within the workplace NOT BY NAME.

Examples

- Needles and syringes will be distributed and information disseminated by the senior registered nurse/health workers on duty.
- Needles and syringes will be distributed and information disseminated by NSP trained volunteers.
- Needles and syringes will be distributed and information disseminated by alcohol/drug counsellors involved in harm reduction work with their clients.

3. Hours of operation

The hours of operation of a program must be specified. Careful consideration needs to be given to accessibility of a program versus its sustainability both in relation to clients and staff. It is easier to increase rather than decrease hours once a program is established and running. Hours may be modified at any time but it is advised to examine the long and short term consequences of fluctuating hours of provision on the client group before modifying a program.

Example

- The program will operate from 5pm to 9am Monday to Friday and from Saturday I pm to Sunday 9am.

4. Distribution of needles and syringes

The provision of sterile injecting equipment by NSP is usually in the form of Fitpacks (5 syringes provided within a plastic box which is intended for the safe disposal of used equipment). In the instance where Fitpacks are not supplied by DOH, a NSP may choose to offer its clients other products such as Fitpacks Plus and Sharp Kitz.

Needle and syringe exchange programs (NSEPs) are licensed to **distribute loose needles and syringes which should always be provided with a disposal container**. Some pharmacists are also licensed to sell loose needles and syringes (with disposal container) as well as Fitpacks, Fitpacks Plus and Sharp Kitz.

Examples

- Needles and syringes will be distributed in Fitpacks only.
- Fitpacks, Fitpacks Plus and loose needles and syringes will be retailed according to the need of the client. A disposal container will always accompany the distribution of loose needles and syringes.

5. Cost of needles and syringes to the client

Clients are not expected to pay for the Fitpacks distributed by the NSP if Fitpacks are provided free of charge to the NSP by the Sexual Health Program, some NSP may wish to encourage donations. All donations must be accounted for and ideally should be used to improve the service delivery, for instance, to provide clients with free swabs and sterile water with every Fitpack distributed. Where Fitpacks are sold the NSP is liable under the Financial Administration and Audit Act (FAAA) to account for the expenditure and profit generated by the provision of Fitpacks.

Examples

- Needles and syringes in the form of Fitpacks will be provided at no cost to the clients of the NSP.
- Clients will be charged a cost recovery price for Fitpacks.

6. Return of loose needles and syringes

The provision of needles and syringes via a NSP **is not contingent upon the return of used needles and syringes**, unlike a NSEP. In WA NSEPs issue new equipment free of charge upon the return of used one or at a cost recovery price if no exchange occurs.

Most NSP clients currently dispose of their Fitpack in domestic waste. Occasionally some clients may return used equipment to a NSP and in this ' instance should be directed to an appropriate means of disposal (ie. domestic waste or disposal bin). If a client is offered the use of a small disposal container, staff should not hold the receptacle while client is in the process of disposing of used needles and syringes.

Under no circumstances should NSP staff handle used injecting equipment returned by clients. NSP staff are expected to encourage clients to safely dispose of their used needles and syringes and information to this effect should be made available to clients attending the NSP.

Examples

- The NSP will not accept used injecting equipment, but will inform clients of appropriate disposal method and disposal site within their local area.
- The NSP will accept used needles and syringes. Clients returning used needles and syringes must place these in an approved disposal receptacle. Under no circumstances will a staff member touch or handle the used needles and syringes.

7. Staff interaction with clients

NSP are often the first and only point of contact people who inject drugs have with a health service provider. The approach adopted by NSP staff to clients often will influence clients' receptivity to offers of information and clients' future access to health services. Therefore a non-judgemental, sympathetic approach is advised at all times within the limitations of this service being provided in conjunction with other services.

Examples

- Staff will adopt an empathetic non-judgemental approach to clients, being sensitive to the likelihood of anxiety and/or apprehension of the client on approaching the NSP.
- Staff will adopt a supportive approach to clients, who in addition to their drug using practices may already be marginalised because they are from an ethnic minority or because of their occupation, eg. sex workers.
- Staff are encouraged to build rapport with clients to create opportunities for the dissemination of education and/or information and referral.

8. Client confidentiality

All DOH employees are bound by the DOH code of conduct with regard to confidentiality. NSP staff who are not DOH employees would in most instances be expected to respect client confidentiality as stated by the code of conduct or practice of their workplace. In any instance, **all NSP staff regardless of their status (health practitioners, pharmacists, volunteers etc.) are required to respect client confidentiality at all times**. It is suggested that where possible client confidentiality be supported by distributing Fitpacks in an unmarked paper bag.

Examples

- Staff involved in the NSP will understand their obligation to safeguard information about their clients.
- Staff involved in the NSP will respect and protect the confidentiality of their clients and whenever possible prevent this being compromised by others for whatever intent or purpose.
- Staff will respect clients' confidentiality at all times even when a client is known to be participating in other programs (ie methadone) or when the client or client's relatives are known to the provider.

9. Client education

Educational resources and information sheets should be made available to clients wherever possible. The practice of enclosing pamphlets and/or information sheets with every Fitpack distributed is encouraged. While not all clients will read the information provided, there is strong evidence that a number do. Furthermore research suggests that NSP clients will respond positively to information that is specific, appropriate and relevant to their drug use.

Examples

- The NSP will maintain a supply of appropriate pamphlets and information designed to provide information to clients on request.
- The NSP will inform and educate clients on issues regarding injecting drug use (eg. BBV, safe injecting practices, disposal, treatment options) when appropriate, using available resources.
- Information on safer injecting procedures, hepatitis C and B transmission, and the safe disposal of injecting equipment will be handed out routinely to clients with every Fitpacks distributed.

10. Staff education

NSP coordinators are required under the *Poisons Amendment Regulations 1994* to ensure that all persons participating in the program (ie providing the service) are appropriately instructed and trained and understand its requirements. It is expected that all staff will be conversant in the outline of their program and will attend training in NSP provision as provided by the coordinator and/or as offered by HDWA Sexual Health Program.

Examples

- All NSP staff will read and be familiar with the guidelines and policies of their program and the "Needle and Syringe Information Pack" (DOH).
- All NSP staff will be kept informed on issues related to injecting drug use by the coordinator of the program.
- If specific staff training needs have been identified the coordinator will seek the assistance of the Sexual Health Program.
- The coordinator will conduct regular short training sessions with new staff to ensure the objectives of the program are understood.

11. Client referral

NSP staff are expected to be familiar with a number of agencies they can refer clients to according to a client's needs at that point in time. A booklet *Information and Referral Agencies* is enclosed in the NSP Information Pack. Referrals should only ever be made at a client's request particularly where treatment agencies are concerned. When making a referral, NSP staff should involve the client and a range of options be offered. The final choice should be left to the client.

Example

- Referral of clients to drug counselling and treatment agencies will only be done on the request of the client.

12. Juvenile access to the program

The *Poisons Amendment Regulations 1994* refers to NSP clients only as "person". That is, there is no limitation placed on the age at which a person may access or be denied access to a NSP. NSP staff are advised to f**ollow harm reduction principles** and assess whether refusal or access will result in greater harm to juvenile clients. Some programs may choose to specify in their policy an explicit age with regard to juvenile access to the program.

Examples

- Staff shall not provide needles and syringes to persons under ... years of age, (age determined by those involved in the implementation of the program) **unless refusal to do so would pose an immediate perceived health risk to that client**.
- Staff will actively encourage referral of all juveniles who access the program to appropriate youth drug services / workers by providing the client with an up to date list of relevant agencies.

13. Access by clients undergoing treatment related to their drug use

The purpose of a NSP is to provide clients with sterile injecting equipment. **It is not the role or responsibility of NSP staff to regulate clients' behaviour in terms of their drug use**. However information on poly-drug use should be made available to the client where appropriate.

Examples

- Staff will provide equipment to clients who are known to be on a methadone program if refusal to do so is likely to pose a greater health risk to the client.
- Staff will provide equipment to clients who are known to be on a naltrexone program if refusal to do so is likely to pose a greater health risk to the client and conditional to the client demonstrating an understanding of the effect of naltrexone on tolerance.

14. Monitoring and evaluation of program

Under the *Poisons Amendment Regulations 1994* NSP coordinators are required to submit an annual report and **report on any irregularities of the program**. A proforma of the annual report sent to HDWA at the end of each financial year is enclosed in the NSP Information Pack.

Annual reporting includes a record of the number of needles and syringes distributed per annum, the number and type of referrals made and the type of information/resources distributed to clients. No record should be made of client names or personal details. However programs are encouraged to keep a record of the age/cultural group of clients in order that specific resources can be developed/ provided as needed.

Examples

- All NSP staff will be responsible for recording the date, time, number of needles and syringes distributed and the age group, gender and cultural group of clients on the data sheet kept in the NSP attendance register.
- All NSP staff will be responsible for recording contacts with clients during which educational material or counselling was given.
- The coordinator will be responsible for collating the number of needles and syringes distributed and report as requested to the Sexual Health Program.
- The coordinator will be responsible for conducting regular update sessions with staff and attend to issues emerging from the on-going operation of the program.

15. Workplace safety

Occupational health and safety procedures followed by a NSP are not as extensive as those of a NSEP where staff are required to follow the *Protocol for the Distribution of Injecting Drug Use (IDU) Equipment by Needle and Syringe Exchange Program (NSEP) Workers in WA*. In an NSP staff are not expected to have to dispose of used injecting equipment. In the instance of inappropriately disposed equipment being found by staff, a **hands free technique** should be used to retrieve the item (ie brush and pan, tongs etc) which should be placed in the agency sharps container. NSP workers are also expected to abide by other existing relevant workplace policies (ie critical incident, needle stick injury etc).

Examples

- Staff will not touch or handle any used needles and syringes returned by clients.
- Staff will read and adhere to the hospital policies for the management of needlestick injuries and other occupational exposure injuries.
- Prior to commencement with the NSP, all staff are advised to be immunised against hepatitis B and ensure their tetanus immunisation is up to date.

16. Client responsibilities

When necessary, staff are to advise clients that disruptions and uncooperative behaviour jeopardise the overall continuity of the program.

Example

Clients are expected to respect the intention of the program as a harm reduction and illness prevention program. Activities by clients that jeopardise the program will not be accepted.

Understanding the How & Why of Needle & Syringe Programs in Western Australia

Why do we need a needle & syringe program in our community?

While many people use legal drugs such as alcohol or tobacco in our community, there is a small number of people who use illegal drugs or who misuse prescription drugs. This happens despite policing efforts and education programs.

A few of these people inject the drugs they use. People who inject drugs are at a greater risk of contracting viral infections such as HIV (the virus that causes AIDS), hepatitis B or hepatitis C. These infections are caused by viruses that are transmitted by blood-to-blood contact. A high proportion of people who inject drugs contract hepatitis C. HIV and hepatitis B can also be transmitted by sexual contact.

People risk becoming infected when they share injecting equipment. Once a person is infected, they may spread the infection to the broader community via an injury, other blood-to-blood contact, or sexual contact.

The risk of transmission is higher if people cannot access new sterile injecting equipment, which is why needle and syringe programs are essential.

Needle and syringe programs provide sterile injecting equipment to people who inject drugs. This helps to limit or reduce the transmission of blood borne viruses. Needle and syringe programs are a vital public health action that helps protect the health of EVERYONE in the community.

- People who inject drugs will do so whether or not sterile needles and syringes are available to them.

- Needle and syringe programs aim to reduce the harm caused by injecting drug use.

- Needle and syringe programs operate in conjunction with treatment and education programs aimed at reducing drug use, as well as strategies aimed at reducing the amount of drugs available.

- NSP do not encourage drug use.
- NSP lower the risk of blood borne virus.
- NSP save the community more money than they cost.
- Needle and syringe programs do not condone or support the use of illegal drugs.

Community benefits of needle and syringe programs (NSP)

NSP reduce the spread of HIV and hepatitis B among people who inject drugs and the broader community, and contribute to the containment of hepatitis C.

NSP recognise that the lack of access to sterile injecting equipment does not stop people injecting.

NSP save costs. HIV can cause AIDS, while the hepatitis C virus can result in chronic liver inflammation and other serious illness. Treating these diseases costs far more to the individual, and the community, than do programs aimed at preventing the spread of blood borne viruses.

NSP are often the first and/or only contact people who inject drugs have with the health care system.

NSP can also provide people who inject drugs with information on safer injecting, and create opportunities for education and referral to treatment services.

NSP encourage the safe disposal of injecting equipment by providing information and education on how and where to safely dispose of used needles and syringes.

NSP represent a compassionate approach to the prevention of diseases that directly or indirectly affect the whole community.

How is the service provided?

The term needle and syringe program (NSP) describes any program where sterile injecting equipment is made available to people who inject drugs. Both government and non-government agencies run NSP. There are three main types of services:

- pharmacy based NSP;
- health service based NSP (hospitals, community health centres and other related health services); and
- needle and syringe exchange programs (NSEP).

Approximately two-thirds of the injecting equipment distributed in Western Australia (WA) is sold by pharmacies. NSEP mostly distribute the remainder, with a small percentage provided by health service based NSP. Regional hospitals mainly provide after-hours access to sterile needles and syringes once the local pharmacy is closed or if there is no local pharmacy based program.

Health service based NSP distribute sterile needles and syringes in the form of Fitpacks A Fitpack is a black, hard plastic box containing 5 needles and syringes. The box is also a disposal container for used equipment, and should be disposed of as domestic waste (in the rubbish bin). The box is labelled to provide information on a range of relevant issues such as blood borne viruses, safe disposal, or overdose.

Pharmacies or health services in WA generally do not accept used needles and syringes. This differs from NSEP where needles and syringes are provided free of charge in exchange for used ones. In WA, clients are charged for new needles and syringes if they do not return used ones. NSEP mainly operate in the metropolitan area, with one also operating in the Bunbury area.

All NSP must provide safe disposal containers with any needles and syringes distributed.

A NSP should offer a confidential and non-judgemental service intended to maximise opportunities for contact, health education, and encourage people who inject drugs to practice safer injecting. It is not the function of a NSP to control, or regulate, people's drug use.

Are needle and syringe programs legal?

The Western Australian Poisons Amendment Act (1994) allows approved organisations to provide sterile injecting equipment to people who inject drugs.

All organisations that operate a NSP have to be approved under the Act, and meet specific requirements as stated in the Poisons Amendment Regulations (1994).

Applications for a license should be made to the Sexual Health Program, Communicable Disease Control Branch, Department of Health. All approvals are issued with the authority of the Commissioner of Health.

What about the health risks caused by discarded used needles and syringes?

NSP encourage the safe disposal of used needles and syringes. Along with disposal containers, people accessing the service are provided with information and education on safe disposal.

The majority of people who inject drugs do the right thing, disposing of their used needles and syringes in a recommended container in their domestic waste, or returning them to an exchange. As with other forms of littering, a few people dispose of used injecting equipment irresponsibly.

Improperly discarded needles and syringes generate a lot of fear in the community over the health risk from needle stick injuries - a needle stick injury is when a needle accidentally pierces the skin.

The risk of contracting hepatitis C, hepatitis B or HIV via a needle stick injury occurring in the community (such as at the beach or a playground) is very low compared to the risks of contracting these infections from a needle stick injury in a health setting. None the less, it is advisable to see a doctor within 24 hours to discuss the need for testing and vaccination.

To date, there has been no documented case, in a community setting, of hepatitis B, hepatitis C or HIV being transmitted via a needle stick injury.

Information on NSP

Sexual Health Program, Communicable Disease Control Branch, Department of Health, Western Australia. Phone: 08 9388 4841 (Also for information on setting up a NSP in your community)

Information is also available from

Western Australian Substance Users Association (WASUA). Phone: 9227 7866

Western Australian AIDS Council (WAAC). Phone: 08 9482 0000

The Hepatitis C Council of WA. Phone: 08 9328 8538 or country callers: 1800 800 070

ADIS - Alcohol and Drug Information Service (24 hours). Phone: 08 9442 5000 or country callers: 1800 198 024

Department of Health
Government of Western Australia
Produced by the Sexual Health Program, Population Health Division
Department of Health 2001

Safe Disposal of Needles and Syringes

Needle and syringe distribution and exchange programs have been established to reduce the spread of infections such as hepatitis B, hepatitis C and HIV among injecting drug users.

Sometimes needles and syringes are discarded improperly rather than exchanged or disposed of in appropriate containers. This can create concern for people in the community who find them.

While the risk of catching HIV or other diseases through injuring yourself with a discarded needle is extremely low, it is important to take care by following these steps when handling and disposing of them.

What to do if you find a discarded needle and syringe

1) Do not be alarmed.

2) Get a container with a well secured lid, preferably screw top. Rigid plastic containers with lids are best (eg plastic milk, juice or soft drink bottles with a screw top lid). Avoid using glass which may shatter, or aluminium cans which may be squashed.

3) Don't touch the sharp point with your fingers or hands.

4) Pick up the used needle and syringe by the blunt end, away from the point.

5) Don't try to put the plastic protective cover back on a needle if it has fallen off.

6) Put the needle and syringe, point first, into the container. More than one can be placed in the container, but do not overfill. Do not carry the needle and syringe unless it is in a suitable container.

7) Make sure the container is tightly sealed.

8) Put the sealed container in a domestic rubbish bin (mobile green bin). Do not put needles and syringes down toilets or drains.

What to do if you injure yourself with a discarded needle

- Wash the area gently with soap and running tap water as soon as possible.
- Apply an antiseptic and a clean dressing.
- Obtain prompt medical advice from your local doctor or hospital emergency department, preferably within 24 hours.
- Place the needle in a rigid plastic container and take it with you to your doctor.

Remember

Don't panic, take reasonable care and follow the above steps.
Tell children never to pick up a needle, but to tell an adult.

Problem areas

If you are regularly finding needles and syringes in a particular area, please contact your local government Environmental Health Officer.

Further information

For further information contact your local government Environmental Health Officer

Alcohol and Drug Information Service (ADIS)
Telephone: (08) 9442 5000 (metropolitan)
or toll free 1800 198 024 (non-metropolitan)

Communicable Disease Control Branch
Telephone: (08) 9388 4999
Facsimile: (08) 9388 4848
http://www.puhlic.hcalth.wa.gov.au

Department of Health
Government of Western Australia
Produced by Environmental Health Service and Communicable Disease Control Branch with assistance from Marketing and Communications, Public Health Service

Letter to support the WAAC establish new sites for the operation of needle and syringe exchange programs

To Whom It May Concern

The WA AIDS Council (WAAC) is a non government organisation contracted by the Sexual Health and Blood Borne Virus Program of the Communicable Disease Control Branch of the Department of Health to provide the following services:

- assist people living with HIV/AIDS in making informed choices about their health;
- support people living with HIV/AIDS in managing their medical condition/treatment;
- inform people at risk of acquiring HIV of harm reduction practices such as safer sex and safer injecting; and
- provide people who inject drugs with access to sterile injecting equipment on an exchange basis (the provision of new needles and syringes is conditional to the return of used ones or a cost recovery is charged to the client).

The provision of sterile injecting equipment to people who inject drugs is a public health strategy aiming to reduce the transmission of blood borne viruses supported by the following strategies:

- Fourth National HIV/AIDS Strategy 1999-2000 to 2004-2005
- National Hepatitis C Strategy 1999-2000 to 2003-2004
- Hepatitis C Education and Prevention Strategy for Western Australia (HDWA August 1998)
- Interaction, Health Department of WA Drug Strategy 1999-2003
- WA Strategy Against Drug Abuse Action Plan (1999-2001)
- Health Department of WA Purchasing Intentions 1999-2002
- Building Partnerships National Drug Strategic Framework 1998-99 to 2002-03
- Hepatitis C, Informing Australia's National Response (Commonwealth of Australia 2000)
- National Indigenous Australians' Sexual Health Strategy

WAAC operates a needle and syringe exchange program from two vans that service a range of metropolitan locations. From time to time the WAAC team is made aware of locations where the demand for injecting equipment is high and access to services is limited or non-existent. As part of its mandate to prevent the transmission of HIV and other blood borne viruses, the WAAC team attempts to fill these gaps in service provision. The support of the local community and relevant stakeholders is sought to identify a location for the van that meet the needs of service users and is also acceptable to providers and other stakeholders.

The Sexual Health and Blood Borne Virus Program supports the WAAC team in its efforts to establish new sites for the operation of its mobile needle and syringe exchange programs.

WAAC operates an approved needle and syringe exchange program under the Poisons Amendment Act 1994. Under the *Poisons Amendment Act 1994*, Section 5 states that a needle and syringe program means a program to do one or more of the following:

a) to supply persons with sterile hypodermic syringes or sterile hypodermic needles;
b) to facilitate the safe disposal of used hypodermic syringes or used hypodermic needles; or
c) to advise, counsel or disseminate information to persons, principally for the purpose of preventing the spread of blood borne infectious diseases.

Therefore, in providing access to sterile needles and syringes, collecting used needles and syringes and being in the possession of used needles and syringes, WAAC is performing duties within an approved needle and syringe program, and contributing to a vital public health strategy. Your cooperation in assisting WAAC find an appropriate location for its mobile services in your area greatly contributes to the provision of its services.

DR GARY DOWSE
A/DIRECTOR
COMMUNICABLE DISEASE CONTROL BRANCH

Date

Letter providing a formal explanation regarding the need for WASUA outreach workers to collect used needles and syringes and distribute sterile ones as part of their work

To Whom It May Concern

This is to identify ---------- as an outreach worker with the Western Australian Substance Users' Association (WASUA).

WASUA is a non government organization that operates an approved needle and syringe Program under the *Poisons Amendment Act 1994*.

As a public health and safety initiative, WASUA outreach workers collect used needles and syringes and other injecting equipment that may otherwise be found improperly discarded in public places. WASUA outreach workers also distribute sterile injecting equipment as a part of recognized public health strategies aimed at reducing the transmission of blood-borne viruses.

Under the *Poisons Amendment Act 1994*, Section 5 states that a needle and syringe program means a program to do one or more of the following:

a) to supply persons with sterile hypodermic syringes or sterile hypodermic needles;
b) to facilitate the safe disposal of used hypodermic syringes or used hypodermic needles; or
c) to advise, counsel or disseminate information to persons,

principally for the purpose of preventing the spread of blood borne infectious diseases.

Therefore, in collecting and being in possession of used needles and syringes, outreach workers are performing duties within an approved Needle and Syringe Program.

This letter of identification is valid for the period from ---------- to ----------.

DR GARY DOWSE
A/DIRECTOR
COMMUNICABLE DISEASE CONTROL BRANCH

Date

Appendix 5: Statistical overview

Introduction

In this state a number of approaches have been implemented to maximise access by IDUs to sterile injection equipment, which at present include:

- the sale of sterile N&S by pharmacies in both metropolitan and non metropolitan areas;
- outreach and needle exchange services which provide sterile injection equipment in exchange for used equipment for disposal through:
  - a mobile service in the Perth metropolitan area operated by WAAC;
  - a fixed site service in the Northbridge inner city area operated by WASUA;
  - a mobile service in the Bunbury area operated by WASUA;
- a vending machine based at the Kalgoorlie Regional Hospital which operates as an after hours service in the Kalgoorlie-Boulder area; and
- the provision of sterile N&S from a number of non metropolitan hospitals that operate after hours emergency departments.

In WA the system is largely a user pays system, with the majority of N&S sold through pharmacies as pre-packaged kits which include an integrated disposal container. Almost all the remaining N&S are provided on an exchange basis through both fixed and mobile exchange sites operated by non government organisations. Non metropolitan hospital distribution account for only a small proportion of the total number of N&S distributed.

There have been a number of phases in the West Australian needle and syringe program since its commencement in March 1987. In the first phase the emphasis was on improving access by IDUs to sterile injection equipment. There was also a strong emphasis in this phase on distributing educational materials to IDUs to increase knowledge of high risk practices associated with the spread of BBVs.

A key role was also played by the WAAC in preventing transmission of BBVs in IDUs through both fixed and mobile NSEPs. WAAC provided N&S from its office in Northbridge and continues to provide small numbers of N&S from its office which was relocated to West Perth. WAAC also established a mobile NSEP which distributed N&S on an exchange basis throughout the metropolitan area.

A pilot licensed mobile NSEP operated in Bunbury from October 1998 to March 1999 under the auspices of the South West Population Health Unit in conjunction with WASUA. A mobile NSEP operated by WASUA commenced in Bunbury in June 2001.

The second phase involved the assumption of a major role by many of the State's community pharmacies by selling 5 N&S in a Fitpack, with a safe disposal container. Fitpacks included educational messages which are revised from time to time.

To foster the development of improved access to N&S, pharmacists initially received a subsidy so Fitpacks could be sold at a reduced cost. This subsidy was subsequently withdrawn in July 1992. Since then IDUs in this State have paid the full market price for Fitpacks in pharmacies, includes mark-ups for wholesalers and retailers.

Fees are applied on a cost recovery basis if there is no exchange of N&S and other injecting equipment provided through fixed and mobile NSEPs. However, N&S are provided at no cost if exchanged. Rural and regional hospitals, which operate after hours, provide N&S at no charge.

In the third phase other initiatives were implemented to improve the utilisation of sterile injection equipment by specific risk groups. This included the trial by WAAC of a vending machine from 1991 to 1994 at its former premises in Northbridge. A vending machine was established in July 1994 in the

grounds of the Central Drug Unit[74] in East Perth, which operated until June 1999 when it was closed due to recurrent problems because of unreliability and vandalism.

Another initiative was the establishment of a mobile NSEP under the auspices of the Derbarl Yerrigan Medical Service, formerly the Perth Aboriginal Medical Service. This service operated from 1996/1997 to 1998/1999.

A fixed site NSEP that was operated in Northbridge by the WA Substance Users Association (WASUA), commenced operation in November 1997. This program continues to operate and provides a range of other services including peer education about BBVs, testing for BBVs and outreach services to IDUs in the inner city area and adjacent suburbs. This is the State's only licensed fixed site NSEP.

March 2002 survey of West Australian pharmacies

A report, *The sale of injecting equipment by retail pharmacies in Western Australia*, was published in March 2002 and presents an analysis of a survey of pharmacies conducted in the period May to June 2000.[75] A total of 492 pharmacies were surveyed, which produced a total of 315 usable questionnaires, an overall response rate of 64%.

It was found that out of the 315 respondent pharmacies, 289 (92%) sold injecting equipment and 171 (54%) provided methadone treatment to heroin dependent clients. It was noted that of the 171 pharmacists who participated in the community based methadone program, 163 (95%) also supplied injecting equipment.

Overall, the Fitpack[76] was sold by 253 (88%) pharmacies, the Fitpack Plus[77] was sold by 164 (57%) pharmacies and the Sharpkitz[78] was sold by 97 (34%) pharmacies. A breakdown of sales of these three products is presented in Table A-1.

Table A-1:
Number of pharmacies selling injecting equipment by type of product and locality

	Fitpack	Fitpack Plus	Sharpkitz
Metropolitan (n= 204)	184 (90%)	127 (62%)	71 (34%)
Rural (n=84)	69 (82%)	37 (44%)	26 (30%)
Total (n=288)	**253 (88%)**	**164 (57%)**	**97 (34%)**

Fitpacks were the products with greatest market penetration, retailed whether as a sole product or in combination with Fitpacks Plus and Sharpkitz by 88% of the pharmacists who responded to the survey. Fitpacks were sold as a sole product by 53% pharmacists.. However, a greater percentage of rural pharmacies sold the Fitpack as their sole product compared to metropolitan pharmacies (36% vs 17%).

Overall, Fitpacks were the lower price product available to IDUs through pharmacies, with 86% of pharmacies charging less than $6 per Fitpack (Table A-2). This means that just under 9 out of 10 (86%) of the Fitpacks purchased by IDUs cost the end user $1.20 per syringe.[79]

[74] Now known as East Perth Clinic and is operated by Next Step Specialist Drug and Alcohol Services.
[75] Montigny C. *The sale of injecting equipment by retail pharmacies in Western Australia*. Perth, Sexual Health Program, Department of Health, 2002.
[76] Each Fitpack contains 5 one ml syringes.
[77] Each Fitpack Plus contains 3 one ml syringes, 3 sterile water capsules, 6 swabs and 3 mixing spoons.
[78] Each Sharpkitz contains 5 syringes, 5 sterile water capsules, 5 swabs and 5 filters but no spoons.
[79] ie $6 divided by 5 N&S.

Just over one quarter of all Fitpack Plus kits were sold for less than $6 per kit and overall 71% of all Fitpack Plus kits were sold for less than $7 per kit. This means that just under three quarters (71%) of the Fitpack Plus kits purchased by IDUs cost the end user $2.33 per syringe.[80] (However, this calculation does not include the cost of the spoons, water and swabs that are included.)

Just over one fifth of Sharpkitz were sold for less than $6 per kit and 75% of all Sharpkitz were sold for less than $7 per kit. This means that three quarters of the Sharpkitz purchased by IDUs cost the end user $1.40 per syringe.[81] (However, this calculation does not include the cost of the water and swabs that are included.)

Table A-2:
Number of pharmacies selling injecting equipment by type of product and price

	Fitpack		Fitpack Plus		Sharpkitz	
	n	%	n	%	n	%
< $5.00	36	14	6	4	-	-
$5.00 - $5.99	182	72	36	22	19	20
$6.00 - $6.99	35	14	75	45	53	55
$7.00 +	-	-	47	28	25	26
Total	**253**	**100**	**164**	**100**	**97**	**100**

An important finding of the study was that lower prices were generally charged by rural pharmacies compared to metropolitan pharmacies (Table 3).

> *"Although the range of prices charged for Fitpacks in the rural and metropolitan areas is the same, a greater number of pharmacies in rural areas (32%) charged under $5.00 than in metro area (7% pharmacies). Similarly a much larger proportion of rural pharmacists sold Fitpacks Plus for under $6.00 compared to metropolitan pharmacists (51% of 18%). A greater number of metropolitan based pharmacists (36%) charge more than $7.00 for the product (compared to 6% in rural areas)."*[82]

A higher proportion of metropolitan pharmacies compared to rural pharmacies charged between $6 to $7 (57% vs 46%) and more than $7 (30% vs 15%) per Sharpkitz kit (Table A-3). There was a higher proportion of rural pharmacies compared to metropolitan pharmacies that charged less than $6 for Sharpkitz (39% vs 13%).

Table A-3:
Number of pharmacies selling injecting equipment by type of product, price and locality

	Fitpack		Fitpack Plus		Sharpkitz	
	Metro	Rural	Metro	Rural	Metro	Rural
< $5.00	13	23	-	-	-	-
$5.00 - $5.99	148	34	22	19	9	10
$6.00 - $6.99	23	12	59	16	41	12
$7.00 +	-	-	46	2	21	4
Total	**184**	**69**	**127**	**37**	**71**	**26**

[80] ie $7 divided by 3 N&S.
[81] ie $7 divided by 5 N&S.
[82] Montigny C. *The sale of injecting equipment by retail pharmacies in Western Australia*. Perth, Sexual Health Program, Department of Health, 2002, 11.

The survey also sought information from the 68 pharmacists who sold loose N&S. It was found that a greater proportion of rural pharmacies compared to metropolitan pharmacies sold N&S in this form (32% vs 19%). However, it is difficult to draw conclusions from this information as it is quite likely that in rural areas loose N&S are legitimately sold for veterinary purposes. Out of these 68 pharmacists a total of 13 (19%) also provided a disposal container.

An issue that was covered by this survey of retail pharmacies concerns the provision of equipment other than N&S to IDUs. Out of the total of 289 pharmacies that sold injecting equipment to IDUs, 125 (43%) sold sterile water[83], 157 (54%) sold swabs, 32 (12%) sold spoons and 4 (1%) sold tourniquets. Sterile water was most commonly sold in vials of 5 or 10 mls with 91 pharmacies reporting that they charged between 50c to $1.50 per vial.

Information was also gathered on trading hours and availability of N&S. Out of the total of 315 pharmacies surveyed, a total of 47 (15%) sold injecting equipment outside normal business hours, ie before 8.30 am and after 6.00 pm. Three of these outlets were open until 11 pm and one (in Mount Lawley) was open 24 hours per day. (This is the only facility in the Perth metropolitan area where injecting equipment is available on a 24 hour basis, 7 days per week.)

March 2001 vending machine trial in Kalgoorlie

A trial of a Fitpack vending machine at the Kalgoorlie Regional Hospital commenced in March 2001. The impact and outcomes of this trial were evaluated and are contained in the report *Evaluation of the Fitpack vending machine trial at Kalgoorlie Regional Hospital,* published by the Northern Goldfields Health Services in November 2001.[84]

The vending machine was considered to be a successful means of providing Fitpacks in Kalgoorlie on an after hours' basis, ie between 8pm and 8am (these times cover the period when chemists are not open.)

At the time of the trial there was a total of 11 N&S distribution points in the Kalgoorlie-Boulder area, 9 of which were pharmacies, one was the Fitpack vending machine at the regional hospital and one was based at the Public Health Unit.

Prior to the trial Fitpacks were available at no cost from the admissions department at the hospital. However, since March 2001 the Public Health Unit is now the only facility which distributes Fitpacks free of charge in the Kalgoorlie-Boulder area.

Overall, the staff at the hospital regarded the vending machine as successful as it resulted in less aggressive behaviour from clients who previously had become impatient waiting for service. The vending machine reduced the workload on staff. A number of issues concerning the operation of the vending machine were identified and resolved at the early stages of the trial, these included Fitpacks jamming and the machine being unable to accept certain combinations of coins.

In the Kalgoorlie-Boulder area there are 16 disposal points at various locations throughout the town and it was found that there had been little change in the rate of disposal of used N&S over the trial.

An important aspect of this research was that it included a survey of IDUs who had used the vending machine. It was found that most of these persons were satisfied with the service and liked the convenience of after hours access. It was also found that some of these respondents liked the fact that they did not have to interact with the staff to obtain Fitpacks.

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[83] The report was unable to provide conclusive information about prices charged for water as there was limited information about the volume of the phials of water sold.

[84] Moloney A. *Evaluation of the Fitpack vending machine trial at Kalgoorlie Regional Hospital*. Kalgoorlie, Northern Goldfields Health Services, 2001.

The report notes that there was an increase in the number of Fitpacks distributed through the Public Health Unit over the period of the trial, which suggests as the vending machine only provided Fitpacks at cost from the hospital, the issue of price of N&S did have an impact on clientele. The report notes that another possible reason for the increase in the number of Fitpacks obtained from the Public Health Unit was that "… the rate of distribution from the Public Health Unit over the same 12 month period may indicate clients have not reduced in accessing free Fitpacks but have simply changed the location."

BBV notifications

HIV/AIDS

The annual proportion of new HIV/AIDS notifications in this state which involve injecting drug use as the sole risk factor has fluctuated at around 5% since the late 1980s (Table A-4). Since 1985 there have been a relatively small number of notifications each year for which injecting drug use is identified along with male to male sexual activity as a possible risk factor.

Another measure of HIV, based on rates of infection in IDU populations, show Australia's rate of 1.4% is one of the lowest, compared to rates based on IDUs in treatment programs, of 32% in Spain, 16% in Italy and 13% in the Netherlands. In the United States, nationally about two thirds of new HIV infections each year are attributable to drug use.

Table A-4:
Annual notifications of HIV/AIDS by risk group, WA, 1983-2000

	Homo-sexual	Bisexual	Homo/ bisexual IDU	IDU	Hetero-sexual	Vertical	Recipient of blood	Other	Total
1983	2	-	-	-	-	-	-	-	2
1984	8	-	-	-	-	-	7	-	15
1985	74	5	4	1	3	-	8	-	95
1986	80	5	5	6	1	-	5	1	103
1987	55	9	6	4	5	1	1	-	81
1988	41	11	9	2	4	-	3	1	71
1989	58	6	8	8	6	-	2	2	90
1990	61		6	5	10	-	3	2	87
1991	76	5	4	9	8	-	1	2	105
1992	41	1	3	4	10	1	2	2	64
1993	42	1	4	3	12	1	-	3	66
1994	37	5	3	2	18	-	1	4	70
1995	32	3	5	6	24	-	-	3	73
1996	41	4	2	3	18	1	-	4	73
1997	31	6	8	4	19	-	-	3	71
1998	24	3	3	5	23	2	2	6	68
1999	21	2	6	3	16	-	1	1	50
2000	31	4	7	3	22	-	-	1	68
2001	18	6	5	4	25	-	-	1	59

Source: Communicable Diseases Control Branch, Department of Health.
Note: Includes people who have been previously notified in other States/Territories.

Hepatitis C

HCV became a notifiable disease in Western Australia in 1993. From 1993 to 2001 there was a total of 11,638 notifications, of which 7,387 (63.5%) were males and 4,244 (36.5%) were females (Table A-5).

Over the nine years, from 1993 to 2001, the annual rate of notifications increased by 36.9% from 56.3 per 100,000 to 77.1 per 100,000. Overall, the male to female ratio of HCV notifications declined slightly from 1.99 in 1993 to 1.63 in 2001 (Table A-5).

Most HCV notifications were among people in the 20 to 39 year age group. There was also increasing proportion of cases involving those from the 15 to 19 and 40 years and older age groups.

Notifications in older age groups was probably due to increasing numbers of people presenting with symptomatic liver disease. Of all HCV infections, 80% were acquired through injecting drugs, and of all newly acquired HCV infections, 91% were acquired through injecting drugs.[85]

Table A-5:
Number of HCV notifications, WA, 1993-2001

	Males		Females		Persons		M:F rate ratio
	Cases	Rate	Cases	Rate	Cases	Rate	
1993	737	72.0	370	37.8	1,107	56.3	1.99
1994	828	79.3	491	49.2	1,319	66.1	1.69
1995	760	71.7	420	40.7	1,180	57.8	1.81
1996	777	74.9	452	44.7	1,229	59.9	1.72
1997	670	63.8	416	41.1	1,086	52.6	1.61
1998	790	86.2	458	52.3	1,248	70.0	1.65
1999	751	80.1	429	46.4	1,180	63.4	1.73
2000	1,151	120.6	652	69.3	1,803	95.6	1.74
2001	923	95.1	556	58.2	1,486	77.1	1.63

Source: Communicable Diseases Control Branch, Department of Health.

Needle & Syringe Program data

State overview

A total of 24,873,256 sterile N&S were distributed in this State from March 1987 to December 2002 (Table A-6). Overall, about nine out of 10 of all N&S were distributed through pharmacies and NSEPs. The total number of N&S distributed by type of outlet were:

- pharmacies – 15,691,349 (63.1%);
- NSEP mobile – 5,355,437 (21.5%);
- NSEP fixed – 1,236,485 (5.0%);
- hospital – 761,190 (3.1%);
- vending machine – 464,926 (1.9%); and
- other outlet – 357,194 (1.4%).

From 1987 to 1991 the number of N&S increased each year and reached a total of 845,190 in 1991, then dropped by 8% to a total of 779,276 in 1992. From 1992 to 1994 the number of N&S doubled and reached 1,568,048 in 1994.

From 1994 to 1996 there was a decline of 69,178 (4%) in the number of N&S distributed. Since 1996 there was a period of steady growth up to 2001 when a total of 3,338,012 N&S were distributed, an overall increase of 122%. The number of N&S fell from 2001 (3,338,012) to 2002 (3,003,228), a decrease of 10%.

[85] Hepatitis C Virus Projections Working Group. *Estimates and projections of the hepatitis C virus epidemic in Australia 2002*. Darlinghurst, National Centre in HIV Epidemiology and Clinical Research, University of New South Wales, 2001.

Table A-6:
Annual totals of needles and syringes distributed by type of outlet, WA, 1987-2002

	Pharmacy	NSEP mobile	NSEP fixed site	Vending machine	Hospital	Other	Total
1987	23,990	6,000	-	-	-	-	29,990
1988	59,380	12,000	-	-	-	-	71,380
1989	120,260	42,648	-	-	-	-	162,908
1990	340,355	171,031	-	-	-	250	511,636
1991	394,820	444,225	-	2,385	2,560	1,200	845,190
1992	420,150	349,806	-	1,920	7,400	-	779,276
1993	817,025	372,234	-	50,491	3,570	1,280	1,244,600
1994	1,132,440	322,983	-	63,535	39,985	9,105	1,568,048
1995	1,057,575	369,671	-	61,030	35,940	5,770	1,529,986
1996	955,845	447,750	-	45,960	40,275	9,040	1,498,870
1997	1,239,355	477,507	1,801	83,340	80,180	11,805	1,893,988
1998	1,568,321	462,317	164,565	70,960	82,460	21,565	2,370,188
1999	1,849,047	478,956	320,820	37,590	96,465	34,401	2,817,279
2000	2,135,691	351,110	519,489	-	146,145	56,242	3,208,677
2001	2,100,731	410,776	608,424	24,035	119,235	74,811	3,338,012
2002	1,476,364	636,423	628,061	23,680	106,975	131,725	3,003,228
Total	**15,691,349**	**5,355,437**	**1,236,485**	**464,926**	**761,190**	**357,194**	**24,873,256**

Source: Communicable Diseases Control Branch, Department of Health.

Types of products

Needles and syringes in WA are provided through pharmacies and registered NSPs in a number of different configurations of needles and ancillary materials to reduce the risk of injecting drug use (Table A-7).

All of these products are sold with an associated container which is used as a disposal unit. In the case of the Sterafit single (1 ml) syringe, this is provided with a rigid plastic sleeve which serves the purpose of also being a disposal container.

If loose N&S are provided by a licensed provider, these must be provided in a disposal container in accordance with the Department of Health's *Guidelines for the establishment and operation of a needle and syringe program*. (See Appendix 4.)

Table A-7:
Configurations of types of product for provision of sterile injection equipment

	Fitpack	**Fitpack Plus**	**Sharpkitz**	**Sharpkitz**	**Sterafit**	**Sterafit**	**Sterafit**
Number of N&S	5	3	5	3	5	3	1
Needle gauge size	29g	29g	27g	29g	29g	29g	29g
Sterile water capsules (2 ml)	0	3	5	3	0	3	0
Alcohol swabs	0	6	5	3	0	3	0
Spoons	0	3	0	0	0	3	0
Filters	No	No	Yes	Yes	No	Yes	No
Container as disposal unit	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Wholesale cost per unit	$2.26	$3.30	$3.60	$3.00	$2.30	$3.95	$0.78

Source: Communicable Diseases Control Branch, Department of Health.