



Lambda Legal
making the case for equality

December 9, 2009

BY FACSIMILE TRANSMISSION

The Honorable Tom Harkin
Chairman
Subcommittee on Labor, Health & Human Services,
Education & Related Agencies Appropriations
Room 156 DSOB
United States Senate
Washington, DC 20510
Fax: 202-224-1360

Re: Lambda Legal Statement in Support of Ending Federal Funding Ban for
Syringe Exchange Programs – FY 2010 Labor/HHS/Education/Related
Agencies Appropriations Act

Dear Senator Harkin:

Lambda Legal Defense and Education Fund, Inc. (Lambda Legal) urges you to support the omission of the ban on the use of federal funds for syringe exchange programs from the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 2010. We urge you to work also to remove the amendment prohibiting use of federal funds for syringe distribution within 1,000 feet of entities such as schools, parks, and day care centers or of events sponsored by such entities.

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work. Lambda Legal has represented the interests of people living with HIV since the beginning of the epidemic, and our work has ensured access to treatment, promoted effective prevention policies, and helped combat discrimination, bias and stigma. With headquarters in New York City and regional offices in Atlanta, Chicago, Dallas, and Los Angeles, we have represented and advocated for individuals living with HIV throughout this country.

The need for effective steps to reduce the spread of HIV in the United States is clear. The Centers for Disease Control and Prevention (CDC) estimates that slightly over one million people in the United States were living with HIV at the end of 2006 and that approximately 56,000 of those had been newly infected during 2006.¹ As of the end of 2003,

¹ See CDC, *HIV/AIDS Surveillance Report: Cases of HIV Infection and AIDS in the United States and Dependent Areas, 2007* 7 (2009), available at <http://www.cdc.gov/hiv/topics/surveillance/resources/reports/2007report/pdf/2007SurveillanceReport.pdf>.

an estimated twenty-two percent of the people living with HIV had become infected with HIV through injection drug use.² In order to prevent further transmission of HIV, it is vital that the federal government support programs that are effective in reducing HIV infection rates.

As you know, it is very well established that syringe exchange programs (also called needle exchange programs) *are* effective in reducing HIV infection. The National Institute on Drug Abuse recommends that people who continue to inject drugs always use a new, sterile syringe and obtain sterile syringes from a reliable source, such as a syringe exchange program.³ The effectiveness of syringe exchange programs has been documented in reports including the following:

- A study of the effect of syringe exchange programs on HIV transmission in New York City found that, while the number of syringes exchanged increased from 250,000 to three million during a twelve-year period, the number of new cases of HIV infections decreased and the percentage of injection drug users who were infected with HIV fell from 50 to 15 percent, approximately.⁴
- The World Health Organization (WHO) concluded – based on a review of over 200 studies of syringe exchange programs which WHO had commissioned – that “[t]here is compelling evidence that increasing the availability and utilization of sterile injecting equipment for both out-of-treatment and in-treatment injecting drug users contributes substantially to reductions in the rate of HIV transmission.”⁵
- Then U.S. Surgeon General David Satcher reported in 2000 that there is conclusive scientific evidence that syringe exchange programs, as part of a

² See CDC, *HIV/AIDS Statistics and Surveillance: HIV/AIDS in the United States*, http://www.cdc.gov/hiv/topics/surveillance/united_states.htm (last visited Dec. 4, 2009).

³ Nat'l Inst. on Drug Abuse, *Principles of HIV Prevention in Drug-using Populations* 13 (2002), available at <http://www.drugabuse.gov/PDF/POHP.pdf>.

⁴ Don C. Des Jarlais et al., *HIV Incidence Among Injection Drug Users in New York City, 1990 to 2002: Use of Serologic Test Algorithm to Assess Expansion of HIV Prevention Services*, 95(8) *Am. J. Pub. Health* 1439, 1440-1442 (2005).

⁵ World Health Org., *Policy Brief: Provision of Sterile Injecting Equipment to Reduce HIV Transmission* 2 (2004), available at http://www.wpro.who.int/NR/rdonlyres/CA0CFF9D-464D-48B9-9E2C-A29D4C2F063D/0/HIV_prevention_thru_Sterile_Injecting_Equipment_E.pdf; see also, e.g., Inst. of Med., *Preventing HIV Infection Among Injecting Drug Users in High-risk Countries: Report Brief 2* (2006), available at http://www.iom.edu/~media/Files/Report%20Files/2006/Preventing-HIV-Infection-among-Injecting-Drug-Users-in-High-Risk-Countries-An-Assessment-of-the-Evidence/11731_brief.ashx (reporting on evaluation of strategies for preventing HIV transmission through contaminated injecting equipment commissioned by the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the Bill & Melinda Gates Foundation).

comprehensive HIV prevention strategy, are effective in reducing transmission of HIV.⁶

Moreover, syringe exchange programs have *not* been found to increase rates of drug use among existing users or to encourage the initiation of drug use. As Surgeon General Satcher reported, based on a review – by senior scientists and public health experts within the U.S. Department of Health and Human Services – of published peer-reviewed research on syringe exchange programs:

The data indicate that the presence of a syringe exchange program does not increase the use of illegal drugs among participants in syringe exchange programs, and in many cases, a decrease in injection frequency has been observed among those attending these programs.⁷

Similarly, WHO concluded that “[t]here is no convincing evidence of major unintended negative consequences of programmes providing sterile injecting equipment to injecting drug users, such as initiation of injecting among people who have not injected previously, or an increase in the duration or frequency of illicit drug use or drug injection.”⁸

However, the benefits achieved by syringe exchange programs will not be realized with the help of federal funds if funding is prohibited for any needle or syringe distributions occurring within “1,000 feet of a public or private day care center, elementary school, vocational school, secondary school, college, junior college, or university, or any public swimming pool, park, playground, video arcade, or youth center, or an event sponsored by any such entity.” Most of the currently operating exchanges would be ineligible for federal funds under such a provision.⁹ For example, the organization operating a needle exchange program in Roseburg, Oregon is located 997 feet from a high school and all four exchanges in Maine would be ineligible for federal funding under the location restriction.¹⁰ In cities such as New York and Chicago, it would be very difficult to find any location more than 1,000 feet away from all of the many educational entities, parks, playgrounds, and day care centers where an effective exchange program could operate. Moreover, the difficulty of knowing when there might be “an event sponsored by any such entity” would make it virtually impossible for any syringe exchange program to operate using federal resources.

⁶ David Satcher, U.S. Dep’t of Health & Human Services, *Evidence-based Findings for the Efficacy of Syringe Exchange Programs: An Analysis of the Scientific Research Completed Since April 1998* (2000), available at <http://www.dogwoodcenter.org/references/Satcher00.html>.

⁷ Satcher, *supra* note 6.

⁸ WHO, *supra* note 5, at 2; *see also, e.g.*, Inst. of Med., *supra* note 5, at 3.

⁹ *See, e.g.*, Katie Zezima, *Bill Would Limit Needle Exchanges*, N.Y. Times, Nov. 9, 2009, at A9, available at <http://www.nytimes.com/2009/11/09/health/policy/09needle.html?scp=1&sq=%22needle%20exchange%22&st=cse>.

¹⁰ Zezima, *supra* note 10.

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Including the 1,000 foot restriction poses a very real risk that lifting the federal funding ban would be meaningless.

Passing the appropriations bill with the federal funding ban removed and without the 1,000 foot restriction on the use of such funding will allow states and localities to implement and continue syringe exchange programs with vitally needed funding. The success of local syringe exchange programs demonstrates the appropriateness of providing federal financial support while allowing determinations on the locations for operations to be made at the local level.

Lambda Legal strongly urges you to work for passage of FY2010 appropriations legislation that does not contain a ban on the use of federal funds for syringe exchange programs and to work to ensure that no language is included that restricts federal funding based on proximity to schools, parks or other entities.

Sincerely,

Bebe J. Anderson
HIV Project Director