

**TESTIMONY IN SUPPORT OF HB 0720:
Criminal Law - Drug Paraphernalia for Administration - Decriminalization**

To: Hon. Luke Clippinger, Chair, and members of the House Judiciary Committee
From: Danielle German, PhD, MPH, Associate Professor
Date: February 1, 2020

Dear Chairman Clippinger and Committee members,

I am an Associate Professor at the Johns Hopkins Bloomberg School of Public Health who has been a researcher on drug use and HIV in Baltimore for close to 20 years. The views that I express are mine and not those of Johns Hopkins University.

I write to express my extensive support for House Bill 0720. Decriminalizing drug paraphernalia is a critical component of a comprehensive, evidence-based strategy to prevent disease transmission, reduce overdose fatalities, and facilitate access to services among people who use drugs. Over the past year, our team conducted an ethnographic study¹ to understand drug use, access to services, and opportunities for service expansion in Maryland from the perspective of 248 people who use drugs (PWUD) and 219 stakeholders across the state. In regards to HB0720, a few study findings stand out:

Access to sterile drug equipment in Maryland is not adequate to prevent health risks among people who inject drugs. Without it, people will often reuse the equipment they have to the point of skin damage and use equipment that has already been used by others – thus dramatically increasing the possibility of disease transmission. Criminalization increases this risk because people are hesitant to hold or store equipment and thus less likely to have materials on hand when needed. Not having equipment does not reduce use, it just makes it less safe.

“I know a lot of people that have caught a lot of stuff and got abscess and had like skin grafts and stuff like that because of using dirty needles. I think personally, regardless, someone is going to do it anyway, so if you could provide, at least a clean way to do it, I think it would be better, 'cause it's not going to just stop happening.” — PWUD (Woman, 20s)

“[It's] horrible [here]. You can't get clean needles anywhere. Anywhere! Nowhere, you can't go into any pharmacy – nowhere will sell you needles here. ... Don't y'all realize that everybody has Hep C because of this? And they're like 'well, that's enabling.' And I'm like 'do you think I'm not gonna shoot up just because you're not selling me needles?’ — PWUD (Man, 20s)

Everything's getting spread around here because people can't get what they want to get, and they can't get clean rigs, or people don't have a ride to [a pharmacy] to get the clean needles. So they just find one that they can find, and then you get arrested with them or whatever happens, and then everything's screwed that you just worked for ..., because you've got to go to jail and all that crap.” --PWUD (Woman, 20s)

Expansion of syringe service programs across the state has been a huge step forward, but these programs are not yet available in all jurisdictions. People in areas with syringe service programs are eligible for a

¹ Statewide Ethnographic Assessment of Drug Use and Services. Western, Central, Eastern Shore Region Principal Investigator: Danielle German, PhD, MPH, Johns Hopkins University; Southern Maryland and Capital Region Principal Investigator: Andrea Lopez, PhD, University of Maryland.

membership card that protects against drug paraphernalia charges. Yet even this protection is often not sufficient, and people report limiting the number of syringes acquired due to fear of police search and drug paraphernalia charges.

"I try not to carry nothing [syringes] on me." — PWUD (White man, 40s)

*"I've had a couple cops, I've told them I've had the card. I've showed them the card. ... They're like you're still carrying something, it's illegal. I'm going to charge you, and it's bulls*** that they can still do that. We shouldn't have to be able to come in here, get our supplies and then have to worry about getting pulled over or getting stopped or whatever and having the cops find them and still charging you when they can't. Because then we're going to take the time, and then they're f***ing up our time, our lives because we got to go to court. And when we go to court and show them that we got the card, they're going to drop it." — PWUD (Man, 20s)*

"So now, you know, in the beginning when we started our SSP program, we had encounters with law enforcement that they just weren't educated on an SSP program, that it was even here and in operation. And we were feeling a lot of resistance. They were arresting...participants, charging them even though the cards say that they should not be charged. They were confiscating their cards. They were throwing their supplies away and still charging them." — Stakeholder

Those who live in areas without SSPs not only face more limited access to equipment and the accompanying health risks, they are also uniquely at risk for drug paraphernalia charges compared to their counterparts in other areas of the state. People who were familiar with syringe services programs elsewhere expressed frustration at the discrepancies across the state.

"It's like in Baltimore City you got needle exchange program, but down here .. if you get pulled over by the police and you got a needle, you're getting possession of drug paraphernalia charge. But in Baltimore City they're giving you needles, so how does that vary in the same state? A state law be a state law. It shouldn't be different from county to county." — PWUD (White man, 50s)

"I'm from Baltimore, so yeah, I done went through the needle exchange program. And it's a shame that it isn't up here because you know you get more time for the needle than you do for the simple possession of the narcotics. You get four years for the needle, but you only get a year for the simple possession. That's mad." — PWUD (Man, 50s)

"I don't have an exchange card because I'm not in Baltimore. Like Baltimore is the only place that exchange card works. Like over here ..., it don't matter if you've got an exchange card or not, get caught with a needle and you're facing four years, one needle." — PWUD (White woman, 30s)

We have also seen that paraphernalia laws can hinder effective overdose response. Even with the Good Samaritan law in place, people remain hesitant to call emergency services for fear of drug charges. Drug users and stakeholders reported examples of emergency overdose response that resulted in arrest due to presence of drug paraphernalia. These experiences weigh heavily on future considerations about engaging service providers during overdose response and compromise trust in public services.

"It's in specific communities unfortunately where law enforcement has still made arrests despite the Good Samaritan law. It has been put into newspaper, the arrest—so not only was the person arrested and shouldn't have been but now they're publicized that they overdosed, and they had drug paraphernalia." — Stakeholder

I support HB720 because it simplifies Maryland's paraphernalia laws and clarifies that possession of supplies that reduce health risks and prevent infectious disease transmission is not a crime. It will remove a known barrier to service engagement and staying safe for people who use drugs in Maryland. As we continue to face an urgent overdose crisis and the very real possibility of infectious disease outbreaks among people with limited access to sterile supplies, this is one public health strategy that should not be overlooked.

Sincerely,

A handwritten signature in blue ink, appearing to read "Danielle German", is written over a light yellow rectangular background.

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