Introduction

Disposal of contaminated medical waste has become an important issue in public health policy. Waste generated in the health care system is highly regulated at the state and federal level. Special handling, documentation and chain of custody procedures are required by health facilities to meet these regulations, which impact on their ability to retain their licenses for operation. With the advent of AIDS, hospitals and other health facilities instituted significant safeguards to protect health care workers, housekeeping staff, sanitation workers and waste haulers from needle sticks due to the risk of contracting HIV/AIDS, hepatitis B & C and other blood borne infections. Hospitals implemented strict standard precautions for handling blood-contaminated needles that included destruction and disposal methods and systems.

Over 3 billion syringes are used each year outside health care facilities and deposited in the general waste stream in the United States. While they pose little risk to the general public, they are a source of injury and anxiety to workers in trash disposal, recycling and related activities. Most of these syringes come from people administering medications for conditions such as diabetes, but some are attributable to injection drug users (IDUs). IDUs have been estimated to perform as many as one billion injections of illicit drugs each year in the United States. IDUs are thus an important part of the syringe disposal picture, and may become more important as efforts proceed to promote the health goal of a new sterile syringe for every drug injection.

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1 Hospitals must meet laws, regulations, and standards from multiple sources including: US EPA, OSHA, State Environmental Protection, HCFA, State Departments of Health, JCAHO and others.
4 U.S. Public Health Service & Infectious Diseases Society of America, Guidelines for the Prevention of Opportunistic Infections in Persons Infected with Human Immunodeficiency Virus,
Criminal Law and Syringe Disposal in Connecticut

Unfortunately, IDUs have tended to be simultaneously given too much blame for the problem of improperly discarded syringes and neglected by community sharps disposal programs. There are only a few systems, most notably syringe exchange programs, that provide for safe disposal of syringes from IDUs, and fear of arrest may be a substantial barrier to IDU participation in safe disposal systems.

A recent qualitative study of IDU and community attitudes toward syringe disposal elicited these comments from IDUs:

“They’d [the police] catch you with a dirty syringe and you’d go to jail for possession, so people ain’t hardly gonna keep ‘em laying around, keep ‘em in a container or whatever.”

“They know they can stop you, and if you come and dispose of them, they got a case there.”

“Chance of going to jail, I’m not going to risk that. That’s me. I got a probation, so I can’t take the chance at all. I’m so scared now. Then I’d have to go back and do all that time.”

This Memorandum assesses how Connecticut’s criminal laws relating to drug possession and syringe access could influence the syringe disposal behavior of IDUs. It is part of a larger analysis of community syringe disposal law being conducted by the Academy for Educational Development.

We conclude that although possession of syringes is no longer a crime in Connecticut, the possibility of being arrested or convicted for the possession of trace amounts of drug left in used syringes could deter IDUs from optimally participating in effective community syringe disposal programs. The decision in Doe v. Bridgeport Police Department may be expected to reduce and perhaps even eliminate prosecutions for trace amount possession, and also to reduce police stops. Strictly speaking, however, possession of trace amounts remains a crime under state law as interpreted by state courts.

The conclusions are based purely on the law as written. Ethnographic research among IDUs has repeatedly found that fear of arrest is a factor in the syringe possession behavior of IDUs. However, an analysis of law “on the books” cannot fully address how law is actually

enforced by police and prosecutors, or the perceptions of what the law is among IDUs. Our conclusions about a possible effect are therefore based on the assumption that law is enforced in a way that is consistent with its terms, and that IDUs are aware of the law.

I. The Regulatory Scheme

This Memorandum addresses four domains of law that could influence the syringe disposal behavior of IDUs: drug possession laws, syringe prescription or other syringe-specific laws or regulations, drug paraphernalia laws, and laws and regulations governing syringe exchange programs.

A. Drug Paraphernalia Law

The Controlled Substances Act includes drug paraphernalia provisions based on the Justice Department’s model act, reprinted in Annotation, Validity, under Federal Constitution, of So-called "Head Shop" Ordinances or Statutes, Prohibiting Manufacture and Sale of Drug Use Related Paraphernalia, 69 A.L.R. Fed. 15 (1984 & Supp. 1998). The statute provides a tri-partite definition of "drug paraphernalia." First, it defines drug paraphernalia generally as "equipment, products and materials of any kind which are used, intended for use or designed for . . . introducing into the human body, any controlled substance contrary to the provisions of this chapter." Conn. Gen. Stat. Ann. §21a-240(20). Second, it lists ten types of items as examples of drug paraphernalia. Finally, it offers thirteen factors to be considered when determining whether an item is drug paraphernalia.

The 2006 statutory amendments redefined drug paraphernalia to exclude equipment and products intended for use in injecting controlled substances. Conn. Gen. Stat. Ann. §§21a-240(20). The outdated statutory reference to thirty syringes was also deleted, and these amendments indicate that hypodermic syringes and needles no longer qualify as drug paraphernalia regardless of the quantity possessed.

B. Syringe Prescription Law

The Controlled Substances Act includes a specific provision restricting the sale of hypodermic needles and syringes:

(b) ... no . . . licensed pharmacist shall sell and no person shall buy a hypodermic needle or syringe except upon a prescription of a prescribing practitioner, as defined in subdivision (22) of section 20-571, in a quantity greater than ten. . . . Such a prescription shall be valid for one year from the date thereof and purchases and sales may be made

thereunder during such period, provided the seller shall confirm the continued need for such sales with such practitioner at least every six months if sales continue to be made thereunder. Hypodermic needles and syringes in a quantity of ten or less without a prescription may be provided or sold at retail only by the following: (1) By a pharmacy licensed in accordance with section 20-594 and in such pharmacy only by a licensed pharmacist or under his direct supervision; (2) by a needle exchange program established pursuant to section 19a-124; and (3) by a health care facility or a licensed health care practitioner for use by their own patients.

(d) Any person who violates any provision of this section shall be fined not more than five hundred dollars or imprisoned not more than one year or both.


C. Syringe Exchange Legislation

Connecticut’s statute, C.G.S.A. § 19a-124, explicitly authorizes needle exchange programs. The statute provides for the free and anonymous exchange of needles and syringes, education on transmission and prevention of HIV, and information on drug treatment services. The exchange programs offer a one-to-one exchange and there is a cap of 30 needles per exchange.

(a) The Department of Public Health shall establish needle and syringe exchange programs in the health departments of the three cities having the highest total number of cases of acquired immunodeficiency syndrome among intravenous drug users as of December 31, 1991. The department shall establish, with the assistance of the health departments of the cities selected for the programs, protocols in accordance with the provisions of subsection (b) of this section...(b) The programs shall: (1) Be incorporated into existing acquired immunodeficiency syndrome prevention and outreach projects in the selected cities; (2) provide for free and anonymous exchanges of needles and syringes and (A) provide that program participants receive an equal number of needles and syringes for those returned, up to a cap of thirty needles and syringes per exchange, (B) provide that first-time applicants to the program receive an initial packet of thirty needles and syringes, educational material and a list of drug counseling services; and (C) assure, through program-developed and commissioner-approved protocols, that a person receive only one such initial packet over the life of the program; (3) offer education on the transmission of the human immunodeficiency virus and prevention measures and assist program participants in obtaining drug treatment services...(c) The commissioner shall require programs to include an evaluation component during the first year of operation to monitor (1) return rates of needles and syringes distributed, (2) behavioral change of program participants, such as needle sharing and the use of condoms, (3) program participation rates and the number of participants who are motivated to enter treatment as a result of the program and the status of their treatment, and (4) the incidence of intravenous drug use to see if there is a change as a result of the program.
Criminal Law and Syringe Disposal in Connecticut

The department shall establish evaluation and monitoring requirements to be applied to subsequent years of the programs. (d) The health department of each city selected for a needle and syringe exchange program or the person conducting the program shall submit a report evaluating the effectiveness of the program to the Department of Public Health. The department shall compile all information received on the programs and report to the joint standing committees of the General Assembly having cognizance of matters relating to public health and appropriations and the budgets of state agencies.


D. Drug Possession Laws


(a) Any person who possesses or has under his control any quantity of any narcotic substance, except as authorized in this chapter, for a first offense, may be imprisoned not more than seven years or be fined not more than fifty thousand dollars, or be both fined and imprisoned; and for a second offense, may be imprisoned not more than fifteen years or be fined not more than one hundred thousand dollars, or be both fined and imprisoned; and for any subsequent offense, may be imprisoned not more than twenty-five years or be fined not more than two hundred fifty thousand dollars, or be both fined and imprisoned.

In a decision quoted below, the state Supreme Court interpreted this provision to prohibit the possession of any identifiable amount of a controlled substance in accordance with strict statutory construction and rejected the proffered view that a usable amount should become the legal standard:

The defendant claims that § 21a-279(a) does not permit convictions for possession of illegal narcotics when the amount at issue is a quantity unusable for personal consumption. Our interpretation of § 21a-279(a) must begin with the proposition that penal statutes are to be strictly construed. State v. Somerville, 214 Conn. 378, 385, 572 A.2d 944 (1990)... This principle underlies the general rule of statutory interpretation that "the intent of the legislature is to be found not in what it meant to say, but in what it did say." State v. Roque, 190 Conn. 143, 150, 460 A.2d 26 (1983)... In ascertaining that intent, "[i]f the words are clear and unambiguous, 'it is assumed that [they] express the intention of the legislature' ... and we need inquire no further." State v. Lubus, 216 Conn. 402, 407, 581 A.2d 1045 (1990)... Further, interpretation of a penal statute "must accord with common sense and commonly approved usage of the language." State v. Edwards, 201 Conn. 125, 132, 513 A.2d 669 (1986)... The "words used in a criminal statute should not be accorded the narrowest technical meaning in disregard of their context and in frustration of the obvious legislative intent." State v. Hufford, 205 Conn. 386, 392, 533 A.2d 866 (1987). "A statute is not to be interpreted to thwart its purpose."

Section § 21a-279(a) makes criminal the possession of "any quantity of any narcotic substance." (Emphasis added.) See State v. Connelly, 194 Conn. 589, 593, 483 A.2d 1085 (1984). Our Supreme Court has repeatedly stated that "[t]he word 'any' has a diversity of meanings and may be used to indicate 'all' or 'every' as well as 'some' or 'one' and its meaning in a given statute depends upon the context and subject matter of the statute." King v. Board of Education, 203 Conn. 324, 334, 524 A.2d 1131 (1987); see also New York, N.H. & H.R. Co. v. Stevens, 81 Conn. 16, 21, 69 A. 1052 (1908) ("any" is too comprehensive a word to receive a narrow construction). In State v. Connelly, supra, our Supreme Court rejected the defendant's claim that the presence of .18 ounces of cocaine could not justify the forfeiture to the state of a car used in furtherance of criminal activity. The court stated that the prohibition in § 21a-279(a) against "any quantity of any narcotic substance" is "precise language emphasizing that possession of 'any' amount ... constitutes a crime...." Id., 194 Conn. at 593, 483 A.2d 1085.

We note that... it is the majority view that any amount of a proscribed substance is sufficient to sustain a conviction for possession.


Continuing enforcement of this possession provision against IDUs based on the residue of drug remaining in a used needle led to litigation. In Doe v. Bridgeport Police Dept., a federal judge prohibited the Bridgeport Police Department stopping, searching, arresting, or threatening any person in possession of less than thirty-one sterile or previously-used needles. The court held that the deregulation law not only eliminated criminal penalties for possessing fewer than 31 needles, but also necessarily decriminalized possession of any trace amounts of drug in the used syringe:

Criminalizing the possession of trace amounts of narcotics within decriminalized, previously-used hypodermic syringes and needles would lead to absurd results which would thwart the public health purpose behind the 1992 legislation: discouraging needles and syringe exchange program participants from transporting previously-used injection equipment to the Exchange, and encouraging all drug injecting drug users to hastily and likely improperly abandon now-easily-obtainable injection equipment after one use in order to avoid arrest.

The decision is binding only upon the defendant, but should make residue prosecutions less common throughout the state.

II. Analysis

8 Id.
Criminal Law and Syringe Disposal in Connecticut

Although the sale of syringes without a prescription in a number greater than ten remains illegal in Connecticut, the 2006 amendment to the 1999 legislation was intended to remove criminal penalties for the possession of syringes by an adult. Syringe prescription and paraphernalia law in Connecticut therefore need have no impact on the willingness of an IDU to retain used syringes for proper disposal.

Drug possession law makes it a crime to possess any amount of controlled drug that may be identified through laboratory testing. This would encompass the residue of drug in the barrel of a used syringe. The existence of this crime also would probably provide an officer with the required “probable cause” to stop and frisk a suspected IDU, and to seize and test a used syringe. The decision in Doe v. Bridgeport Police Department, 2001 WL 50350, 198 F.R.D. (D. Conn., 2001) may be expected to reduce and perhaps even eliminate formal prosecutions under these circumstances, and also to reduce police stops. Strictly speaking, however, possession of trace amounts remains a crime under state law as interpreted by state courts. A fully informed, risk-averse IDU could be deterred by the possession law from retaining syringes for proper disposal.

III. How Might Connecticut Law Be Changed or Clarified to Remove Disincentives for Proper Syringe Disposal by IDUs?

Connecticut has substantially deregulated the sale and possession of injection equipment. To make the new syringe access policy fully effective, however, the legislature or law enforcement officials may wish to take steps to ensure that IDUs are not subject to arrest or prosecution for possession of the residue of drugs left in the barrel of used syringe. This could be accomplished in a number of ways, including

- amending the controlled drug act to require a minimum specified quantity to ground a possession conviction
- amending the controlled drug act to exclude trace amounts found in syringes
- developing standard operating procedures within law enforcement that avoid stops, arrests or prosecutions based on drug residues in syringes
- educating IDUs and law enforcement to appreciate the importance of appropriate syringe disposal and the legality of possessing syringes in the course of disposal activities.

Research among IDUs and law enforcement personnel on their knowledge of and attitudes towards the syringe possession rules will be helpful in implementing effective disposal policies.