Submission to the House of Representatives Standing Committee on Health, Aged Care and Sport inquiry into the health impacts of alcohol and other drug use in Australia

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Submitted by: Hepatitis Australia Inc.

Hepatitis Australia, incorporated in 1997, is the peak community organisation to progress national action on issues of importance to people affected by hepatitis B and hepatitis C. Our mission is to provide leadership and advocacy on viral hepatitis and support partnerships for action to ensure the needs of Australians affected by, or at risk of viral hepatitis, are met. Our members consist of the eight state and territory community hepatitis organisations. Our vision is to see an end to viral hepatitis in Australia. For more information please visit our website https://www.hepatitisaustralia.com/ .

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Introduction

Hepatitis Australia thanks the House of Representatives Standing Committee on Health, Aged Care and Sport for the opportunity to make a submission to the inquiry into the health impacts of alcohol and other drug use in Australia.

As the peak body representing the interests of people affected by viral hepatitis, Hepatitis Australia is acutely aware of the interrelated complexities of drug-related harms including blood borne viruses, priority populations, priority settings, health and other government policy, economic impacts, published evidence and best practice, and unmet need. Our national network of members provide community led, place-based services to prevent, diagnose, test and treat viral hepatitis, including hepatitis C. These services are provided in a range of settings, including in custodial settings.

In directly addressing the Terms of Reference, we focus our submission particularly on hepatitis C and other injecting-related injury and disease.

Hepatitis C is a preventable but potentially life-threatening virus transmitted through blood-to-blood contact. Injecting-related injuries and diseases are non-viral infections, such as bacterial infections and abscesses, and vascular damage, which can result in significant morbidity and mortality if untreated. In Australia, hepatitis C is most commonly transmitted through the use of unsterile injecting equipment. There are heightened risks for transmission in custodial settings due to higher rates of chronic infection, increased prevalence of risk factors, higher rates of exposure and transmission, reinfection of hepatitis C, and an ongoing failure to offer an equivalence of care to people in prison (including comprehensive access to evidence-based harm reduction including sterile injecting equipment as means of prevention).

Health impacts of drug use in prisons and other places of held detention are exacerbated by Australia's failure to meet obligations under international human rights law. We can and should do more.

Australia is one of 194 World Health Assembly Member States who voted unanimously to eliminate hepatitis C as a public health concern by 2030. Despite great progress in the first few years of direct-acting antiviral therapy, Australia is not on track for elimination of hepatitis C by 2030. Elimination can be achieved, however, with greater prioritisation of hepatitis C and policy settings addressing gaps and unmet need that undermine progress.

Main recommendation from Hepatitis Australia

Hepatitis Australia recommends the House of Representatives Standing Committee on Health, Aged Care and Sport recommend the implementation of needle and syringe programs in prisons and other places of held detention to better prevent and reduce drug-related health, social and economic harms.

Rationale

The following points and Attachment A support our main recommendation.

- Left untreated, hepatitis C causes liver disease including fibrosis, cirrhosis, liver failure and liver cancer – the fastest growing cause of cancer death in Australia.

- The National Hepatitis C Strategy is framed around principles including health equity, prevention, harm reduction, a commitment to evidence-informed policy and programs, and importantly, they are grounded in human rights. These principles underpin Australia's national response to the hepatitis C epidemic.

- Hepatitis C disproportionately affects people in corrections settings and other places of held detention, and Aboriginal and Torres Strait Islander peoples.

- Australian prisons house a large (41,929 on 30 June 2023) and growing (increasing by 3% in the previous 12 months) population.[1]

- One in three people in prison are Aboriginal and/or Torres Strait Islanders.[2]

- People in prisons and other places of held detention have a right to protection from infectious diseases and the right to the same standards of healthcare available in the community.[3]

- Needle and syringe programs in prisons is current national policy endorsed by all Australian Health Ministers. However there has been no progress in this regard under the National Hepatitis C Strategy 2018-2022, or previously.

- The lack of needle and syringe programs to prevent hepatitis C and other injecting-related injury and disease for people who inject drugs in prisons and other places of held detention represents a failure to provide health care equivalent to that available in the community. This is inarguably a significant human rights violation.

    - Principle 9 of *The United Nations Basic Principles for the Treatment of Prisoners* (also known as 'The Mandela Rules')[4] states that "Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation." This means that people detained in corrections settings and other places of held detention are entitled to needle and syringe programs, as needle and syringe programs are available in all Australian states and territories for people who are not detained.

[1] https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release
[2] https://www.aihw.gov.au/reports/australias-health/health-of-people-in-prison
[3] https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf
[4] https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

- In jurisdictions with a human rights Charter (ACT, QLD, VIC), the absence of a prison needle and syringe programs may be a breach of the right to life and a breach of the prohibition on torture and cruel, inhuman or degrading treatment. The recent Victorian *Inquest into the Death of Veronica Nelson*[5] arguably lends support to this interpretation of the Charter through its findings on drug-related stigma, equality of care in prisons and the meaning of cruel, inhuman and degrading treatment.

- The recent *Cultural Review of the Adult Custodial Corrections System*[6] in Victoria recommended recognising the right to equivalent standard of healthcare in the legislative framework.

- The *ACT Detainee Health and Wellbeing Strategy 2023-28*[7] commits to equivalence of care ensuring "that prisoners have the same right of access, equity and quality of health care as the general population (based on needs and in line with current national or evidence-based guidelines) and that this is considered to be at least consistent in range and quality with that available to the wider community in order to achieve equitable health outcomes".

- As a result of this human rights failure, prisons help sustain the hepatitis C epidemic in Australia and are now the primary sites of transmission nationally. Failures to prevent hepatitis C and other injecting-related injuries and diseases in prison directly impact community health because many people each year cycle in and out between prisons and community. We cannot prevent hepatitis C infection and reinfection, meet our human rights obligations, ensure equity of access to health and health services for people in prison and other places of held detention, and achieve our elimination goals when people who inject drugs in prisons and other places of held detention are denied access to the means of preventing infection and are subject to cycles of reinfection.

- In addition, the absence of needle and syringe programs is associated with a novel outbreak of Burkholderia cenocepacia, a serious injecting-related infection in Australian prisons. Cases have included bloodstream infection and deep infections (including vertebral osteomyelitis, endocarditis, liver abscess, and severe limb threatening skin/soft tissue infection). Treatment of these infections requires prolonged and costly hospital stays, repeated surgeries and high cost, toxic antimicrobial agents.[8] Cases of Mycobacterium abscessus have also been reported in this population.

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[5] https://www.coronerscourt.vic.gov.au/sites/default/files/2023-04/COR 2020 0021 - Veronica Nelson Inquiry - Form 37 - Finding into Death with Inquest - 30 January 2023 - Amended %281%29.pdf

[6] https://www.vic.gov.au/sites/default/files/2024-03/Final-Report-Cultural-Review-of-the-Adult-Custodial-Corrections-System.pdf

[7] https://www.act.gov.au/__data/assets/pdf_file/0016/2521411/ACT-Detainee-Health-and-Wellbeing-Strategy-2023-28.PDF

[8] https://asid.net.au/news/needle-and-syringe-programs

- Australia is one of 194 World Health Assembly Member States who voted unanimously to eliminate hepatitis C as a public health concern by 2030. We are not on track to elimination by 2030 and our failure to prevent hepatitis C infection and reinfection in prisons and other places of held detention is our most significant oversight.[9]

Recommendations in Response to the Inquiry's Terms of Reference

Hepatitis Australia recommends the House of Representatives Standing Committee on Health, Aged Care and Sport consider, as part of its Inquiry report, recommend the implementation of needle and syringe programs in prisons and other places of held detention to better prevent and reduce drug-related health, social and economic harms.

Hepatitis Australia submits further recommendations aligning with inquiry's Terms of Reference:

(a) Assess whether current services across the alcohol and other drugs sector is delivering equity for all Australians, value for money, and the best outcomes for individuals, their families, and society.

Hepatitis Australia recommends that the House Standing Committee on Health, Aged Care and Sport inquiry report:

- acknowledges that people in prison and other places of held detention are denied access to harm reduction services (i.e. needle and syringe programs freely available in the community to help prevent drug-related harms) at odds with international obligations under the United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules) and Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

b) Examine the effectiveness of current programs and initiatives across all jurisdictions to improve prevention and reduction of alcohol and other drug-related health, social and economic harms, including in relation to identified priority populations and ensuring equity of access for all Australians to relevant treatment and prevention services.

Hepatitis Australia recommends that the House Standing Committee on Health, Aged Care and Sport inquiry report:

- acknowledges that hepatitis C and other injecting-related diseases and injuries are key drug-related harms and that denial of access to evidence-based harm reduction for people who inject drugs in prisons and other places of held detention is inequitable, harmful, costly, and compromises progress to Australia's goal of eliminating hepatitis C by 2030.

[9] https://harmreductionaustralia.org.au/wp-content/uploads/2024/07/The-Missing-Piece-NSP-in-Prisons-Advocacy-Statement.pdf

c) Examine how sectors beyond health, including for example education, employment, justice, social services and housing can contribute to prevention, early intervention, recovery and reduction of alcohol and other drug-related harms in Australia.

Hepatitis Australia recommends that the House Standing Committee on Health, Aged Care and Sport inquiry report:

- acknowledges that drug-related harms are exacerbated in prisons and other places of held detention and that opportunities exist for governments to better prevent drug-related harms by strengthen access to harm reduction services for people detained.

d) Draw on domestic and international policy experiences and best practice, where appropriate.

Hepatitis Australia recommends that the House Standing Committee on Health, Aged Care and Sport inquiry report:

- acknowledges that current government policy supports needle and syringe programs in prisons and other places of held detention
- acknowledges, as signatories to aforementioned International obligations, that Australia is obliged to ensure access to harm reduction services including needle and syringe programs for people in prison and other places of held detention
- acknowledges that prison needle and syringe programs operate currently and effectively in other countries, and
- acknowledges the credible international and national support for prison needle and syringe programs.

Attachments A

Human rights and evidence-based policy: Prison needle and syringe programs and the hepatitis C epidemic

Attachment A
Human rights and evidence-based policy: Prison needle and syringe programs and the hepatitis C epidemic

Background
Australia's national response to hepatitis C is guided by the National Hepatitis C Strategy[10]. This strategy is grounded in human rights and framed around key human rights-based principles which flow right through to actions and implementation.

Hepatitis C

Hepatitis C is a preventable but potentially life-threatening blood borne viral infection. It can be cured but is not vaccine preventable. Left untreated, hepatitis C can cause liver inflammation, liver disease, liver cancer, liver failure, and death. After a person is cured, reinfection can occur if risk factors are ongoing (because previous infection does not confer immunity).

People affected by hepatitis C (including those living with chronic infection and those at risk) include some of Australia's most vulnerable populations.

Subsidised access to direct-acting antivirals cures commenced in Australia in March 2016. As at the end of 2023, it was estimated[11] that:

- 105,947 individuals had received treatment
- 10% were re-treated at least once,
- 68,340 people remain living with chronic hepatitis C.

Australia is one of 194 World Health Assembly Member States who voted unanimously to eliminate hepatitis C as a public health concern by 2030. Australia has enshrined this elimination commitment in the National Hepatitis C Strategy and the Aboriginal and Torres Strait Islander BBV/STI Strategy[12]. The new national strategies for 2023-2030 are nearing finalisation. This will include endorsement by all Australian Health Ministers, publication, and implementation funding. The elimination targets include a 90% reduction in new hepatitis C infections and a 65% reduction in hepatitis C mortality by 2030.

People in prison are a priority population in the national strategies, and prisons are a priority setting. Prisons are now the primary sites of hepatitis C transmission nationally and help sustain the hepatitis C epidemic in Australia. Approximately 80,000 people are incarcerated annually in Australia including more than 15% living with hepatitis C. People in prison are being needlessly infected (and reinfected following cure) because the current responses are not sufficient to prevent transmission and they do not place the means of prevention in the hands of those who need it.

The first priority action in the draft National Hepatitis C Strategy 2023-2030 is for needle and syringe programs to ensure access to sterile injecting equipment in corrections settings and other places of held

[10] https://www.health.gov.au/resources/publications/sixth-national-hepatitis-c-strategy-2023-2030?language=en
[11] https://www.kirby.unsw.edu.au/research/reports/monitoring-hepatitis-c-treatment-uptake-australia-issue-14-july-2024
[12] https://www.health.gov.au/resources/collections/national-strategies-for-bloodborne-viruses-and-sexually-transmissible-infections

detention. The previous National Hepatitis C Strategy also committed to increasing access to sterile injecting equipment, including in custodial settings.

Our National Hepatitis C Strategies are endorsed and agreed by the Health Ministers of all Australian Governments (federal, state and territory). In the absence of regulated needle and syringe programs in Australian prisons, illicit arrangements predictably circulate unsterile injecting equipment causing serious harms. Instead of 'harm reduction programs' we have 'harm production programs' sustaining the Australian hepatitis C epidemic. Harm reduction in prisons is a critical missing piece; we cannot eliminate hepatitis C without it.

Needle and syringe programs in prison – the domestic and international policy experience and best practice

The world's first regulated prison needle and syringe programs was established in Switzerland in 1992. There are now around 60 prisons operating needle and syringe programs worldwide, using a range of models. However, there is not a single regulated prison needle and syringe programs operating in Australia.

Arguments against needle and syringe programs in prisons generally claim that prison-based needle exchange will[13]:

- lead to threatening scenarios against staff and other inmates;
- lead to an increased consumption of drugs;
- lead to an increased use of injectable drugs for those who used in different patterns; encourage non-drug users to start injecting drugs;
- be contraindicative to abstinence-oriented approaches;
- send the wrong signal about drugs (that using drugs is acceptable).

Evaluations of regulated prison needle and syringe programs do not support these fears[14][15]:

- Syringes are **not** misused.
- Disposal of used syringes is uncomplicated.
- There is **no** evidence of assaults with needles and syringes.
- There is acceptance by staff and detainees.
- Syringe distribution is **not** followed by an increase in drug use.
- There is **no** evidence of initiation to drug use.
- Sharing of syringes among people who inject drugs is **reduced**.
- Transmission of hepatitis C and HIV is **reduced** when prison needle and syringe programs are operating.
- Some evaluations also found there were **reduced overdoses** in prisons operating needle and syringe programs.

[13] https://www.abc.net.au/news/2016-09-17/needle-exchange-program-rejected-at-canberra-jail/7854290
[14] https://www.unsw.edu.au/research/ndarc/resources/prison-based-syringe-exchange--a-review-of-international-researc
[15] https://www.sciencedirect.com/science/article/abs/pii/S095539590300152X

Despite the substantial evidence supporting their safety and efficacy, Australia's commitment to eliminating hepatitis C, the consensus of experts and community advocates, and the established policy context, implementing prison needle and syringe programs remains stagnant, unfairly and incorrectly characterised as too controversial and therefore too challenging.

A sample of the Organisations supporting prison needle and syringe programs includes:

- World Health Organization
- United Nations
- World Hepatitis Alliance
- International Network on Health and Hepatitis in Substance Users
- Hepatitis Australia & member organisations
- Australian Medical Association (AMA)
- Australasian Society for Infectious Diseases
- AIVL & affiliates
- NACCHO
- Scarlet Alliance
- Health Equity Matters
- National Association of People with HIV Australia (NAPWHA)
- Public Health Association of Australia
- The Penington Institute
- Harm Reduction Australia
- Australia's national BBV/STI research centres
- All Australian Governments via their endorsement of the National Hepatitis C Strategies.

Opponents of prison needle and syringe programs often defer to strategies that instead focus efforts on preventing drugs from entering prisons, or strategies that rely on testing and treatment alone knowing that reinfection of life-threatening hepatitis C infection and other injecting-related harms persist. These approaches are costly and harmful, they fail to uphold Australia's human rights obligations, and they deny the reality that drugs and injecting drug use persist in prisons and will continue to do so.

Queensland's Lotus Glen prison outbreak of hepatitis C is a poignant example of current responses failing to prevent hepatitis C transmission. Lotus Glen prison was the first Australian prison to claim micro-elimination of hepatitis C in 2018, following rapid scale-up of direct-acting antiviral therapy. In just 16 months following the heralding of micro-elimination at Lotus Glen, 250 new and reinfected cases of hepatitis C were reported amongst people who had previously tested negative for chronic hepatitis C. To be clear, these were 250 cases of in-prison transmission.[16]

Predictably, needle sharing with up to 50 other men was found to be a critical factor for transmission in the Lotus Glen outbreak. The failure to prioritise harm reduction in prisons disproportionately impacts priority populations, including Aboriginal and Torres Strait Islander people – who are the most incarcerated people on the planet.

- 70% of the people in Lotus Glen prison identify as Aboriginal &/or Torres Strait Islander

[16] https://www.researchgate.net/profile/Lea-Merone/publication/360024376_A_complex_increase_in_hepatitis_C_virus_in_a_correctional_facility_bumps_in_the_road/links/625ded1d4173a21a0d1d9da5/A-complex-increase-in-hepatitis-C-virus-in-a-correctional-facility-bumps-in-the-road.pdf?origin=publication_detail

- A large majority (around 80% nationally) of people in prisons being reinfected with hepatitis C are Aboriginal and Torres Strait Islander people; being treated and reinfected 3, 4 and sometimes 5 times.

Prison needle and syringe programs is a priority action within the National Hepatitis C Strategy because the underlying dynamics that enable hepatitis C transmission in prisons have **not** been eradicated by the advent of direct-acting antivirals.

The Lotus Glen hepatitis C outbreak occurred despite availability and uptake of Direct Acting Antiviral therapies, proving that prevention and harm reduction in prisons is essential, alongside testing and treatment for hepatitis C.

Unfortunately, Australia trails behind other countries, with no regulated prison needle and syringe programs in any state or territory - and this lack of prison needle and syringe programs in Australia puts our elimination agenda at risk.