



TAKE BACK SANTA CRUZ

**P.O. Box 7028
Santa Cruz, CA 95061-7028
Needlesolutions@gmail.com**

June 10, 2019

Santa Cruz County Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

Health Services Agency
1080 Emeline Avenue
Santa Cruz, CA 95060

Re: 2019 SSP Biennial Report
SENT VIA EMAIL

Dear Supervisors Coonerty, Leopold, Caput, Friend, McPherson, and Director Hall:

Please accept this letter as Take Back Santa Cruz's ("TBSC") Needles Solutions Team's ("NST") formal comment on the Health Services Agency's ("HSA") Syringe Services Program ("SSP") Biennial Report, to be presented at the Board of Supervisors meeting on Tuesday, June 11, 2019 at 1:30pm.

I. RECOMMENDED BOARD ACTIONS

For reasons set forth more fully below, we urge that the County Board of Supervisors take the following actions:

- Vote NO on the HSA's recommended expansion of SSP hours at the Emeline campus and Watsonville Health Center. The HSA failed to conduct outreach to Emeline neighbors despite the potential for negative impact.
- Vote NO on the HSA's recommended incorporation of SSP into the Homeless Persons Health Project ("HHP") clinical field services. This recommendation is too

vague and thus provided insufficient notice to the public. The HSA failed to conduct outreach to Harvey West neighbors despite the potential for negative impact.

- Include data from NST’s Needles in Public Spaces (“NIPS”) Log in the CDPH syringe litter study. Any study undertaken without this information will be incomplete.
- Vote YES on including an option for reporting discarded syringes on the Citizen Connect application. Since the County distributes syringes, it should have greater responsibility for picking them up.
- Direct the HSA to immediately cease its practice of giving syringes and permission to distribute them without transparency and accountability to a third-party non-profit, Harm Reduction Coalition of Santa Cruz (“HRC”), or any other similar group. This practice is unlawful, disregards the unanimous opposition by every law enforcement agency in the county, and has led to a drastic reduction of clients seen by medical professionals at the SSP.
- Encourage a culture of recovery in the community, rather normalizing or accepting drug addiction by simply handing out syringes without any focus on hope and recovery. Syringe services should always be a part of a larger network of wrap-around services in a medical setting.
- Direct the HSA to provide documents responsive to our PRA Request regarding secondary exchange, instead of attempting to hide behind HIPAA privacy regulations.
- Enforce a true 1:1 exchange policy at the County SSP to keep our streets, parks and beaches free of dirty syringes, and in recognition of the County’s efforts to reduce plastic pollution (Agenda Item No. 88).
- Amend the SSP Advisory Group structure to make it more transparent and community driven. The makeup of the current group is extremely biased and geared towards HSA staff while ignoring the concerns of the public at large.

II. BACKGROUND – TAKE BACK SANTA CRUZ’S NEEDLES SOLUTIONS TEAM

TBSC’s Needles Solutions Team was formed in 2013 in response to a widely publicized discarded needle epidemic in Santa Cruz. Since that time, the NST has kept a Needles in Public Spaces (“NIPS”) Log for the following purposes: 1) to keep the County and City aware that there is an ongoing problem; 2) to determine if the needles found in public spaces are increasing or

decreasing; 3) to provide data to the City and County so that “hot spot” patterns can be identified for City/County cleanup; and 4) to give the community a place to log their finds.

To date, we have recorded over 23,000 discarded needles reported found in all of Santa Cruz County, but mostly in the City of Santa Cruz. We have also confirmed 14 needle stick injuries, including several children. We suspect that the actual numbers are considerably higher, as not everybody knows of our NIPS Log, and we are unable to confirm additional need stick injuries because of privacy laws. Not included in those numbers are the countless complaints from Emeline neighbors of increased crime and anti-social behavior after the SSP came into their neighborhood.

Since our formation, we have been working on working with the County SSP to have greater accountability and transparency. Community members have written countless emails and attended many Board of Supervisors meetings to protest the discarded needles epidemic, especially since many discarded needles appear to have originated with the SSP.² In 2017, a Santa Cruz County Grand Jury investigated and agreed with us that the County SSP "lacked transparency."³ Since then, the SSP has gone to greater lengths to provide information to the public and allow for greater public input. The SSP’s website has been updated to include monthly reports and other relevant information. We very much appreciated the County’s efforts towards increased transparency, unfortunately the lack of transparency issue appears to be rearing its ugly head once again.

III. REQUEST FOR EXPANDED SSP SERVICES SHOULD BE DENIED DUE TO LACK OF OUTREACH TO EMELINE AND HARVEY WEST NEIGHBORHOODS

The HSA is requesting that the Board 1) expand SSP hours at the Emeline Campus and Watsonville Health Center; and 2) Incorporate SSP into the Homeless Persons Health Project, and Integrated Behavioral Health.

These requests *must be denied* for several reasons. First, there is no demonstrated need for increased hours or expanded syringe services, as the SSP continues to distribute thousands more needles per month than Santa Clara County, despite Santa Cruz County being only 1/7th the size.⁴

Next, the HSA has failed to conduct *any* outreach to the Emeline neighbors, even though an expansion of hours may negatively impact their neighborhood. To increase transparency and

² See TBSC Blog Article: Needles in Public Spaces – Where Are They Coming From?: <http://takebacksantacruz.org/needles-public-spaces-coming/>

³ See: Grand Jury Report: http://www.co.santa-cruz.ca.us/Portals/0/County/GrandJury/GJ2017_final/SharperSolutions.pdf

⁴ See Santa Clara 2018 Biennial Report: http://sccgov.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=93443&fbclid=IwAR2-a5FxEdBQYKnU91uJKTPcEWmXpq5hIS09fBYCMsNFZHxfP4raYW2ivrs

accountability, a public hearing with more than 72 hour's notice in a Board Agenda item should be held on this issue.

It is unclear what is meant by incorporating SSP into the Homeless Persons Health Project ("HHPH"), or where the "clinical field services" would take place. As such, there is insufficient notice to the public for this request to be considered. Even if the syringe distribution site is 115 Coral Street, there is no demonstrated need for an additional syringe distribution site as the Emeline clinic is within close proximity. The HSA failed to consult with the Harvey West Business Association and the City of Santa Cruz despite the possible negative impact to this location. Thus, the Board should decline to expand these services without allowing for further public input.

IV. CDPH STUDY SHOULD INCLUDE LOCAL DATA

In addition to Take Back Santa Cruz's Needles Solutions Team with its NIPS Log, there are other local groups that have been tracking discarded needles in Santa Cruz over the years. These organizations include the City of Santa Cruz and Save Our Shores.

The Board should actively ensure that the CDPH obtains this information in order to obtain a complete and accurate understanding of the extent of Santa Cruz's discarded needles problem, and better address it.

V. BOARD SHOULD TAKE STEPS TO STOP SSP'S DANGEROUS AND UNLAWFUL "SECONDARY EXCHANGE" PRACTICES (INCLUDING ALLOWING HRC'S OPERATION)

A. Background - Harm Reduction Coalition's Distribution of SSP Syringes Caused Disastrous Consequences to Community

i. Non-Board Needle Distribution at Gateway Encampment

Starting in May of 2018, then-HSA Director Dr. Arnold Leff began permitting HRC team members to exploit a loophole in the SSP's policy and procedures to obtain syringes from the County and pass them out with any oversight as a "secondary exchange."⁵ In a videotaped interview, HRC founder Denise Elerick explained that despite not being IV drug users, she and her team members have been signing up as fraudulent "clients" of the SSP in order to obtain hundreds of needles and supplies per visit to funnel to their organization.⁶ Dr. Leff admitted that

⁵ See secondary exchange provisions in the SSP Policy & Procedures Manual: <http://www.santacruzhealth.org/Portals/7/Pdfs/SSP/SSP%20Policy%20and%20Procedure%20092014.pdf>; March 24, 2019 Voices of the Village interview with Dr. Leff and Denise Elerick, at approximately 25 minutes: https://www.youtube.com/watch?v=15xX9Hv0j3A&feature=youtu.be&fbclid=IwAR0fvAPA0pkeHe2OvFeaxZ-LKYTONw7XaTYxG_Bm0ghZR3s6HHI-ZIR3Reg

⁶See SC Local article "What We Learned From Looking At Santa Cruz County's Needle Exchange": <https://santacruzlocal.org/index.php/2019/05/24/what-we-learned-from-looking-at-santa-cruz-countys-needle-exchange/>

the HRC was doing supplemental distribution for the County SSP, but claimed it was all “by the book.”⁷ The HRC is not staffed with medical professionals like the SSP is.

From November 2018 through April 2019, the HRC passed out up to 600 needles per day to drug users at the Gateway Encampment, located next to the San Lorenzo River in Santa Cruz. HRC admittedly does not run a 1:1 exchange. This resulted in an environmental group, Save Our Shores, issuing a warning to beachgoers that significant numbers of needles were washing up on Main Beach near the Santa Cruz Beach Boardwalk from the San Lorenzo River.⁸ When the Gateway Encampment was finally closed, City workers reported to us that they were forced to pick up more than 2,000 dirty needles that had been left behind.⁹

The HRC’s syringe distribution in the Gateway Encampment also resulted in a shocking reduction of clients seen at the County SSP, which is located not too far away.¹⁰ For example, in March 2018, 142 clients were seen at Emeline. In March 2019, that number was only 44. Instead of saving lives, the HRC’s poaching of SSP clients might very well be costing lives.

ii. State Certification Application Contained False Statements

The HRC made several patently false statements¹¹ in the application signed and filed with the California Department of Public Health. These false statements include:

- Answering “no” to the question “Is there a neighborhood association affiliated with the location(s) of your proposed SEP site(s)?”¹² There are numerous neighborhood and public safety groups associated with the four locations, including the Harvey West Business Association, Nextdoor – Harvey West, Nextdoor – Felton, Nextdoor – Mount Hermon, Santa Cruz Neighbors, Take Back Santa Cruz, and many others. We know from Elerick’s frequent online criticisms of these public safety groups, that she was certainly aware of their existence.¹³ Thus, it is clear that this omission was deliberate.
- Claiming that the Harm Reduction Coalition has a fiscal sponsor, when in fact there was no such agreement.¹⁴
- Claiming that “Watsonville saw a significant overdose increase in 2018” in order to justify increased syringe distribution in that City.¹⁵ This claim was later confirmed to be false by WPD Chief Honda.¹⁶

⁷ See: <https://santacruzlocal.org/index.php/2019/05/24/what-we-learned-from-looking-at-santa-cruz-countys-needle-exchange/>

⁸ See: <https://www.kion546.com/news/influx-of-needles-found-on-beaches-after-storm/1026040696>

⁹ See photographs of needles provided to us by City workers involved in the Ross Camp clean up.

¹⁰ See chart comparing number of SSP clients before and after HRC.

¹¹ See CA Penal Code Section 115, which makes filing a false document a felony.

¹² See SEP Certification Application, Page 2, under Section IV. Description and Summary of Proposed SEP.

¹³ See <https://www.facebook.com/TakeBackSantaCruzfromTBSC/>

¹⁴ See <https://www.santacruzsentinel.com/2019/05/21/santa-cruz-needle-services-nonprofit-sponsorship-clarified/>

¹⁵ See SEP Certification Application.

¹⁶ See WPD Chief David Honda’s 5/14/19 letter (first bullet point).

- Including the Salvation Army’s 214 Union Street, Watsonville CA location as a distribution site. The Salvation Army never agreed to allow syringe distribution at this site, nor would it ever allow syringe distribution at any of its sites.¹⁷
- Including a location in Pajaro, Monterey County without first informing law enforcement and the health officer of that jurisdiction, in violation of Health & Safety Code Section 121349.¹⁸ When Monterey County’s First District Supervisor belatedly learned of the site inclusion, he attempted to contact Elerick, but she was dismissive and rude.¹⁹

iii. Opposition to Secondary Syringe Program was Widespread

On or about March 11, 2019, the HRC submitted a Syringe Exchange Program (SEP) Certification Application to the California Department of Public Health.²⁰ As discussed more fully below, the Application was rife with errors and omissions.

As you are undoubtedly aware, the community was overwhelmingly against a secondary syringe program in Santa Cruz County. The biggest objection by far was that there would be no local oversight of the HRC. There was consensus that all syringe distribution should be done through the County SSP, by medical professionals.

Thousands of signatures opposing the application were garnered by two petitions²¹, compared to less than two hundred on a petition in support.²² Hundreds of other letters and emails of opposition were also sent to the CDPH by community members and city/county representatives – including the entire Scotts Valley City Council, Scotts Valley Mayor Jack Dilles, Watsonville Mayor Francisco Estrada, Santa Cruz Mayor Martine Watkins, Supervisor Ryan Coonerty, Supervisor Bruce McPherson, and Supervisor Zach Friend.

As required by Health & Safety Code Section 121349, County law enforcement agencies were asked to weigh in. Law enforcement leaders county-wide were *unanimous*²³ in their opposition to allowing the HRC to conduct secondary exchange in the County:

- Santa Cruz Police Department Chief Andy Mills: “Syringe litter is a substantial problem. Any proposal to distribute additional needles must include a method to further reduce needle litter. While some research indicates that needle exchange, distribution, and collection can reduce needle litter, we see discarded needles frequently in Santa

¹⁷ See SEP Syringe Exchange Program (SEP) Application, Attachment – Section VI(C) “Service delivery plan”

¹⁸ See SEP Application, Attachment – Section IV(C) “Service delivery plan”

¹⁹ See KSBW story: <https://www.ksbw.com/article/controversial-santa-cruz-needle-program-could-be-coming-to-monterey-county/27500128>

²⁰ See 3/11/19 SEP Certification Application.

²¹ See opposition petitions: <http://www.santamierda.com/help-stop-the-increased-distribution-of-syringes-in-the-city-of-santa-cruz/>; https://www.change.org/p/california-department-of-public-health-stop-the-mass-needle-giveaway-santa-cruz-county-77a6c6be-6a8d-4e2d-b963-32e91864ac7e?recruiter=959375612&utm_source=share_petition&utm_medium=copypink&utm_campaign=share_petition

²² See HRC petition: <https://www.change.org/p/mark-stone-support-mobile-harm-reduction-services-in-santa-cruz-county-refer-to-data-not-opinions>

²³ Except UCSC PD, which is prohibited by UCSC from taking a position either way.

Cruz. We have collected scores of needles out of parks, beaches, and the river. The reason – as one former addict told me, possession of needles for drug use is no longer a crime and syringes are easy to obtain. Once used, needles lack value when you can get them for free and are easily disposable.”²⁴

- Sheriff Jim Hart: “I do not support a new or secondary program where there will be little to no oversight and no other services will be offered. Community members across our county are speaking out against the secondary program and it is clear that there is very little community support, will or tolerance for this program...Residents want to visit our parks, beaches and open spaces without fear of syringe litter.”²⁵
- Scotts Valley Police Department Chief Stephen Walpole: “The potential health risks associated with putting even more needles in our environment, by an unregulated and unsupervised group, far outweighs any potential positive health impact this program could have in our community.”²⁶
- Watsonville Police Department Chief David Honda: “I strongly oppose this application...The County of Santa Cruz has a Syringe Services Program that is overseen by trained medical personnel; there is no indication that the applicant has such trained medical personnel....The applicant refers to a “significant overdose increase” in the City of Watsonville in 2018. In reviewing our statistical data there is no indication of an increase in overdoses in our City, in fact, there was no change from 2017 to 2018...The applicant indicates the intent to open a fixed site at the Salvation Army in the City of Watsonville; however, the Salvation Army has stated this is not the case and it has not been approved by their leadership.”²⁷
- Capitola Police Department Chief Terry McManus: “I do not support new or secondary programs demonstrating little or no oversight, and no viable plan to provide those in need with opportunities for other services...Had the outreach been conducted, it is likely that the HRC would have learned of the disapproval of their proposal.”²⁸

On or about May 22, 2019, the HRC pulled its state certification application after the widespread opposition and the revelation of fraudulent material contained in the application made it clear that it would likely not be approved.²⁹ Despite this, the HRC intends to continue to

²⁴ See May 7, 2019 Email from Chief Andy Mills to CDPH

²⁵ See May 3, 2019 letter from Jim Hart to CDPH

²⁶ See May 20, 2019 Letter from SVPD Chief Walpole to CDPH.

²⁷ See May 14, 2019 letter from WPD Chief Honda to CDPH.

²⁸ See May 16, 2019 letter from CPD Chief McManus to CDPH.

²⁹ <https://www.ksbw.com/article/controversial-need-distribution-org-pulls-application-for-new-sites/27562211>
https://www.kion546.com/news/harm-reduction-coalition-of-santa-cruz-withdraws-application-for-more-syringe-services/1080146946?fbclid=IwAR2gTBZ6Bk9RFaMeAz48eXqVGsLdfNdejt8DSwy0blbhSgC5Gv_ejC4q3s8
<https://www.kion546.com/news/harm-reduction-coalition-of-santa-cruz-withdraws-application-for-more-syringe-services/1080146946>

obtain syringes from the SSP and pass them out. In a comment to a Sentinel article about opposition to the state application, Roadshow volunteer Jennifer Lanford threatened, “Do you not realize that the Harm Reduction Coalition of Santa Cruz County will continue to support the County and it’s (sic) syringe access program no matter what!”³⁰

As described below, the HRC’s operation is **unlawful**. This Board should take immediate steps to halt the HRC and prevent similar wrongdoing by other groups or individuals in the future.

B. HRC’s operation violates the Health & Safety Code and subverts review by our elected officials and disregards law enforcement opposition.

California Health & Safety Code Section 121349 allows syringe service programs to be authorized in only two ways – by the State Department of Public Health, or by a city or county.

In counties with a health officer, both the Board of Supervisors *and* the health officer must approve a program. This Board has only approved one program – the HSA’s Syringe Services Program. This Board has *not* approved the Harm Reduction Coalition as a County program. In fact, three out of five Supervisors – McPherson, Coonerty, and Friend, have expressed their opposition to the HRC distributing needles in the County.³¹

As noted above, the Harm Reduction Coalition pulled its application and does not have state certification to operate a program in the County of Santa Cruz. During the public comment period for the state certification application process, every law enforcement agency in the county strongly opposed secondary syringe services by the HRC. By allowing the HRC to continue receive and distribute syringes from the SSP, the HSA is disregarding the advisement of law enforcement and sanctioning the HRC’s gross exploitation of a loophole in the SSP’s own Policy & Procedures. It also takes away the ability of our elected officials – this Board – to oversee the program with transparency and accountability. Indeed, the Biennial Report offered this year will be missing important data about the eventual recipients of the SSP’s syringes.

C. Harm Reduction Coalition’s Operation Violates SSP Policy & Procedures

Even assuming the HRC was somehow permitted under the Health & Safety Code to distribute SSP syringes and operate without Board or state authorization, it is a violation of the SSP’s own Policy and Procedures for the HSA to distribute syringes to its team members.

First, as non-IV drug users, HRC team members are not, and cannot be “SSP participants” or “clients” for purposes of obtaining syringes from the SSP for themselves or other drug users. The SSP’s Policy and Procedures does not define the term “SSP Participant” or “client.” However, as a general principal, when a document does not specifically define a term, that term is given its ordinary or natural meaning. Only an actual IV drug user would fit the

https://www.ksbw.com/article/controversial-need-distribution-org-pulls-application-for-new-sites/27562211?fbclid=IwAR3GDZ0t6yRyBdksffGHhnKX53oI6__MFN00Lt271IG2VSGtmOUibV98GXg

<https://www.santacruzsentinel.com/2019/05/22/santa-cruz-coalition-withdraws-needle-distribution-application/>

³⁰ See screenshot of comment by Jennifer Lanford, an HRC team member.

³¹ See opposition letter from McPherson and Coonerty, as well as opposition email from Zach Friend.

terms “SSP participant” or “client”. A nonprofit harm reduction group (or a team member of such a harm reduction group) intent on circumventing SEP authorization laws clearly does not fit the ordinary definition of these terms. Distorting these terms to include non-IV drug users who funnel SSP syringes and equipment to a separate, unauthorized nonprofit harm reduction group with no reporting requirements (and opposition by every law enforcement agency in the county) is a gross abuse of public funds and the public trust. This is a slippery slope.

Next, the SSP’s Policy and Procedures make it clear that the SSP exists not only disease prevention, but to connect users with treatment and resources. Syringes are to be delivered as part of a “continuum of care.” As a group of non-medically trained volunteers who dispense syringes in a non-clinical setting, the HRC cannot, and does not meet these requirements. Instead, the HRC has caused an extreme decrease in addicts using the Emeline clinic for services.

The SSP requires (with limited exceptions) that syringes be exchanged on a 1:1 basis. The HRC hands out syringes without requiring a 1:1 exchange, in violation of this rule. Furthermore, one of the SSP’s stated goals is reducing dirty needles on the ground. This goal is not met when it allows unregulated secondary exchange by a group that admittedly does not practice 1:1 exchange.

VI. SSP’S REFUSAL TO PROVIDE DOCUMENTS PURSUANT TO CPRA REQUEST IS UNLAWFUL

In an attempt to gather more information regarding the distribution of SSP syringes by the HRC, the NST submitted a Public Records Act Request to the County on May 28, 2019.³² On June 5, 2019, the County responded in an evasive manner, claiming that secondary exchange was done by “SSP participants” and thus all transactions are shielded by HIPAA.³³

Despite print articles, photographs, and video interviews evidencing Dr. Leff’s knowledge and explicit approval of HRC’s members signing up as sham “clients”, the County claimed that Dr. Leff did not approve any secondary exchange “in writing”, and that the County is not operating secondary exchange “offsite from board-approved locations.”³⁴ None of the information regarding syringes obtained by HRC team members posing as “clients” are protected by HIPAA. The County is *obligated* to provide requestors with accurate and complete information.

VII. SSP ADVISORY TEAM LACKS PUBLIC PARTICIPATION

As you know, the SSP’s purpose is not only to reduced disease transmission, but also to reduce the number of discarded needles in our community. We are pleased that you have included a representative of the recovery community (a former IV drug user); he is a great source of information. However, the Advisory Group should include even more of these “regular”

³² See May 28, 2019 PRA request

³³ See June 5, 2019 PRA response

³⁴ It is unclear what knowledge, if any, Board members had of Leff’s approval. However, because Leff was a representative of the County, his knowledge would be imputed to the County.

citizens, including Emeline neighbors who are directly impacted by the SSP. Law enforcement representatives should also be added.³⁵ Finally and most importantly, the SSP Advisory Group should be subject to the Brown Act, with members of the public given notice and an opportunity to attend its meetings.

VIII. SSP SHOULD OPERATE A TRUE 1:1 EXCHANGE

The public has a reasonable expectation that our streets, parks and beaches will be free of dirty syringes. The emotional and financial costs of accidental needle sticks – especially when they involved children – are substantial and life-altering. We simply ask that you balance the need for disease prevention among drug users with the need for a clean environment for everyone. A true 1:1 exchange policy at the County SSP will advance this goal and also assist with the County’s efforts to reduce plastic pollution (Agenda Item No. 88).

IX. COUNTY SHOULD MOVE TOWARDS A CULTURE OF TREATMENT AND REHAB

Finally, we note that there is a culture of acceptance and normalization of addiction in our County. This needs to change. Every recovering addict we have spoken to agrees: Simply handing out syringes to addicts without an attempt at offering recovery services is giving up on any hope of recovery for that addict. Instead, we should be moving towards a culture of treatment and rehabilitation. The HSA must keep an emphasis on treatment and recovery, with syringe services allowed only as part of a larger network of wrap-around services in a medical setting.

-Take Back Santa Cruz
Needles Solutions Team

³⁵ Note that the SSP Policy & Procedure already mandates that law enforcement be included on the Advisory Team. Yet, there are no members of law enforcement included on the list of members.