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# CHAIRMAN'S MEMORANDUM

## NO. 03-2011

### July 13, 2011

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TO: SHERIFFS, CHIEF ADMINISTRATIVE OFFICERS, COMMISSIONERS OF CORRECTION,  
AND POLICE CHIEFS

RE: HEALTH ADVISORY: PENAL LAW AMENDMENTS AND NYS SYRINGE EXCHANGE,  
EXPANDED SYRINGE ACCESS AND OPIOID OVERDOSE PREVENTION PROGRAMS

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On October 28, 2010, sections 220.45 (Criminally Possessing a Hypodermic Instrument) and 220.03 (Criminal Possession of a Controlled Substance in the Seventh Degree) of the Penal Law were amended to reflect existing Public Health Law with regard to the above referenced New York State public health initiatives.

Section 220.45 of the Penal Law was amended to clarify that persons do not act unlawfully by possessing needles or syringes without a prescription *if* they participate in the State's Syringe Exchange, Expanded Syringe Access and Opioid Overdose Prevention Programs. Syringe Exchange and Expanded Syringe Access have been authorized under Public Health Law section 3381 and Title 10 of the New York Codes, Rules and Regulations. Opioid Overdose Prevention has been authorized under Public Health Law section 3309 and Title 10 of the New York Codes, Rules and Regulations.

Section 220.03 of the Penal Law was amended to clarify that possession of residual amounts of a controlled substance on syringes/needles is not unlawful if individuals are permitted to possess these hypodermic instruments under the aforementioned public health laws.

The Syringe Exchange and Expanded Syringe Access Prevention Programs, which create access to new sterile syringes, were implemented to prevent sharing of syringes to reduce transmission of HIV/AIDS. Participants in these programs are in legal possession of syringes without a prescription. The Opioid Overdose Prevention Program was created to reduce fatalities related to overdoses, 70% of which involve the use of opioids. This public health initiative allows participants to possess syringes and vials of Naloxone/Narcan.

Sheriffs and police departments should be mindful of these programs when considering charges for syringe and residue possession, as well as possession of Naloxone/Narcan.

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New York State Commission of Correction  
80 Wolf Road, 4<sup>th</sup> Floor  
Albany, New York 12205  
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Thomas A. Beilein, Chairman  
Phyllis Harrison-Ross, M.D., Commissioner

Information about the Public Health Law and the New York Codes, Rules and Regulations in relation to these initiatives can be found on the state's website: [www.nyhealth.gov](http://www.nyhealth.gov). Click on HIV/AIDS, then Harm Reduction and Drug Use, and finally, Needles and Syringes. If there are any questions about these programs, please contact the NYS Department of Health's AIDS Institute at 212-417-4770.



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