

## 2017 Candidate Questionnaire

### 1. Eliminating forced or coerced treatment for drug use.

Forcing or coercing drug treatment has become popularized through drug courts and proposed involuntary commitment programs. Even when a person is not forced into treatment, a person caught with prohibited drugs for personal use may be coerced into arbitrarily attending a drug rehab or other behavioral health program for no other reason than to mitigate the legal damage caused only by the prohibition of the particular drug.

As the opioid “epidemic” is continually highlighted, treatment is increasingly looked at as a simplistic solution. However, treatment is highly ineffective, with close to 40% of people in treatment not achieving their goal, according to the New Jersey Division of Mental Health and Addiction Services. Even more concerning than its ineffectiveness and enormous cost to the state, is that treatment can be harmful or deadly to a person. The International Centre for Science in Drug Policy’s report shows that compulsory treatment is harmful in some cases and is less effective than voluntary treatment.

Most people who use drugs do not experience problematic drug use<sup>1 2 3 4</sup>. Of the minority of drug-using people who have problematic use, most recover on their own<sup>5 6</sup>, without treatment. People who are coerced into treatment are exposed to harm for a largely arbitrary process where the only clear winner is the treatment provider, no matter if the person succeeds, fails, dies in treatment, or is set up for a fatal relapse once they leave a non-effective or hurtful treatment setting.

Alarming, the below treatment statistics documenting harm are hidden from the public:

- Drug overdose deaths are the 3<sup>rd</sup> leading cause of death in New Jersey’s publicly funded drug treatment and behavioral health programs<sup>7</sup>.
- Human rights violations, such as the use of mechanical restraints, forced chemical restraints, assault, rape and exploitation, often take place in behavioral health programs and facilities.
- 124 People have died in drug court in the past five years<sup>8</sup>.

Alarming, the state is not tracking all of the above human rights violations at this time.

Protecting human rights in treatment will require significant reforms, including removing coercive programs and judicial coercion, instituting transparency, and utilizing accountability measures that are focused on the human rights of the individual, not the rights of the court or the treatment provider

**Are you supportive of advancing public policies and laws that remove coercion (such as drug courts, involuntary commitment), while advancing a human rights approach to treatment?**

Yes X

No \_\_\_\_\_

Other:

## 2. Decriminalizing Drug Use

Drug prohibition is a policy that has failed for over a century, has caused incalculable human suffering and is responsible for many of the harms often misrepresented as consequences of drug use and substance use disorders. In short, prohibition policy causes harm and risk to people who use drugs, makes drugs more available, more dangerous and has empowered criminal networks to control the ever-resilient drug markets. The use of arrest is reinforced by stereotypes of people who use drugs committing crimes to feed their addiction. In fact, most people who use do not experience problematic drug use. Likewise, drug-using people largely do not commit crimes to continue drug use. The New Jersey Division of Mental Health and Addiction Services notes, 4 out of 5 adult drug arrest, are due to prohibition policy only<sup>9</sup>.

Using arrest or coercion on people for personal drug use or possession is wildly disproportionate to the behavior. The World Health Organization recognizes the use of arrest as a form of violence<sup>10</sup>. Arrest is intentionally harmful and exposes the individual to severe violent risks such as police violence/sexual assault, arrest related deaths and other human rights violations should they be coerced into treatment or jail. Criminal records from drug arrests engender a social disability interfering with an individual's capacity to find employment, housing, and education, social services and general acceptance in their communities. Black and Hispanic communities suffer these harms more as drug enforcement has a racially disparate impact on blacks and Hispanics despite similar rates of drug use with whites.

Drug prohibition makes drugs more dangerous due to the non-regulation and control by criminal networks. A key example, are fentanyl overdoses. Prohibition removed all of the legal institutions, which applied quality controls to substances like heroin previously in the U.S. Now, people using illicit drugs like heroin do not know the purity or if they contain deadly adulterants like fentanyl or carfentanil. These deadly risks are caused by prohibition, not by drug use or substance use disorders. Nationally these prohibition-caused deaths have increased 570% in the past 36 months and in New Jersey these deaths have increased 2000% in the past 48 months<sup>11</sup>.

Recognizing that prohibition causes harm, Portugal decriminalized all drugs 16 years ago. As a result, they are able to address drug use as a health issue while protecting human rights. Since decriminalization, the country went from having 1% of its population having a heroin use disorder to achieving a drug-induced death rate five times lower than the European Union average, a 95% reduction in drug-related HIV infections<sup>12</sup> and lower adult drug use<sup>13</sup>. Portugal's decriminalizing all drugs allows protection of human rights and addressing drug use as a health issue with no judge, no arrest and no forced treatment.

In 2013 NJ decriminalized all drugs with the Overdose Prevention Act but only in the narrowest of circumstances, a fatal or near fatal overdose. Since the passage of the OPA, thousands of lives have been saved in instances of overdoses because no one fears criminal penalties from dialing 911 even if drugs are present.

**Do you support expanding New Jersey's decriminalization policy to include personal possession and use of drugs as a necessary step towards addressing drug use as a human rights and health issue?**

Yes X

No     

Other:

### 3. Harm Reduction

Harm reduction programs are designed to engage active drug using individuals by placing the priority on keeping them alive and healthy rather than placing the priority on a drug-free ideology. New Jersey has anemic harm reduction programs. In a state of almost 9 million people and 565 municipalities, there are only 6 syringe access programs and they are chronically underfunded. As previously mentioned, prohibition has caused the heroin supply to be tainted with more lethal adulterants of fentanyl and even more powerful carfentanil. These adulterants have caused a 570% increase in deaths nationally in the past 36 months and a 2000% increase in New Jersey in the past 48 months<sup>14</sup>. Below is a list of Harm Reduction programs that are proven to save lives yet these programs do not even exist in New Jersey:

**Heroin Assisted Treatment (HAT)** – HAT programs have existed for decades. These programs are for current heroin using people who have already failed other mainstream forms of treatments. HAT programs give pharmaceutical grade heroin to participants under medical supervision. Since the heroin is regulated and given in safe spaces, the harms of drug criminalization (such as the aforementioned fentanyl/carfentanil deaths) are eliminated or greatly mitigated, meaning *less overdose deaths*. HAT Programs have been exposed to randomized clinical trials (RCT) with proven outcomes showing HAT is “a feasible, effective and safe as a therapeutic intervention” and also a meta-analysis of RCTs showed reduced use of illicit heroin, superior retention in the HAT program and improved mortality. Currently HAT Programs are available in Switzerland, The Netherlands, Spain, Germany, Canada, Belgium and Denmark.

**Supervised Injection Facilities (SIF)/Drug Consumption Rooms (DRC)** – SIFs offer a safe, medically supervised environment for people who use or inject illicit drugs. SIFs have been in existence since the 1970’s and have been thoroughly researched and proven effective in producing *fewer overdose deaths*, less risky injection behaviors, increased client enrollment in drug treatment, reduced public nuisance from public injecting and save they public resources<sup>15</sup>. Today there are over 100 SIFs in at least 8 countries, with several reporting *zero drug overdoses* in their programs, according to a report by the Harm Reduction Coalition<sup>16</sup>.

**Syringe Access Programs (SAP)** (existing but underutilized/underfunded)– SAPs offer sterile injecting equipment to people who currently inject drugs. In 2010 40% of all adult/adolescent HIV cases in New Jersey were due to injection drug use according to the State Department of Health<sup>17</sup>. These diseases are life-long, can be life threatening, painful and very costly to treat. SAPs have been successful in engaging hard to reach active injection drug using people, providing them sterile injecting equipment to avoid disease transmission. Additionally, SAPs have referred one in five participants to other health related services.

Supervised Injection Facilities are being developed in Seattle, WA and Ithaca, NY. Heroin Assisted Treatment Program legislation has also been introduced in Nevada as well as part of a bill package with drug consumption rooms, decriminalization and treatment on demand by Maryland Legislator and Physician, Dan Morhaim.

**Do you support establishing Heroin Assisted Treatment Programs and Supervised Injection Facilities to avert ever-increasing overdose deaths, while scaling up the number of Syringe Access Programs and funding for all three?**

Yes X  
No \_\_\_\_\_  
Other: \_\_\_\_\_

## 4. Legalizing Marijuana

As mentioned, drug prohibition empowers criminal actors, intentionally harms drug consumers and exposes them to severe risk and does so in a racially disparate manner. This is clearly seen in marijuana prohibition:

- New Jersey law enforcement made 24,067 marijuana possession arrests in 2013, 26 percent more than in 2000 (ACLU-NJ)
- Blacks are more than 3x likely than whites to be arrested for marijuana (ACLU-NJ)
- NJ is wasting \$143 million a year enforcing marijuana prohibition (ACLU-NJ)<sup>18</sup>
- Marijuana Criminalization only benefits illegal actors that exploit the prohibition marketplace and some are known to deliberately target adolescents.
- Under marijuana criminalization one in four adolescents reported having excellent access to marijuana, obtaining it in less than 45 minutes via text message, according to the National Center on Substance Abuse.
- Support for Marijuana Legalization is at an all time high - about 61 percent of those surveyed in a CBS poll think marijuana should be legal, while 71 percent opposed federal intervention in states that have made marijuana legal.

Voters in eight states and Washington, D.C. have approved measures legalizing marijuana for individuals over 21, and the eight states — Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, and Washington — approved taking marijuana production and sales off the criminal market and regulating and taxing them according to the Marijuana Policy Project. There are currently three bills in the New Jersey State Legislature that would legalize marijuana: A-2068 (Gusciora), A-4193 (Carroll), and A-4872 (Gusciora/Eustace/Kennedy)/S-3195 (Scutari).

Help Not Handcuffs, Inc. makes the following recommendations for Marijuana Legalization:

1. Establish a Human Rights Fund with marijuana tax money, which would aide in the prevention of police and institutional violence, helping survivors of drug war violence and other initiatives as needed.
2. Allow a path for people with drug convictions to participate in the legitimate marijuana market.
3. Removing criminal penalties for underage persons in possession of marijuana, to avoid the grave harms of criminalization.

**Do you support taking the marijuana market away from criminals by legalizing the marketplace and supporting our recommendations of establishing a Human Rights Fund, allowing a pathway for people who have drug convictions to participate in the marijuana market, and removing criminal penalties for underage persons caught with marijuana?**

Yes

No

Other:

## 5. Police and Institutional Violence

Police and institutional violence is of exceptional concern because the offenders are in positions of power and authority when they commit crimes of violence, exploitation or other harms against civilians. The culture and actions of police departments, the judicial system, other institutions and the government are key contributors to this kind of violence. Decades of research has documented that violence negatively impacts people's mental and physical health<sup>19</sup>. However, harm caused by police and institutional violence is intensified due to institutional betrayal: institutional actors or policies that betray the institution's constituents<sup>20</sup>. Therefore, when police officers or other institutional actors perpetrate violence against a civilian, they are committing a violent crime and engaging in institutional betrayal due to their status as a police officer or other trusted public servant. Thus, violence perpetrated by police is likely more harmful to civilians<sup>21</sup>. This harm is exacerbated further, when institutions use their power and resources to deny or cover up the wrongdoing.

People who use drugs are particularly vulnerable as intensive drug enforcement is tied to an increase in police violence and police sexual assault<sup>22</sup>. Some of the same risks are seen in behavioral health settings. Adding more risk, programs such as drug courts coerce individuals into treatment that they cannot leave without facing severe criminal punishments. Drug enforcement has a proven racially disparate impact on minority communities, making these populations highly vulnerable to the above abuses. Choosing to implement strong internal and external accountability can intervene on police officers and departments who are not fulfilling the credo of "to protect and serve," as well as other institutional actors. It also highlights police officers, departments and institutions that are upholding standards, which contribute to safe and healthy communities.

### **Internal Accountability:**

1. Within police departments or other institutions, tangible accountability for individual police officers who commit police violence **and** for police administrators (e.g., captains) who are responsible for their departments
2. Ongoing external and public assessments of trainings, protocols, complaints, and practices

### **External Accountability:**

1. Criminal charges for a violent/exploitive crime **and** an additional criminal charge for institutional betrayal; community councils that serve as an oversight mechanism of police conduct, including:
  - a) hearing police complaints at regular intervals (e.g., bimonthly);
  - b) providing recommendations for accountability;
  - c) receiving responses to recommendations and reports of accountability decisions
2. Community members involved in choosing police officers that serve their communities
3. Incentives and disincentives (e.g., funding increases/decreases) for police departments that identify problems (e.g., through assessments) and take active steps towards solutions
2. Removal of Statue of Limitations in cases of Institutional Betrayal
3. Mandatory reporting with criminal penalties for not doing so, when institutional actors are told of violence by victims who want action taken

Police and institutional violence and its attendant institutional betrayal creates a barrier of mistrust between police, other vital institutions and civilians. This barrier contributes to an aggressive dynamic between police and civilians, with the War on Drugs creating a perceived need for police violence. Through police accountability, police and civilians can find themselves on the same side of protecting communities.

**If elected, do you support the passage of legislation to address police and institutional violence and its institutional betrayal?**

Yes X

No    

Other:

Candidate or Person Authorized to Speak on behalf of the Candidate:

Name Joseph Gabriel Aubourg

Date 10/17/17

<sup>1</sup> NIDA. (2014, January 14). Principles of Adolescent Substance Use Disorder Treatment: A Research – based Guide. Retrieved from <https://www.drugabuse.gov/publications/principles-adolescent-substance-use-disorder-treatment-research-based-guide/introduction> on 2017, October 9

<sup>2</sup> The National Institute on Drug Abuse Blog Team. (). Heroin. Retrieved from <https://teens.drugabuse.gov/drug-facts/heroin> on October 9, 2017.

<sup>3</sup> Peele, Ph.D., J.D., Stanton April 25, 2014 Normalizing Drug Use: Drug use does not become and remain addictive more often than other involvements. Psychology Today.

<sup>4</sup> The NSDUH Report, March 27, 2008; downloaded May 6, 2008. Figure 1 and 2, [https://roar.nevadaprc.org/system/documents/2913/original/NPRC.1129.March27\\_2008.pdf](https://roar.nevadaprc.org/system/documents/2913/original/NPRC.1129.March27_2008.pdf)

<sup>5</sup> Peele, Stanton. (2016). People control their addictions no matter how much the “chronic” brain disease model of addiction indicates otherwise, we know that people can quit addictions—With special reference to harm reduction and mindfulness. Addictive Behaviors Reports. . 10.1016/j.abrep.2016.05.003.

<sup>6</sup> Lopez-Quintero C, Hasin DS, de los Cobos JP, et al. Probability and predictors of remission from lifetime nicotine, alcohol, cannabis, or cocaine dependence: Results from the National Epidemiologic Survey on Alcohol and Related Conditions. *Addiction (Abingdon, England)*. 2011;106(3):657-669. doi:10.1111/j.1360-0443.2010.03194.x.

<sup>7</sup> “As Governor Christie Promotes Treatment, OD Deaths and Human Rights Violations in Treatment Programs are Hidden From the Public” Atlantic Highlands Herald, June 1, 2017

<sup>8</sup> OPRA Request to the Superior Court of New Jersey, June 4, 2016

<sup>9</sup> New Jersey Division of Mental Health and Addiction Services – New Jersey Chartbook of Substance Abuse Related Social Indicators, page 15 - 2013  
<sup>10</sup> *World Report on Violence and Health*. Rep. Ed. Etienne G. Krug. World Health Organization, 2002. Web. 2016. (The intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation.)

<sup>11</sup> All 1,901 people killed by opioids in N.J. last year, mapped [http://www.nj.com/news/index.ssf/2017/09/all\\_1901\\_people\\_killed\\_by\\_opioids\\_in\\_nj\\_last\\_year\\_mapped.html](http://www.nj.com/news/index.ssf/2017/09/all_1901_people_killed_by_opioids_in_nj_last_year_mapped.html)

<sup>12</sup> In Portugal, Drug Use Is Treated As A Medical Issue, Not A Crime <http://www.npr.org/sections/parallels/2017/04/18/524380027/in-portugal-drug-use-is-treated-as-a-medical-issue-not-a-crime>

<sup>13</sup> The success of Portugal’s decriminalisation policy – in seven charts <http://www.tdpf.org.uk/blog/success-portugal’s-decriminalisation-policy---seven-charts>

<sup>14</sup> All 1,901 people killed by opioids in N.J. last year, mapped [http://www.nj.com/news/index.ssf/2017/09/all\\_1901\\_people\\_killed\\_by\\_opioids\\_in\\_nj\\_last\\_year\\_mapped.html](http://www.nj.com/news/index.ssf/2017/09/all_1901_people_killed_by_opioids_in_nj_last_year_mapped.html)

<sup>15</sup> Beletsky L, Davis CS, Anderson E, Burris S. The Law (and Politics) of Safe Injection Facilities in the United States. *American Journal of Public Health*. 2008;98(2):231-237. doi:10.2105/AJPH.2006.103747

<sup>16</sup> “Alternatives to Public Injecting” Harm Reduction Coalition, 2016

<sup>17</sup> New Jersey Syringe Access Program Demonstration Project – Final Report, Executive Summary - 2012

<sup>18</sup> “Unequal and Unfair: NJ’s War on Marijuana Users” ACLU-NJ, 2017

<sup>19</sup> Reyes, G., Elhai, J. D., & Ford, J. D. (2008). *The encyclopedia of psychological trauma*. John Wiley & Sons.

<sup>20</sup> Gomez, J.M. & Freyd, J.J. (2014). Institutional betrayal makes violence more toxic. [Op-Ed] *The Register-Guard* (Eugene, Oregon), August 22, 2014, p A9.

<sup>21</sup> Smith, C.P. & Freyd, J.J. (2014). Institutional betrayal. *American Psychologist*, 69, 575-587.

<sup>22</sup> Cooper HL. War on Drugs Policing and Police Brutality. *Substance use & misuse*. 2015;50(8-9):1188-1194. doi:10.3109/10826084.2015.1007669.