

<p>DISTRICT COURT, PUEBLO COUNTY, COLORADO 501 N. Elizabeth Street Pueblo, CO 81003</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiffs: COLORADO HEALTH NETWORK INC., a nonprofit corporation, and SOUTHERN COLORADO HARM REDUCTION ASSOCIATION, a nonprofit corporation;</p> <p>v.</p> <p>Defendant: CITY OF PUEBLO</p>	
<p><i>Attorneys for Plaintiffs:</i></p> <p>Timothy Macdonald, 29180 Sara R. Neel, No. 36904 Anna I. Kurtz, No. 51525 Lindsey M. Floyd, No. 56870 American Civil Liberties Union Foundation of Colorado 303 E. 17th Ave., Suite 350 Denver, Colorado 80203 tmacdonald@aclu-co.org sneel@aclu-co.org akurtz@aclu-co.org lfloyd@aclu-co.org P: (720) 402-3114 F: (303) 777-1773</p> <p>Christine Ranney, No. 55398 Al Kelly, No. 55112 John Harrison, No. 57988 GIBSON, DUNN & CRUTCHER LLP 1801 California Street, Suite 4200 Denver, CO 80202-2641 cranney@gibsondunn.com akelly@gibsondunn.com jharrison2@gibsondunn.com Telephone: 303.298.5700</p> <p><i>In cooperation with the ACLU Foundation of Colorado</i></p>	<p>Case Number:</p> <p>Division:</p> <p>Courtroom:</p>
<p>DECLARATION OF JOSÉ ESQUIBEL</p>	

I, José Esquibel, being over the age of 21, state that the following is true and correct based on my personal knowledge:

1. I am the Director of the Colorado Consortium for Prescription Drug Abuse Prevention and the Associate Director of the Center for Prescription Drug Abuse Prevention in the Skaggs School of Pharmacy and Pharmaceutical Sciences, University of Colorado Anschutz Medical Campus.

2. I have 40 years of experience in the fields of prevention and treatment of substance use disorders. I served as Vice Chair of Prevention of the Colorado Substance Abuse Trend and Response Task Force from 2013 to 2018 by appointment of the Senate President of the Colorado General Assembly. I also served as a member of that task force from 2019 to the present by appointment of Colorado Attorney General Phil Weiser, chair of the task force. For additional information about my experience, see Exhibit A to this declaration, which is a true and accurate copy of my CV.

3. Syringe exchange programs—also referred to as syringe service programs or syringe access programs—are a powerful tool in stemming and preventing the spread of infectious diseases, including Human Immunodeficiency Virus (“HIV”) and Hepatitis C, both of which are efficiently spread through sharing needles and other injection equipment.

4. Syringe Exchange Programs (“SEPs”) are community-based prevention programs that allow individuals who inject substances access to and disposal of sterile syringes and access to other injection paraphernalia without a prescription.

5. SEPs effectively use evidence-based strategies to reduce harms associated with drug use, including injection-related health risks and overdose. These programs are proven to reduce overdose risk and to save lives.

6. SEPs have been legal in Colorado since 2010 and the Colorado Department of Public Health and Environment (“CDPHE”) has been funding SEPs for more than a decade.

Statewide availability of SEPs and life-saving overdose reversal medications is crucial to Colorado's harm reduction goals and broader public health scheme.

7. Fatal overdoses are increasing and remain a significant public health issue, both nationally and in Colorado. In 2022, Colorado lost 1,799 residents as a result of drug overdose and that number increased in 2023 to 1,822. The age-adjusted rate per 100,000 population of opioid-related overdose deaths increased from 19.5% in 2022 to 20.9% in 2023.

8. There are currently twenty (20) SEPs in Colorado, including the two (2) SEPs in Pueblo that are operated by the Colorado Health Network and the Southern Colorado Harm Reduction Association.

9. CDPHE supports the operation of SEPs to counter the rising overdose rates in Colorado, recognizing that they are the primary access point for overdose prevention education and overdose reversal medications.

10. Another goal of SEPs is to provide a bridge to individuals who inject substances with a wider array of medical services. By cultivating a relationship with the individual, SEPs are often able to refer the individual to additional social and medical support services, such as confirmatory testing, preventive treatment, and medication-assisted treatment, as well as education related to the recognition, prevention, and reversal of overdoses.

11. Evidence demonstrates that SEPs help protect communities from syringe litter and the threat of needlestick injury and lower odds of improper syringe disposal.

12. SEPs do not increase illegal substance use or crime. In fact, new users of SEPs are more likely to enter drug treatment and reduce or stop using drugs than individuals who do not use SEPs.

13. Cost saving is another strong justification for the continuation of SEPs. A 10-cent sterile syringe can reliably prevent the transmission of HIV and Hepatitis C, avoiding hundreds of thousands of dollars in health care costs in both public and private funds.

14. In 2019 the Colorado Consortium for Prescription Drug Abuse Prevention for Prescription Drug Abuse Prevention conducted a policy survey in which stakeholders recommended removing the requirement in then-existing state law for local Board of Health approval for the operation of SEPs and the survey results were shared with the legislative Interim Study Committee on Opioids and Other Substance Use Disorders.

15. The Colorado Syringe Access Providers Coalition (COSAP) – a collection of local, state, and national harm reduction service providers –informed legislators on the Interim Study Committee on Opioids and Other Substance Use Disorders that the prior local approval requirement had been incredibly limiting to establishing SEPs, especially in rural areas. Many Boards of Health include non-health care professionals, which leads to a lack of evidence-based decision-making.

16. In response to the recommendations of COSAP and to increase access to SEPs, in 2020 the legislature amended C.R.S. § 25-1-520 to permit nonprofit organizations with experience operating SEPs and certain health facilities to operate clean syringe exchange programs without prior local Board of Health approval.

17. I have read and fully endorse and agree with the facts and opinions in the letter by Ned Calonge, MD, MPH, Chief Medical Office of the State of Colorado, dated May 1, 2024, and addressed to Pueblo City Mayor Graham and members of the Pueblo City Council. Dr. Calonge's letter provides evidence-based information about SEPs and the oversight role of the Colorado Department of Health and Environment as a funder of such programs, as well as well-

founded concerns about the consequences of prohibiting syringe access services. A true and accurate copy of Dr. Calonge's letter is attached as Exhibit B to this declaration.

18. The passage of the Pueblo Ordinance is likely to have impact beyond the City's borders, including risk of outbreak of infectious disease, increased health care costs, and increased overdose deaths. Disrupting the Pueblo SEPs's provision of safer injection equipment, opiate-antagonists, and harm prevention education risks undermining public health within and outside of Pueblo.

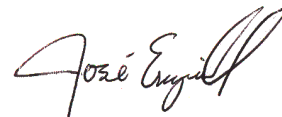
19. In addition, prohibiting SEPs from operating in one locale will lead to increased strain on other SEPs and healthcare providers in the state, including emergency responders.

20. The next closest SEP to Pueblo that is available to the hundreds of Pueblo citizens who utilize Plaintiffs' services each week is almost 50 miles away in Colorado Springs. Colorado Springs has already been considering its own prohibitions on SEPs in light of Pueblo's Ordinance.

21. If Colorado Springs successfully passes a similar prohibition, individuals who have little to no access to transportation would be forced to find a way to travel as far as Denver to obtain the services or forgo access.

22. I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Dated: June 3, 2024



José Esquibel

EXHIBIT A

José Antonio Esquibel

Associate Director, Community Engagement
Center for Prescription Drug Abuse Prevention
Director, Colorado Consortium for Prescription Drug Abuse Prevention
University of Colorado, Anschutz Medical Campus
12850 E. Montview Blvd., Aurora, CO 80045
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jose.a.esquibel@cuanschutz.edu

EDUCATION

Bachelor of Arts in Psychology, University of New Mexico, Albuquerque, New Mexico. December 1979.

CERTIFICATIONS

Certified Addiction Counselor III, Iowa Board of Substance Abuse Certification. February 1990 – May 1996.

Certified Substance Abuse Counselor II, Iowa Board of Substance Abuse Certification. February 1987 – January 1990.

EMPLOYMENT

Associate Director, Center for Prescription Drug Abuse Prevention, Skaggs School of Pharmacy and Pharmaceutical Sciences, and Director of the Colorado Consortium for Prescription Drug Abuse Prevention, University of Colorado, Anschutz Medical Campus. April 2019 – present.

Director, Office of Community Engagement, Colorado Office of the Attorney General by appointment of Attorney General Cynthia H. Coffman and Attorney General Phil Weiser. July 2015 – April 2019.

Director, Interagency Prevention Systems for Children and Youth, Colorado Department of Public Health and Environment (June 2004 – July 2013) and Colorado Department of Human Services (July 2013 – July 2015).

Staff Manager/Supervisor (Substance Abuse Prevention), State of New Mexico, New Mexico Department of Health/Behavioral Health Services/Prevention Services Bureau. April 1998 – May 2004.

Medical Care Administrator (Substance Abuse Prevention), State of New Mexico, New Mexico Department of Health/Behavioral Health Services/Prevention Services Bureau. November 1997 – April 1998.

Health Planner III-C (Substance Abuse Prevention), State of New Mexico, New Mexico Department of Health/Behavioral Health Services/Prevention Services Bureau. January 1996 – November 1997.

Prevention Specialist/Supervisor (Substance Abuse Prevention), Santa Fe Community Partnership, Santa Fe, New Mexico. February 1995 – January 1996.

Residential Supervisor, Jemez House Youth Ranch, Alcalde, New Mexico. August 1994 – February 1995.

Counselor IV/Program Coordinator/Supervisor (part-time), United Action for Youth, Iowa City Iowa. January 1991 - June 1994.

Substance Abuse Prevention Coordinator (part-time), Iowa City Community School District, Iowa City, Iowa. January 1991 – June 1994.

Counselor II/Prevention Specialist, Mid-Eastern Council on Chemical Abuse, Iowa City, IA. April 1986 – December 1990.

Family Therapist/Case Worker, Alternative Services, Inc., Cedar Rapids, Iowa. November 1985 – April 1986.

Counselor I, Adolescent Alcohol Program, Bernalillo County Mental Health/Mental Retardation Center, Alcoholism Division, Albuquerque, New Mexico. September 1983 – August 1985.

Residential Youth Care Worker, Hogares, Inc., Albuquerque, New Mexico. March 1983 – September 1983.

Juvenile Correction Officer II, Youth Diagnostic and Development Center, Albuquerque, New Mexico. February 1980 – August 1980 and May 1982 – September 1982.

Alcohol Education Counselor (part-time), Alcohol Education Program, Juvenile Probation Department, Albuquerque, New Mexico. September 1980 – July 1985.

Group Facilitator (part-time), First Offenders Program, Juvenile Probation Department, Albuquerque, New Mexico. August 1977 – July 1985.

PROFESSIONAL APPOINTMENTS

Member. Appointed by Colorado State Senate President to serve on the Subcommittee of the legislative Behavioral Health Transformational Task Force. September 2021 – January 2022.

Member. Appointed by Colorado Attorney General Phil Weiser to serve on the Substance Abuse Trend and Response Task Force. May 2021 - Present

Vice-Chair. Appointed by Colorado State Senate President as Vice-Chair of Prevention of the State Methamphetamine Task Force/Substance Abuse Trend and Response Task Force. June 2005 – May 2019.

Member. Appointed by Governor of the State of Colorado to the Colorado Behavioral Health Transformation Council. August 2010 – August 2014.

Chair. Appointed by Governor of the State of Colorado as Chair of the Colorado Prevention Leadership Council. June 2004 – June 2013.

State Commissioner. Designated as the representative of the Executive Director of the Colorado Department of Public Health and Environment to the Colorado Commission of Indian Affairs, which is chaired by the Lt. Governor of the State of Colorado. 2004 – June 2013, and represented of the Colorado Office of the Attorney General, September 2015 – April 2019.

COLLABORATION LEADERSHIP AND PARTICIPATION

Co-Chair. Colorado Collaborative Management Program State Steering Committee, 2005-2013. Member, 2004 – 2015.

Member. Advisory Council on Homeless Youth. 2005 – 2015

Member. Colorado 9to25 Steering Committee, 2013 – 2018.

Member. National Network of Children’s Cabinets and Councils. 2010 – 2015

Member. Colorado System of Care Collaborative. 2004 – 2014

Facilitator. Colorado Medical Home Community Forum. 2009 – 2014.

Co-Chair. Continuum of Care Service Delivery Committee, Colorado Behavioral Health Transformation Council. 2012 – 2014.

Co-Chair. Colorado Care Coordination Community of Practice. 2011 – 2014.

Chair. Health and Wellness Committee, Colorado Commission of Indian Affairs. 2009 – 2014.

Member. Colorado Prevention Partnership for Success. 2010 – 2014.

Co-Chair. Colorado Children and Youth Information Sharing Collaborative. 2010 – 2013. Member 2009 – 2014

Project Director and Chair. Colorado Links for Children’s Mental Health. 2008 – 2012.

Member. Early Childhood State Systems Team. 2004 – 2012.

Co-Chair. Colorado Health Disparities Leadership Team. 2011 – 2013. Member, 2006 – 2013.

Member. Colorado Blue Ribbon Council on Early Childhood Mental Health. 2004 – 2013.

Project Director. Blending and Braiding Your TANF Grant. 2010 – 2011.

Chair. SBIRT Management Team. 2006 – 2011.

Co-Chair. Colorado Prevention Partners Steering Committee. 2004 – 2010.

Member. Colorado Safe School Partnership. 2006 – 2008.

PROFESSIONAL BOARDS

Rose Andom Center (for survivors of domestic violence). February 2016 – present.

Rise Above Colorado (youth substance abuse prevention). September 2017 – present.

Colorado Healing Fund. September 2020 – present

18th Judicial District Juvenile Assessment Center. December 2016 – 2019

Denver Early Childhood Council. 2013 – August 2015.

Partnership for Families and Children. 2004 – 2014.

Colorado Multi-Ethnic Cultural Consortium. 2010– 2014.

Safe2Tell (school violence prevention program). 2007 – 2008.

PROFESSIONAL EXPERIENCE

I am a skilled facilitator, trainer, and public speaker, and I have designed and implemented processes that help move groups of partners collectively toward achieving common goals.

Initially trained as a clinician with mentors from the fields of child and family psychiatry and psychology at the University of New Mexico, I worked as a certified addictions counselor and family therapist with adolescents and adults in outpatient and inpatient treatment settings beginning in 1983. My work experience branched into the field of substance abuse prevention, including work in schools as well as in community settings between 1986 and 1996. After thirteen years of delivering direct substance abuse treatment services, I entered into the state government system in 1996, serving on a team that enhanced the state substance abuse prevention system in New Mexico before coming into service with the State of Colorado. This work included oversight of the federal Substance Abuse Prevention and Treatment Block Grant and establishing partnerships with prevention service providers.

Between 2004 and 2013, as Director of Interagency Prevention Systems with the State of Colorado, I was responsible for designing, directing implementation of, and evaluating an interagency system of coordination and collaboration to implement a more unified, effective and efficient interagency system for the delivery of state and federally funded prevention, intervention, and treatment services for children and youth. In order to be effective, such an approach required the involvement of representatives of various segments of government and local communities, and the utilization of current best practices and principles of prevention that are based on research.

From 2004 through 2009, I served as co-project director of the Strategic Prevention Framework State Incentive Grant, consisting of an award of \$2.35 million per year for five years awarded to the Colorado Office of the Governor. The Colorado Prevention Leadership Council served as the coordinating body for the cooperative agreement that partnered with fourteen communities on improving the practice of community-based prevention aimed at reducing substance abuse-related problems in communities, preventing the onset of adolescent use of substances, and building prevention capacity at the state and local levels for enhancing the implementation of evidence-based approaches to substance abuse prevention.

From 2006 through 2011, I served as project director of SBIRT Colorado grant, another grant to the Colorado Office of the Governor (\$14 million). This entailed establishing partnerships with healthcare providers, healthcare trade associations, and substance abuse prevention and treatment providers and substance abuse provider trade associations to discuss and shape policy and practice for delivery of substance abuse screening in healthcare settings. As a result of this collaborative work, screening, brief intervention and referral to treatment (SBIRT) services were delivered in twenty-two primary care settings at twelve sites across Colorado. In a period of five years over 110,000 individuals were screened and evaluation results showed significant decreases in the use of alcohol and other drugs in the six months following the screening.

Since 2005, I have served as Vice Chair of Prevention of the Colorado State Methamphetamine Task Force, which was repurposed by the state legislature as the State Substance Abuse Trend and Response Task Force in 2010. In this role, I have provided leadership in monitoring substance use data trends, in recommending related policy to the state legislature, and to coordinating with various partners on responses to substance abuse issues and assistance to local communities. The Task Force is chaired by the State Attorney General.

I participated in a leadership role in the formation of the Colorado Consortium for Prescription Drug Abuse Prevention and the in the development of the Colorado Plan for Prescription Drug Abuse Prevention (2013). Since that time, I have continued to serve in a leadership capacity with the Consortium in my role as Vice Chair of Prevention of the Substance Abuse Trend and Response Task Force and as director of the Office of Community Engagement. This includes involvement in outreach efforts to community leaders seeking to address the opioid crisis and identifying ways the Consortium can provide guidance and assistance.

Beginning in 2016, I directed the Colorado Naloxone for Life initiative on behalf of the Colorado Office of the Attorney General to purchase Narcan kits for distribution to law enforcement personnel and other first responders across the state. This initiative is a partnership between the Harm Reduction Work Group of the Consortium, Denver Health and Hospital Authority, The Harm Reduction Action Center, the Colorado Association of Chiefs of Police, and the Colorado Department of Public Health and Environment.

RELEVANT PRESENTATIONS AND TRAININGS CONDUCTED

Faculty, National Association of Attorneys General Training and Research Institute, March 16 – 17, 2016, in New Orleans, June 16 - 17, 2016 in Salt Lake City, and December 1-2, 2016, in Chicago

Served as faculty for the NAAGTRI Opioid Abuse Consumer Protection and Enforcement trainings related to the opioid crisis. These two-day trainings were designed for attorneys general legal staff, investigators, consumer advocates, and other allied professionals. The trainings provided an overview of issues relating to prescription opioid abuse including education and prevention, tracking and monitoring, enforcement, and treatment.

National Rx Drug Abuse & Heroin Summit, April 2018, Atlanta

“Colorado AmeriCorps Community Opioid Response Program,” co-presented with Lin Browning (Executive Director, Central Area health Education Center), Kent MacLennan (Executive Director, Rise Above Colorado) and Gina Olberding (Operations Manager, Colorado Consortium for Prescription Drug Abuse Prevention). This session focused on evidence-based strategies in utilizing AmeriCorps members assigned to six regional area health response programs to provide support to local communities implementing strategies to reduce the impact of opioid abuse.

National Rx Drug Abuse & Heroin Summit, April 2020, Virtual

“Blueprint for Use of Opioid Litigation Settlement Funds by State and Local Governments: The Colorado Example,” co-presented with Robert J. Valuck, PhD, RPh, FNAP. This session focused on the efforts in Colorado to prepare for the use of multi-million dollars from opioid settlements using a survey tool that was prepared by the Colorado Consortium for Prescription Drug Abuse Prevention in partnership with Colorado Counties, Inc., Colorado Municipal League, Colorado Office of the Attorney General and others professional associations.

EXHIBIT B



Mayor Graham and Members of the Pueblo City Council
One City Hall Place
Pueblo, Colorado 81003

May 1, 2024

Dear Mayor Graham and Members of the Pueblo City Council:

I am writing today to provide information regarding syringe service operations within the City of Pueblo. The Colorado Department of Public Health and Environment (CDPHE) works closely with community organizations to support the implementation of evidence-based strategies along the continuum of substance use services which includes primary prevention, harm reduction, and treatment. The department has been funding syringe exchange programs (SEPs) since they were authorized by the Colorado legislature in 2012 and has observed the benefits provided by the implementation of these services across Colorado.

In addition to preventing transmission of infectious disease and injection-related injury, SEPs provide resources to address the social determinants of health that play a role in the well-being of both individuals and communities. These programs do not increase illegal substance use or crime, in fact, new users of SEPs are five times more likely to enter drug treatment and three times more likely to reduce and/or stop using drugs than those who don't use the programs. As overdose rates continue to rise due to the unpredictability of the illicit drug supply, SEPs are the primary access point for overdose prevention education and tools such as naloxone. SEPs reduce overdose risk and ultimately save lives.

Cost-savings, in addition to the prevention of harm and death, continue to motivate communities to initiate SEPs. A sterile syringe that costs 10 cents can reliably prevent costly HIV and Hepatitis C transmission, effectively saving communities public and private dollars associated with treatment. SEPs also provide safe methods of syringe and other biohazard disposal, increasing public safety, reducing accidental needle sticks to first responders, and reducing public cost for hazardous waste mitigation.

Prohibiting syringe access in the city of Pueblo could potentially lead to outbreaks of infectious disease, increased health care and emergency costs, overdose deaths and service interruption for the hundreds of individuals who rely on the multitude of services provided by these organizations. In addition, studies have shown an eight-fold increase in improperly discarded syringes in communities without SEPs compared to those with SEPs. We are experiencing the most significant substance use and overdose crisis our nation has ever faced, and turning the tide will require the use of every proven effective prevention strategy we have available. I am available to provide additional information and data related to these vital programs as you consider how to best support the health of your community.

Sincerely,

Ned Calonge, MD, MPH
Chief Medical Officer
State of Colorado