

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
v.	:	No. 2:19-cv-00519
	:	
SAFEHOUSE and JOSE BENITEZ,	:	
	:	
Defendants.	:	

SAFEHOUSE,	:	
	:	
Counterclaim Plaintiff,	:	
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Counterclaim Defendant.	:	
	:	
and	:	
	:	
U.S. DEPARTMENT OF JUSTICE;	:	
WILLIAM P. BARR; and WILLIAM M.	:	
McSWAIN,	:	
	:	
Third-Party Defendants.	:	

**UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF AS
AMICI CURIAE PHILADELPHIA-AREA COMMUNITY ORGANIZATIONS**

In accordance with the Court’s May 28, 2019 Stipulated Scheduling Order, Action Well-ness, ACT UP Philadelphia, LGBT Elder Initiative, Philadelphia FIGHT, Pennsylvania Harm Reduction Coalition, Prevention Point Philadelphia, Sero Project, SOL Collective, and William Way LGBT Community Center (the “Philadelphia-Area Community Organizations”) move for leave to

appear as *amici curiae* and to file the brief attached hereto as **Exhibit A** in support of Safehouse in this action.¹ All parties consent to the relief sought by this motion.²

I. IDENTITY AND INTEREST OF THE *AMICI CURIAE*

The Philadelphia-Area Community Organizations provide harm-reduction, social, and medical services (including HIV and AIDS-related treatment) to those impacted by substance use disorders and advocate on their behalf. *See* Br., Ex. A, at 1–4. As front-line leaders with constituents disproportionately impacted by the opioid crisis, the Philadelphia-Area Community Organizations have both expertise and interest in the comprehensive harm-reduction program proposed by Safehouse.

II. ARGUMENT

A. Legal Authority

The Court has broad discretion to permit a non-party to participate as *amicus curiae*. *See, e.g., Avellino v. Herron*, 991 F. Supp. 730, 732 (E.D. Pa. 1998) (“A district court has inherent authority to allow *amicus curiae* to participate in proceedings.”). The Third Circuit has instructed that “permitting persons to appear in court . . . as friends of the court . . . may be advisable where third parties can contribute to a court’s understanding.” *Harris v. Pernsley*, 820 F.2d 592, 603 (3d Cir. 1987). A court should therefore grant leave to appear as *amicus curiae* if the information

¹ The Philadelphia-Area Community Organizations’ *amicus* brief was not authored in whole or in part by any party’s counsel, and no party, party’s counsel, or other person contributed money that was intended to fund preparing or submitting the brief. But in the interest of complete transparency, the undersigned counsel find it appropriate to disclose the following relationship to the Court: Jose Benitez, who was recently added as a defendant in this case, is the executive director of Prevention Point Philadelphia, one of the *amici curiae*. Of course, Prevention Point Philadelphia participated in preparing the *amicus* brief by providing the undersigned counsel with relevant information and input, but neither Mr. Benitez nor his counsel authored the brief in whole or in part.

² Given the parties’ unanimous consent, this motion is accompanied by a certification from counsel as to its uncontested status rather than a supporting brief. *See* Local Rule 7.1(b) & (c).

offered is “timely and useful.” *Waste Mgt. of Pennsylvania, Inc. v. City of York*, 162 F.R.D. 34, 36 (M.D. Pa. 1995). Indeed, “[d]istrict courts frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved or if the amicus has ‘unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.’” *Sonoma Falls Dev., LLC v. Nevada Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003) (quoting *Cobell v. Norton*, 246 F. Supp. 2d 59, 62 (D.D.C. 2003) (citation omitted). No special qualifications are required; “an individual seeking to appear as amicus must merely make a showing that his participation is useful to or otherwise desirable to the court.” *In re Roxford Foods Litig.*, 790 F. Supp. 987, 997 (E.D. Cal. 1991).

B. The Court Should Grant Leave Because the Participation of the Philadelphia-Area Community Organizations Would Be Useful to the Court

The Court should exercise its broad discretion by granting leave to the Philadelphia-Area Community Organizations to file their *amicus* brief, cognizant that the unique perspectives they have developed through their direct, daily interactions with victims of substance use disorder will prove useful to the Court in resolving this case. Indeed, the Philadelphia-Area Community Organizations are in an unparalleled position to offer the Court a visceral, first-hand understanding of the opioid crisis, as well as the benefits that Safehouse’s comprehensive harm-reduction program would bring. Their participation would be timely, useful, and desirable and Court should allow it, especially given the public interest at stake. *See, e.g., Liberty Resources, Inc. v. Phila. Hous. Auth.*, 395 F. Supp. 2d 206, 209 (E.D. Pa. 2005) (“Courts have found the participation of an amicus especially proper . . . where an issue of general public interest is at stake.”). The Court, then, should grant this unopposed motion.

III. CONCLUSION

The Philadelphia-Area Community Organizations respectfully request that the Court grant their unopposed motion for leave to appear as *amici curiae* and direct the Clerk to docket their brief attached hereto as Exhibit A.

Dated: July 10, 2019

Respectfully submitted,

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,

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v.

SAFEHOUSE and JOSE BENITEZ,

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SAFEHOUSE,

Counterclaim Plaintiff,

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UNITED STATES OF AMERICA,

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and

U.S. DEPARTMENT OF JUSTICE;
WILLIAM P. BARR; and WILLIAM M.
McSWAIN,

Third-Party Defendants.

No. 2:19-cv-00519

CERTIFICATE OF UNCONTESTED STATUS

In accordance with Local Rule 7.1(b), I certify that each party consents to the relief sought by the foregoing Unopposed Motion for Leave to File Brief as *Amici Curiae* Philadelphia-Area Community Organizations.

s/ Bradley A. Nankerville

Bradley A. Nankerville (Pa. I.D. 313660)

*Attorneys for Amici Curiae Philadelphia-Area
Community Organizations*

EXHIBIT “A”

**IN THE UNITED STATES DISTRICT COURT
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**BRIEF OF *AMICI CURIAE*
PHILADELPHIA-AREA COMMUNITY ORGANIZATIONS**

In accordance with the Court's May 28, 2019 Order, *amici* respectfully submit this brief in support of Safehouse in this action.

I. INTEREST OF THE *AMICI CURIAE*

Amici are on the front line of one of the worst public health crises in American history. We are nine Philadelphia-area community organizations that provide harm-reduction, social, and medical services (including HIV and AIDS-related treatment) to those impacted by substance use disorders and that advocate on their behalf. The varied constituencies *amici* serve are those most affected by the opioid crisis in Philadelphia, where it ranks as the worst of the ten largest cities in the United States. As organizations in direct, daily contact with the hardest-hit Philadelphians and with decades of experience in this field, *amici* are uniquely suited to attest to the life-saving benefits of the comprehensive harm reduction strategy proposed by Safehouse.

As witnesses to the daily loss of life in Philadelphia, *amici* have the experience to know that the services proposed by Safehouse will save lives. In addition to medically supervised consumption and observation, the services proposed by Safehouse include medical assessments and medical care, sterile equipment, drug testing, overdose reversal and prevention, wound care, education, counseling, naloxone distribution, and access to housing, public benefits, and legal services. These are the life-saving services that our members need.

Our experience leaves us with no doubt: Safehouse will reduce deaths by overdose and related causes, as well as injection-related infections such as HIV, and will move individuals from active use, to treatment, and, eventually, to recovery. That is why *amici* have come together in staunch support of Safehouse.

Action Wellness, founded in 1986 in Center City, is committed to helping people living with chronic diseases, especially HIV. It serves over 4,000 clients annually through the efforts of

over 400 dedicated volunteers and 100 professional staff, providing services such as medical case management, supportive housing, and prevention education. Action Wellness works to sustain and enhance the quality of life for the diverse community it serves.

ACT UP Philadelphia consists of people living with HIV and their family, friends, and supporters, all committed to ending the AIDS crisis. Founded in 1988, ACT UP Philadelphia used direct-action tactics like civil disobedience and nonviolent protest to focus attention on the AIDS crisis and force a national effort to fight the disease. Other local community groups were borne of its activism. ACT UP Philadelphia honors that legacy today by addressing social inequities and inaction that threaten people living with HIV and those at risk of infection.

LGBT Elder Initiative, founded in Philadelphia in 2015, aims to ensure that lesbian, gay, bisexual, and transgender older adults have rights and opportunities to live vibrant, creative, and supportive lives. Through program series such as “HIV & Aging,” it connects LGBT elders and their caregivers with the resources that will help them to form the social, emotional, financial, and medical support structures needed to age successfully.

Philadelphia FIGHT has since 1997 provided state-of-the-art primary medical care to low income Philadelphians living with HIV, by practitioners experienced in such care, regardless of insurance status or ability to pay. It also prepares and provides access to the most advanced clinical research in HIV treatment and prevention, along with consumer education, advocacy, social services, and outreach to people living with HIV and those who are at high risk.

Pennsylvania Harm Reduction Coalition is a statewide collaboration of medical and treatment providers, harm reduction programs, social service agencies, academics, criminal justice reformers, activists, and ordinary people, all promoting the health, dignity, and human rights of drug users and communities impacted by drug use. Through advocacy, education, training, peer support,

and evidence-based public health strategies, it meets users where they are and supports them across the continuum, from safer use to abstinence.

Prevention Point Philadelphia began in the early 1990s with the goal of removing barriers within Philadelphia preventing access to clean syringes, which it achieved. Since then, its services have expanded to include case management, medical care, overdose prevention and reversal education, naloxone distribution, and more. Prevention Point provides these services within a harm reduction philosophy, both at its Kensington office and through its Streetside Health Project, a series of mobile sites throughout Philadelphia. Its volunteers have trained thousands of Philadelphians how to reverse an overdose and have themselves reversed thousands more.

Sero Project is a network of people living with HIV and their allies fighting for freedom from stigma and injustice. Sero Project formed the Network Empowerment Project to facilitate the creation and strengthening of networks of people with HIV, with a focus on ending unwarranted criminal prosecutions of people with HIV and promoting a human rights-based approach to ending the HIV epidemic.

SOL Collective is an organization comprised of social workers, healthcare providers, drug users, and individuals in recovery, focused on promoting evidence-based solutions to the opioid crisis. Its volunteers distribute naloxone in high-use areas such as Kensington and have trained over 1,000 people to recognize and reverse an opioid overdose.

William Way LGBT Community Center dates to 1974 and supports the well-being and acceptance of sexual and gender minorities in Greater Philadelphia through service and recreational, educational, and cultural programming. The Center hosts confidential and free peer counseling sessions and maintains the most extensive archive of the area's LGBT community.

II. SUMMARY OF ARGUMENT

“Our wretched species is so made that those who walk on the well-trodden path always throw stones at those who are showing a new road.” – Voltaire.

* * *

Philadelphians are dying from opioid overdoses with no end in sight. Through misplaced enforcement, the government continues to walk the well-trodden path of its failed “war on drugs,” while *amici* and Safehouse point to a new road that can and will save lives. Too many souls have been lost in the government’s futile effort to combat substance use disorder through criminal law. *Amici* are grassroots organizations based in the Philadelphia area and experienced with the broad spectrum of people directly impacted by this crisis. Despite differing missions and constituencies, we have come together to voice our support for Safehouse and its mission and strategies. *Amici* offer our unique perspective—a perspective that has been hard-earned, after years of witnessing firsthand far too many public-health tragedies and far too few successes, as the opioid epidemic proceeds essentially unhindered. It is clear to us that “more has to be done.” Aubrey Whelan, [Eight Months After Kensington’s Disaster Declaration, Progress Is Tempered by the Realities of the Opioid Crisis](#), *The Phila. Inquirer* (June 27, 2019).

Our perspective is unique because we battle the spread and impact of this epidemic in the field, daily. Our ranks include volunteers who venture into hazardous and unhygienic environments—at all hours and at risk to our own health and safety—to try to connect with people who need help. We listen, we educate, we care, and, at times, we revive. *Amici* have also learned from our experiences—not only the current opioid crisis, but the HIV/AIDS crisis before it. Our involvement in this effort is sometimes born of intimate, personal experience with loved ones who have succumbed to opioid use disorder. Other times, our involvement stems from a commitment

to historically underserved groups. We live with and among individuals who suffer from substance use disorders; in their homes, their neighborhoods, their communities.

Based on our collective experience, *amici* know that the challenge of saving the lives of those with opioid use disorder is exponentially more difficult when professionals must search hazardous environments to administer to them. Our professionals put themselves in inherent danger in having to do so—navigating around used syringes, trash, rodents, active rail lines, and human waste, to name just a few obstacles. Medically supervised consumption and observation sites, like the one Safehouse is contemplating, are neither sanctuaries to encourage or perpetuate drug use, nor are they the solitary means by which to defeat the opioid epidemic. In the immediate term, they keep people alive by placing medical care providers near those otherwise likely to join the estimated half a million lives claimed by the opioid crisis and reduce public hazards such as discarded syringes. In the longer term, they benefit the community by creating an environment that facilitates an ability to connect with users and build the requisite level of trust needed to convince them to seek proper care, get counseling, and constructively combat this disease.

Facilities like Safehouse must be considered as an essential component of a larger strategy to reverse the destruction wrought by this public-health crisis. Collectively, *amici* have observed firsthand how harm reduction strategies are far more likely to reduce deaths and to lead to treatment for opioid users than leaving them to shoot up in the shadows. What Safehouse is contemplating in Philadelphia is a proven harm reduction strategy that would not only reduce overdose deaths in the near term, but increase participation in drug treatment programs and lessen injection drug use in public, over the broader term.

III. ARGUMENT

Philadelphia has a long history of community activism addressing both the symptoms and consequences of today's opioid crisis. In many ways Safehouse represents a natural extension of that activism. In the 1980s and 1990s, organizations such as Prevention Point Philadelphia, ACT UP Philadelphia, and Philadelphia FIGHT were at the forefront of combating the HIV/AIDS crisis. They battled the stigma of working with people many viewed as unclean and undesirable. Organizations fighting today's opioid crisis face the same challenges. They wrestle with the stigma of substance use disorder and society's accompanying moral judgment, the medical needs of intravenous drug users, the constant threat of overdose, and the obstacles faced by already underserved minority groups. Safehouse can change that.

A. **The Opioid Crisis in Philadelphia Disproportionately Affects the Constituencies *Amici* Serve**

Philadelphia is experiencing a public health crisis like no other. Thousands of Philadelphians have died from overdose and overdose-related complications in just the last four years, and the number of deaths grows annually. The crisis personally affects *amici* and those we serve, on a regular basis. Take Paul Yabor, who was born and raised in Philadelphia. Paul was HIV positive and marginally housed, and suffered from opioid use disorder. He was also a well-known local activist who, despite his diseases, spent much of his time helping people who inject drugs and advocating for safe spaces in the community. He worked with many of *amici* here, including ACT UP, Prevention Point, and Philadelphia FIGHT. He spoke out about a facility like Safehouse:

20 years ago, no one would say that there was going to be syringe exchange in the city. It took a grassroots effort and some people to take some risks to make that happen. Over 10 years ago, there was no naloxone on the street, and it took some grassroots initiative and some people to take some risks and to speak out to get that changed. We just see this—I see this—as a natural progress of those kind of initiatives.

Elana Gordon, [Community Mourns Unexpected Death of Overdose Prevention Activist](#), WHYY (May 26, 2017). Paul supported the idea of opening a medically-supervised consumption and observation site (SCF) in Philadelphia, but one did not come soon enough. In 2017, Paul died at just 55 from a fentanyl overdose, alone and in a secluded area above some railroad tracks. Philadelphia City Council recognized and honored his life and legacy with a formal citation. [City Council Honors Paul Yabor](#), Prevention Point (May 26, 2017). We have lost too many souls like Paul to overdose and its associated consequences, such as AIDS, suicide, and physical violence.

The epidemic disproportionately affects those *amici* serve. LGBT individuals, for example, are more likely to use drugs than their heterosexual counterparts, and emerging research reflects that they are specifically more likely to suffer from opioid use disorder. Black and Latinx communities have seen the largest increase in overdoses due to fentanyl, according to the Centers for Disease Control and Prevention. Older individuals, too, are especially vulnerable. They are more likely to suffer from chronic conditions for which opioids are prescribed and that make absorbing them difficult, and to take multiple prescription medications that can interact dangerously with opioids. It is thus no surprise that opioid-related hospitalizations among seniors have increased in recent years. And, of course, opioid use disorder puts users at higher risk of becoming HIV positive and of contracting other injection-related infectious diseases such as hepatitis B and C, particularly within minority groups. Compounding the problem, opioid use disorder makes those living with disease less likely to maintain connections with their medical providers and thus more likely to discontinue treatment and, in turn, transmit disease to others. Treating the spread of injection-related disease will cost Philadelphia not only lives but millions of dollars in public resources as well as short and long-term medical expenses.

B. Harm Reduction is an Essential Element of Impactful Treatment

Though *amici* here serve different individual constituencies, we share not only a commitment to Safehouse but a common experience-based belief in the effectiveness of harm reduction as part of a broader effort to address opioid use disorder. Harm reduction is one of the four recognized pillars of drug control, together with enforcement, treatment, and prevention. Jonathan P. Caulkins & Peter Reuter, *Dealing More Effectively and Humanely with Illegal Drugs*, 46 *Crime & Just.* 95, 117 (2017). The term “harm reduction” refers to practical strategies directed to reducing the consequences of use disorder, not only to users but to their families, friends, and community, as well. It means recognizing the reality that some individuals with use disorder are unable to immediately stop using. *Amici* do not promote drug use, but they recognize that the reality of what they do every day necessitates accepting members wherever they are in treatment. Their members are among the most vulnerable in the Philadelphia community. *Amici* do not judge, nor do we turn away from those in need. We accept. “At its core, harm reduction supports any steps in the right direction.” Diane E. Logan & G. Alan Marlatt, *Harm Reduction Therapy: A Practice-Friendly Review of Research*, 66 *J. Clinical Psychol.* 201 (2010).

Safehouse is not proposing a glamorous or enticing environment for drug users; just a safe one, staffed with medical professionals who emphasize care and compassion in a non-judgmental space. Experience has proven such an approach to be an effective method of harm reduction and containment. The most obvious benefit is in preventing overdose deaths. As the Centers for Disease Control and Prevention recently confirmed, synthetic opioids like fentanyl are now among the main drivers behind the expanding surge in overdose deaths. [U.S. Drug Overdose Deaths Continue to Rise; Increase Fueled by Synthetic Opioids](#), CDC (Mar. 29, 2018). These substances are particularly dangerous because of their high potency. Minute quantities can create life-threatening

consequences with alarming speed, which curtails the time to administer reversal medication. SCFs place professional medical care providers near users, allowing the professionals to take the quick action needed to prevent adding another name to the list of more than 500,000 lives claimed by this crisis since 2000.¹

As significant as that benefit is, harm reduction means much more than reversing an overdose. In *amici*'s experience, care and compassion are proven and critical tools for establish the level of trust needed to convince users to take steps towards recovery.

“That might seem odd to people. You know, you give someone a safer, cleaner, warmer, drier place to inject and they end up going into addiction treatment,” says [epidemiologist M-J] Milloy. “It’s a place where they can access healthcare, and where their exposure to an increasingly toxic drug supply can be managed and mitigated in an effective sense.” For people working in the field, the value of supervised injection facilities transcends the debate over death or crime statistics, because it offers something people who use drugs may not have experienced before: a non-judgmental place that accepts them for who they are.

Elana Gordon, [What’s the Evidence That Supervised Drug Injection Sites Save Lives?](#), NPR (Sept. 7, 2018); *see also, e.g.*, Brandon D.L. Marshall et al., *Reduction in Overdose Mortality After the Opening of North America’s First Medically Supervised Safer Injection Facility: A Retrospective Population-Based Study*, 377 *Lancet* 1429, 1433 (2011). *Amici* agree. Safehouse would provide a much more constructive environment in which to build trust with users than the railway tracks, derelict buildings, abandoned cars, and alleys in which they are predominantly found today.

¹ According to a 2017 article in the American Journal of Preventative Medicine, beyond the 500,000 fatalities nationwide, more than 770,000 people continue to inject drugs in the U.S. The majority of those users inject opioids, including prescription opioids. Alex H. Kral & Peter J. Davidson, *Addressing the Nation’s Opioid Epidemic: Lessons from an Unsanctioned Supervised Injection Site in the U.S.* 53 *Am. J. Preventative Med.* 919, 921 nn.1–2 (2017).

C. Harm Reduction Proved Its Efficacy During the AIDS Epidemic, in the United States and Around the Globe

Harm reduction is also about containment—that is, preventing a bad situation from becoming much worse. Experience during the AIDS epidemic provides a ready parallel to the current opioid epidemic, particularly with the deployment of a harm reduction program like the one contemplated by Safehouse.

During the height of the AIDS crisis in the 1980s and 1990s, community groups advocated for implementation of syringe exchange programs through which users could dispose of used syringes and receive clean ones in return. As with SCFs, needle exchange programs were met with significant resistance—often with the same refrains being made now, that they would encourage and exacerbate illegal drug use. But these programs steadily gained support, and the positive impact they had in containing the spread of infectious diseases is now well recognized. Nearly 40 states currently have needle exchange programs, leading to a precipitous decline in fatalities and the spread of HIV, hepatitis, and other ailments. More importantly, those needle exchange programs helped buy time, time for users to survive another day, in the near term, and time to find a broader solution to the AIDS epidemic.

Amici were on the front line of those efforts. In 1992, in response to the growing spread of HIV/AIDS through intravenous drug use in Philadelphia, ACT UP and Prevention Point advocated for implementation of a syringe exchange program.² Opposition at the time was familiar: the program was allegedly illegal, would promote drug use, and would increase crime. Results proved the opposite. Syringe exchanges in Philadelphia reduced the rate of HIV/AIDS in injection drug users in a cost-effective way (by as much as 40%) and, far from encouraging crime and abuse, served

² Possessing syringes was illegal in Philadelphia until July 1992, when Mayor Ed Rendell issued Executive Order No. 4-92, removing barriers within Philadelphia preventing access to clean syringes.

instead as entry points to obtain treatment, mental health services, and medical care. This early work in harm reduction is responsible for saving countless lives and millions of public dollars, which is why governments and communities now accept exchanges as an effective tool in fighting the opioid epidemic and its related consequences.

Facilities like Safehouse incorporate key strategies of the exchange programs that proved effective in combatting the spread of HIV and hepatitis C during the AIDS crisis: safe disposal of used syringes, comprehensive risk reduction counseling, screening for HIV and viral hepatitis, referral to use disorder treatment, and referral to medical and mental health care. Exchange programs produced what the Centers for Disease Control and Prevention have acknowledged is “compelling evidence of . . . effectiveness, safety and cost-effectiveness for HIV prevention among [people who inject drugs],” including “reduction in injection risk behaviors”; “reduction in HIV incidence”; “no increase in drug use”; and additional benefits such as “enrollment in substance use disorder treatment, higher HIV treatment retention, [and] reduced needle stick injuries among first responders.” Gabriela Paz-Bailey, [HHS Implementation Guidance to Support Certain Components of Syringe Services Programs 2016](#), CDC, 8 (last visited June 30, 2019).

Unlike needle exchange programs during the HIV/AIDS epidemic, SCFs are no longer a novel concept. The first such facility was established in Switzerland over 30 years ago, and decades of research and data from the approximately 100 facilities around the globe show a host of benefits attributed to SCFs. Significantly, the research and data disprove many of the criticisms raised now by opponents to the opening of facilities like Safehouse in the United States.³

³ *Amici* understand that another group will be addressing the extensive studies and research developed from SCFs around the world, including Europe, Canada, and Australia. Rather than address that data in detail, we defer to our fellow *amici* and highlight only some of the literature here. Of course, we remain available to address this data further, at the Court’s direction.

Research is ongoing, but a consensus has emerged that these sites benefit not only injection drug users directly but also the community. *See, e.g.,* Alex Kreit, *Safe Injection Sites and the Federal “Crack House” Statute*, 60 *Bos. C. L. Rev.* 413, 416 (2019) (“Safe injection sites have been shown to reduce overdose deaths, increase participation in drug treatment programs and lessen injection drug use in public.”); *see also, e.g.,* Chloe Potier et al., *Supervised Injection Services: What Has Been Demonstrated? A Systematic Literature Review*, 145 *Drug & Alcohol Dependence* 48, 62, 65 (2014). The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)⁴ recently highlighted some of the data collected:

A study in Sydney showed that there were fewer emergency service call-outs related to overdoses at the times the safe injecting site was open.

In addition, the use of consumption facilities is associated with increased uptake both of detoxification and drug dependence treatment, including opioid substitution. For example, the Canadian cohort study documented that attendance at the Vancouver facility was associated with increased rates of referral to addiction care centres and increased rates of uptake of detoxification treatment and methadone maintenance.

Evaluation studies have found an overall positive impact on the communities where these facilities are located. . . . Drug treatment centres offering supervised consumption facilities have generally been accepted by local communities and businesses. Their establishment has been associated with a decrease in public injecting and a reduction in the number of syringes discarded in the vicinity.

[Drug Consumption Rooms: An Overview of Provision and Evidence](#), EMCDDA, 5 (June 7, 2018)

(citations omitted). SCFs are also gaining support and recognition from influential groups. In declaring its “full support” for SCFs, for example, the American Medical Association “pointed to

⁴ The EMCDDA is an agency of the European Union that provides its member states with a factual overview of European drug problems and evidentiary base to support policy and strategies to address drug issues.

findings that [SCFs] lead to fewer overdose deaths, reduced transmission of infectious disease associated with injection, and promote long-term treatment and rehabilitation.” Kyle Whiting & Stephanie Wu, [Safe Injection Facilities: Are They Effective?](#), Wharton Pub. Policy Initiative (Nov. 18, 2017). In sum, experience and data prove that SCFs work.

D. Safehouse Will Save Lives and Lead to Better Outcomes

Amici now do much more than provide clean needles. Using a community outreach model, *amici* meet their clients “where they are,” providing not only safer injection supplies but also materials about HIV and hepatitis prevention, HIV testing, overdose reversal training and education, referrals to drug treatment, comprehensive medical and social services, emergency housing, nutritional meals, legal and mail services, and more. *Amici* view Safehouse as an important and necessary component of these efforts and as directly aligned with their missions.

The first and most important step in managing this disease is connection—the “contact” that researchers have noted is so important and that Safehouse would provide. *See, e.g., Drug Consumption Rooms, supra* at 5 (“This contact has resulted in immediate improvements in hygiene and safer use for clients, as well as wider health and public order benefits.”). The effects of the overdose crisis are vast, and touch the human condition and our society in every way. Fear and shame fuel substance use disorder. Asking for help—the first step in a long journey—takes courage that many people do not know. Our system of engagement and treatment is nonetheless littered with barriers that lower the probability of success with each step. People who use drugs, for example, often cannot openly discuss their use in a medical setting. The solution is to lower these barriers and engage at every turn.

In active use disorder and in recovery, the battle within can be the most challenging. Stigma and the challenges of finding housing, employment, and purpose are very real. This process can

overwhelm and paralyze those fighting to survive, get better, and build a new life. The risk of returning to use is great. At their core, substance use disorders are biologically based, but they are also diseases of isolation. Strategies that result in disconnection and marginalization do not work and serve only to push people living with substance use disorder into the shadows—the most dangerous place they can be. A place to connect provides safety and the opportunity to educate and inform, as Safehouse would do, and can be the path to treatment and a life in recovery.

Beyond that, Safehouse would save lives on day one. *Amici* have trained thousands of volunteers on how to recognize and reverse an opioid overdose and those same volunteers have, in turn, personally reversed thousands of overdoses. Despite these scaled-up efforts, *amici* cannot be everywhere at once and cannot reverse someone they cannot see. Individuals who use publicly often rush injections or inject in low-visibility areas to limit being seen by community members and to minimize public nuisance, which places them at a higher risk for overdose. With the rise of fentanyl, which is now at the root of most opioid overdoses and which can kill in minutes, hundreds of those *amici* serve are still dying from overdose in alleys, on the street, and in abandoned buildings. Supervised consumption and overdose prevention is therefore the crucial next step in combating the crisis. Safehouse would restructure this risk by bringing all these tools together, and evidence supports the conclusion that it would work. SCFs in the United States would likely reduce overdose deaths, increase both initiation and retention of care, lead to better long-term substance use treatment outcomes, and be cost effective. *E.g.*, [AIDS United and Project Inform Release Report on Efforts to Bring Safer Consumption Spaces to U.S.](#), AIDS United (Nov. 28, 2018). *Amici* support Safehouse as part of a comprehensive prevention and treatment strategy for people with substance use disorders.

Moreover, Safehouse would be not only a respected local provider but also a national leader in the next generation of programmatic strategies to achieve better outcomes in communities of drug users. In Philadelphia and across the United States, increasing rates of injection drug use demand a holistic approach to drug user health and the prevention of overdoses, hospitalizations, and infectious disease transmission. Safehouse proposes an innovative program that would do exactly that. Locally, its leadership consists of representatives from governmental and nonprofit organizations with histories of providing evidence-based, noncoercive programming for individuals with substance use disorders and those at risk of HIV, thereby improving community-wide and individual health. Nationally, and as a matter of policy, implementing and evaluating Safehouse's program would benefit communities across the United States that are considering or already implementing SCFs. Safehouse would thus contribute data and experience to better equip other communities to respond nimbly and effectively to the opioid crisis.

Lastly, from working every day with drug users, families, and community members, *amici* know there is significant support for Safehouse, particularly among individuals with substance use disorder. In the last nine months, for example, volunteers with SOL Collective approached users, residents, and business owners in high-use areas such as Kensington to survey their experiences with housing and drug-treatment systems and their thoughts on a proposed SCF. Their goal was to record the voices of people most at risk and marginalized by the opioid crisis. The responses were overwhelming: those who inject drugs want a facility like Safehouse not just for themselves but for their communities. In Kensington alone, most residents and business owners reported seeing someone injecting drugs or discarded syringes in the last 30 days. But users do not want to inject on the street, in front of children and their neighbors. They do not want needles littering roads and parks. They do not want their friends and family dying in tents and bathrooms. They do not want

to live with substance use disorder. What they do want is access to treatment and a path to recovery, yet many have been stymied by long waiting lists, strict criteria for enrollment, and the inability to travel. Residents and business owners in Kensington likewise support opening an SCF in their neighborhood. [Survey Suggests Community Support for Proposed Overdose Prevention Site in Philadelphia](#), Drexel (June 6, 2019) (citing Alexis M. Roth et al., *Overdose Prevention Site Acceptability Among Residents and Businesses Surrounding a Proposed Site in Philadelphia, USA*, 96 J. Urban Health 341 (2019)). Abstinence-based programs of the past do not work for most of those living with use disorder, as the staggering overdose statistics prove. *Amici*'s constituencies need treatment from a comprehensive harm reduction facility like Safehouse.

The narratives that these volunteers collected told the story of a community in crisis, but one that was eager and willing to change for the better. Safehouse would provide that opportunity. With every fatal overdose, Philadelphia loses a potential advocate for change. If Paul were alive today, he would surely still be doing what he always did: working on behalf of his community, advocating from personal experience, and saving lives. Safehouse could have saved his.

IV. CONCLUSION

Amici respectfully submit this brief in support of Safehouse.

Dated: July 10, 2019

Respectfully submitted,

GREENBERG TRAURIG, LLP

s/ Jessica Natali

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Community Organizations*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
v.	:	No. 2:19-cv-00519
	:	
SAFEHOUSE and JOSE BENITEZ,	:	
	:	
Defendants.	:	
	:	
<hr/>		
SAFEHOUSE,	:	
	:	
Counterclaim Plaintiff,	:	
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Counterclaim Defendant.	:	
	:	
and	:	
	:	
U.S. DEPARTMENT OF JUSTICE;	:	
WILLIAM P. BARR; and WILLIAM M.	:	
McSWAIN,	:	
	:	
Third-Party Defendants.	:	
	:	

CERTIFICATE OF SERVICE

I certify that on July 10, 2019, I caused true and correct copies of all papers contained in the foregoing Unopposed Motion for Leave to File Brief as *Amici Curiae* Philadelphia-Area Community Organizations to be served on all counsel of record by CM/ECF.

s/ Bradley A. Nankerville

Bradly A. Nankerville (Pa. I.D. 313660)

*Attorneys for Amici Curiae Philadelphia-Area
Community Organizations*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
v.	:	No. 2:19-cv-00519
	:	
SAFEHOUSE and JOSE BENITEZ,	:	
	:	
Defendants.	:	

SAFEHOUSE,	:	
	:	
Counterclaim Plaintiff,	:	
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Counterclaim Defendant.	:	
	:	
and	:	
	:	
U.S. DEPARTMENT OF JUSTICE;	:	
WILLIAM P. BARR; and WILLIAM M.	:	
McSWAIN,	:	
	:	
Third-Party Defendants.	:	

ORDER

AND NOW, this ____ day of _____ 2019, upon consideration of the Unopposed Motion for Leave to File Brief as *Amici Curiae* Philadelphia-Area Community Organizations, it is **ORDERED** that the Motion is **GRANTED** and that the Clerk shall file of record the brief attached to the Motion as Exhibit A.

BY THE COURT:

Gerald A. Mchugh, U.S.D.J.