

Through the Intersections: Criminalization, Public Health, and the Road Forward

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Where We Are & How We Got Here

The intersections of stigma, mistrust,
and carcerceral responses to HIV and
other health conditions

CHLP20
CELEBRATING 20 YEARS IN 2025

SERO+



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CELEBRATING 20 YEARS IN 2025



Our mission

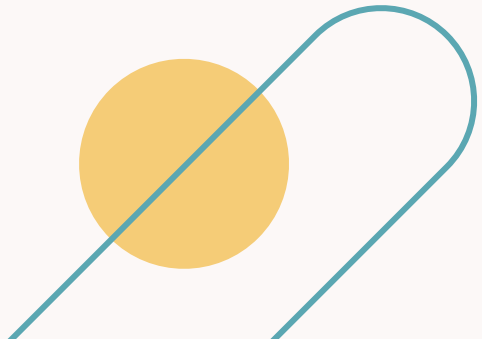
CHLP is an abolitionist legal and policy organization fighting to end stigma, discrimination, and violence at the intersection of HIV, race, health status, disability, class, sexuality and gender identity and expression, with a focus on criminal and public health systems.

In 2025, CHLP is celebrating 20 years of advocacy, innovation, and unwavering commitment to HIV justice.



Our mission

Sero centers PLHIV leadership to end HIV criminalization, mass incarceration, racial and social injustice by supporting inclusive PLHIV networks to improve policy outcomes, advance human rights and promote healing justice.



Drivers of PLHIV Criminal Legal System Involvement

Mass Incarceration



What is HIV criminalization?

HIV criminalization refers to laws, policies, and practices that result in increased criminal penalties for people diagnosed with HIV for conduct that is either legal or less severely punished for people not diagnosed with HIV.

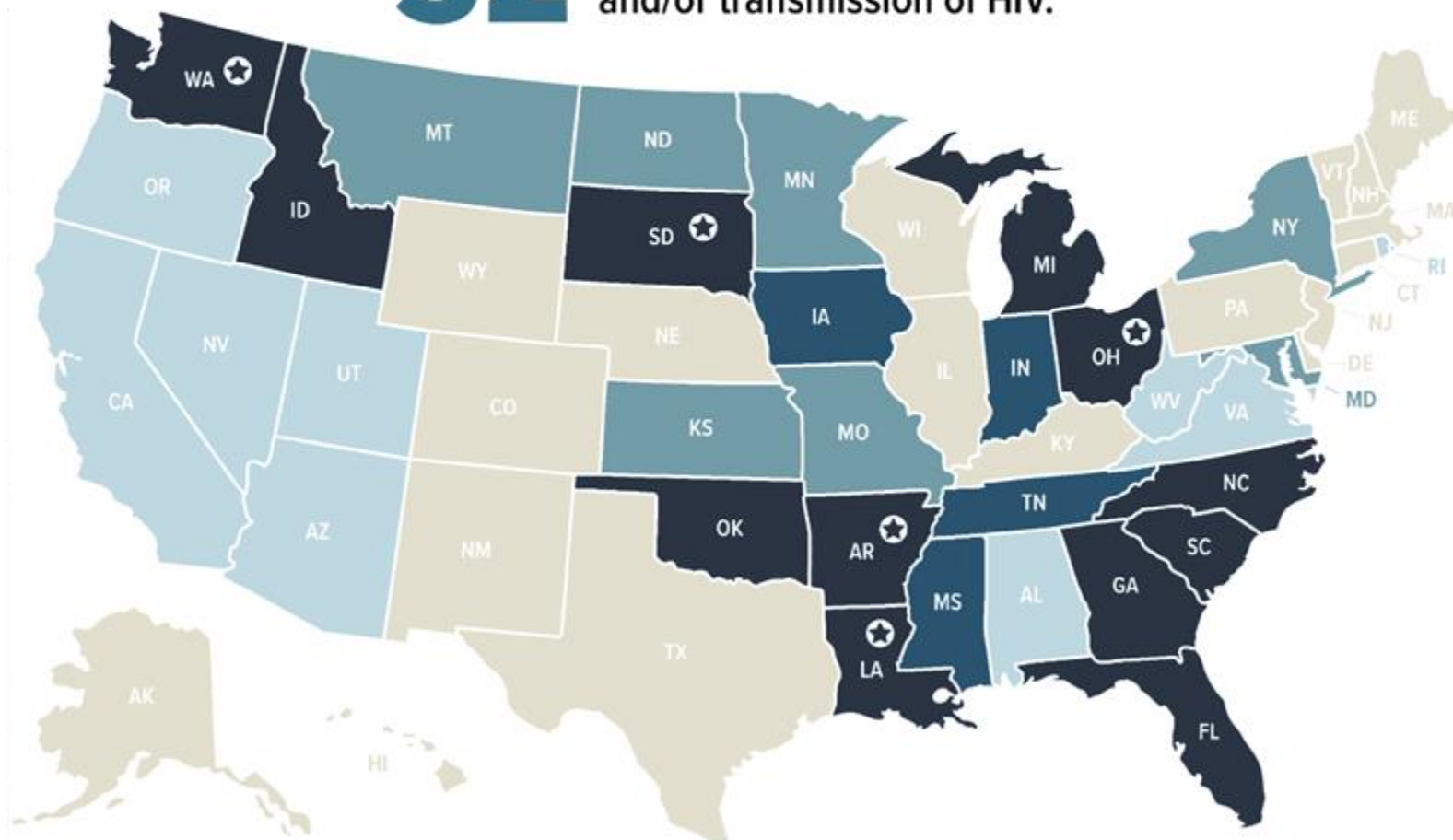
HIV criminalization is a product of stigmatizing, discriminatory, and inaccurate views about HIV and people deeply impacted by HIV.



Mapping HIV Criminalization Laws in the U.S.

EXPOSURE AND TRANSMISSION OFFENSES

32 STATES have offenses that criminalize exposure to and/or transmission of HIV.



SCALE OF HIV SPECIFICITY

- 12 STATES** HIV is specifically named in the law and no other disease is listed.
- 4 STATES** HIV is specifically named in the law alongside other diseases.
- 7 STATES** Communicable disease* is named in the law and the statutory, administrative, or case law definition of communicable disease specifically names HIV.
- 9 STATES** Communicable disease* is named in the law and the statutory, administrative, or case law definition of communicable diseases does not specifically name HIV but the definition is broad enough to include HIV.
- 5 STATES** may require registration on a Sex Offense Registry (SOR) as part of the punishment for a conviction under HIV-specific laws.

What do these laws have in common?

- * Most laws don't require:
 - * Proof of HIV transmission
 - * Engagement in behavior that poses a risk of transmission
 - * Intent to harm
- * Proof of disclosure is often the only defense
- * Severe and disproportionate punishment is common



How does HIV criminalization harm our communities?

There is evidence that these laws:

- Worsen stigma related to HIV and against PLHIV.
- Exacerbate barriers to HIV prevention, testing, and treatment services.
- Perpetuate one-sided messaging about sexual health and prevention responsibility.
- Disproportionately harm marginalized populations, including people of color, LGBTQ communities, sex workers, people who use drugs, and undocumented immigrants.

There is no evidence that these laws deter behaviors more likely to result in transmission, promote disclosure, or reduce the number of diagnoses.

Just the facts

- 1 in 4 Black men will be incarcerated in their lifetime
- Black people make up 40% of new HIV diagnosis despite being 12% of the population
- 1 in 6 people living with HIV have been incarcerated at one point in their lives.
- People in prison are 5 times more likely to be diagnosed with HIV than the outside population. In 2010 that amounted to 20,000 incarcerated people with HIV.
- 41% of transgender women have had an interaction with the criminal legal system.

Why do PLHIV have criminal records?

- 1 The Criminalization of People Living With HIV
- 2 The Targeting of Black People by the “War on Crime”
- 3 The Targeting of LGBTQ+ People

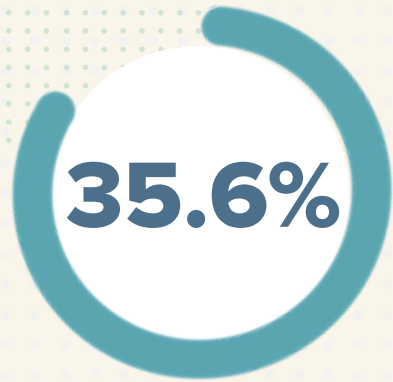
The hyper-incarceration of Black people combined with high rates of HIV diagnoses among Black people results in the incarceration of a growing number of Black PLHIV.

Drivers of PLHIV Criminal Legal System Involvement

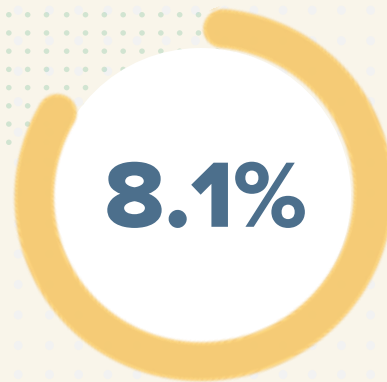
**Targeting the Poor and
People who use
Substances**



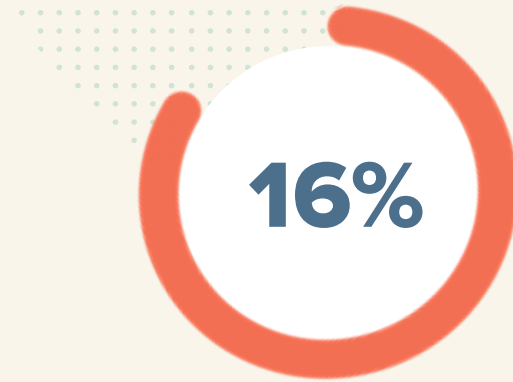
People Living with HIV: Demographics



of PLHIV live below the poverty line



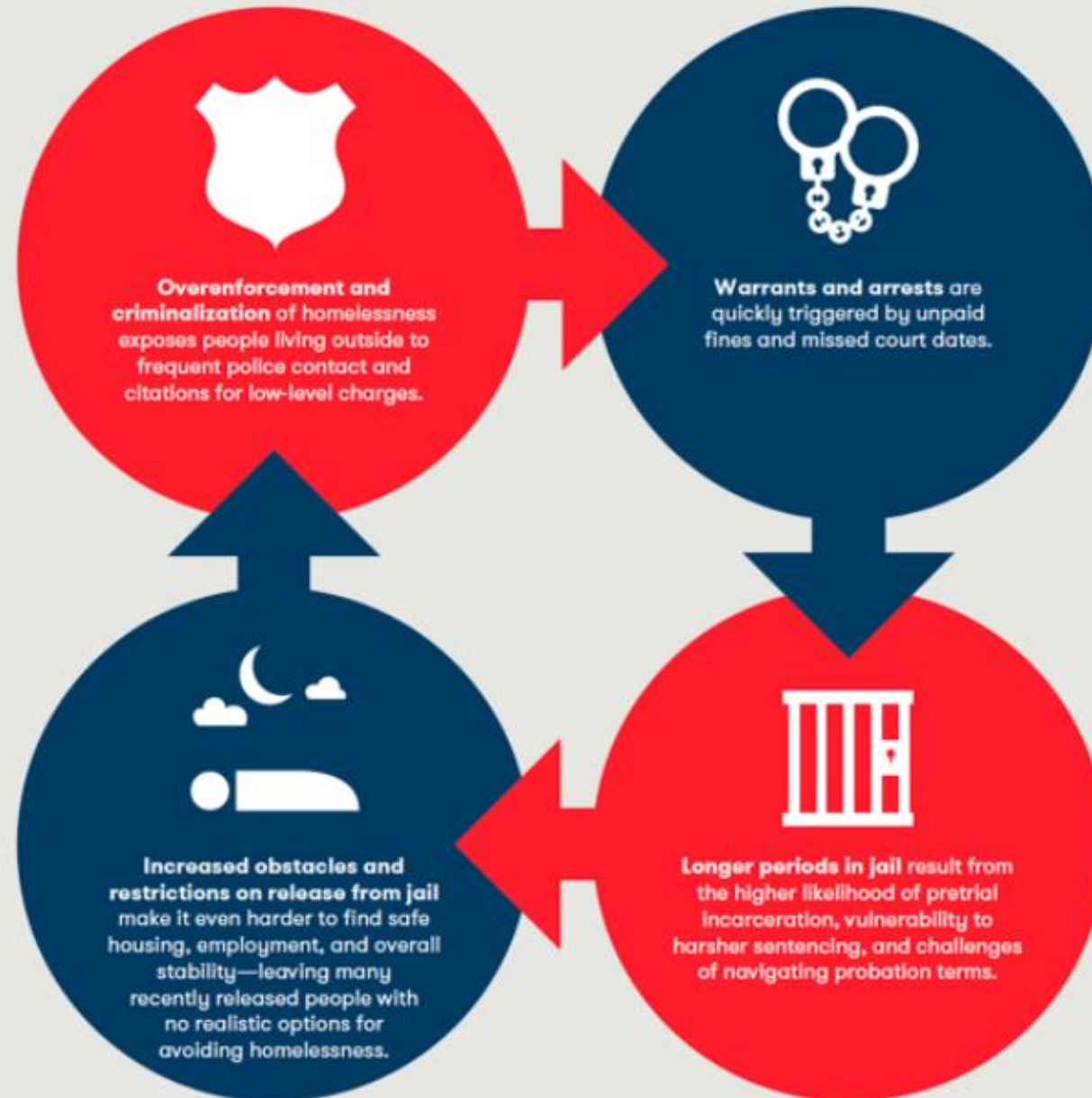
of PLHIV houseless within last 12 months



of PLHIV reported food insecurity (2020)

Poverty is a social determinant of health that makes people more vulnerable to acquiring HIV. In the United States, people who live in “poverty areas” (where at least 20% of the population have income levels below the poverty line) are significantly more vulnerable to acquiring HIV, with Black people being disproportionately likely to live in a designated “poverty area.”

The cycle of homelessness and jail



And it's getting worse...



By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose and Policy. Endemic vagrancy, disorderly behavior, sudden confrontations, and violent attacks have made our cities unsafe. The number of individuals living on the streets in the United States on a single night during the last year of the previous administration — 274,224 — was the highest ever recorded. The overwhelming majority of these individuals are addicted to drugs, have a mental health condition, or both. Nearly two-thirds of homeless individuals report having regularly used hard drugs like

(Slip Opinion)

OCTOBER TERM, 2023

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Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

CITY OF GRANTS PASS, OREGON *v.* JOHNSON ET AL.,
ON BEHALF OF THEMSELVES AND ALL OTHERS
SIMILARLY SITUATED

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 23–175. Argued April 22, 2024—Decided June 28, 2024

Grants Pass, Oregon, is home to roughly 38,000 people, about 600 of whom are estimated to experience homelessness on a given day. Like many local governments across the Nation, Grants Pass has public-camping laws that restrict encampments on public property. The Grants Pass Municipal Code prohibits activities such as camping on public property or parking overnight in the city's parks. See §§5.61.030, 6.46.090(A)–(B). Initial violations can trigger a fine, while multiple violations can result in imprisonment. In a prior decision, *Martin v. Boise*, the Ninth Circuit held that the Eighth Amendment's Cruel and Unusual Punishments Clause bars cities from enforcing public-camping ordinances like these against homeless individuals whenever the number of homeless individuals in a jurisdiction exceeds the number of "practically available" shelter beds. 920 F.3d 584, 617. After *Martin*, suits against Western cities like Grants Pass proliferated.

Incarceration and Medical Mistrust



Tuskegee Syphilis Experiment



The New York Times

Syphilis Victims in U.S. Study Went Untreated for 40 Years

By JEAN HELLER
THE ASSOCIATED PRESS

WASHINGTON, July 25—For 40 years the United States Public Health Service has conducted a study in which human beings with syphilis, who were induced to serve as guinea pigs, have gone without medical treatment for the disease and a few have died of its late effects, even though an effective therapy was eventually discovered.

The study was conducted to determine from autopsies what the disease does to the human body.

Officials of the health service who initiated the experiment have long since retired. Current officials, who say they

have serious doubts about the morality of the study, also say that it is too late to treat the syphilis in any surviving participants.

Doctors in the service say they are now rendering whatever other medical services they can give to the survivors while the study of the disease's effects continues.

Dr. Martin K. DuVal, Assistant Secretary of Health, Education and Welfare for Health and Scientific Affairs, expressed shock on learning of the study. He said that he was making an immediate investigation.

The experiment, called the Tuskegee Study, began in 1932 with about 600 black men.

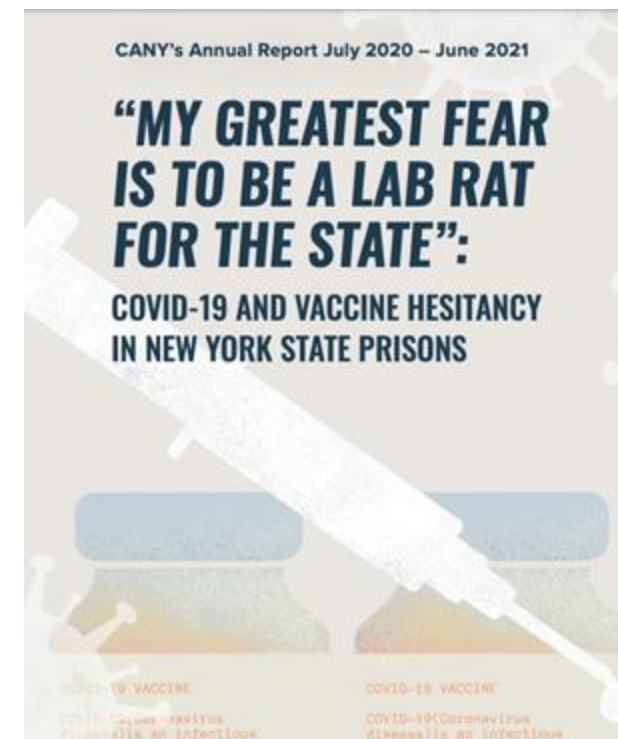
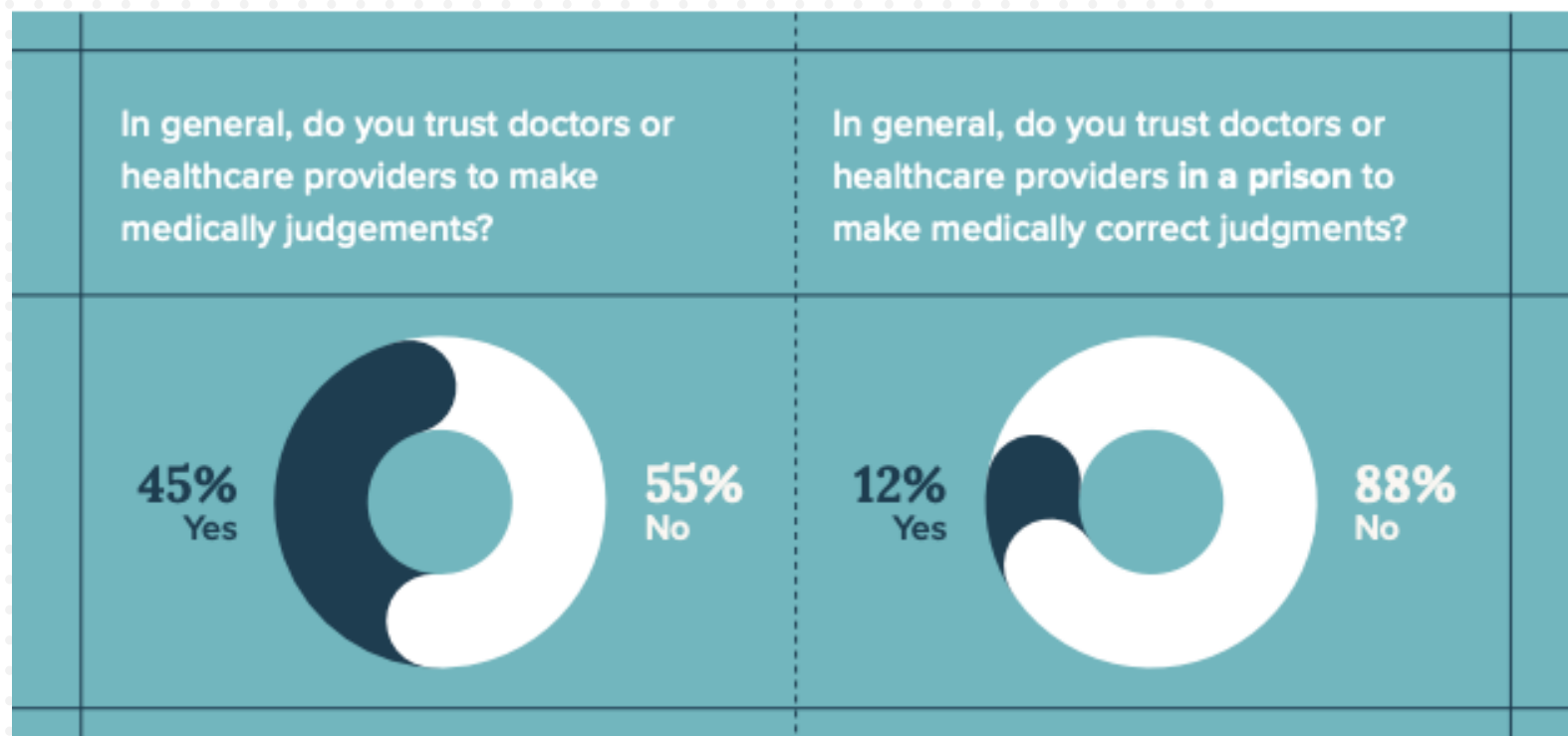
Holmesburg Junction Prison Experiments



"It was years before the authorities knew that I was conducting various studies on [incarcerated] volunteers. Things were simpler then. Informed consent was unheard of. No one asked me what I was doing. It was a wonderful time."

– Albert Kligman

Incarceration increases medical mistrust



Impacts of Incarceration



Living with HIV on the inside

Challenges inside: Living and aging with HIV behind bars

- Interruption or denial of life-saving medication
 - Inconsistent access to HIV medications
- Mental health care is minimal or nonexistent
- Nutritional needs often ignored, especially for aging bodies
- The emotional toll of stigma from staff and peers



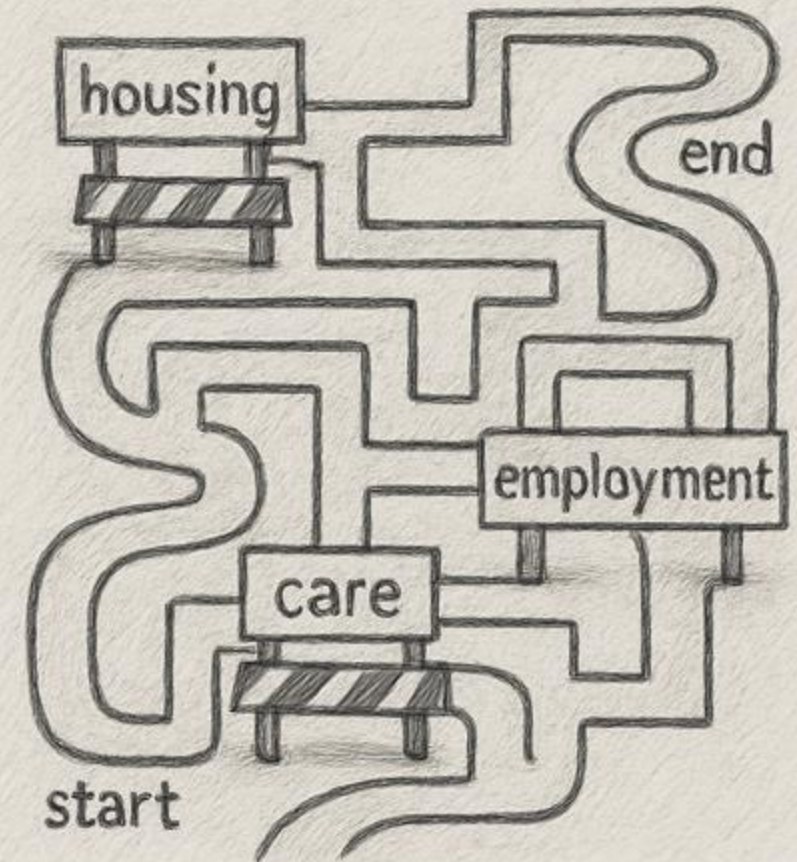
I wasn't sentenced to die

“They sentenced me to time, but what I faced was a health crisis behind bars. Meds delayed. Therapy denied. Hope rationed.”

Reentry isn't a reset

Reentry for PLAHIV: Doors closed before they open

- No reentry services if you weren't in general population
- Housing/Employment applications rejected because of record
 - Challenges in securing housing and employment due to criminal records.
- Medical care gaps while trying to reinstate services
 - Disruption in continuity of HIV care post-release.
- Trauma that reentry programs aren't equipped to address

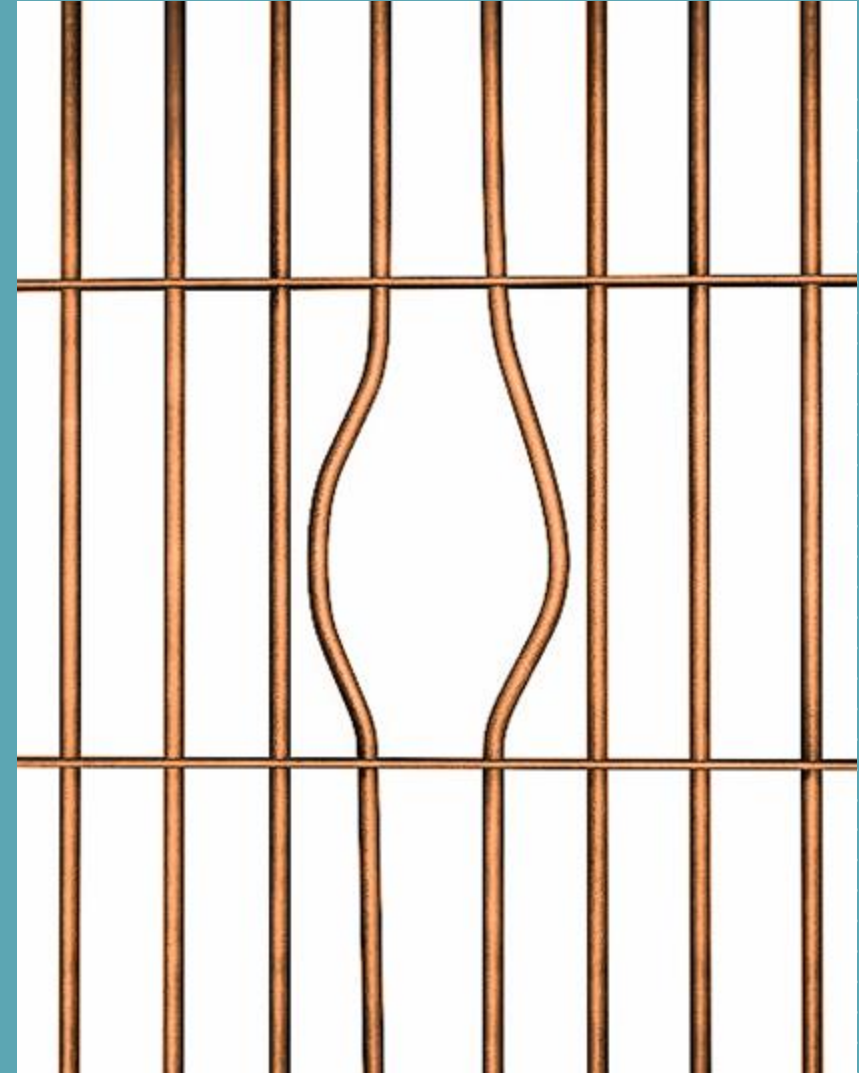


Impacts of Collateral Consequences



Collateral consequences

There are more than 45,000 state and local laws that limit people's ability to rebuild their lives after incarceration.



Collateral consequences are lifelong

Beyond the sentence: Collateral consequences extend punishment beyond incarceration

Services

Ineligibility for public housing
and certain social services



Blocked by record

Safety

Ongoing parole/probation
surveillance



Constant fear

Belonging

HIV stigma, aging isolation



Double discrimination

Collateral consequences: Financial stability

01

Since 1996, people convicted of certain drug crimes have been ineligible for the federal programs Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP). Many states impose restrictions on their welfare benefits, too.

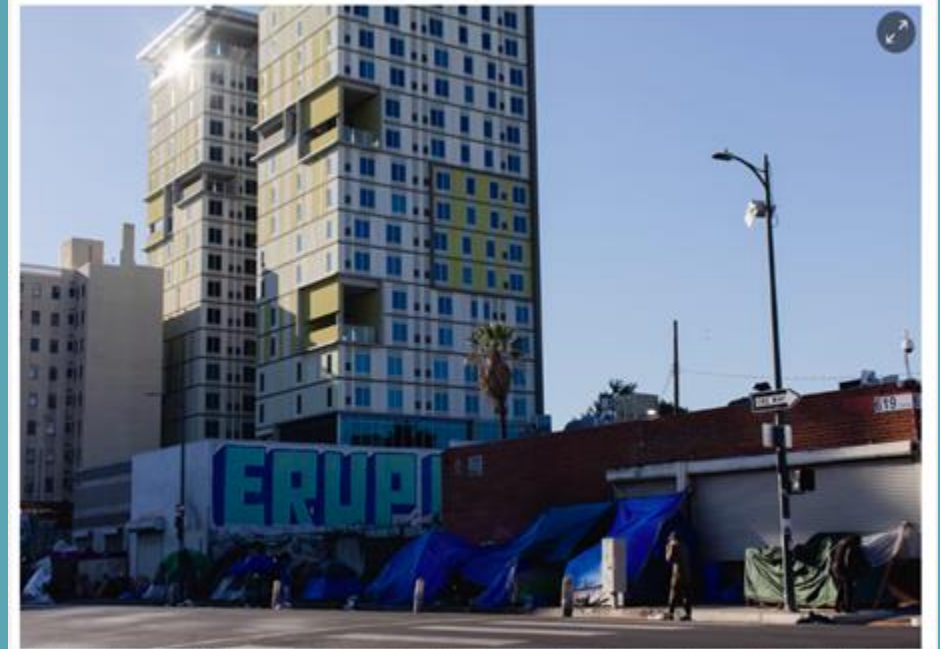
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Inconsistent work histories due to living with HIV and due to incarceration can result in lower Social Security payments, affecting future financial stability.

Collateral consequences: Housing

- Housing is a social determinant of health
- There is a dearth of affordable housing nationally
- A 2021 study by the CDC found 17% of PLHIV had recently experienced homelessness or unstable housing
- Having a criminal record increases the difficulty of finding affordable housing.
 - Most private landlords can discriminate against those with criminal records
 - There are many barriers if not outright bars to subsidized housing

Thousands of senior citizens are dying homeless in Los Angeles, records reveal



Homeless encampments sit beneath a new permanent supportive housing development in Los Angeles. Thousands of senior citizens have died while homeless in LA over the past decade, highlighting a crisis of not enough housing support to meet the needs of the population. Photograph: Alex Welsh/The Guardian

Death reports obtained by the Guardian show elderly people are regularly dying on the streets of LA: 'They're incredibly alone'

Thank You!

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1115 Reentry Waivers

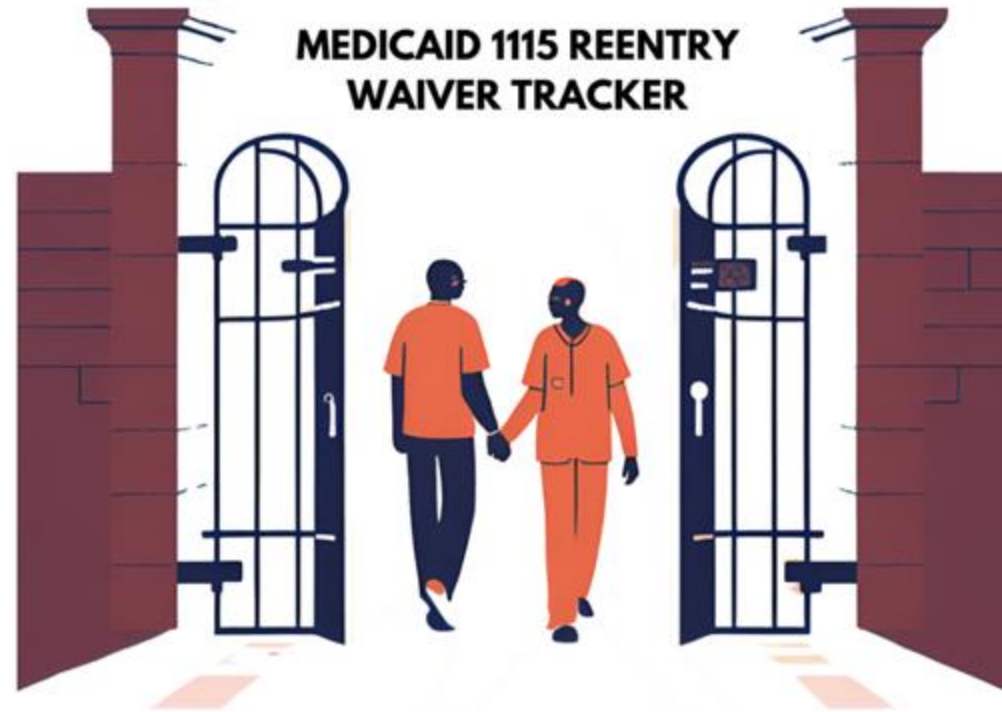


CENTER *for* HEALTH LAW
and POLICY INNOVATION
HARVARD LAW SCHOOL

John Card

Center for Health Law & Policy Innovation of Harvard Law School

Our Health Law & Policy efforts aim to increase access to high-quality health care, address health-related social needs, fight discrimination through impact litigation, and support community education and advocacy capacity across all our initiatives.



1115 Waivers: More Than Just Pre-Release Coverage

1115 Waivers

*“Section 1115 of the Social Security Act gives the Secretary of Health and Human Services authority to approve **experimental, pilot, or demonstration** projects that are found by the Secretary to be **likely to assist in promoting the objectives of the Medicaid program.**”*

--Medicaid.gov

Reentry Demonstrations

*“These demonstrations will test innovative approaches to **coverage and quality to improve care transitions, starting pre-release, for individuals who are incarcerated**, thereby facilitating improved continuity of care once the individual is released.”*

--Medicaid.gov



Increase coverage,
continuity of coverage, and
appropriate service uptake



Improve access to services,
as well as coordination &
communication



Reduce number of ED visits
and inpatient
hospitalizations



Goals for Reentry Waivers



Increase additional
investments in health care
and related services



Improve connections
between carceral settings
and community services



Reduce all-cause deaths

The Basics

Scope	Eligibility	Covered Services	Duration
<ul style="list-style-type: none">• Jail• Prison• Youth Detention	<ul style="list-style-type: none">• Specific Conditions• All Otherwise Eligible Beneficiaries	<ul style="list-style-type: none">• Minimum Required Services• Pre-Release Medication Coverage• Additional Services	<ul style="list-style-type: none">• 30 Days• 60 Days• 90 Days

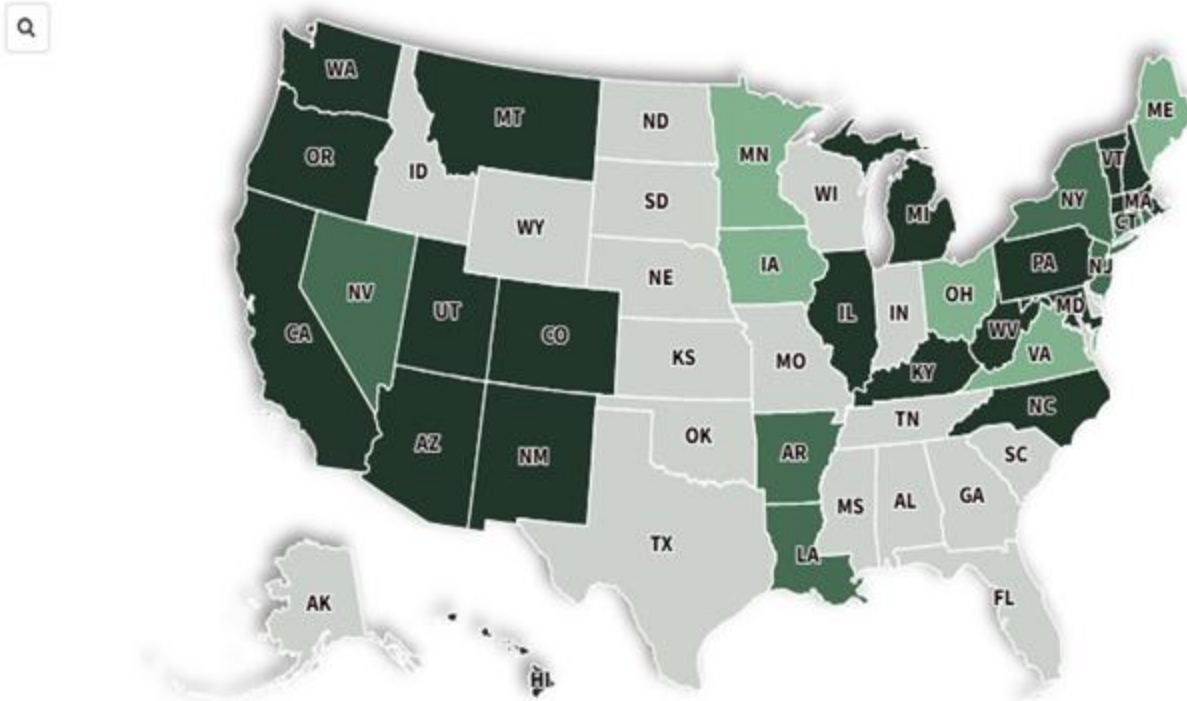
1115 Reentry Waivers Examples

California	Kentucky
Jail, Prison, & Youth Detention	Prison & Youth Detention
Certain Chronic Conditions	All Otherwise Eligible Beneficiaries
Minimum Required Services + Physical/Behavioral Health Clinical Consultation Services, Lab & Radiology, and Pre-Release Medication Coverage	Minimum Required Services
90 Days	60 Days

HIV Criminalization & Reform Limitations

Medicaid Reentry Waiver Status

- No Waiver
- Waiver Activity
- Pending Waiver
- Approved Waiver

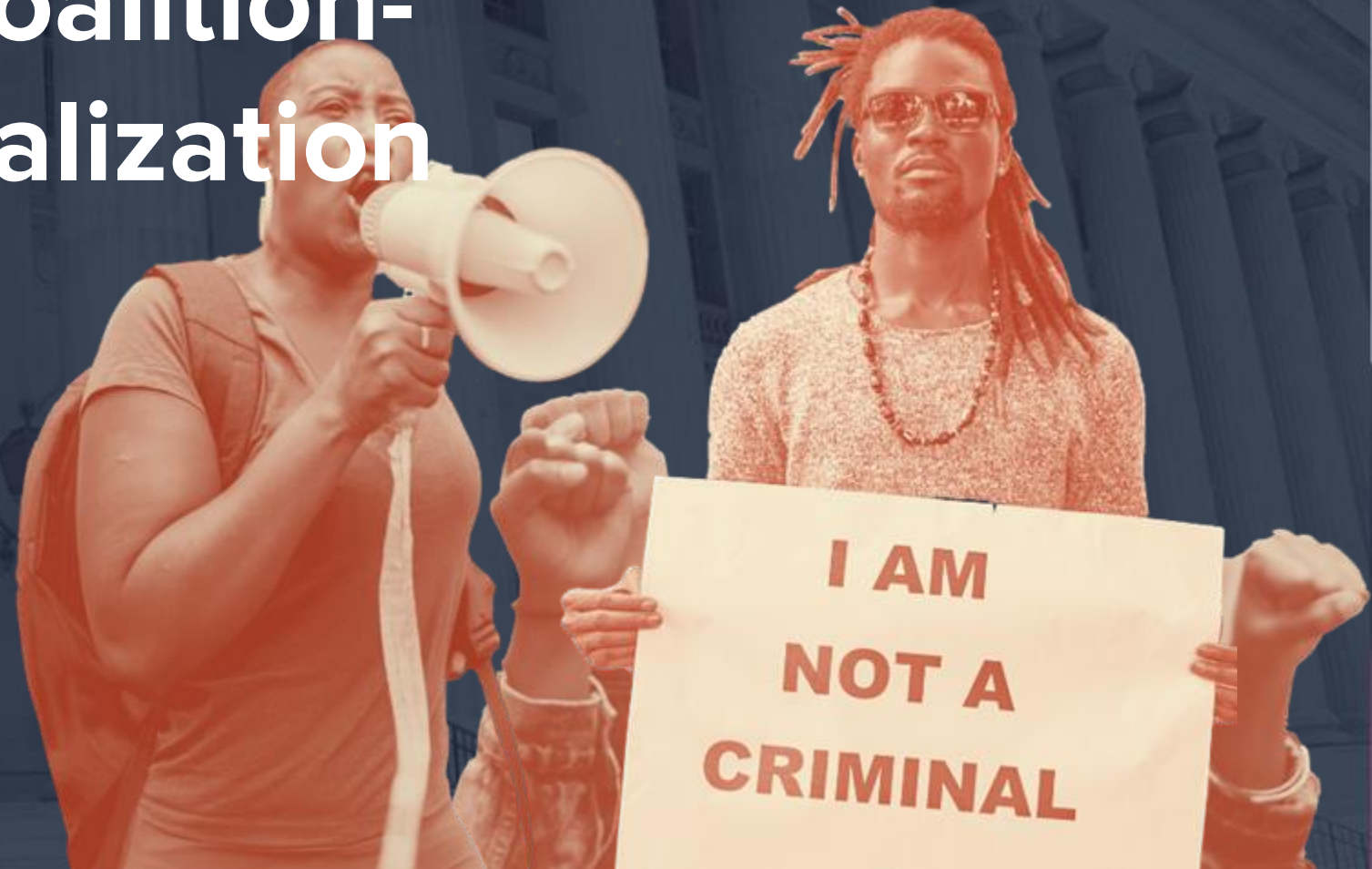


- Criminalization Exacerbates Disparities
- Increased Coordination Is Not Justice
- Lacks Robust Commitment to Decarcerating

Public Health Law Conference
September 16, 2025
Seattle, WA

CHLP20
CELEBRATING 20 YEARS IN 2025

Intersectional Coalition- Based Decriminalization Advocacy



Today's presenter



Sean McCormick (he/him)
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The Center for HIV Law and Policy

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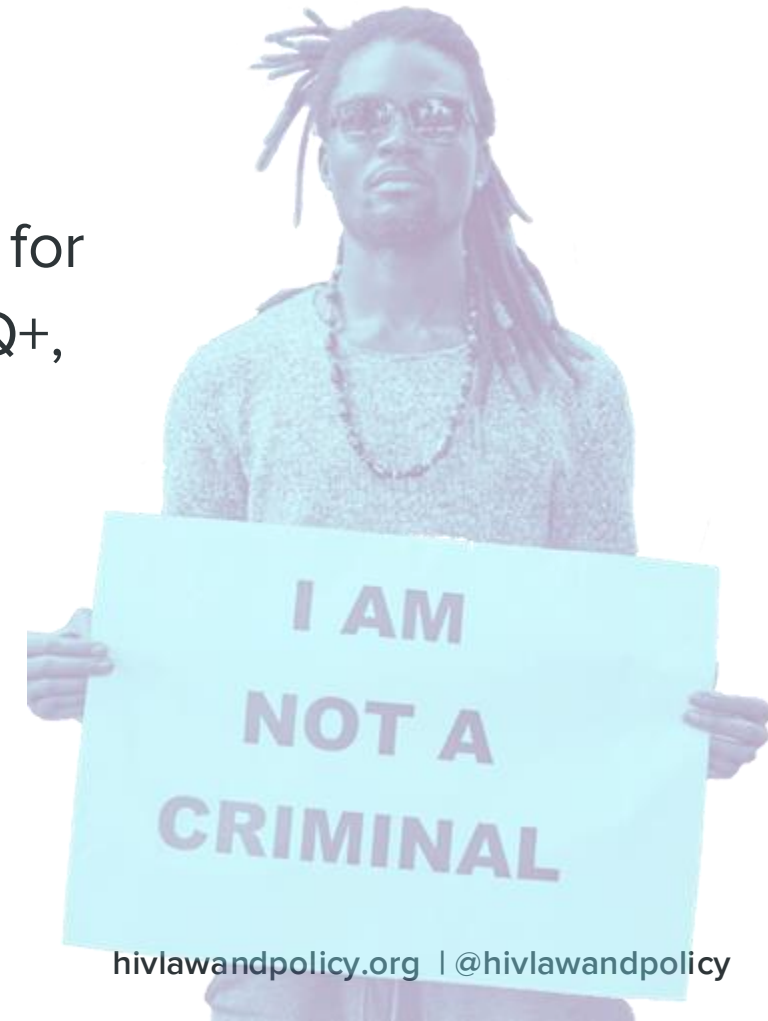
In 2025, CHLP is celebrating 20 years of advocacy, innovation, and unwavering commitment to HIV justice.

Today's presentation

- Review the value and purpose of coalitions for intersectional advocacy.
- Explain the role of legal and policy experts within coalition spaces by describing movement lawyering.
- Review examples of coalition-based work accomplished by the Positive Justice Project (PJP) at the Center for HIV Law and Policy.

Coalition-based advocacy

- Coalitions assemble individuals and organizations to shape laws, policies, and practices, build power, and transform systems.
- Coalitions have been an essential part of movements for the liberation of people who are Black, brown, LGBTQ+, women, and working-class.
- Intersectional advocacy relies on coalitions.
 - Coalitions are vital for criminal legal change.



Movement lawyering



Movement lawyering means taking direction from directly impacted communities and from organizers, as opposed to imposing our leadership or expertise as legal advocates. It means building the power of the people, not the power of the law.”

— LAW FOR BLACK LIVES



PositiveJusticeProject

Scan the QR to sign up for the PJP email list.
For more info about our HIV decriminalization
work, email us at pjp@hivlawandpolicy.org



The Positive Justice Project (PJP)

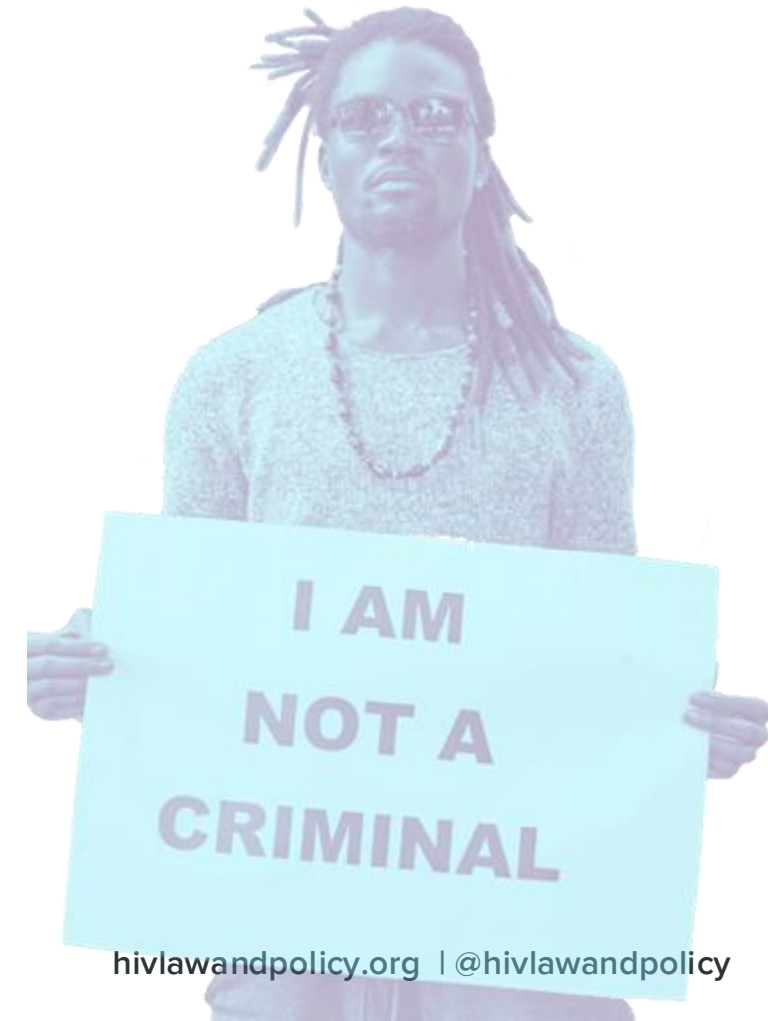
Guiding Principles

- The work of PJP is motivated by three core beliefs:
 - Laws that criminalize people's health conditions, as well as rob people of their bodily autonomy, must be eliminated.
 - Local people living with HIV have the knowledge and experience that is essential for efforts to decriminalize HIV and other health conditions.
 - Criminalization has no place in public health. We must meet public health issues with effective public health solutions.

Legal and policy work within coalitions

What are the essential activities?

- Organizational support (bylaws, mission, vision, values)
- Legislative and administrative work to transform systems.
 - Research and analysis
 - Drafting laws and policies
 - Commenting and testifying
- Training, educating, and supporting key stakeholders to minimize the impact of oppressive systems.
 - People with lived experience
 - Legal system actors
 - Public health and healthcare system actors
 - Media



Organizational support

Drafting and reviewing organizational structures

- Coalition structures, such as bylaws and values, provide foundational guidance for coalitions.
 - **These documents are vital for defining the role of attorneys, as well as other people and organizations, and institutionalizing the role of people most impacted.**
 - They should evolve as the coalition evolves.
- Strategy development and thought-partnership remain important roles for legal and policy professionals.

Legislative and administrative work

Transforming systems to reduce or eliminate harm

- Research into laws, policies, and practices describes the problem and guides coalition decision-making.
- Attorneys and other legal and policy experts are essential for drafting legislation, regulations, and other documents.
- Although many organizations may be restricted by lobbying rules, under certain circumstances, lawyers can leverage their expertise to talk about the legal implications of existing and proposed laws.
 - Testimony can be very important.
 - Public commentary can also be influential.

Education and support

Lessening the impact of oppressive systems

- A primary role for movement attorneys is to analyze and summarize the law so that people with lived experience can protect themselves.
 - **Self-advocacy is driven by training, education, and support.**
- Legal and policy experts can facilitate understanding and action by actors within the criminal legal, public health, and healthcare systems.
 - Current and future legal actors, including judges, prosecutors, and defense counsels.
 - Doctors, nurses, and public health professionals, such as disease intervention specialists (DIS).



PositiveJusticeProject

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For more info about our HIV decriminalization
work, email us at pjp@hivlawandpolicy.org



Aging & HIV

**AN INTRODUCTION TO LEGAL
ISSUES FACING PEOPLE LIVING
AND AGING WITH HIV**



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Sean McCormick: sean@hivlawandpolicy.org

Please take this survey to evaluate conference sessions.



THANK YOU