

STATEMENT ON THE NATIONAL HIV/AIDS STRATEGY FOR THE UNITED STATES: UPDATED TO 2020

August 11, 2015





NATIONAL CENTER FOR LESBIAN RIGHTS



STATEMENT ON THE NATIONAL HIV/AIDS STRATEGY FOR THE UNITED STATES: UPDATED TO 2020

The *National HIV/AIDS Strategy for the United States: Updated to 2020* (“NHAS 2020”) is a critically important and compelling review of the status of our nation’s response to the HIV epidemic in America and an action plan for the continuing fight.

We commend the White House Office of National AIDS Policy (“ONAP”) for outlining key focus areas, plans and goals in the nation’s efforts to “become a place where new HIV infections are rare, and when they do occur, every person . . . will have unfettered access to high quality, life-extending care, free from stigma and discrimination.” Importantly, ONAP has endeavored to address a glaring gap in the previous NHAS by recognizing the unique needs and barriers related to health and prevention services for women, including transgender women, as well as sex workers and young people. Identifying the need for quantitative indicators to monitor progress on the treatment of transgender people living with HIV is indeed an important step; the development of these indicators and concrete action to address barriers faced by transgender people is vital. Others (e.g., the Positive Women’s Network (PWN) – USA) have addressed in more detail the NHAS 2020 as it affects women and over-criminalized populations.

Our statement does not address the whole of the NHAS 2020 in terms of either improvements or unaddressed issues. The assessment and needed action steps we set out below are limited to the NHAS 2020 as it concerns 1) broad public ignorance about HIV, STIs and identities associated with stigmatized diseases; 2) the criminalization of HIV; 3) the mistreatment of individuals living with or at risk of HIV in criminal justice and immigration detention facilities, and in the military; and 4) the need for focused prevention and health services for sex workers and people who inject drugs, including reform of law enforcement policies that are barriers to service access.

I. ADDRESSING BROAD PUBLIC IGNORANCE ABOUT HIV, STIS AND STIGMATIZED IDENTITIES

We are pleased that the NHAS 2020 recognizes the need to address the widespread public ignorance about HIV and STIs through broad, multiple education campaigns targeting Americans, and through the commitment to make scientifically accurate information about HIV transmission risks and prevention universally available through multiple technologies and access points that reach the broadest number of Americans possible. However, the public’s HIV literacy has not measurably improved since this need was flagged in the original NHAS, and consequently the CDC and other responsible public health agencies must develop a more aggressive, effective education campaign.

Ignorance about the routes, risks and current-day realities of HIV transmission is at the root of most forms of discriminatory treatment of people living with HIV, from their exclusion from schools and employment to their inclusion in criminal felony laws across the country. We also know that the visible engagement of medical and public health experts in responding to this ignorance is essential. As reflected in the NHAS 2020, sexual health literacy and anti-stigma campaigns must explicitly address the intersection of HIV stigma and stigma related to sexual orientation and gender identity. For those most affected by the HIV epidemic to enter and remain engaged in care, there must be plans and goals for education and training of health care workers about gender identity, sexual orientation and related sexual health needs.

By recognizing the need for quantitative indicators for monitoring progress on stigma—including stigma based on substance abuse, mental health, sex work, race/ethnicity, sexual orientation, and gender identity as well as stigma based on HIV itself—ONAP has appropriately increased focus on a long-recognized barrier to ending the epidemic. Reducing stigma is essential and achievable. Identifying specific drivers of stigma, as well as concrete ways to address them is a prerequisite for true progress.

Necessary action includes, in part:

- Direct DHHS/CDC to develop concrete plans and deadlines, including collaborations with state public health agencies, to address public misperceptions about HIV and STIs (including issuance of a Surgeon General letter to the American people on HIV/STIs).
- Direct the Department of Justice (DOJ) and DHHS to adopt written policies that establish minimum requirements of, and access to, sexual health care and literacy programs for inmates of federal and federally funded correctional and detention facilities.

- Direct the Department of Justice (DOJ) and DHHS to develop standards and training curricula to ensure that the most up-to-date information about HIV/STI transmission routes and risks is part of sexual health care and literacy programs in all federal or federally funded correctional and detention facilities.
- Direct the Department of Justice (DOJ) and DHHS to implement regular staff trainings based on these standards and curricula for all criminal justice personnel.
- Direct DHHS to develop model goals, policies and plans on LGBT/HIV cultural competency training for health care professionals and students to ensure that LGBT people and people living with HIV are treated fairly and respectfully.
- Direct DHHS to require all health care facilities and education programs that receive government funding to adopt training policies and plans that ensure that LGBT people and people living with HIV are treated fairly and respectfully by all health care staff and students.

II. ADDRESSING THE CRIMINALIZATION OF HIV

It is appropriate that the NHAS 2020 incorporates, in several sections, the need for legislators to “reconsider” whether their HIV criminal laws are consistent with current science or in fact undermining the public health goals of promoting HIV screening and treatment while ruining the lives of people living with HIV. We agree with the NHAS 2020 statement, “HIV-specific laws do not influence the behavior of people living with HIV in those States where these laws exist.” The NHAS 2020 also correctly states that “[i]n too many instances, the existence and enforcement of these types of laws run counter to scientific evidence about routes and transmission and effective measures of HIV prevention, and undermine the public health goals of promoting HIV screening and treatment.”

However, these observations and the call on state legislators to reconsider state HIV criminal laws mirror those of the original NHAS; clearly, they have been insufficient to incentivize reform. Despite the original Federal Implementation Plan’s directive to DOJ and HHS to develop materials and technical assistance to support state legislative change by the end of 2011, we are not aware of any instances where either agency has been asked, or reached out, to provide such assistance to state policy makers. In a number of states, state health officials actively participate in the prosecution of people charged with having sex without disclosure; in some cases, HIV and STI surveillance and testing records are provided for prosecutors’ use. It is apparent that without plans to proactively reach out to states that continue to impose decades-long sentences on sexually active people because they are living with HIV, the NHAS will have little or no impact on the United States’ deplorable status as world leader in the arrest and prosecution of people living with HIV.

Necessary action includes, in part:

- Direct DOJ to develop a plan and timeframe for meaningful follow-up to the July 15, 2014, best practices guide (highlighted as a significant achievement by ONAP) to reform HIV-specific criminal laws, with priority given to states with significant HIV-specific prosecutions (e.g., Missouri, Florida).
- Direct DHHS/CDC to prioritize the development of guidance restricting the use of disease surveillance data for criminal law enforcement purposes.
- Direct DOJ to develop proposals, in consultation with advocates and key stakeholders, to develop national recommendations for criminal justice reforms that eliminate the use of specific and general crimes (including sex offenses and other offenses) related to consensual adult conduct.

III. ADDRESSING THE TREATMENT OF PEOPLE LIVING WITH OR AT RISK OF HIV IN CRIMINAL JUSTICE AND IMMIGRATION DETENTION FACILITIES, AND IN THE MILITARY

The NHAS 2020 recognizes “the particular needs of those in the criminal justice system,” which includes the sexual health and prevention needs of institutionalized populations, particularly young people confined in foster care and detention facilities that hold a significant percentage of all youth affected by HIV. Federal agencies must make good on the promise of the original and updated NHAS through specific plans to address the rights and needs of those who are confined in or work in these systems. Plans must include steps to engage with state and local corrections and juvenile justice professionals to encourage them to address these issues in their facilities as well.

The NHAS 2020 also identifies the Department of Defense as an essential federal agency partner, and calls on the EEOC to address the restriction of employment opportunities for people living with HIV, yet is silent on the armed services’ long-outdated HIV policies. True progress will require abolishing the DOD’s ban on the enlistment of people living with HIV, and overhauling HIV policies among the various branches of the military to be consistent with science

and medical facts. These measures will help to ensure the federal government's credibility in calling for zero discrimination.

Necessary action includes, in part:

- Direct the Bureau of Prisons, Immigration Custom and Enforcement, and the Office of Refugee Resettlement to adopt and enforce written policies and practices supporting people living with HIV who are held under federal authority in public and private confinement and detention facilities to ensure:
 - Adequate medical, mental health, family and re-entry support; and
 - Comprehensive sexual health care and sexual health literacy programs that include counseling about and access to condoms and other HIV/STI prevention tools
- Direct the Bureau of Prisons to assess and revise all policies affecting inmates living with HIV to reflect current science and to eliminate all housing or program restrictions based on HIV status (e.g., FBOP Program Statement 5214.04, "HIV Positive Inmates Who Pose Danger to Others, Procedures for Handling Of," dated 2/4/98).
- Direct the Department of Defense to develop a clear plan and timeframe for complying with the requirements of the 2014 DOD Reauthorization Act (requiring that DOD evaluate and report on all HIV-related policies to ensure they comply with current science) and eliminating scientifically and medically unsupported restrictions on the admission, classification, promotion and deployment of people living with HIV in all branches of the armed services.

IV. ADDRESSING THE NEED FOR FOCUSED PREVENTION AND HEALTH SERVICES FOR SEX WORKERS AND PEOPLE WHO INJECT DRUGS, AND FOR REFORM OF POLICIES THAT ARE BARRIERS TO SERVICE ACCESS

The NHAS 2020 recognizes the need to prioritize the treatment and prevention needs of sex workers and people who inject drugs. Unwarranted barriers to care impose human and financial costs on individuals and society that call for fact-based, sound policy reforms. Recognition of these problems is not enough. Implementation should specifically address prevention plans for these communities that respond to the shortage of adequately supported legal syringe services and the impact of over-criminalization on their access to essential services.

Necessary action includes, in part:

- Direct DHHS and DOJ to create joint policy guidance, recommendations and support for best practices and programs to reduce HIV transmission among sex workers and people who inject drugs, including a range of supportive and syringe services.
- Direct DOJ to develop guidance, in consultation with advocates and key stakeholders, for modernization of current enforcement practices to harmonize them with current government-supported HIV prevention policies and recommendations, including condom use/access for sex workers.

We look forward to working with ONAP and other members of the Federal Interagency Task Force to address these critical issues.

Organizational Signatories:

ADAP Advocacy Association, Washington,
DC
African Services Committee, NY
AIDS Alabama
AIDS Athens, GA
AIDS Care Ocean State, Rhode Island
AIDS Foundation of Chicago
AIDS Network of Western New York
AIDS Project Los Angeles
AIDS Research Consortium of Atlanta
AIDS United
American Medical Student Association
APLA Health & Wellness
Association of Nurses in AIDS Care
Best Practices Policies Project
The Center for HIV Law and Policy, NY
Choices: Memphis Center for Reproductive
Health
Clinica Sierra Vista
Community Access National Network,
Washington, DC
Desiree Alliance
Friends For Life, TN
Georgia Equality
HIV Prevention Justice Alliance
Health GAP
Healthy and Free Tennessee, TN
HIV Medicine Association
Human Rights Campaign
Latino Commission on AIDS, NY
Lambda Legal
Legacy Community Health
Lee's Rig Hub
Medical University of South
Carolina/Lowcountry
AIDS Services, South Carolina
Michigan AIDS Coalition
Michigan Coalition for HIV Health and Safety
MrFriendly.org
Nashville Cares, TN
National Center for Lesbian Rights
National Center for Transgender Equality
National LGBTQ Task Force, Washington,
DC, NY
New York Lawyers for the Public Interest, NY
Northern Nevada HOPES, NV
Northern Nevada Outreach Team, NV

Okaloosa AIDS Support and Informational
Services, Inc.
PFLAG National
Positive Women's Network - USA
Project Inform, CA
Public Health Alliance for Safety Access, NV
queer latin@ social justice
SERO
SMART Youth, NY

Individual Signatories:

Lauri Appelbaum, MN
Stan Baker
Melinda Brewer, IN
Wanda Commander, Baltimore, MD
J. Craig Phillips, Utah and Ottawa, Canada
Lawrence W. Crawford, MO
Julie/JD Davids, NY
Fernando De Hoyos, FL
Kelsey Ding, CT
Margaret Drew, MA
Alice Nelson Ferguson
David W. Finwall, MN
Anna Forbes
Timothy Frasca, NY
Thomas Huseby, LA
C.H. Johnson
Sterling Johnson
Tory Johnson, MO
Bryan C. Jones, OH
Kate Lind, CO
Randy Mayer, IA
Dulce Medina, CA
Brian Minalga, MI
Megan Moran, IL
Susan Mull, PA
Kevin M. Ponthier, LA
Peter Richards, IL
Dan Royles, FL
Nathaniel Scruggs, MD
Debbie Sergi-Laws, FL
C. Peter Stoker, UT
Jason and Jamie Tafoya, CA
Steven Vargas, TX
Gwen Verlinghieri
Craig Washington