



2014 Highlights

The [Positive Justice Project](#) (PJP), a national coalition of organizations and advocates working to end HIV criminalization, is leading the fight against laws and policies that subject people living with HIV to arrest and punishment based on gross ignorance about the routes, risks and consequences of HIV transmission.

PJP Steering Committee members include:

- Andrew Novak, American University, Washington College of Law & George Mason University
- William McColl, AIDS United
- Carole Treston, Association of Nurses in AIDS Care (ANAC)
- Catherine Hanssens, The Center of HIV Law and Policy (CHLP)
- Ivan Espinoza-Madrigal, The Center of HIV Law and Policy (CHLP)
- Kim Miller, HIV Medicine Association (HIVMA)
- Suraj Madoori, HIV Prevention Justice Alliance (HIV PJA)
- Terrance Moore, National Alliance of State & Territorial AIDS Directors (NASTAD)
- C. Virginia Fields, National Black Leadership Commission on AIDS, Inc. (NBLCA)
- Scott Schoettes, Lambda Legal

Below is a brief look at some PJP highlights for 2014.

1. PJP members currently are working on modernization of HIV-related criminal laws in more than 10 states. In 2014, local and national PJP advocates organized and participated in outreach, education, and training events on HIV criminalization in states across the country, including [Ohio](#), [Missouri](#), [Michigan](#), [Georgia](#), and [Tennessee](#).
2. PJP participated in local, state, national, and international conferences to increase awareness of HIV-related criminal laws, including the [International AIDS Conference in Melbourne, Australia](#); the [Creating Change Conference](#); the American Bar Association's [HIV/AIDS Law & Practice Conference](#); [Harvard Law School's Legal Advocacy Conference](#); the [University of Mississippi School of Law's LGBT Law Symposium](#); and the [National LGBT Bar Association's Lavender Law Conference](#).
3. PJP coordinator The Center for HIV Law and Policy (CHLP) updated several key resources for attorneys and advocates, including the first comprehensive analysis of HIV-specific criminal laws and prosecutions in the United States, [Ending and Defending Against HIV Criminalization: State and Federal Laws and Prosecutions, Vol. 1, CHLP's Positive Justice Project, First Edition, Fall 2010 \(revised through 2014\)](#), a legal advocacy toolkit that covers policies and cases across fifty states, U.S. territories, and the military; and [When Sex is A Crime and Spit is a Dangerous Weapon: A Snapshot of HIV Criminalization in the United States, The Center for HIV Law and Policy](#), a map of states with HIV-specific criminal statutes and prosecutions.

4. To expand our outreach in Latino and Spanish-speaking communities, PJP created and released a [Spanish version](#) of the [*National Consensus Statement Against HIV Criminalization in the United States*](#).
5. The [national call to end HIV criminal laws gained momentum](#) in 2014 as the Positive Justice Project's *National Consensus Statement Against HIV Criminalization* reached more than 1,000 individual and organizational endorsements of the movement to modernize criminal law treatment of HIV and other infectious diseases.
6. PJP members, including CHLP, ANAC, HIVMA and Treatment Action Group (TAG), remained steadfast in support of principled reform of HIV criminalization laws by providing critical analysis of proposed legislation that missed the mark on ending HIV criminalization in states such as [Washington](#), [Michigan](#), and [Iowa](#).
7. PJP members were involved in the much-needed reform of Iowa's HIV-specific criminal law, one of the most punitive in the country. Significant improvements include elimination of the "one-size-fits-all" penalty structure, explicit connection of condom use and treatment adherence to a lack of intent, and elimination of sex offender designation. Unfortunately, the legislature combined several other infectious diseases with HIV in the rewritten law (including meningococcal disease, hepatitis in any form, and tuberculosis) with the effect of substantially increasing penalties for those diseases. [PJP remains concerned](#) about those increases and will continue to support further improvements to the law.
8. PJP members HIVPJA, TAG, and CHLP co-sponsored the webinar [*Stigma and Criminalization of Infectious Diseases: Building Bridges Across Issues, Communities and Movements*](#) aimed at intersectional movement building. The webinar brought together experts and advocates working across issues to discuss the criminalization of hepatitis, meningococcal disease, tuberculosis, and other infectious diseases that have been the target of punitive policies based on their association with stigmatized identities.
9. CHLP expanded its HIV Policy Resource Bank to include a new collection of resources on "[Other Infectious Diseases](#)" to support a broader, more inclusive approach to anti-criminalization efforts.
10. PJP's leadership and membership advanced the national framing and discussion of HIV criminalization within an intersectionality perspective through [blogs](#), educational [workshops](#), [radio](#) and [television](#) appearances, [commentary on national conferences](#), and [web-based forums](#) and webinars providing critical analysis of state strategies to end HIV criminalization. For example, HIVPJA and CHLP sponsored and participated in the webinar [*We Are Here: Toward An Advocacy Agenda for Black Gay Men in the South*](#), which explored the issues affecting black gay men in the U.S. South and the development of an advocacy agenda to address the needs of black gay men. This webinar was co-hosted with Charles Stephens of the Counter Narrative Project.
11. CHLP's sustained advocacy resulted in decisive action by the federal government, including the development and dissemination of a [U.S. Department of Justice Guidance](#)

calling on states to eliminate or reform archaic HIV criminalization laws and providing best practices with respect to criminal laws addressing HIV transmission. Follow-up meetings with multiple divisions within the U.S. Department of Justice explored specific federal initiatives and policies that would advance an anti-criminalization agenda.

12. As a result of PJP's federal advocacy, the U.S. Department of Justice and the Center for Disease Control and Prevention (CDC) published a long-awaited and unprecedented [joint article](#) on HIV criminalization laws and their detrimental effect on public health. While a useful tool for legal and policy advocacy to end HIV-specific criminal laws, CHLP provided an important [critical counterpoint](#) to the CDC's characterization of HIV transmission risks and research on partner notification practices.
13. At the federal level, PJP coordinator CHLP continued to push for reform in the military, providing [comments and recommendations](#) on the Department of Defense's (DOD) comprehensive review of the military justice system, including the structure and operation of the Uniform Code of Military Justice (UCMJ). The comments outlined how current DOD regulations continue to discriminate against servicemembers living with HIV and reject people living with HIV seeking to serve their country. The comments recommended that DOD take concrete steps to modernize the military's HIV-related policies and bring an end to the unnecessary and costly criminal prosecutions of servicemembers living with HIV.
14. Strongly supported by the PJP, coalition member Lambda Legal, led by attorneys Christopher Clark, Scott Schoettes with Joseph Glazebrook, [successfully overturned the criminal conviction of Nick Rhoades](#), an HIV positive man initially sentenced to 25 years for engaging in sexual acts without disclosing his status. The landmark decision by the Iowa Supreme Court marks the first time Iowa's state supreme court refused to treat sexual conduct as sufficient evidence of intent to expose another to HIV. The court changed the way the former law should be interpreted, saying that there needs to be evidence that there is a "reasonable possibility" of transmission of HIV and especially noted changes in the scientific understanding and treatment of HIV transmission, in part because of effective anti-retroviral treatment. The case was not re-tried by prosecutors in light of the strength of the opinion, which legal advocates plan to use as persuasive authority in the courts of other states.
15. PJP member ANAC released the position statement, [HIV Criminalization Laws and Policies Promote Discrimination and Must be Reformed](#), outlining a strong position against the criminalization of HIV status and calling for the reform or repeal of all state and federal laws, policies, regulations and statutes to ensure that they are based on scientifically accurate information, and for the repeal of punitive laws that single out HIV or any other communicable disease.
16. The American Medical Association (AMA) adopted a [resolution](#) condemning discrimination based on HIV status, including mandatory discharge from the military based solely on HIV, and supporting the modernization of HIV related criminal laws. The resolution encourages vigorous enforcement of existing anti-discrimination laws and the incorporation of HIV in future federal anti-discrimination legislation. It also supports making federal and state laws consistent with current medical knowledge, avoiding

criminal punishment based on health and disability status, and educating the public on the stigma and negative health consequences of HIV criminalization.

17. Ongoing collaboration with medical professionals yielded important contributions to scientifically accurate [media coverage](#) of HIV criminalization, [op-ed pieces](#) opposing HIV criminalization, and appearances at [international conferences](#) illustrating the need for legal/medical partnerships in HIV criminalization advocacy.
18. PJP continued to provide scientifically and legally accurate and cogent resources to generate effective media that repudiates HIV stigmatization and criminalization in articles such as [*Missouri Youth Faces Stiff Sentence Under Stigmatizing HIV Criminalization Law*](#) and [*HIV Criminalization Laws Still Defy Science, Reports Say*](#).
19. PJP coordinator CHLP prepared [comments](#) on HIV criminalization for the White House's Office of National AIDS Policy (ONAP) 2014 Listening Tour. The comments, which CHLP presented in Brooklyn, NY, served as a template for advocates to raise HIV criminalization issues in ONAP listening sessions across the country.
20. PJP coordinator CHLP brought medical professional experts on the diagnosis and treatment of HIV together with the law enforcement community, particularly the Association of Prosecuting Attorneys (APA), to discuss modernizing HIV criminal laws through [webinar trainings](#) and [roundtables](#).
21. PJP members continued to provide technical assistance and support in individual HIV criminalization cases across the country. For example, PJP members secured medical expert [Dr. David Hardy](#) to provide testimony on an HIV prosecution case in South Dakota that helped persuade the court to significantly reduce the prison sentence from a 10 year sentence to an 8 year sentence with 4 years suspended, resulting in the expected parole date of fall 2014 after time already served.
22. PJP coordinator CHLP co-authored [*A Roadmap for Change: Federal Policy Recommendations for Addressing the Criminalization of LGBT People and People with HIV*](#), together with Columbia Law School's Center for Gender & Sexuality Law, the Center for American Progress, and Streetwise & Safe. The report provides analysis of the treatment of LGBT people and those living with HIV in the criminal justice system, and was developed with input from more than 50 legal, advocacy and grassroots organizations working on LGBT/HIV criminal justice issues across the country. The report contains detailed recommendations for federal action to address the pervasive profiling, and disproportionate punishment and imprisonment of LGBT people and those living with HIV.
23. PJP members co-authored the report, [*HIV Criminalization, Poverty, and Health care Access – United States' Violations of the International Convention on the Elimination of All Forms of Racial Discrimination*](#), submitted to the United Nations Convention on the Elimination of all forms of Racial Discrimination (CERD). This effort, led by HIVPJA, highlighted the disparate impact of numerous social drivers that perpetuate the HIV epidemic among communities of color, including issues of criminalization, incarceration, and racial discrimination.

24. PJP coordinator CHLP strengthened partnerships with the criminal defense bar as part of efforts to end HIV criminalization. As part of this effort, the National Association of Criminal Defense Lawyers (NACDL) released a statement on HIV criminalization, titled “[A Lamentable Example of Overcriminalization: HIV Criminalization](#).”
25. PJP members, in partnership with the Association of Prosecuting Attorneys (APA), convened prosecutors from around the country for a roundtable on HIV criminal law and policy at the White House’s Office of National AIDS Policy (ONAP) with the goal of developing a statement of principles or guidelines to aid in more scientifically and legally sound treatment of HIV exposure cases.
26. The U.S. Department of Justice clarified its position regarding criminal liability in cases involving persons living with HIV: in such cases, liability should rise only to the level of a misdemeanor. This clarification will help discouraging felony charges.
27. The Office of National AIDS Policy (ONAP), the Association of Prosecuting Attorneys (APA), the American Bar Association (ABA), and CHLP have agreed to collaborate on a project to educate prosecutors and the criminal defense bar on the current science of HIV. This effort will help to ensure consistent messaging on HIV science and best practices in an effort to reform and modernize laws that criminalize individuals living with HIV so they accurately reflect the risk and modes of transmission of HIV, the behaviors and medical protocols that can reduce the transmission risk, and that account for how, with testing and treatment, HIV can be a manageable medical condition.
28. CHLP’s sustained advocacy with prosecutors resulted in the dismissal of indictments and charges in HIV-related cases across the country.