



Positive Justice Project

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The Positive Justice Project (PJP) is a movement devoted to ending the abuse of the criminal law against HIV-positive people. PJP engages in federal and state policy advocacy, legal resource creation and support, and educates and mobilizes communities and policy makers across the United States. PJP includes people living with HIV, advocates, researchers, health and social service providers, media representatives, policy analysts and law enforcement. Learn more at: www.hivlawandpolicy.org/pjp.

GUIDING PRINCIPLES: HIV CRIMINALIZATION

Guiding Principles for Eliminating Disease-specific Criminal Laws

1. The Positive Justice Project is dedicated to eliminating disease-specific criminal laws that base liability on an individual's health status rather than on the intent to harm another individual. We oppose the use of felony laws, and the associated lengthy terms of incarceration that treat health status as evidence of wrongful intent, and transmission of a treatable illness as equivalent to manslaughter, vehicular homicide, and other forms of assaults that pose immediate, life-threatening harm to another.
2. The Steering Committee of the Positive Justice Project supports collaboration among all stake holders and a broad range of allies to end the use of criminal laws that target people for arrest and punishment on the basis of a diagnosis of HIV or other disease.
3. Experience strongly suggests that modernizing current HIV and disease-specific criminal laws is preferable to pushing for outright repeal:
 - a) Incorporating principles of intent and proportional punishment to modernize existing criminal laws is the most promising way to ensure fair treatment of all people with misunderstood infectious diseases; and
 - b) Modernization reduces the risk that repeal or lack of an HIV-specific criminal statute will result in prosecution of people living with HIV under traditional assault and battery laws, as has happened in some states.
4. We embrace the following unifying principles for modernizing criminal law as it affects HIV and other diseases:
 - a) No specific disease or condition should be the focus of a criminal law or sentence enhancement;
 - b) Prosecution must prove specific intent to harm coupled with conduct that is reasonably likely to accomplish the intended harm;
 - c) Evidence that a defendant took or tried to take steps to reduce the risk of transmission demonstrates lack of an intent to harm;
 - d) Because of the difficulty of fairly proving or defending against a charge of specific intent to transmit disease when airborne or casually transmitted diseases are involved, diseases that can be passed from person to person in the course of everyday contact should not as a matter of law or policy form the basis of a criminal prosecution or penalty enhancement;
 - e) Any penalty must be proportionate to the harm and prioritize alternatives to incarceration, and classification as a sex offender should never result;
 - f) A misdemeanor rather than a felony law carries sufficiently serious consequences for intentional transmission of a treatable infectious disease; and
 - g) Proposals to modernize laws should not create more serious crimes related to exposure to or transmission of a specific disease or significantly increase the scope of penalties for any individual on the basis of a particular health condition or disease.