



Based on advances or changes in policy, program, science, or practice, what components of the NHAS do you think should be maintained and highlighted? What changes should be made to the NHAS? This may include changes to the structure, goals, objectives, strategies, indicators, and/or priority populations. This may also include areas of the current NHAS that should be scaled back or areas of the current NHAS that should be expanded or scaled up. (1000 words)

In acknowledging the structural barriers to ending the epidemic, the NHAS must again recognize the systemic discrimination of people living with HIV (PLHIV) as a fundamental barrier. HIV criminalization represents a core driver of the discrimination against PLHIV. While the NHAS previously acknowledged that “these outdated laws do not reflect our current understanding of HIV and should be repealed or updated,” the NHAS must be updated to comprehensively acknowledge the scope and impact of HIV criminalization, as well as Molecular HIV Surveillance (MHS) (also called Cluster Detection and Response (CDR)) and other nonconsensual or punitive policy and legal approaches.

Beyond HIV-specific offenses and enhancements, the NHAS should recognize that PLHIV are criminalized through enforcement of general criminal laws and public health orders. Case law and media examples demonstrating the expansive manner that laws, policies, and practices are used to criminalize and oppress PLHIV continue to emerge. In addition to occurring through statutes that specifically name people living with HIV and other stigmatized conditions, HIV criminalization manifests itself through the application of general criminal statutes, such as reckless endangerment and assault offenses, and the enforcement of public health orders, including mandated isolation, testing, and treatment orders. The NHAS must acknowledge the full scope of HIV criminalization and include concrete metrics for assessing progress in reforming and repealing these laws, policies, and practices.

The NHAS must do more to recognize the disparate harms of HIV criminalization on Black people, Latine people, women, LGBTQ+ people, people who use drugs, people who engage in sex work, and other communities made vulnerable to HIV. Research has examined criminalization as a mechanism of marginalization and has affirmed HIV criminalization’s basis in homophobia, white supremacy, misogyny, and ableism. These discriminatory origins are borne out in enforcement data. Recent reports from the Williams Institute at UCLA School of Law reveal that enforcement targets Black people, LGBTQ+ people, and women, especially people with intersecting marginalized identities. For example, in Tennessee, Black women are nearly 300 times more likely than white men to be convicted and required to register on the sex offense registry for Tennessee’s HIV criminalization enhancement. Additional research on enforcement patterns in Memphis reveals that law enforcement targeted Black women, especially Black transgender women, through sting operations against sex workers. The NHAS must acknowledge these disproportionate effects on marginalized communities and position HIV

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criminalization as a racial, gender, and LGBTQ+ justice issue. The NHAS should also urge the creation of a comprehensive and ongoing assessment of these enforcement disparities.

The NHAS must also call for additional research into HIV criminalization, MHS, and other nonconsensual or punitive policy and legal approaches. As the previous NHAS noted HIV criminalization, specifically, “may discourage HIV testing, increase stigma against people with HIV, and exacerbate disparities.” Emergent research has explored the effects of reform of HIV criminalization laws, finding an association between reform and increased HIV testing. Furthermore, research into nonconsensual testing and nonconsensual data collection and disclosure has consistently affirmed its harmful consequences related to mistrust and care engagement. The NHAS must push for further community-based research on the effects of these approaches and the potential benefits of reform, especially for Black people, LGBTQ+ people, people who use drugs, people who engage in sex work, and other communities disparately affected by state violence and oppression.

Furthermore, the NHAS must urge the implementation of compassionate, public health solutions to address the HIV epidemic. Alongside recognizing and addressing HIV criminalization and nonconsensual strategies, the NHAS must acknowledge the harms of other criminal legal approaches that target our communities disparately impacted by HIV, including people who use drugs and people who are unhoused. The renewed attacks on our communities and the evidence-based solutions aimed at helping our communities, including harm reduction approaches, warrant a robust response in the NHAS. The NHAS must again commit to defending and funding harm reduction services, including the distribution of sterile syringes and pipes, which aim to reduce the effects of criminalization, stigmatization, and discrimination.

Recognizing limited resources and the need to direct resources to settings and populations disproportionately impacted, which objectives and strategies of the NHAS should be prioritized over those that may be less effective? (200 words)

Given resource limitations, the NHAS should focus on reducing the disparities in transmissions, diagnoses, and care. To that end, the NHAS should focus on empowering legal and policy solutions that address the social determinants of health, including discrimination based on race, sex, or sexual orientation; housing instability; inadequate transportation; lack of employment opportunities; and food insecurity. The NHAS must similarly focus on reducing the stigmatization of, discrimination against, and criminalization of PLHIV, which converge with other forms of oppression, including homophobia, white supremacy, misogyny, and ableism. Principally, 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 should be prioritized for repeal or reform. The NHAS must concentrate on addressing the needs of communities that have been disparately affected by the epidemic, especially Black people, LGBTQ+ people, women, and people who engage in sex work, use drugs, are disabled, are without housing, or are currently or formerly incarcerated. The NHAS must allow for these communities most impacted to lead the development of legal and policy solutions that center their experience and advance their dignity and autonomy.

What innovative approaches or partnerships could be integrated into the National HIV/AIDS Strategy to accelerate HIV-related health equity in prevention and care, particularly for populations historically underserved? (200 words)

The NHAS should incorporate the innovative approach of leveraging the protections of the Americans with Disabilities Act (ADA) to attack HIV criminalization laws and protect the rights of PLHIV. In addition to recognizing the novel litigation in Tennessee, the NHAS should push for additional investigations into criminal laws in other states and new U.S. Department of Justice (DOJ) guidance to provoke additional litigation by private parties. The NHAS should also urge the DOJ to pursue agreements with state and local law enforcement offices to cease enforcement of discriminatory laws. The NHAS should call for a gathering of prosecutors, PLHIV, people living with disabilities, HIV advocacy organizations, and disability rights groups to explore additional possibilities of combating HIV criminalization and other forms of discrimination against PLHIV through the ADA. Furthermore, the NHAS should encourage the development of a program to assist state, local, and tribal health departments with improving the informed consent process, safeguarding health information from PLHIV, and preventing that information from being used in criminal, civil, or immigration proceedings. Moreover, the NHAS should call for a body of federal, state, local, and tribal health policy stakeholders, including PLHIV, HIV advocacy organizations, and public health legal experts, to develop strategies for ending HIV criminalization on a federal, state, and local level.