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Contacts: Marlene Biener, APA, marlene.biener@apainc.org
D. Reznik, CHLP, dreznik@hivlawandpolicy.org

White House Office of National AIDS Policy Hosts Historic Prosecutor Roundtable on HIV Criminal Law

Nearly 50 state prosecutors, attorneys general, federal officials and national infectious disease experts convened to consider concrete ways to modernize state criminal laws and the criminal justice response to HIV-specific criminal laws

WASHINGTON -- On June 30, 2022, the Center for HIV Law & Policy (CHLP) and the Association of Prosecuting Attorneys (APA), in partnership with the White House Office of National AIDS Policy, brought together the nation's leading prosecutors, health department officials and national infectious disease experts to address ways to reduce the prosecution of HIV and other disease-specific criminal laws. Nearly 50 state and local prosecutors from jurisdictions across the country provided national representation, from New York County District Attorney Alvin Bragg and Cook County State's Attorney Kimberly M. Foxx to Oregon's Multnomah County District Attorney Mike Schmidt.

This historic White House convening was hosted and led by Harold Phillips, Director of the White House Office of National AIDS Policy (ONAP). The meeting included discussions and presentations on the scientific advancements in the treatment of infectious diseases and provided data on state laws and enforcement of so-called HIV exposure crimes across the country.

More than 30 years of HIV research and biomedical advancements to treat and prevent HIV transmission have transformed what it means to be living with HIV but done very little to alter public perceptions of the disease and people who live with it. According to CHLP, [30 U.S. states and territories](#) have criminal laws that target HIV or that increase sentences for people with HIV who are convicted of certain offenses. Available research shows that disease-specific laws and prosecutions do nothing to reduce transmission rates while reinforcing broad public misperceptions of how, and how easily, HIV and other sexually transmitted infections are acquired. Research from [UCLA School of Law's Williams Institute](#) shows that the majority of arrests and convictions increase racial and ethnic disparities within the criminal justice system.

The National HIV AIDS Strategy (NHAS) released by President Biden on World AIDS Day 2021 calls for repeal and reform of state HIV criminalization laws as a strategy to reduce HIV-related stigma and discrimination. In his World AIDS Day remarks, President Biden called attention to HIV exposure laws stating, "We have to follow science, and that means eliminating the laws that perpetuate discrimination, exacerbate disparities, discourage HIV testing, and take us further away from our goal (ending the HIV epidemic)."

Marlene Biener, General Counsel at APA, said, "Changing prosecution practices related to HIV exposure and transmission requires the engagement of law enforcement professionals and public health officials. This meeting provided an opportunity for knowledge sharing that supported prosecutor-created

guidance on arrests and prosecutions, encouraged literacy on HIV science, and offered real support for creative public health and law enforcement initiatives.”

The New Jersey Attorney General’s Office offered insight into one approach through its recent prosecutorial guidance on the state’s HIV-specific criminal law. “We looked at the law and saw that its enforcement was undermining public health and public safety,” said Acting Attorney General Matthew Platkin, who also emphasized that “there are more natural allies than you might think” in the area of public health and public safety collaboration.

This meeting was part of a multi-year project launched by CHLP to end criminal law responses to HIV and infectious disease; CHLP and APA collaboratively launched the National Prosecutor Roundtable project on HIV and the Law several years ago. “The White House meeting exceeded everyone’s expectations and is testament to the importance of working across aisles and disciplines and without assumptions about who is or isn’t a potential partner,” observed Catherine Hanssens, Founding Executive Director of CHLP.

Dave LaBahn, APA President and CEO, added, “We want to get law enforcement out of health. This meeting is the beginning of new partnerships that could avert most arrests, prosecutions and imprisonments based on health status. I believe it will foster prosecutorial discretion grounded in current medical knowledge and principled, consistent application of the criminal law.”

Montgomery County District Attorney and President of the Pennsylvania District Attorney’s Association Kevin Steele commented, “Prosecutions based on old myths regarding health status fail to serve their intended purpose and can deter individuals from seeking treatment. Collaborative statewide efforts at education are necessary to provide cohesive guidance on HIV-specific criminal laws in order to align the legal approach regarding infectious diseases with existing medical research. A modern approach in line with existing medical research is the best way to strengthen public safety for everyone within the communities we serve.”

Adrian Guzman, Director of HIV Policy and External Affairs for the New York City Department of Health and Mental Hygiene (NYC DOHMH)’s Bureau of Hepatitis, HIV, and Sexually Transmitted Infections, emphasized the importance of centering evidence-based public health practice in conversations about HIV criminalization, stating that “it is incumbent on health departments to partner with prosecutors, defense attorneys, law enforcement, and policymakers to raise awareness that HIV-specific criminal and civil laws increase stigma and discrimination and undermine our efforts to end the HIV epidemic.” He shared several examples of NYC DOHMH collaborations to improve sexual health literacy among criminal justice stakeholders and move public health priorities in the right direction.

Health department officials and care providers explored how state HIV prevention programs might address the lack of sexual health literacy that informs passage and prosecution of HIV criminal laws. “HIV criminal laws are contrary to science, reinforce stigma and serve as a genuine barrier to HIV diagnosis and entry into care,” noted Dr. Jeffrey Birnbaum, Associate Professor of Pediatrics and Public Health at SUNY-Downstate Medical Center in Brooklyn, NY and executive director of the HEAT program serving adolescents affected by HIV. “They are the quintessential structural barrier to prevention and ending the HIV epidemic and, as such, merit federal support for their elimination.”

Photos from the event are available upon request.

Click for [information on state HIV criminal laws](#) and for [news from CHLP’s Positive Justice Project](#).

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