

## HIV Criminalization Reform Data

- From 2013 to 2015, at least 104 prosecutions took place in the US under HIV criminalization laws. The US is 2nd in the world in prosecutions; prosecuting more people under HIV criminalization laws than any country except Russia.
- From 2013 to 2015, HIV criminalization laws were proposed and defeated by advocates in four U.S. states and the legal environment for people living with HIV improved in two additional states.

Source:

Edwin J Bernard and Sally Cameron. Advancing HIV Justice 2: Building momentum in global advocacy against HIV criminalisation. HIV Justice Network and GNP+. Brighton/Amsterdam, April 2016.

[http://www.hivjustice.net/wp-content/uploads/2016/05/AHJ2\\_final2\\_10May2016.pdf](http://www.hivjustice.net/wp-content/uploads/2016/05/AHJ2_final2_10May2016.pdf)

In terms of racial disparities, the best information we have to date comes from the Williams Institute in California. They found the following:

- In California, more than 800 people were arrested or charged under California's HIV laws between 1988 and 2014.
- Two out of every three (67%) of those arrested or charged were Black or Latino men and women.
- After arrest, black men and women were significantly more likely to be prosecuted than white men.

In their words (from the Williams Institute summary):

- Women made up 43% of those who came into contact with the criminal justice system based on their HIV-positive status, but women are less than 13% of the HIV-positive population in California.
- Black women and White women make up 4% and 3% respectively of the population of people diagnosed with HIV in California, but 21% and 15% respectively of the population of people who had contact with the criminal justice system related to their HIV status.
- By comparison, White men make up 40% of the population of people diagnosed with HIV in California, but only 16% of those who had contact with the criminal justice system related to their HIV status.
- Across all HIV-related crimes, White men were significantly more likely to be released and not charged (in 61% of their HIV-specific criminal incidents) than expected, and Black men (38%), Black women (44%) and White women (39%) were significantly less likely to be released and not charged.
- These charging differentials were even starker among individuals assumed to be engaged in sex work under the solicitation while HIV-positive statute. White men were not charged in 70% of cases, while all others were not charged in 43% of cases. Conversely, in those same incidents, White men were charged with an HIV-related crime 13% of the time, while all others were charged for an HIV-related crime 33% of the time.

All of the above bullet points come from <http://williamsinstitute.law.ucla.edu/wp-content/uploads/HIV-Criminalization-California-Updated-June-2016.pdf>

Further research on racial disparities comes from Trevor Hoppe's research in Michigan:

- The greatest risks for conviction on an HIV criminalization charge were for black men with white female partners and for white women.
- In Michigan, from 1992 to 2010, 18 white men, 18 black men, 9 white women, and 1 black woman were convicted on HIV criminalization charges.
- In Michigan, 65% of men who were convicted on HIV criminalization charges had female partners.
- In Michigan, 15 Black heterosexual men (38% of convictions) and 8 white heterosexual men (20% of convictions) were convicted, while 3 Black MSM (8% of convictions) and 10 White MSM (25% of convictions) were convicted.

The bullet points from Trevor Hoppe's research come from:

<http://journals.sagepub.com/doi/pdf/10.1177/1462474514561711>

A key difference in the prosecutions between Michigan and California is that almost all of the California prosecutions were related to sex work (initiated by police) and most of the Michigan prosecutions were for alleged non-disclosure (initiated by a former partner).

By April/May of this year, we will have more numbers - and more specific numbers - from the research we've done in 2015 and 2016. Unfortunately we don't have those yet. We will end the next round of data collection at the end of March and then crunch the numbers for Advancing HIV Justice III.

However, we will not have exact numbers for the number of people currently incarcerated in the US under HIV criminalization laws. We really need to put together a collaborative process across groups working on HIV criminalization in the US to figure out how to get those numbers. If the media is asking, it would be very good to be able to respond.

Laurel Sprague, Ph.D.

Research Fellow in HIV, Gender, and Justice

HIV Justice Network

Facebook: HIV Justice Network

Twitter: @hivjusticenet

Brighton UK | Detroit USA

[www.hivjustice.net](http://www.hivjustice.net)