

**NOTHING
ABOUT US**



WITHOUT US

SEX WORK

HIV

POLICY

ORGANIZING

NOTHING ABOUT US WITHOUT US

**SEX WORK
HIV
POLICY
ORGANIZING**

**TRANSGENDER
EMPOWERMENT**

**RESEARCH BY
BEST PRACTICES POLICY PROJECT AND DESIREE ALLIANCE
2015**

MOTIVATIONS AND INTENTIONS FOR THIS REPORT

This report is the first in a series to be produced as part of the **Nothing About Us, Without Us: HIV/AIDS-related Community and Policy Organizing by US Sex Workers** project. It focuses on the experiences of transgender people who are also sex workers or are profiled as sex workers. Our findings outline how HIV policies impact these communities who are often silenced and excluded from policy debates.

The research is led by both sex workers and transgender people and is grounded in long-term community organizing. Our goals are to end the silence embedded in the policies regarding transgender and sex working communities, challenge stigma and criminalization, and address the problems documented in this report.

Speaking out is more important than ever as we learn how HIV increasingly impacts our communities. According to *Meaningful Work*, a 2015 report based on a new analysis of data from the National Transgender Discrimination Survey, trans people with sex trade experience are over 12 times more likely to be living with HIV than trans people who have never been sex workers and 25 times more likely to be HIV positive than the general population in the United States.



WHY FOCUS ON THE EXPERIENCE OF TRANSGENDER SEX WORKERS?

The National HIV/AIDS Strategy, the highest level of policy in the United States, has been almost entirely silent about sex work. Sex work was not mentioned in the first national strategy released in 2010, was mentioned briefly in the recent strategy update, and was entirely omitted from the National HIV/AIDS Federal Action Plan released in late 2015. This silence is shocking given the global agreement about the essential role sex workers play in ending HIV. Similarly, HIV related policies have erased transgender communities' needs in their demand that transgender women be categorized as "men who have sex with men." While it is important to note that not all sex workers are transgender and not all transgender people are sex workers, our communities overlap in many ways. Transgender people—especially transgender women of color—are leaders for the rights of sex workers and people in the sex trade.

Multiple stigmas intersect around being transgender, a sex worker (or profiled as one), and HIV. Sharmus Outlaw, a transgender leader for the rights of sex workers and co-author of this report, explains, "the things they say about transgender women I know are not true about my community. Such as, we'll sleep with your man. We are dirty. That we come across as 'a bit too aggressive.' That all transgender women are sex workers, that all transgender people are uneducated." Laws and policies that criminalize sex work and turn "condoms into evidence" intensify harms perpetuated against transgender people. As Monica Jones, a transgender woman of color and leader for the rights of sex workers from Arizona, explains, "the assumption is that sex workers are nothing but spreading disease and that places a heavy stigma on sex workers. If you're a sex worker it is assumed that you must have HIV or you must be at a very, very high risk, but illogically your access to condoms is cut short." Racism intensifies stigma, explains Octavia Lewis, a transgender leader in New York, determining, "how we are portrayed, even in death. When trans women, especially people of color, are murdered, we are mis-gendered in the media, and if we have a criminal record... mug shots are put up in place when they talk about us."

Our research includes interviews with service providers, advocates, and community members who work with and are both transgender people and sex workers. Everyone we spoke to was clear that the intersection of transphobia, whorephobia, HIV stigma, racism and other discrimination leads to almost unimaginable harm. Cyd Nova of the Saint James Infirmary explains that, "many service providers assume that when someone becomes HIV positive that is the most dramatic and most difficult moment in their lives, but for trans people that is often not true. The experience of living with HIV

As a person living with HIV, I have a responsibility to speak out. In the District of Columbia, 73% of trans people with experience of sex work are living with HIV. That is double what our last survey found. We need to address HIV right now.

Ruby Corado, founder of Casa Ruby, commenting on data released in the 2015 *Access Denied* report

while trans is just different than for cisgendered people. It is a burden on top of other burdens. Trans people often don't have access to decent housing, employment, food. That they have to face this *is* transphobia. For trans women, sex work is often the only work available, and for those who are HIV positive, their burden is greater because of enhanced criminal penalties.”

UMBRELLAS DEFINING THE TERMS SEX WORK AND TRANSGENDER

The terms we use to describe ourselves continually evolve. The red umbrella is the internationally recognized symbol for the rights of sex workers. This **umbrella of sex work** includes sex for money or other needs, such as food, clothing and housing (“prostitution”); exotic dancing; and other forms of legal entertainment. The term *people in the sex trade* is also used by many rights groups in the United States. **Transgender is an umbrella term** for people whose gender identity and/or gender expression differs from the sex they were assigned at birth. Organizations often use the terms *gender-queer* or *gender non-conforming* in addition to the term *transgender*.

CURRENT SEX WORK POLICY AND BACKGROUND

Criminal prohibition of sex for money and surrounding activities exists in most states (with the exception of some counties in the state of Nevada, where it is heavily regulated). Our organizations have produced two national reports to the United Nations about the impact of this criminalization on people in the sex trade. Across the United States, the harsh policing of people assumed to be sex workers directly undermines their ability to protect themselves from HIV and, in a broader sense, alienates people from the support they need to defend their health and rights. Sex workers, and people profiled as sex workers by the police, are harassed, assaulted, sexually assaulted, extorted, and falsely arrested. The law enforcement practices of using condoms as evidence and/or destroying condoms, confiscating medications, and seizing safe-sex materials directly contravenes efforts to halt the spread of HIV. People of color, transgender people, immigrants, homeless people and youth of color are disproportionately affected by these law-enforcement activities. People living with HIV who are profiled as being in the sex trade are subject to additional harassment, harsher policing, and intensified legal sanctions (including felony convictions) in many jurisdictions across the US.

Different forms of U.S. anti-trafficking legislation and policies affect sex workers in the United States and globally. Federal U.S. anti-trafficking policies undermine the health and rights of sex workers by requiring that many organizations seeking funding adopt a policy against sex work (“Anti-Prostitution Loyalty Oath”). This requirement is applied to organizations worldwide seeking funds from the President’s Emergency Plan for AIDS Relief (PEPFAR). Organizations within the U.S. have also been subject to the pledge under the Trafficking Victims Protection Reauthorization Act. These restrictions cause confusion amongst organizations about what kinds of services can be provided to sex workers and have, in some situations, led to the closure of excellent harm reduction services. Many US states have proposed and/or adopted new forms of legislation to end “domestic trafficking” by focusing on “ending demand” for prostitution, which increases policing of sex workers and their customers. Instead of improving working conditions for sex workers and people in sex trades, these laws lead to more arrests and imprisonment of sex workers, while also eroding sex workers’ abilities to utilize tools and strategies required to keep themselves safe.

HOW WAS THIS RESEARCH DONE?

A community-based research team, including representatives from the transgender community, HIV/AIDS field, and sex worker rights advocates carried out the research. We created a short survey to explore the experiences of transgender people related to HIV and policy and collected 20 responses at the Trans Health Conference in April 2015. Five more surveys were collected by phone. Using *SurveyMonkey*, we analyzed the surveys and found key issues to be explored in greater detail in longer interviews. We interviewed 40 people either in person, by phone, or via email to include the perspectives of direct service providers, service organizations, advocates, policy makers, and sex worker and transgender community members. Interviews ranged from between 30 minutes to two hours.

OUR TEAM

The community research team is made up of Sharmus Outlaw, Penelope Saunders, Derek Demeri, J.Kirby, Katrina Shin and Mackenzie Collins. The project advisory is made up of Monica Jones, Kiesha McCurtis, Loftin Wilson, Bré Campbell and Jill McCracken. The report’s primary reader and reviewer is Cristine Sardina. The report was released with the assistance of New Jersey Red Umbrella Alliance, Danny Cruz of SWOP Los Angeles, Katherine Koster of SWOP USA and Darby Hickey.

The cover art for the report is by Matice Moore.

FINDINGS AND RECOMMENDATIONS

POWERFUL EXCLUSION, BLACK LIVES MATTER

Contributors strongly advised that the nationwide movement resisting the oppression of people of color could frame the issues raised in this report.

Hearing these contributors voices is increasingly important because people of color, and particularly transgender women of color, must be at the center of movements, services, advocacy, and policy discussions surrounding both HIV/AIDS and sex work or the sex trades. Octavia Lewis notes that people of color, including transgender women of color, should comprise staff and leadership in outreach organizations. She explains, "it would be mindful and thoughtful if the people that are sending these workers or these educators out to speak with us would employ workers who look like us and who have been through some of our disparities. Because then instead of talking down at us they can relate to us and can talk *to* us." She observes that the majority of organizations she has come into contact with serve primarily consumers of color, and yet are headed and staffed by white people. She adds, "*white supremacy*—it is real, and when people don't check privileges at the door when dealing with people that have been disenfranchised, when they're dealing with people that do not have access to things they've had ready access to all of their lives, then yes, there is going to be a disconnect there."

In the economy of outrage and thinking about whose lives matter, it would be powerful to emphasize these issues in the context of the Black Lives Matter movement... to make connections around issues of HIV criminalization, as well as human rights and healthcare for sex workers and transgender people.

Che Gossett, archivist Barnard Center for Research on Women

Transgender communities and sex workers are extremely resilient even in the face of great barriers and violence. People who completed the survey and everyone interviewed reported that transgender people face daily discrimination, are excluded from many parts of society, and are often subjected to violence and other harms. As we will describe in detail below, the police, mainstream health services, and policies are the key perpetrators of this injustice. In addition, this violence is widespread across educational systems, churches, and families. All the places where most people expect to be included are often places where transgender people are not welcome. As Tiommi Lockett, Co-Director of the Arkansas Transgender Equality Coalition, explains, "there are some open churches, but yes, we become the object of sermons when we walk into church. I was one of those subjects—in my home church. A guest pastor saw me, and changed his sermon and talked disparagingly about his nephew who was transitioning into a woman. Jobs, employment, and education, going to school are places where transgender people face discrimination."

RECOMMENDATION: ensure the leadership of transgender people, especially people of color and leaders with sex trade experience, in all policy discussions pertaining to HIV and sex work

RECOMMENDATION: Individuals and organizations must recognize and dismantle cisgender and white privilege within all community and organizational systems in order to create safe and welcoming spaces for all

PERVASIVE PROFILING

The phenomenon of policing transgender people for “walking while trans” is well documented. Often this policing relies on arrests for prostitution and related offenses, no matter what the trans person might be doing. Over half of the people in our survey reported they had been profiled by the police in this way, even when inside buildings. “I was with my friend in the hotel lobby, they just approached and arrested me,” wrote one transgender woman who completed the survey. Transgender advocates also point to particular laws that are used continuously against the transgender community. “In Phoenix, we have a law against ‘manifesting the intent to prostitute.’ We can be arrested, not because we are sex workers, but because we are trying to exercise our right to live our lives,” explains Monica Jones who was arrested under this statute. “The police have biases, they have transphobia. As an African American you do not feel safe with the police. There are times when trans people are calling the police for assistance, and the police are just as biased as the people committing the crime against trans women.”

RECOMMENDATION: The federal, state, and local governments should decriminalize sex work and end profiling of trans people

The overarching changes that are needed to **DECRIMINALIZE SEX WORK** and **END PROFILING OF TRANS PEOPLE** include repealing criminal laws for prostitution and related offenses; repealing the application of felony-level charges and mandatory minimum sentencing against people arrested for sex work-related charges; and redirecting resources away from policing and prisons and into community resources and anti-discrimination efforts. While moving towards these changes, action can be taken to create meaningful and safe community accountability mechanisms to counter police discrimination and ensure redress for state violence, and to immediately end local enforcement policies based on “zero tolerance” of prostitution, “prostitution free zones,” and “quality of life.”

CRIMINALIZATION OF PROSTITUTION DECREASES THE EFFECTIVENESS OF HIV RELATED OUTREACH EFFORTS

The policing of transgender communities justified in the name of anti-prostitution efforts is directly at odds with scientifically-based HIV prevention and outreach efforts. Outreach workers are most effective when they form relationships with communities and ensure that vital health information and harm reduction materials (such as condoms and safe injecting equipment) are consistently distributed to the people who need them. Policing disrupts these efforts, especially during raids and “move alongs” ahead of sporting events and citywide clean ups. “An important issue is police as an agent of gentrification,” explains Cyd Nova of St James Infirmary, “we see a lot of increased policing of prostitution in the Mission right now. This means that people are much less accessible for outreach contact.” Considered to be a best practice in reaching specific communities, peer-based outreach by transgender people is increasingly difficult because police target all transgender people in public space. “They [the Port Authority police] have made the African American Office of Gay Concerns’ commitment to outreach much more difficult,” said Gary Paul Wright, the director of a people of color-led initiative in Newark, NJ. “There was a situation in which they threatened a staff worker, a transwoman of color, with a solicitation charge just for handing out condoms and safer-sex literature.”

During interviews we were repeatedly told that program workers felt that they need to keep their prevention work with sex workers “under wraps” or that folks could “not be too public about what approach works for people in sex work” for fear of backlash. An HIV program manager described how this chilling effect on speaking about sex work affects programming. “I was part of the group for the creation of the first PrEP brochure, and the pamphlet included photos including immigrants, many other kinds of groups,” he recalled. “We said you should really include a non-identifying photograph of people on the stroll to acknowledge that the stroll exists but this was completely lacking. Sex work is illegal in this country and that can make it difficult to mention directly in prevention and treatment efforts.”

RECOMMENDATION: The CDC and other similar federal and state agencies should create policy roundtables or other means through which transgender and sex worker advocacy leaders can shape policies in order to counter the root causes of marginalization—such as stigma, criminalization and police violence—that prevent their communities from accessing HIV treatment and prevention services

RECOMMENDATION: the Office of National AIDS Policy, CDC, and other agencies charged with responsibility for implementing the National HIV/AIDS Strategy should form—with strong representation of sex workers and transgender people—an interagency task force on HIV policy for criminalized, stigmatized and marginalized groups to examine issues such as police violence, incarceration,

the effects of policing that targets sex work (large events, gentrification “clean-ups”, etc) and large-scale arrests of sex workers, women of color and transgender people

CONDOMS AS EVIDENCE

The practice of police seizing condoms as evidence and/or taking condoms from community members is in direct conflict with HIV prevention. Surveys of 25 transgender community members showed that 20% feared carrying condoms. A trans woman wrote on her survey: “I have been told that if I had more than three condoms that was a sign of sex work. I told the police I'd rather be safe than sorry. That really didn't mean anything to them.”

Campaigns to raise awareness have led to changes in policy in San Francisco, California and New York, and changes in policing in Washington, D.C. and some service providers and advocates interviewed in these areas have documented an improvement. “We don't see condoms vouchered as evidence in prostitution arrests in New York City almost ever any more. And that's a huge shift from even two or three years ago... the advocacy on this has been relentless and really good,” said Kate Mogulescu, Supervising Attorney at the Legal Aid Society of New York. However, despite this appearance of progress, change has only been partial. Cyd Nova, of St. James Infirmery, notes, “it was really awesome that we passed the Condoms as Evidence ordinance in the city, then the bill at the state level passed, but it was all but useless. What we need is an effective bill that condoms cannot be used in any way around prostitution arrests. Carrying condoms should not be a condition of parole, and we should be removing sexual health barriers from any kind of non-violent criminal prosecutions. Even with trafficking, condoms should never be used as evidence, the health consequences are just too high.”

Because the criminalization of sex work is so entrenched nationwide, in practice the police continue to undermine sex workers' safety with impunity even after these intensive campaigns to end the use of condoms as evidence and to improve police/community relations. The ongoing policing of trans bodies exists independently of policy reform and the laws currently in existence. HIV prevention tools such as condoms are still being seized.

“We went from brutality to control,” explains Ruby Corado, a transgender leader in the District of Columbia. “In the past if you walked down the streets, they arrested you, beat you and put you in jail. Now the police will see you walking down the streets and say, ‘hey girl, how are you going?’ Then they escort you home, you *have* to let them ‘get you home safely.’ There has been a huge increase in the undercovers. They still use the condoms as evidence, even though they say they don't.”

Even in situations where condoms are not used as part of prosecutions, police continue to harass people they profile as sex workers about carrying condoms. Human Rights

Watch conducted research about police using the presence of condoms to make arrests or harass people perceived to be sex workers in New Orleans, information that was released in the report *In Harm's Way* in 2013. “As part of the research, we asked the same question you are asking,” said Megan McLemore of Human Rights Watch, “the answer we received was that, ‘the cops are threatening me for having condoms, saying that they can take you in for that.’ The prosecutors in New Orleans (as in DC) do not use the condoms, but the cop on the beat is out there harassing.” In New York where there has been intensive advocacy to stop the use of condoms as evidence, immigrant communities are still targeted by police and searched for condoms as described in detail in the case of *An Arrest in Queens*.

In efforts to ensure that the most basic element of prevention—the condom—is never at issue in policing, we need to reiterate the policy change to end the use of condoms as evidence is important, but it doesn’t change the system of policing of trans communities and sex workers. Police continue to act with impunity, taking condoms or harassing and arresting people who have condoms on them, simply because they can.

RECOMMENDATION: End the criminalization of condoms for sex workers, trafficking victims and those profiled as such, and ensure adequate access to condoms for all.

RECOMMENDATION: End the policing of transgender individuals and identity. End police profiling of transgender people as sex workers through education and sensitivity trainings.

POLICING, MEDICATIONS AND PREP

More than 20% of community members who completed the short survey form reported the police had searched them for medications. “Yes. The police search for medications,” explains Ruby Corado, who works with transgender community across the District of Columbia. “We talk about it, people have to be very careful, the police document what you have in your purse.” Once police officers become aware of any community member carrying medication, they may share this information, leading to reprisals due to HIV stigma. “I had a date who asked if I was HIV after we had a session,” explained one community member interviewed about this issue. “A police officer disclosed this to him, I was upset about that. I reached out to people to find out if that was legal and was told if I could find out his name, then I could sue him. But I was afraid that then it would come out that I am positive.”

Given the policing of trans people and sex workers, emphasizing “new interventions” relying on “pre-exposure prophylaxis” (PrEP) to prevent the transmission of HIV are questionable. “PrEP in the current stigmatized world, adds to the criminalization to trans body,” concludes Ruby Corado, “when you get arrested in hotel and you have medication, the first thing police do is assume you have HIV.” Globally sex workers have created policy guidelines about biomedical approaches in the *Sex Worker*

Consensus Statement AIDS2014, saying that legal barriers for sex workers are so significant that PrEP has “no meaning for sex workers but will divert resources away from approaches that we know work.” Advocates in the United States agree. “It is such a big struggle to access the quality, rights based health services we need and now there is a lot of talk about PrEP and Truvada,” says Monica Jones, “it is a distraction from what will be effective. If you don’t have the money then you cannot access these new medications. They are not solutions for us.”

RECOMMENDATION: Implement policies that prevent police from searching for medications and from disclosing HIV status

RECOMMENDATION: the CDC and related agencies should consult with sex workers and transgender representatives about the limitations of the promotion of PrEP for use in criminalized and stigmatized communities.

CRIMINALIZING HIV BY STATUTE AND BEYOND

Laws criminalizing the transmission of HIV are in effect in 32 states. 13 states have laws that specifically apply when a person living with HIV is charged with prostitution, which can result in felony charges and long-term incarceration. These laws are broader than general statutes that criminalize engaging in sex while HIV positive, even criminalizing situations where no activity likely to transmit HIV has occurred and disclosure of status is not a defense. People living with HIV can also face the severe collateral consequences of being criminalized as a “sex offender” and placed on a sex offender registry. Many other laws not specifically designed to criminalize HIV have nonetheless been used to prosecute people living with HIV.

People we spoke to in California, Arkansas, Louisiana, North Carolina, and Colorado—all states that criminalize HIV—described the terrible impact of HIV criminalization.

“Once you’ve signed a paper acknowledging your status, you have to disclose, and you are signing your life away,” explains Tiommi Lockett, a transgender leader of color describing the situation in Arkansas. “You are signing up for a 30 year sentence. Even if the viral load is undetectable. Even if I used a condom, even if there was no chance of HIV transmission.”

In Colorado, people charged with prostitution are subjected to mandatory HIV testing, and a person living with HIV who engages in “prostitution with knowledge of being infected with acquired immune deficiency syndrome” faces increased penalties. “Selling sex while positive is a felony,” explains Magalie Lerman, an organizer for the rights of sex workers and drug users in Colorado. “Even if this is done consensually, using barrier protection, no viral load, it doesn’t matter. Any time someone—either a buyer or a seller—is picked up for a prostitution misdemeanor, the person is submitted for an HIV test. If someone is found to be positive or found in a national or state database, then the person is charged with a felony. The people most affected by these laws are street-

based sex workers, as we see in the situation of a transgender woman in Denver who was repeatedly arrested.”

HIV criminalization undermines prevention services and access to treatment because it gives people a reason to be fearful of learning their status. We heard from several service providers across the nation that this concern is a legitimate one. “If you don’t know your status, then you might have a better defense if you’re charged,” explains Wes Ware, the co-director of BreakOUT! an organization working with the transgender community in Louisiana, “if you didn’t know your status, then you couldn’t intentionally expose someone to HIV.” After being charged under these laws, access to social services and health care is also deeply affected. “If someone is placed on the sex offender registry, then if the local health care clinic is located in a place where children gather, you can’t access it. Or if children are treated there, access is denied,” said Melinda Chateauvert, a historian affiliated with the Center for Africana Studies at the University of Pennsylvania. Che Gossett explains that people can be hounded out of their communities because, “sheriffs go around with a mug shot of people who have been convicted for being HIV positive and tell all their neighbors that they are a sex offender.”

As serious as the existing laws are, even in the absence of explicit statutes against HIV, the laws and policies against sex workers and people presumed to be sex workers, such as transgender people, criminalize them if they are living with HIV. “We are still dealing with so much criminalization that even though we don’t have laws criminalizing HIV, it happens all the time. It is the elephant in the room, where there are officers that are continuously trying to take us from the streets,” explains Ruby Corado of Casa Ruby. “The government is supposedly doing a lot of prevention with sex workers, but the reality is that they criminalize them. And this criminalization is part of ‘cleaning up’ the streets, and I see that there is a connection to ‘getting the infectors’ off the street. It feels like there is a deal between the health system and criminal system.”

Across the nation, as this discussion shows, the criminalization of sex work is also the criminalization of HIV and people living with HIV, preventing access to medications, condoms and programming that addresses the impact of HIV. Advocates—while pleased that a movement is now challenging existing laws that criminalize HIV—raised concerns about that same policy work on HIV criminalization because it does not fully include the voices of sex workers and transgender leaders. One advocate noted that this marginalization can be as simple as the assumption that leaders have their own vehicles: “the Task Force moved to another city about a 50 minute bus ride away, so a lot of people from the sex worker community dropped out.” Contributors also made the point that the criminalization faced by sex workers is often a lower priority in campaigns

While it’s convenient political framing to say HIV is not a crime, it may be that the movement just can’t be captured in a catchy slogan. The bottom line is that no one deserves to be criminalized.

Che Gossett, Archivist, Barnard Center for Research on Women

around HIV criminalization and fear that in future negotiations to reform legislation nationwide these statutes will be left to stand.

RECOMMENDATION: Every level of government must ensure that HIV is approached as a health issue, rather than as a criminal issue

RECOMMENDATION: All health providers must be required to maintain the privacy of all HIV records. Notably, these records must be inaccessible to law enforcement

RECOMMENDATION: States must remove laws and enhancements to standard sentencing that criminalize people living with HIV; Expunge the records of those arrested and charged under such laws that mandate sex offender registration; and Remove people charged under these laws from sex offender registries. In addition, the U.S. Government should adopt a bill such as the REPEAL HIV Discrimination Act, in order to bring the U.S. in line with international legal standards to end the criminalization of HIV status

RECOMMENDATION: Advocacy organizations must prioritize sex worker and trans leadership in campaigns to challenge HIV criminalization and broaden the focus to acknowledge that criminalization of sex work is also HIV criminalization

INCARCERATION

72% of the transgender community members we surveyed reported they had been locked up or incarcerated, and this figure shows how often transgender people are impacted by the criminal justice system. Transgender people must be placed in either a male or female facility, and this classification rarely recognizes their gender and places transgender people at great risk of violence and rape. “The policy places trans women in male prisons,” explains Megan McLemore, an advocate at Human Rights Watch, “Many friends say, ‘that’s where I got HIV in the first place, I had no protection.’” Cecilia Chung of the Transgender Law Center adds that the misgendering of trans sex workers by the criminal justice system, “makes trans-specific data impossible to obtain. Such invisibility perpetuates the negative experiences including violence against trans women.”

More than half of the survey respondents said that during incarceration they could not access health care and/or medications. “At the time of my arrest, I was taking hormones that I was buying from other trans women. So being not having a prescription on record, they wouldn’t give me hormone treatment,” explained one respondent. Others surveyed said that even when they eventually got their medications, there were significant delays in this process.

“When you go to jail you have to bring your medication and documentation,” explains Monica Jones, a transgender woman of color, “But this is not possible if you are

arrested walking down the street. In order to access them in jail, you have to see a doctor, it takes time. When I went down there, it took four days to get me my hormones, even though I went in with prescriptions.” Loftin Wilson, a harm reduction service provider working in North Carolina explains that, “not being able to maintain your hormones for the amounts of time that you’re in jail can have really damaging effects on your health and also on your mental well being.”

Nationwide organizing has challenged the poor access to health care and medications in prison. However, our respondents questioned the practice of incarcerating trans people and sex workers, specifically because incarceration can lead to increased risk of HIV. “It is not enough to say, ‘let’s get treatment access in jail’—though of course that is important—and it is not enough to help them when they get out. It should be about not putting people in jail in the first place, because incarceration can lead to increased risk of HIV and to poor health outcomes for those who already have it,” summarized Megan McLemore, a senior researcher at Human Rights Watch. And simply pragmatically even with fierce legal advocacy it is impossible to ensure that the revolving door of incarceration is not harmful to health. “Access to medical care is guaranteed by the 8th amendment, and advocates are litigating some of those issues in bigger impact cases,” explains Kate Mogulescu, a Supervising Attorney at the Legal Aid Society of New York, “but where our clients suffer is that they’re in for maybe five days here, or ten days, or seven days here. Maybe the seven days they’re in could include a weekend when the doctor at Rikers isn’t there and there’s no one available to write scripts and they can’t get onto the sick call. You can’t actually have continuity of care during that time—it’s impossible.”

Health care providers have also documented great reversals in community members’ health when HIV medications are stopped due to incarceration. “When one of our community members was recently arrested for prostitution, she was beat by law enforcement. Then during her incarceration she was denied her medication. She went from undetectable to having a viral load again. She couldn’t access her medications for 2 weeks.

Cyd Nova of Saint James Infirmary

RECOMMENDATION: Ensure access to health care, including hormones and HIV medications, and to essential HIV prevention methods such as condoms in all jails, prisons and detention facilities

RECOMMENDATION: Demographic data collected in systems of incarceration must include gender identity and expression for the purpose of housing and reentry of trans women living with HIV

RECOMMENDATION: Federal and state governments must enact bail reform to eliminate detaining people for their simple inability to pay bail, and implement other policy changes that would reduce people's actual time incarcerated

IMMIGRATION RELATED ISSUES

The criminalization of sex work on trans lives has additional impact when a person is an immigrant. An arrest for prostitution can end one's plans to seek legal status documentation, explains Bianey Garcia, an organizer at Make the Road, an immigrants rights organization in NY: "Sometimes people decide not to pursue their legal status because they are scared as a result of having prostitution charges in their records."

Working to get access to medications and health care in immigration detention is even more challenging than in jails and prisons. "For those working on the survival of undocumented people, health care access in immigration detention is key," explains Ruby Corado, a trans Latina leader from the District of Columbia. "Very often they don't have their HIV condition addressed during detention. Private immigration facilities are there to make money, health care is going to cost them money, including HIV related health care. I have met with immigration people, and they are not going to talk about health. D.C. Jail talks about HIV, but this is not happening in federal immigration detentions."

The health of these immigrants living with HIV is directly undermined. Che Gosset explains, "people detained in immigration detention centers are moved so much. If they are HIV positive, they get much sicker because they are not getting continuous medication. Their t-cell count goes up." Human Rights Watch has documented these issues in a 2009 report *Chronic Indifference* concluding that, "without improved standards for medical care, strengthened external and internal oversight and meaningful accountability to the public, immigrant detainees with HIV/AIDS will continue to needlessly suffer, and in some cases, die in US immigration detention."

Ruby Corado also reports how lack of healthcare impacts those who are able to remain in the United States because there is no access to care upon their release. "For the trans people who have been released for parole and asylum," she explains, "there is no plan for their release regarding HIV."

RECOMMENDATION: Rather than focusing on arrests, human rights based approaches must be emphasized when working with people who have migrated. More attention should be paid to the conditions of their life both pre and post-migration and how resources can best be allocated to achieve their goals

RECOMMENDATION: Remove "participation in prostitution" as grounds for removal from the country, from the category of "crimes of moral turpitude" and as grounds for denying visas/legal status to individuals seeking to visit, reside in, or become citizens of the United States

RECOMMENDATION: People incarcerated in detention centers must have consistent access to health care, including hormones and HIV medications, and to essential HIV prevention methods such as condoms

AN ARREST IN QUEENS

“I was profiled by police as a trans sex worker. My boyfriend and I went out to have drink at a local bar here in Jackson Heights. We decided to leave the bar around 3 in the morning. I saw an undercover van come up, and 8 police officers got out of the van. Then they pushed me to be facing the wall. They took my purse and they emptied everything onto the floor. They found 2 condoms in the purse and that’s what they used to charge me with prostitution. I tried to explain that I was with my boyfriend, and one of the police officers, who was Spanish speaking said, ‘shut up, *cállate*, you’re a sex worker and you don’t have rights.’

My boyfriend too was pushed to the wall. They searched him—everything. They didn’t find anything on him, right? My boyfriend was explaining too, that I was his girlfriend. They said, ‘no, shut up.’ And then they told him to go home. He left at that point.

The police arrested me for prostitution and they took me to the precinct. My boyfriend got there to try to talk to the police and explain that we were not doing anything wrong. The officer said, ‘go home or you’ll be arrested.’

My lawyer told me that I was charged for prostitution. I tried to explain to the lawyer that I was not doing anything. I was just walking with my boyfriend. He said, ‘Yeah I know that but the police say that you were doing sex work.’ I told him, ‘Yes I’m a trans person, but I wasn’t doing anything wrong. I was just walking with my boyfriend.’”

Her lawyer still advised that she plead guilty, saying this would make it so that she wouldn’t have to come back to court. “I pled guilty because at that time I didn’t know my rights. When you go to court and you have prostitution charges ... you can’t apply for legal status.”

MANDATORY HIV TESTING AND VIOLATIONS OF PRIVACY

Mandatory HIV testing is a human rights violation. One-third of transgender people surveyed reported mandatory testing or testing without consent and often this testing led to disclosure of HIV status. Sometimes tests occurred after a person's arrest or during incarceration. "I did get a solicitation charge (that was dismissed), so the judge ordered HIV testing," explained one survey respondent. Not every jail system in every state enforces mandatory testing—approximately one third of state prison systems implement mandatory HIV testing—but many people entering the system do not know of their right to opt out of testing.

In healthcare settings the participants reported being tested without their consent. One respondent wrote that, "when I found out my status I was getting a routine STI testing, not HIV. She told me my HIV status in an open room."

During an interview about these issues, Wes Ware, the co-director of a trans service provider explained that, "there are providers who have had a reputation for testing people at the club and then sharing test results in peer groups and social circles." These privacy violations breach trust, driving people away from health care.

Transgender people also explained the risks of reprisal many face if their HIV status should become known. The need to protect themselves while living in temporary accommodation was a recurring theme. "The young trans people who seek services at our agency are very private around HIV status," explains a youth oriented service provider in NYC, "a big part of this is stigma for young people and for survival. If you are crashing at someone's house, and they find out you are living with HIV, they might kick you out."

Transgender leaders are realistic about the degree to which their community can protect their privacy. Many limit disclosure of information both about their status and their engagement in sex work or wait until they determine that the circumstances are safe for disclosure. "I don't believe in confidentiality, I don't believe it exists," explains Sharmus Outlaw a transgender rights organizer, "many people think about confidentiality in terms of something I tell another person and then you are asked not to pass it to another person. In the healthcare field, your records are passed from hand to hand."

RECOMMENDATION: Mandatory HIV testing is a human-rights violation and should not be enforced in any part of policing, court, or prison systems. All testing offered should be confidential, non-mandatory, and made available upon entry and release

RECOMMENDATION: Health care settings, particularly in rural areas and small

There is no such thing as confidentiality about HIV. If I go to a doctor, I never disclose that I am a sex worker.

Transgender advocate Maryland

cities, need to be more aware of the privacy concerns of stigmatized populations and ensure that all employees, including, direct service providers as well as desk receptionists and administrative assistants, are held to consistent standards in protecting patient privacy

BARRIERS TO HEALTHCARE, HOUSING, AND WORK CHALLENGE OVERALL WELL-BEING

Participants told us again and again that many transgender people and sex workers are “off the grid”—as described by Danny Cruz of SWOP-LA—when it comes to accessing basic services and healthcare. “You see the publication of the figures of who can access Obamacare and who can’t. We are thinking about the people who are not even counted in this,” observes historian and advocate Melinda Chateauvert.

Many types of health care access require volumes of paperwork, paperwork that transgender people often do not have access to because of problems trying to “clarify” their gender marker or other forms of bureaucracy. “Using the government health care is about jumping through hoops—ID markers, documents, everything that is required to get health care—and this is an immense barrier for transgender people, especially trans women of color,” explains Monica Jones. For many immigrants, the barriers are intensified, and they are not covered by the Affordable Care Act if they are undocumented. “Transgender women that are undocumented have very limited access to care,” notes Marco Castro-Bojorquez of the Lambda Legal Defense and Education Fund.

Given that many transgender people are not able to reliably access State run services, many fall back on the non-profit sector. Larger service providers in the non-profit sector set up their own barriers including limited opening hours, paperwork requirements, and when they hold discriminatory attitudes. “The non-profit programs that do exist should stop looking for a reason to say no. They say no to you if you don’t have an ID. They say no if you don’t have a birth certificate,” explains Bonnie, a peer organizer and harm reductionist located in Maryland in a highly underserved area. These problems also exist even in major urban areas with substantial services available.

Transgender people, especially those of color, are systematically denied access to housing and the employment needed to be eligible for and afford stable housing. Having access to housing is an essential part of being able to interface with healthcare systems and stay well. For people living with HIV, having a private space to store and take medications can be vital. “Once a girl finds out that she’s positive, then how can she be on time taking medication if she is around a lot of people?” explains advocate Sharmus Outlaw.

Many trans people are either homeless or in transient housing. “There are some organizations that provide housing, but they may not be friendly towards LGBTQ people,” explained Gary Paul Wright, the director of African American Office of Gay

Concerns in Newark, NJ. “Many trans women are discriminated against in shelters, being told things like take off your wig and act like a man while you are in here... City officials, who are the gatekeepers of services for people struggling with housing, are often not trained in LGBTQ and discriminate against the community.” One advocate described shelters whose “policy is to do genital checks and house people based on their genitals.” Others further explained that the stigma against sex work—often one of the few sources of income for many trans women—also results in the denial of access to shelters and housing. “Shelters are not friendly towards trans people,” said an advocate from San Francisco, “People always assume transgender women are sex workers, so they don’t trust them in housing.” Arrest and subsequent conviction for prostitution and prostitution-related offenses intensify the homelessness or housing precariousness experienced by people from low-income communities because people with criminal records are barred from accessing, or may lose current residence in, public housing.

RECOMMENDATION: Policies and programming to support transgender sex workers, especially people living with HIV, must employ whole life approach, such as “housing first” models where housing is provided prior to meeting criteria such as sobriety, not engaging in sex work, etc

RECOMMENDATION: Eliminate policies that prevent and hinder individuals with commercial sex- and drug-related convictions from applying for and/or receiving student loans, public housing or housing assistance, public assistance, or other government-funded social services

LACK OF ACCESS TO HORMONE THERAPY AND NEEDLE EXCHANGE

High on the list of health care priorities is access to trans specific health care, so that transgender people can live their lives as they wish to be gendered. But this specific care is unavailable in many existing state sponsored health services. “It is really hard on ACCESS—which is what we call our Medicare in Arizona—to get the approval to have hormones covered,” explains Monica Jones. “So I find that a lot of girls are heading down to Mexico to get the hormones from somewhere. I think people are doing it the best way they know how. But they don’t always know whether needles are shared or not.” A small number of people who

Here in Arizona, you have to have your gender reassignment services to get your birth certificate changed. And who can afford that when it costs \$15,000 or more? So our state is saying, this is what you need to be considered a woman, to have your birth certificate changed. If this is what the state demands you do, then there should be accessible services to allow you to do this. But the problem with the hormones is that government health care won’t permit trans people to take their shots.

Monica Jones, transgender organizer

completed the survey mentioned injecting drugs. This issue of access to syringe exchange emerged more fully in interviews. “The way the situation is right now with injection drug use rising and the huge rates of Hepatitis, I would say we need full decriminalization and funding for syringe exchange,” says Loftin Wilson of the North Carolina Harm Reduction Network, “that would make such a huge difference in how many people die—people who do sex work, people who do drugs, and also trans people who are using syringes for transition-related stuff.”

RECOMMENDATION: Transgender specific health care must be accessible without barriers

RECOMMENDATION: Syringe exchange must be fully decriminalized and funded; the federal ban on funding for syringe exchange must end; and state level laws and policies must change in order to decriminalize syringe exchange everywhere, especially in the South

CONSIDERATIONS FOR RURAL AND LESS POPULATED AREAS

Service providers and community members noted that in large cities such as New York, the District of Columbia and San Francisco, access to services and support tends to be more available than in smaller cities, specifically in rural and less populated areas.

“Access to affordable—for folks who are choosing to medically transition—transition care and hormone therapy is always a struggle, especially for folks who live in more rural areas. The triangle area and the Asheville area are where most of the providers who will provide that kind of care are concentrated,” says Loftin Wilson, a harm reductionist in North Carolina, “And if you live in Wilkes County or places like that, there is just nothing there. There are no doctors who will prescribe hormone therapy, much less clinics that will provide it affordably. So basically people’s only chance is to move to areas where it’s more acceptable or to buy hormones on the black market and then transition not under medical supervision, which poses its own health risks. So there are a lot of people in the untenable situation of not being able to transition in an ideal fashion where they are.”

Tiommi Luckett noted that in her area “some providers will only continue with treatment once it’s already been started elsewhere and some won’t even treat a transgender patient. Doctors who we trust are few and far between... Being part of transgender community in Arkansas on Facebook, I’ve seen all these questions from girls who are ready to transition and don’t know where to go.”

Concerns about privacy and safety are intensified in small towns and in areas where there is only a small population. These concerns affect all sex workers and the trans community. “I live in a village of 100 people. There is no feeling of privacy,” explained Tara Burns, a sex worker rights advocate in Alaska.

RECOMMENDATION: support and fund initiatives for and by trans people and sex workers in rural locations and less serviced areas, emphasizing privacy and related needs

GAP: HEP C

Several people we interviewed mentioned a lack of policy and strategy for the issue of Hepatitis C. “There is not very much in the way at all of Hepatitis-focused funding or resources or advocacy or anything like that, even though it is a huge problem that at this point affects more people than HIV,” noted Loftin Wilson of the North Carolina Harm Reduction Coalition.

RECOMMENDATION: Create support for community-led research on the policy and organizing needs of people affected by HEP C

RECOMMENDATION: Expand community-based HEP C testing and referral-to-treatment initiatives led by and for people who are trans and/or who do sex work

WHAT WORKS

As part of this project we spoke to people and organizations working directly with transgender sex workers, transgender community members, and sex workers to find out from the community what works in regards to addressing the impact of HIV.

Leadership by transgender people and sex workers themselves: Many people we spoke to prioritized leadership by people affected by HIV laws and policies, specifically that trans people with experience in sex work should design programs, address policy approaches, and speak on their own behalf. “As far as the community I work with, we need to bring it to the level of policy. We need to bring more transgender women in,” explains Sharmus Outlaw.

The right kind of peer initiative: Establishing trust, reducing harm, and working for health and rights is more effectively done by peers from communities directly affected by HIV and HIV laws and policy. “The community regards us—the staff—as trustworthy and some of that is because we are peers,” said Cyd Nova the program director of a sex worker health organization. “If you are accessing services from someone with the same experiences, then you don’t have to explain all the details of what you are going through because that person already understands. Peer-based work is important to transgender people, at Saint James Infirmary only trans people do intake for trans specific services, similarly for HIV services.” Fully supporting peer initiatives—that is, people who are from the community and directly impacted by laws and policy—is essential for overall safety because of the relentless policing of communities. “Having outreach workers to reach street workers, means your targeting people for law

enforcement and others to see. There needs to be more awareness around this,” explains a Black trans leader from New Orleans. “Organizations should be hiring people from the community as consultants, not having outsiders trying to ‘infiltrate.’” Ruby Corado sums up why peer approaches are at the center of best practice: “If you are going to quote me on anything then say this. Let us do the work that works for us. If we are a transgender group led by transgender people, we are going to do the work the way the clients want it to be delivered. We are doing it the way the clients want and respond to. Some of us are older trans women who have survived, some of us are young transgender women who are coming up. It’s driven by us.”

Trans specific services (not services as “MSM” or umbrella under cisgendered LGB): A key message from our research is that transgender people who are sex workers should have programs that are designed with their needs in mind, not from the point of view of approaches to work with “men who have sex with men” or from a general approach for the gay community. “There needs to be a more cultivated understanding that prevention, treatment and care is different for trans women,” noted Cyd Nova. Monica Jones provided more detail about why trans specific services are essential to many in her community: “In Arizona there are services that are provided for people if they are positive, to help them obtain their medicines. Trans people do want to find places that are safe to go in that they are not predominantly cisgender and all that comes with that focus. You want to find places that are educated about the issues, locations that have gender neutral bathrooms, you have to make sure that the services are tailored to trans needs.”

Programs that do not stigmatize sex work: A theme running through this report is that negativity about and prohibition of sex work is a barrier to best practices. The “whore stigma” is used as a justification to deny people services and illogically limits support to communities who need information, support and leadership about HIV/AIDS. People we spoke to found rights based programs to be part of the solution. “We need more models like St James Infirmary that works to address the health needs of ALL people in the sex trade whether you are a street-based worker or a porn actor,” acknowledged Danny Cruz. Models that stigmatize sex work are the opposite of a genuine peer-based approach. “There can be ‘peer-based organizations’ where there is a slant on being ‘recovered from prostitution’ so most people who are actively engaged sex work wouldn’t feel great about that,” says Cyd Nova. “If you shared about not being able to use condoms for any reason [in that context], your provider may make the assumption that the only possible solution was abstinence from sex work instead of working on harm reduction goals. In that case their ‘peer-based’ would not work for you.” Other programs that are considered highly effective in serving the transgender

All across the country there are trans women in sex work, we don’t often get to go to centers run by us. Most places don’t even hire people like me. That is how we are different. Five of the highest paid positions at Casa Ruby are trans women of color.

Ruby Corado, the leader of a trans organization that works with trans sex workers

community such as Casa Ruby are clear that we should work—and are working—towards a world in which transgender people have many employment options, are certain that this cannot be done through stigmatizing sex work. “Today, it is more difficult in sex work. Financially sex work is not as rewarding as it was, and the criminalization of trans bodies has increased. There is acceptance of trans identification, and trans women are for looking for other ways to sustain themselves,” explains Ruby Corado who strongly advocates for economic alternatives to sex work, “so the way we are dealing with sex work now is not from a place of survival, but from identity. We want people to be able to make decisions about their bodies, it is their right.”

Programs that allow for anonymity, confidentiality, and privacy: Programs that are highly valued in the overlapping communities of sex workers and transgender people are those that allow for anonymity—particularly around HIV testing—and are very conscious of the ways that privacy can be violated beyond information sharing. “We are a confidential program,” explains a service provider working with transgender youth, “which is essential for the people who use our services. The support group we started for people living with HIV is held at another location to keep privacy, because if people knew the group was meeting here it might violate the confidentiality of people who come here.”

Holistic programs that acknowledge and understand the intersection of oppression (race, class, immigrant status, sexuality and gender): The report Meaningful Work illustrates that almost half of transgender people who have done sex work report being harassed by health care providers and almost a third have been turned away from care. Meaningful Work also shows that trans people of color are so much more likely to be mistreated when accessing services and are marginalized in multiple ways. Service providers we spoke to consistently affirmed the need to provide services that help transgender sex workers who experience multiple forms of oppression build healthy lives, including housing, education, healthcare, and other resources.

WHAT NEEDS TO CHANGE

Remove the disconnect between funding approaches and groups working directly with and led by transgender and sex worker communities

We asked about whether or not groups we spoke to could access funding in general and HIV funding in particular. Very few groups access HIV-specific funding at all, and many groups provide services, support and advocacy on extremely minimal funding from foundations (less than \$5000 per year), via community and crowd-funding for small amounts, or completely volunteer. Overall whether groups were currently accessing funding or were not able to, participants were clear that enormous barriers to accessing funding exist. Some didn’t know how to apply at all. “Knowing how to apply for these grants is one of the hardest things to do, knowing where they are, how to develop an application. There are so many barriers to funding,” reports Monica Jones, who does all of her work volunteer. “It is 24/7 to find funding, then you have to do the work. This

involves hiring, achieving goals for the grant along the very detailed guidelines the funder has,” explained a service provider in California that already receives federal funding for HIV related work, “you have to have grant writers, you have to figure out how to hire grant writers. You can’t use Federal funds to write grants. Over the years I have asked for volunteers, now I try and use unrestricted money from fundraising to write grants. If you want to work with the community, you have to have money. You can’t ever stop fundraising.”

The Diffusion of Effective Behavioral Interventions (DEBI) project: Some of the groups we spoke to have either used specific CDC models to access funds or have recently become part of funding for “high impact partnerships” via the CDC. Even though the National HIV/AIDS Strategy makes almost no mention of sex workers, for many years preceding the first Strategy release in 2010, the CDC’s Division of HIV/AIDS Prevention provided a few models for working with sex workers through its Diffusion of Effective Behavioral Interventions (DEBI) project. The CDC has never provided any specific scientifically-based models for working with transgender communities, but is now in the process of researching approaches specifically aimed at transgender women.

Groups who have been funded appreciate the flexibility they had overall when using CDC-approved program models that provided the basis on which they received funding. This meant that they could adapt programming such as *Many Men, Many Voices* to work with transgender communities (as offensive as that seems). “The beauty of *Mpowerment* for us is that it is set up as a community-level intervention and is in some ways the most open DEBI and can be shaped very specifically. For us this means that we have shaped the program to include health literacy and reading literacy,” explained one service provider in New York. The problem for many groups is that they have been unable to be speak publically about the ways they adjusted their programming, creating a silence about “what works” and government money comes with restrictions that undermine the effectiveness of programs. “In a way the intervention sets up roadblocks too,” the service provider continued, “for our DEBI it has been impossible to give out cash [to provide support to attend meetings]. There are policies then that create barriers for people. I work with clients directly. They say to me, ‘I don’t need a gift card for Kmart.’ We tell the funder, we acknowledge the issues, but change is not going to happen.”

Dealing with the “AIDS Sector”: Some groups have made decisions to not try to work within the restrictions of the DEBIs and HIV funding but still find themselves having to negotiate with a sector of “AIDS Service Organizations” to the detriment of what works. “We as an organization have a hard time getting condoms here because providers want us to sign a contract saying that we will only get condoms from them, agreements they can present to funders to show that they are reaching trans youth, or want us to keep track of our members in some way so they can check off the numbers in their grant reports,” explained one service provider in Texas, “And we just want condoms so folks have access.” Groups that see themselves as forging a new path as independent trans led organizations are clear that the trade offs—that is, the “silencing’ about what works—is not worth it, especially when groups led by trans people and sex workers are often forced to the bottom of a hierarchy as sub-grantees receiving a tiny sum of the original groups’ funding. “We do not get prevention money from the city, so we say whatever we want. The Mayor wants a different response and she wants to hear new things,” observes Ruby Corado, “[the money we were offered as a sub-grantee] for HIV prevention was a slap in the face, so we gave it back. Because of the healing with work we are doing, we don’t sell our souls.”

In HIV Peer education, a trans women-centered curriculum is present in a lot of CDC and Ryan White-funded AIDS service orgs, which is positive. However the gains in this are eroded somewhat by the current entrenchment of nonprofit hierarchy and granting. HIV/AIDS organizations used to employ a lot of trans folks of color, who could hand out condoms and do peer education. Now with the foundations and government grantors emphasis on credentialing, people often need an MSW in order to hold positions trans folks of color once occupied. Now, if they are hired, they are only getting hired at the lowest level positions, because so many transgender people don’t have access to higher education. What would it look like for AIDS services organizations to build an infrastructure for trans folks and sex workers of color that actually implements social justice in the services that are happening?

Che Gossett

These challenges in the current system of providing HIV-funding support to organizations working effectively with the community is part of a much broader problem that reflects the continual disenfranchisement of communities of transgender people and sex workers across the US. This is reflected in the overwhelming concern expressed by people we spoke to about interacting with funding streams—both government funding for HIV and many foundations—that trapped them in endless cycles of paperwork and ended up not reflecting the realities of what is needed at the community level. Loftin Wilson, a harm reduction and trans specialist in North Carolina, expressed, “frustration that whenever we do get funding for trans advocacy or things like that it’s always from an HIV-focused perspective. Being on the ground we know there’s hepatitis, there’s sex work, there’s housing and homelessness, there’s violence. We know these other things are as urgent or more urgent in people’s lives than HIV. So there’s a sense of being constrained into this funding niche.”

Elements of HIV funding that worked for people we spoke to include grants that were not restrictive. “We have a grant from Elton John AIDS Foundation and this type of funding allows us to do what we know works with transgender community,” explained Ruby Corado, the founder of Casa Ruby. And long-term support works in a sector where bonds of trust must be built up. “I have found that success is about keeping people as staff for as long as you can. You have to get people who are sensitive to the community, then train staff, this is a great deal of work,” says Gloria Lockett of CAL-PEP. “The good things about government grants is that they can be for 3 to 5 years, they want to see you get established and see what you can do.”

RECOMMENDATION: US Government and Foundation funders should adopt a rights-based approach to funding by supporting transgender sex worker-led HIV programming that encourages constituent leadership and meaningful participation in the development and implementation of HIV Funding Policy and promotes sex workers’ and transgender people’s engagement in social justice and human rights advocacy

RECOMMENDATION: US Government and Foundation sectors should provide long-term adequate funding for organizations led by transgender people and sex workers that supports a holistic approach to the health and service needs as identified in this report

RECOMMENDATION: Funders of all kinds should reduce the barriers to seeking funding through capacity building amongst community organizations, reduction in bureaucracy and paper work, and using plain language (rather than highly technical language) in all materials related to the funding process

CALL FOR CHANGES IN NATIONAL POLICY TO INCLUDE TRANS PEOPLE AND SEX WORKERS TO ADDRESS CRIMINALIZATION AT ALL POLICY LEVELS

HIV-related policy making happens at many levels across the United States. Community members, service providers, and HIV health and policy administrators come together to create “HIV prevention and care plans” at the local and state level via HIV/AIDS Community Planning Groups (HPGs) mandated by the CDC. Federally, the Presidential Advisory Committee on HIV/AIDS (PACHA) provides recommendations to the Department of Health and Human Services Secretary about HIV. The White House asks PACHA to provide recommendations on how to effectively implement the National HIV/AIDS Strategy, as well as monitor the Strategy’s implementation. The government also consults the community during the development of the National HIV/AIDS Strategy.

Many people we spoke to were either actively involved in these policy-making circles or seeking ways to engage with them after years of exclusion. Long-term participation on local and state level planning groups is happening, but the most important voices are often not present, which reflects the scarcity of funding for transgender communities and sex worker groups. “I am on the HPG to recruit more trans people in the room, currently there is only one trans voice,” explained one service provider. “There really is a missing voice in the room... We are always speaking about trans issues but trans people themselves are not in the room. This is also true for sex workers.” Other national advocates discussed the collective responsibility on these issues. “The collection of data should be improved and better analyzed (particularly in regards to the transgender community) so communities can learn what is happening on a macro-level. State and local governments have a role in this as well,” commented Christina Quinonez of the Center for Excellence in Transgender Health.

The mandate to end AIDS by 2020 needs to be a mandate for every government agency, not just the Department of Health. This way law enforcement is accountable to how their practices are further driving HIV.

Kate D’Adamo, Sex Workers Project

Numerous transgender-led organizations, sex worker advocates, and sex worker groups provided feedback for the latest version of the National AIDS Strategy. People we interviewed expressed outrage over the gaps in the policy. “The way that we were included was how they tokenize. There are some good pieces there but it doesn’t have, for example, a thoughtful broad component that came from people actually doing the work from positions of trans leadership,” observes Ruby Corado. “Our city got money from CDC for transgender people, but the money is not mandated for trans. The strategy doesn’t improve the data collection so there is no clear oversight. I call that a joke.”

Many also mentioned the need for accurate indicators, accountability and data collection. “They need an indicator for sex workers and transgender women,” says Tiommi Lockett, a transgender leader in Arkansas, “Now they mention sex workers just one time in the whole 22-page document. What I am doing is working with a network of people living with HIV, we had 100 days after that strategy was released to speak about the issue and how they can correct it. Because if this goes into effect, how it is, we’re stretching it to 2020. We have to fight to be an indicator. We’re mobilizing advocates from around the country.”

Advocates also made it clear that the silence about the impact of criminalization in the National HIV/AIDS Strategy is also a silence about transgender people, sex workers, and drug users. “It is important that as criminal justice reform regains traction in the US, that public health issues are part of that discussion. Specifically what I am doing is to highlight the data that show how arrest, incarceration, and post-release are barriers to HIV treatment and healthy outcomes. There is so much data on this now, I have put some together for three populations, sex workers, people who use drugs, and trans women. For each group the data shows how incarceration leads to far worse HIV

outcomes and risk. I wrote a letter to ONAP [Office of National AIDS Policy] urging them to include this in their national policy, urging them to include this and they included none at all,” explained Megan McLemore, a human rights advocate, “How dare they issue a National AIDS strategy without really mentioning sex workers, without focusing on criminalization, and failing to address this in regards to drug use. This new strategy is so far behind the international standards, to ignore WHO and UNAIDS, convening sex workers, it’s not only that they are far behind, it is the failure to acknowledge all other work on sex work, drug use, and criminalization that has already been done.”

RECOMMENDATION: Include sex workers and transgender people as a priority with indicators in the National HIV/AIDS Strategy, describing the barriers sex workers and people in the sex trade face, and listing these groups in prevention and treatment priorities

RECOMMENDATION: Clearly state in all policies the needs and priorities of the transgender community and end the practice of misgendering transgender women as “men who have sex with men” (MSM)

RECOMMENDATION: collect accurate epi-data on the impact of HIV on sex workers and transgender people

RECOMMENDATION: Improve communications between government agencies working on HIV and communities affected by HIV (recognizing sex workers, transgender people, and drug users in this dialogue), paying particular attention to meaningfully including voices of people impacted by these policies

RECOMMENDATION: Modify or eliminate existing federal policies that conflate sex work and human trafficking and which prevent sex workers and transgender people profiled as such from accessing services such as healthcare, HIV prevention, and support

RECOMMENDATION: Repeal and remove “anti-prostitution loyalty oath” requirements entirely for US global AIDS funds and anti-trafficking funds

RECOMMENDATION: Provide support for community mobilization of sex workers to respond to the impact of HIV and urge states to work toward the decriminalization of sex work, and end the pervasive criminalization of the lives of sex workers and trans people

KEY RESOURCES

MEANINGFUL WORK: Transgender Experiences in the Sex Trade presents new data and analysis from the National Transgender Discrimination Survey, Red Umbrella Project, the National Center for Transgender Equality, and Best Practices Policy Project, 2015

ACCESS DENIED: Washington, DC Trans Needs Assessment Report, 2015

IN HARM'S WAY: State Response to Sex Workers, Drug Users and HIV in New Orleans, Human Rights Watch, 2013

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, 2013

CHRONIC INDIFFERENCE: HIV/AIDS Services for Immigrants Detained by the United States, Human Rights Watch, 2009

HUMAN RIGHTS VIOLATIONS OF SEX WORKERS, PEOPLE IN THE SEX TRADES, AND PEOPLE PROFILED AS SUCH: Submission to the United Nations Universal Periodic Review of The United States of America, 2014, Best Practices Policy Project, Desiree Alliance, & Sex Workers Outreach Project-NYC

SEX WORKER CONSENSUS STATEMENT AIDS 2014

AIN'T I A WOMAN?: National HIV/AIDS Strategy Fails Sex Workers, Transgender Women Burdened by the Criminal Justice System, Megan McLemore, 2012

LETTER TO THE OFFICE OF NATIONAL AIDS POLICY for consideration during the refinement of the National AIDS Policy Update 2015, Desiree Alliance, Best Practices Policy Project and New Jersey Red Umbrella Alliance

SEX WORKERS AT RISK: Condoms as Evidence of Prostitution in Four US Cities, Human Rights Watch, 2012

GOOD PRACTICE IN SEX WORKER LED HIV PROGRAMMING, Network of Sex Work Projects, 2010

MANDATORY HIV TESTING and the Criminalization of HIV Positive Sex Workers in the United States, Katherine Koster and Robin Dunn, Sex Workers Outreach Project, 2015

HIV RISK AND PREVENTIVE INTERVENTIONS IN TRANSGENDER WOMEN SEX WORKERS, *Tonia Poteat, Andrea L Wirtz, Anita Radix, Annick Borquez, Alfonso Silva-Santisteban, Madeline B Deutsch, Sharful Islam Khan, Sam Winter, Don Operario*, www.thelancet.com **2014**

UNAIDS Guidance Note on HIV and Sex Work and Annexes 2012, UNAIDS, 2012

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NOTHING ABOUT US, WITHOUT US

More about the project: The **Nothing About Us, Without Us: HIV/AIDS-related Community and Policy Organizing by US Sex Workers** is a joint project of Best Practices Policy Project and Desiree Alliance. The project is funded by the Elton John AIDS Foundation and includes advocacy and organizing efforts led by US sex workers. We are producing a series of reports aiming to unveil how current HIV policies impact groups of people who are usually silenced and excluded from policy debates. To guide our future work, we are also documenting the experiences of sex workers in general, especially people who are most excluded, such as people from low-income communities, especially those of color, youth, drug users and people who have experienced incarceration. The **Nothing About Us, Without Us: HIV/AIDS-related Community and Policy Organizing by US Sex Workers** project will show the ways communities are organizing together to build leadership to influence policies and practices that impact our lives.

As sex workers developing our own research around HIV/AIDS policies, we collaborate with others to rethink and re-strategize the stigma, violence, and ignorance that has been used against best practices in prevention, treatment and care. This forum is a collaborative effort to demand our visibility and our voices not be silenced, but heard, in the Office of National AIDS Policy, and acknowledged in the National HIV AIDS Strategy (NHAS) 2020 strategies as separate categories with specifics that are unique to (non) transgender sex workers.

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