Stigma and Criminalization of Infectious Diseases: Building Bridges Across Issues, Communities, and Movements

Oct. 23, 2014

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Today’s Agenda

• Opening Remarks and Overview
  ➢ Kenyon Farrow, US and Global Policy Director, Treatment Action Group

• Stigma, Criminalization and TB
  ➢ Coco Jervis, Policy Director, National Women’s Health Network

• Modernization of HIV Law in Washington State
  ➢ Lauren Fanning, Community Advocate, Washington State

• The impulse to criminalize…
  ➢ Carol Galletly, Associate Professor, Center for AIDS Intervention Research (CAIR) at the Medical College of Wisconsin

• Q&A
Stigma, Criminalization and TB

Coco Jervis
National Women’s Health Network
October 22, 2014

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HIV • PJA
HIV PREVENTION JUSTICE ALLIANCE
TB Transmission

- TB is transmitted through the air from exposure to bacilli in the saliva of infected persons and sputum coughed up from their lungs.
- Once inhaled, the droplets can push their way and settle into the lungs.
TB Exposure

- Not all persons exposed to TB become infected!
- Factors related to exposure risk
  - Closeness and frequency of contact with someone who has active TB disease
  - Being young or old and/or immunocompromised
  - Environmental factors – congregate settings, tight, close quarters, homelessness, being in spaces that lack adequate ventilation.
Snapshot of the Domestic and Global TB Epidemic

• One third of the world’s population is infected with TB.

• In 2012, about 8.6 million people around the world became sick with TB disease. There were around 1.3 million TB-related deaths worldwide.

• TB is a leading killer of people who are HIV infected.

• A total of 9,582 TB cases were reported in the United States in 2013.
TB in the U.S.

- Immigrant, migrant populations
- Foreign-born
- Racial minorities – Hispanics, Blacks and Asians
- Incarcerated Individuals
- Homeless population
- Substance users
- People living with other co-morbidities
Criminalization of People with Suspected TB

• “Tuberculosis patient who refused care is arrested”, Associated Press, Scott Smith, July 29, 2014 A 25 year old California man who disappeared after refusing treatment for tuberculosis was found and arrested on charges of refusing to comply with health officials. Before the man can be sent back home, he has to be medically cleared, which could take weeks.

• “Arrest Warrant Issued for Possible Illegal Alien with Drug-Resistant Strain of Tuberculosis” Breitbart News 24 Jul 2014, The criminal complaint charges the man with one misdemeanor count of refusing to comply with a tuberculosis order. The man is a transient and comes from an area of Mexico known for a drug-resistant strain of TB, authorities said.

• “Police search for California man with drug-resistant TB”, Brooks Hays, UPI, August 22, 2014 Police in Southern California are searching for a man with a contagious, drug-resistant form of tuberculosis. California law requires patients with drug-resistant cases of TB to undergo treatment for 18 to 24 months. But according to Santa Barbara County Health Department officials, the 24-year-old man discontinued his treatment two weeks ago -- a misdemeanor. A warrant for his arrest has been issued, and police and health officials are asking anyone with knowledge of his location to contact local authorities by calling 911.
TB fear mongering

- *Immigration crisis: Tuberculosis spreading at camps*, Todd Starnes, 7/7/14, Foxnews.com


- *Lawmakers say Migrant Children are diseased, should be denied shelter*, Esther Yu-Hsi Lee, www.thinkprogress.com, 7/11/14

TB Related Laws

- Explicit TB exposure criminalization statutes
- Quarantine and Isolation statutes
- Restrictions on freedom of movement
- Restrictions on employment
- Reporting laws
- Failure to comply laws
Modernization of HIV Law
Washington State
Impact on Other Infectious Disease
Building Bridges

Lauren Fanning
Overview

• Context

Current Law

History of current effort to modernize

• Stakeholders/Partners

• Issues

• Building bridges

• Education
Current Law

- Assault 1-intent to commit great bodily harm or death (inc. firearms, deadly force, poison, (HIV) or other noxious substance; (RCW 9A.36.011)
- Assault 2-with circumstances not amounting to assault in the first degree (d)with intent to inflict bodily harm... causes to be taken... noxious substance; (RCW 9A.36.021); (b) Assault in the second degree with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.
Current Law Continued

- Assault 3, felony; Assault 4, Gr. Misdemeanor
- STD disclosure...Unlawful for any person with a sexually transmitted disease (except HIV), to knowingly have sexual intercourse without informing the other person they have an STD. (RCW 70.24.140)
- Slide 2 reference to sexual motivation status applies to all crimes of that definition, but doesn’t elevate status to class A felony.
History of Current Effort to Change HIV Related Laws

• 2013 Rep. Moeller introduced change to Assault 1 removing the term “HIV” and add bloodborne pathogens terminology with the belief that that would reduce HIV stigma.

• Rep. Moeller invited stakeholders to the table to develop bill. Same changes were made to eliminate “HIV” and adding language to reflect current science around HIV transmission.

• We are still negotiating language. This year we have added protections from prosecutions reflecting the science. Language regarding HIV vs bloodborne pathogens is still under discussion along with how to eliminate the sex offender status from risks involving sexual behavior.
Current Active Stakeholders

- Lifelong AIDS Alliance*
- Evergreen Public Affairs*
- BABES
- WHACAN- Washington HIV AIDS Action Network*
- Additional AIDS Service Organizations
- Dept. Of Health
- Consumers/Other individuals*
- ACLU*
- Planned Parenthood
- Prosecutors Association*
- Washington Coalition of Sexual Assault Programs
- Correctional Offices Union
- WA State Nurses Assn.
- Center for HIV Law and Policy*
Issues

• Expansion to encourage/include prosecution of other diseases
• Possible criminalization of low/no risk behaviors
• Inequitable interpretation/application of the law (intent, lack of transmission, imminent vs potential harm)
• Sex Offender designation when prosecuted for behavior where risk is sexual
Building Bridges

• Reach out to obvious natural partners-ASO’s, Planned Parenthood, ACLU, Health Care systems
• Identify agencies with intersectional agendas- DV agencies, Sexual Assault programs, women’s organizations, Hepatitis programs
• Identify barrier organizations-Prosecutors, Judges, Correctional Organizations
• What other opportunities exist
Approach, Identify, Educate

• Meet with key persons in each organization
• Identify common ideas and areas of disagreement
• Educate one another and look for ways to close or mitigate the gaps
• Broaden perspective
What next?

Act

LEARN

Listen

Review

Reset

Respect

Lauren Fanning, laf4406@centurytel.net

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The impulse to criminalize...

Carol Galletly
Center for AIDS Intervention Research
Medical College of Wisconsin
Objectives

1. To explore, through our work with criminal HIV exposure laws, what we mean when we say that a disease or activity or group is “criminalized”

2. To identify persons who face similar circumstances

3. To consider how our experiences and the experiences of others could be used to benefit others.
Objective #1

To explore, through our work with criminal HIV exposure laws, what we mean when we say that a disease or activity or group is “criminalized”
A nation in uproar
Stigmatized groups

- A group of persons have a characteristic.
- The characteristic is seen as discrediting—it indicates that a person’s identity is “spoiled.”
- The stigma can make these individuals very, very vulnerable – they can easily (too easily) be “thrown under the bus.”

Goffman, Stigma: Notes on the management of a spoiled identity
There ought to be a law...
Objective #2

To identify persons who face similar circumstances
- Persons who have Hepatitis C (or B)
- Persons who have active TB
- Persons who have Syphilis (especially drug resistant) and Gonorrhea
- Persons who have Ebola
• Immigrants
• Persons who have mental illness
• Persons who have committed felonies
• Parents of truant youth
• LGBT persons
Objective #3

To consider how our experiences and the experiences of those working in related fields and related disciplines could be used to benefit others.
• When do grass roots efforts work?
• What collaborations could be possible?
• How could we create an environment where public leaders and especially their constituents value empirical information?
And finally...

*He who upsets a thing should know how to rearrange it...*

*Sierra Leonean Proverb—*

Are we prepared with alternatives?
Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has.

Margaret Mead

Thank you!
Questions?

- You may also email your questions to joaks@aidschicago.org
Stay Informed, Visit & Connect:

• **Treatment Action Group**
  – Kenyon Farrow, US and Global Policy Director,
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• **National Women’s Health Network**
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Thank you!

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