

ENFORCEMENT OF HIV CRIMINALIZATION in Nevada

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OVERVIEW

The Williams Institute analyzed data from the state of Nevada about individuals who came into contact with Nevada's criminal justice system through allegations of HIV-related crimes. The analysis shows that:

- Between 2011 and 2020, arrests for HIV crimes were double the amount from the previous decade.
- Arrests for HIV crimes fall disproportionately on Black Nevadans. Black people are 10% of Nevada's population and 28% of people living with HIV (PLWH) in the state, but 40% of those who have been arrested for HIV crimes.
- The majority of arrests for HIV crimes involve sex work. Nevada's HIV crimes specific to sex work account for 61% of all HIV-related charges, and 64% of all convictions.
- Almost all of the HIV convictions in Nevada do not involve any conduct that could actually transmit HIV:
 - These include convictions for sex work crimes (64% of all convictions) which almost always occur without any sex having taken place.
 - These also include convictions for HIV crimes for "attempting" or "conspiring" to engage in conduct that Nevada criminalizes for PLWH (36% of all convictions), including sex work.

BACKGROUND

HIV criminalization is a term used to describe statutes that either criminalize otherwise legal conduct or that increase the penalties for illegal conduct based upon a person's HIV-positive status.

Nevada has three statutes criminalizing HIV transmission. Two of the statutes criminalize activities related to sex work (passed in 1987), and the third statute (passed in 1993) criminalizes conduct that is likely or intended to

transmit HIV. All three HIV crimes are felonies, carrying sentences of up to 10 years. Neither the intent to expose another to HIV nor actual transmission is a required element of any of these crimes. For example, the transmission statute only requires, “intentionally, knowingly, or willfully engag[ing] in conduct in a manner that is intended or likely to transmit the diseases to another person.” Conduct “likely to transmit” HIV is not defined by the statute.¹

In March 2021, the Williams Institute obtained de-identified criminal history data of individuals who came into contact with Nevada’s criminal justice system through these HIV-related criminal statutes. The data were supplied by the Nevada Department of Public Safety’s Records, Communications and Compliance Division. This fact sheet highlights key findings from our analysis of the enforcement data.

NUMBER AND FREQUENCY OF CHARGES

- Since 1995, **47 individuals** have been charged with **95 separate HIV-related crimes** by Nevada’s law enforcement agencies. Because some people have been arrested more than once or charged with more than one HIV crime, there have been **80 separate arrests** involving an HIV charge.
- **58 charges** (61%) were for Nevada’s HIV criminal statute related to sex work. This includes both prostitution and solicitation. **37 charges** were related to Nevada’s more general HIV transmission statutes (which do not require transmission).
- Only 3% of all charges fell between 1987—when the first HIV criminalization law was enacted—and the year 2000. About one-third of all charges fell between 2001 and 2010. The remainder—64% of all charges—occurred on or after 2011. 2013 and 2015 were the peak years of enforcement.

¹ HIV Criminalization in the United States: A Sourcebook on State and Federal HIV Criminal Law and Practice, Nevada, Center for HIV Law & Policy (May 2020), <https://www.hivlawandpolicy.org/sites/default/files/HIV%20Criminalization%20in%20the%20U.S.%20A%20Sourcebook%20on%20State%20Fed%20HIV%20Criminal%20Law%20and%20Practice%20050520.pdf>

Figure 1. Number of HIV-related charges in Nevada per year

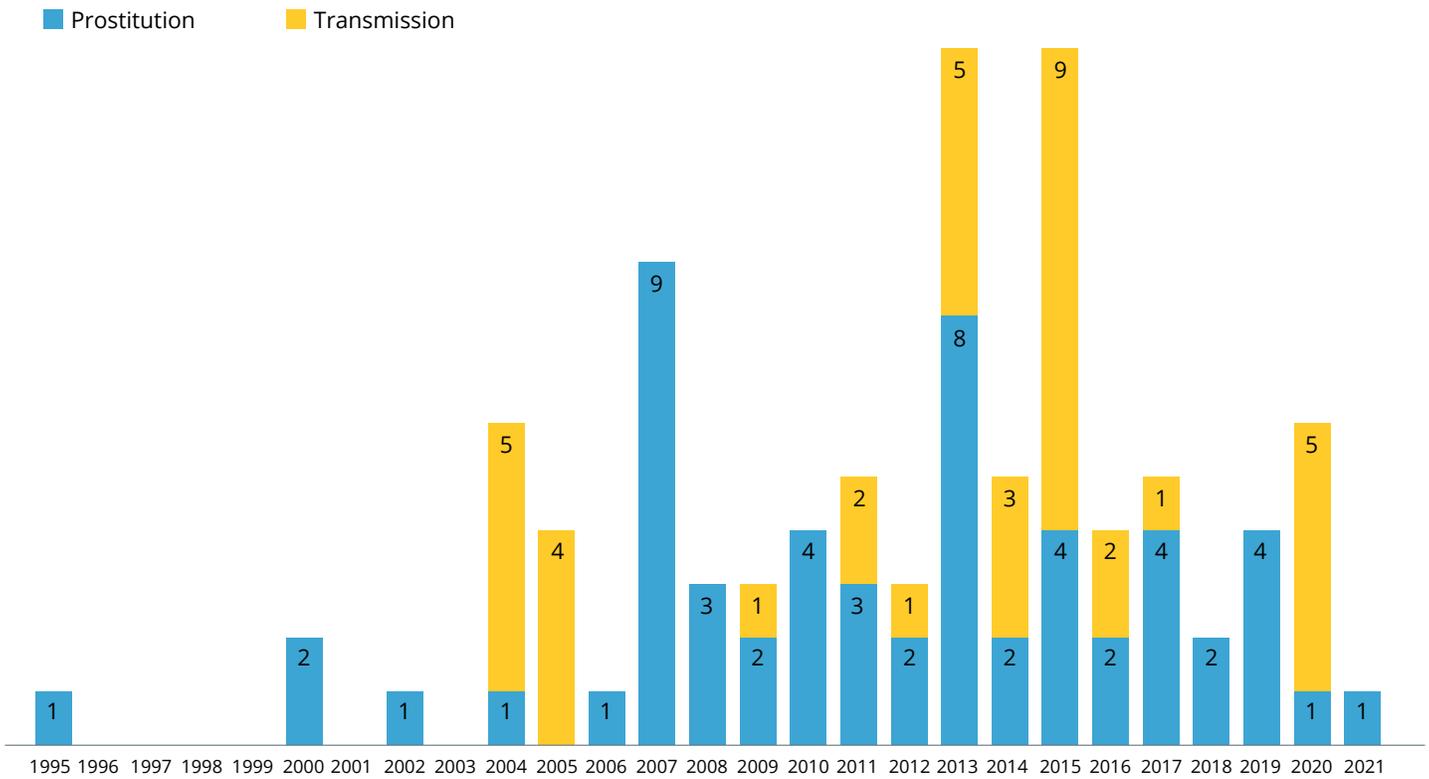
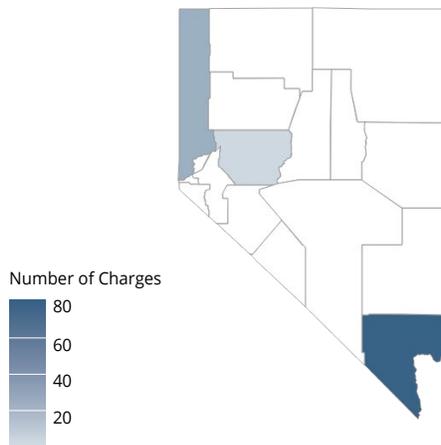


Figure 2. Percentage of HIV-related charges in Nevada by county



- Looking at **geography**, all but one HIV charge in Nevada originated in Clark or Washoe County. 78% of all charges originated with the Las Vegas Metropolitan Police Department.
- 68% of **individuals** in the data were arrested only once for an HIV-related crime.
- In 69% of **arrests**, HIV-related crimes were the only charges.
- 15% of people only had contact with the criminal justice system because they were arrested for an HIV-related crime. This suggests they may not have otherwise been drawn into Nevada’s criminal justice system.

DEMOGRAPHICS

- The **average age** of those arrested for an HIV crime was 34.5. The youngest person arrested for an HIV crime was 17; the oldest was 68.
- By **gender**, one third (34%) of all people arrested were women. This is double the percentage of women among PLWH in Nevada (16%).
- Black people are 10% of Nevada's population and 28% of PLWH in the state, but 40% of those who have been arrested for HIV crimes.
- 45% of all charges for HIV crimes that resulted in a conviction were against Black people.
- When considering just the enforcement of the state's HIV crimes related to sex work, 66% of these charges were against Black people, including 67% of the charges that resulted in a conviction.
- We are unable to determine the burden of enforcement by sexual orientation or gender identity/expression because Nevada Department of Corrections does not collect such data for their criminal justice information system.

Figure 3. Black population as a percent of Nevada's population, people living with HIV, HIV arrests, and guilty outcomes

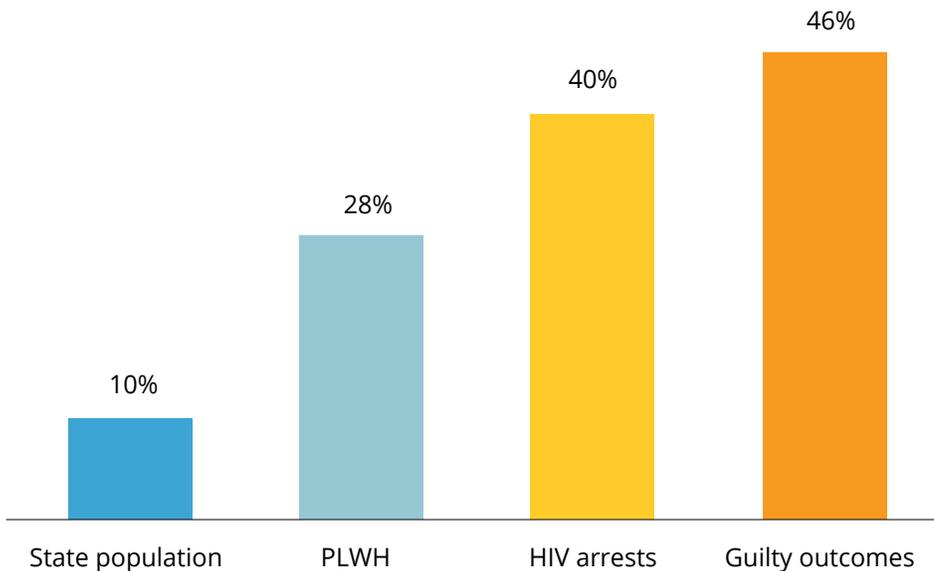


Table 1. Race and gender of individuals with HIV charges

	MEN	WOMEN	TOTAL
Black	12	7	19
White	17	9	26
Hispanic	1	0	1
Unknown/uncertain	1	0	1
Total	31	16	47

Table 2. HIV charges by race/ethnicity

	PROSTITUTION	TRANSMISSION	TOTAL
Black	38	5	43
White	19	21	40
Hispanic	0	11	11
Unknown/uncertain	1	0	1
Total	58	37	95

OUTCOMES

- Overall, 28 charges for HIV crimes—29% of the total—resulted in a **conviction** (guilty at trial or pled guilty). Almost one-third (31%) of all sex work charges resulted in a conviction, and 27% of all transmission charges resulted in a conviction.
- Compared to transmission charges, sex work charges were less likely to proceed past the arrest phase, but more likely to result in a conviction if they did. Almost half (48%) of sex work charges continued past the arrest phase. Of those, 64% resulted in a conviction. In contrast, 70% of transmission charges continued past the arrest phase. Of those, 39% resulted in a conviction.
- Ten convictions—36% of all convictions—were for an **attempted or conspiracy** version of an HIV-related crime. Of those, 80% were for attempted prostitution / solicitation.