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Olivia Nevola

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Approaching the HIV Epidemic and COVID-19 Pandemic with Incarcerated People

The COVID-19 pandemic has brought to light structural inequalities that disproportionately affect marginalized populations, especially those targeted by America's mass incarceration system. There are several parallels between the responses to public health issues that stem from the COVID-19 pandemic and HIV/AIDS epidemic in mass incarceration facilities. Our system of mass incarceration must be reformed to properly address not only the current pandemics across the nation, but also future impending health crises. This kind of reform involves addressing the social and structural determinants of health both inside and outside of correctional facilities.

Pre-exposure prophylaxis, or PrEP, and post-exposure prophylaxis, or PEP, are both daily oral antiretroviral medications for people at risk for being exposed to HIV or have already been exposed to HIV.[1] They ensure that individuals taking these drugs every day according to their treatment regimen possess an undetectable viral load and are therefore unable to transmit HIV to others.[2] Since antiretrovirals must be taken daily, there cannot be any interruption of this treatment.[3] As such, incarceration poses a barrier to this treatment since individuals may not have proper access to PrEP and other antiretroviral therapies, which is compounded by the COVID-19 pandemic.[4] For example, correctional facilities that have been overwhelmed by COVID-19 have "limited to no funding for preventative health care." [5] Additionally, post-incarceration, the effects of the COVID-19 pandemic may cause people living with HIV to discontinue their antiretroviral treatment due to lockdowns or loss of health insurance.[6] Public health and community organizations are crucial in providing HIV/AIDS prevention treatment to the people living with HIV, and much of the work of these organizations was discontinued as a result of the pandemic.[7]

It is crucial to address the effects of HIV/AIDS and COVID-19 on people who are incarcerated as it will allow us to be prepared for future health crises that impact those who are incarcerated at a disproportionate rate. Most simply, there must be greater attention paid to those who are living in mass incarceration facilities. This includes a more comprehensive education regarding HIV transmission and the importance of continuing HIV care,[8] as well as ensuring there is adequate Personal Protective Equipment (PPE), such as masks, enforced hygiene standards, and increased social distancing within the facility.[9] These measures will not only combat the transmission of HIV and COVID-19 in correctional facilities but also prevent future health crises from having such a devastating effect on incarcerated people.

Bail reform and decriminalization of misdemeanor drug offenses are solutions that prevent overcrowding of facilities and lessen the number of people becoming incarcerated, however, they fail to fully address the issues brought about by the intersection of COVID-19 and HIV.[10] Another solution to addressing the impact of COVID-19 and HIV on people who are incarcerated is implementing proper discharge plans. A discharge plan is “a plan describing the manner in which an eligible incarcerated individual will be able to receive re-entry services upon release from custody of the department to the community.”[11] In many cases, these plans ensure that people who are leaving correctional facilities have procedures and support systems in place to continue proper HIV prevention and treatment[12] as well as provide services for inmates to ensure they are not as susceptible to COVID-19. Without providing a comprehensive transition from incarceration to normal life, the disparate rates of HIV and COVID-19 within marginalized communities will continue.

There must be policies that address the factors that exist outside of correctional facilities, such as residential segregation, access to health care, and education. For example, residential segregation results in a higher incidence rate of HIV and COVID-19[13] and to less access to health care or preventative care that is necessary for addressing HIV and COVID-19.[14] Black Americans, who are “overrepresented in the [criminal justice] system,”[15] are more likely to live in areas with higher poverty rates and with limited access to health care.[16] Access to preventative health care post-incarceration is crucial for both the HIV epidemic and the COVID-19 pandemic. Local organizations are instrumental in providing PPE and necessary preventative care to marginalized populations. It is important to continue these services by working around the barriers of the COVID-19 pandemic to give necessary preventative care to people who were previously incarcerated to reduce transmission of COVID-19 and HIV.

The parallels between the impact that the COVID-19 pandemic and the HIV epidemic have on mass incarceration are clear. It is necessary to address the social and structural issues that result in health disparity as well as the barriers within the mass incarceration system that put people of color at a severe disadvantage. Without addressing these factors, this leaves an already vulnerable population susceptible to the next health crisis.

[1] Prep Daily Team, *What Does U=U in Relation to HIV Prevention?*, PrEP Daily (Dec. 3, 2020) <https://prepdaily.org/what-does-uu-mean-in-relation-to-hiv-prevention/>; *About PrEP*, Centers for Disease Control and Prevention (last visited Oct. 15, 2021) <https://www.cdc.gov/hiv/basics/pep/about-pep.html>; *Consolidated Guidelines on the Use of Antiretroviral Drugs for Treating and Preventing HIV Infection: Recommendations for a Public Health Approach*, World Health Organization (2016) <https://www.ncbi.nlm.nih.gov/books/NBK374312/>.

[2] *About PEP*, Centers for Disease Control and Prevention (last visited Oct. 15, 2021) <https://www.cdc.gov/hiv/basics/pep/about-pep.html>; *Pre-Exposure Prophylaxis (PrEP) and Post-Exposure Prophylaxis (PEP)*, Centers for Disease Control and Prevention (last visited Oct. 15, 2021) <https://www.cdc.gov/hiv/clinicians/prevention/pep-and-pep.html>. *HIV Treatment as Prevention*, Centers for Disease Control and Prevention (last visited Oct. 15, 2021) <https://www.cdc.gov/hiv/risk/art/index.html>.

- [3] *PrEP: Frequently Asked Questions for Veterans*, U.S. Department of Veterans Affairs (Jan. 2020) <https://www.hiv.va.gov/pdf/prep-faqs.pdf>.
- [4] Katherine LeMasters et. al., *COVID-19 And HIV: Overlapping Pandemics For Criminal Justice-Involved Individuals*, Health Affairs, Aug. 24, 2021 <https://www.healthaffairs.org/doi/10.1377/hblog20210818.753807/full/>.
- [5] *Id.*
- [6] *Id.*
- [7] *Id.*
- [8] *Education and HIV: where we've come from and where we need to go*, UNAIDS (Apr. 1, 2014) <https://www.unaids.org/en/resources/presscentre/featurestories/2014/april/20140401unesco>.
- [9] *COVID-19 and Mass Incarceration Innovations and Solutions at a Glance*, Fair and Just Prosecution (revised Aug. 28, 2020) <https://www.fairandjustprosecution.org/staging/wp-content/uploads/2020/08/COVID-19-Solutions-at-a-Glance-8-28-20.pdf>.
- [10] Trena I. Mukherjee & Nabila El-Bassel, *The perfect storm: COVID-19, mass incarceration and the opioid epidemic*, 83 Int'l J. of Drug Pol'y 1 (2020); Onyeka Otugo & Brooke Wages, *COVID-19: The Additional Sentence for the Incarcerated*, 4.1 Health Equity 403 (2020).
- [11] 9 N.Y.C. Admin. Code § 9-127.1 (2018).
- [12] Trena I. Mukherjee & Nabila El-Bassel, *The perfect storm: COVID-19, mass incarceration and the opioid epidemic*, 83 Int'l J. of Drug Pol'y 1 (2020).
- [13] Gary F. Spinner, *The Intersection of HIV, COVID-19 and Systemic Racism*, 14 J. of Health Disparities Rsch. and Prac. 78 (2021).
- [14] Yusuf Ransome. et al., *Structural inequalities drive late HIV diagnosis: The role of black racial concentration, income inequality, socioeconomic deprivation, and HIV testing*, 42 Health Place 148 (2016).
- [15] Katherine LeMasters et. al., *COVID-19 And HIV: Overlapping Pandemics For Criminal Justice-Involved Individuals*, Health Affairs, Aug. 24, 2021 <https://www.healthaffairs.org/doi/10.1377/hblog20210818.753807/full/>.
- [16] *Id.*