



ENDING CRIMINALIZATION
LIBERATE OUR COMMUNITIES FROM POLICING AND BODERS
SANCTUARY FOR ALL

Harm Reduction Factsheet

What is harm reduction?

Harm reduction refers to a set of human rights and public health-based practices and principles aimed at reducing negative outcomes associated with certain activities, some of which are criminalized—such as sex work and injection drug use.

Harm reduction efforts prioritize the safety, rights, and dignity of individuals engaging in the activity, rather than focusing on ending or preventing the activity. This approach respects people's autonomy to make their own choices and literally focuses on reducing harm that can result from those choices. Thus, for criminalized activities, harm reduction practices may include reducing likelihood of contact with the criminal justice system and the harm that results from criminal justice system itself. This harm reduction philosophy is colloquially described as “meeting people where they are.”

What's the difference between decriminalization and legalization?

These terms are often used together but they are not interchangeable, and their differences are important: Decriminalization and legalization produce different consequences.

- » **Decriminalization** means removing all criminal laws relating to a certain activity.
- » **Legalization** means using criminal laws to control activities by determining the conditions under which they can happen legally.

Learn more about harm reduction

Desiree Alliance: national coalition of current and former sex workers: desireealliance.org

Drug Policy Alliance: advocacy network working to end drug war and criminalization of drug use/possession: drugpolicy.org

Harm Reduction Coalition: national organization that advocates for the rights of people who use drugs and communities disproportionately impacted by the war on drugs. harmreduction.org

Sex Workers Outreach Project: national network dedicated to

the fundamental human rights of people involved in the sex trade and their communities. new.swopusa.org

Survivors Against SESTA: sex worker led effort to elevate sex worker voices in the outcry against SESTA/FOSTA. survivorsagainstsesta.org

Women with A Vision: nonprofit addressing issues faced by women in the south including sex worker rights, drug policy reform, reproductive justice, and advocacy for women living with HIV. wwav-no.org

What does harm reduction look like in practice?

Harm reduction strategies can vary depending on the needs of the community being served. Here are some examples:

- 1. Education and Outreach** means providing trainings and information to promote safety and to prevent criminalization. Examples include instructions on safer injection practices, “bad date” lists, and “know your rights” guides for sex workers.
- 2. Syringe Exchange Programs or Syringe Access Programs (SAPs/SEPs)** are locations where people can obtain injection equipment, including syringes, and can also return used syringes for safe disposal. These programs may also provide linkages to additional services.
- 3. Supervised Consumption Services** are legally-sanctioned locations where medical staff work onsite to ensure that people who use drugs have access to a safe and sterile place to use pre-obtained drugs. This usually includes access to sterile equipment and assistance in case of overdose or another medical event. As of January 2019, there are no SCS operating in the U.S. due to ongoing concerns about interference from federal drug enforcement.
- 4. Emergency Medical Response** includes training community members to provide emergency first aid such as administering overdose reversal medication (such as Naloxone or Buprenorphine).
- 5. Health Services and Support** offer free or low-cost counseling, testing, and primary care health services that are non-judgmental and accessible to the community. Some harm reduction organizations also use mobile units to provide services directly to individuals on the street.
- 6. Decriminalization of sex work and/or the possession or use of drugs** are policy interventions to keep sex workers and people who use drugs safe by ensuring that they are not at risk for criminal prosecution based on these activities.

Why decriminalize?

The criminalization of sex work and drug possession or use disproportionately impacts women, people of color, immigrants, and LGBT communities - which are already over-policed and surveilled, heavily criminalized, and vulnerable to acquiring HIV. Laws and policies that target these communities include:

- **Mandatory HIV testing for sex workers:** 25 states require mandatory HIV testing for people arrested for sex work. The confidentiality of these results is not guaranteed, and many states impose harsher penalties for people arrested for sex work if they are living with HIV.
- **“Condoms as evidence” laws:** In some cities, possession of multiple condoms has been used by police as evidence of sex work. This discourages sex workers (and communities profiled as sex workers) from carrying condoms, which can increase vulnerability to sexually transmitted infections, HIV, and pregnancy.
- **Criminalizing syringe possession:** 32 states consider the possession of syringes to serve as evidence of illegal drug use, which discourages people from using and carrying sterile needles, including people of transgender experience who may need to inject hormones, steroids, or silicone.
- **Travel bans:** Though the immigration ban on people living with HIV has been repealed, U.S. visa applications still require disclosure of an applicant’s history with sex work and drug use, which can bar entry into the country.

Consequences of criminalization

Criminal prosecution creates barriers to accessing health care and public benefits. It can also limit the exercise of other legal rights and liberties, like voting.

- Possibility of prosecution can make it **dangerous** for sex workers and people who use drugs **to report violence and other crimes** and to talk openly with health care providers.
- Past convictions can make accessing **public benefits and jobs** challenging or impossible.
- Laws like the Stop Enabling Sex Traffickers Act and the Fighting Online Sex Trafficking Act, which target platforms sex workers use to safely advertise services and screen their clients online, force sex workers to work “underground.” This means sex workers **risk violence** at the hand of clients and often police as well as **exploitation** by pimps/traffickers while working on the streets. They may also be forced to work less or be unable to continue working at all, creating economic insecurity.
- **Accidental overdose deaths** are the leading cause of accidental death in the U.S. Many of these deaths are preventable if emergency medical assistance is requested. However, the fear of criminalization can discourage people from seeking help for an overdose (whether their own or one they are witnessing). **Fear of police interactions is the most commonly cited reason people do not call 9-1-1 for medical help.**

Policy recommendations

At the federal level:

1. **End the War on Drugs** and its discriminatory and draconian drug policies, which have led to continued mass incarceration of Black and Latinx communities in the U.S., who receive harsher sentences for drug-related charges. Oppose attempts to revive a federal crackdown on drug offenses, impede harm reduction-grounded drug policy reform, or reduce funding for harm reduction approaches.
2. **Repeal SESTA/FOSTA** and prevent policies that harm sex workers. SESTA/FOSTA makes website publishers liable for any content on their sites that could be considered facilitation of sex work; the broad language of the law has led some websites to shut down their personal ad pages to avoid lawsuits. Losing websites that allowed sex workers to advertise services and screen clients has made them more vulnerable to violence and exploitation on the streets. Laws like SESTA/FOSTA confuse sex work with sex trafficking, increasing stigma against sex workers and threatening their lives and livelihoods.

At the state level:

1. **Repeal state HIV criminalization laws** that punish the alleged non-disclosure, exposure and transmission of HIV, which perpetuate HIV-related stigma and impede the goals of public health of testing, treatment and prevention. States should eliminate laws that impose sentence enhancements for sex workers diagnosed with HIV or people who use drugs living with HIV.
2. **Adopt and fund harm reduction practices** like syringe access programs and supervised consumption services. Repeal laws that cap the number of syringes that can be purchased or criminalize syringe possession.
3. **Adopt good Samaritan overdose laws** that provide immunity from arrest, charge, or prosecution for certain drug offenses when someone calls for medical assistance for an overdose they are experiencing or witnessing.
4. **Decriminalize sex work** and related offenses to end the over-policing and incarceration of people who do sex work, which increase vulnerability of sex workers to violence, abuse, and exploitation. Eliminate policies like “condoms as evidence” that target sex workers’ safety and agency.

Special thanks to Monique Tula and Charles Hawthorne from the Harm Reduction Coalition and Cris Sardina from the Desiree Alliance for their input and expertise

For more information, complete references, and more resources, visit pwn-usa.org/harm-reduction-factsheet

Learn more about PWN-USA’s policy agenda and recommendations for advocates at pwn-usa.org/policy-agenda