



+Advocacy Training

Spring 2023

(Day 4)

Learn more and join our email listserv here:

<http://hivmodernizationmovement.org/> hmm.indiana@gmail.com / <https://www.facebook.com/hmmindiana>

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Welcome, Housekeeping, Icebreaker

- **Welcome to the second half of our training!**
- During the training, **everyone will be muted** unless its Q&A time.
- **Use the chat box** to comment and ask questions.
- **Raise your hand**, using the Zoom reaction feature if you would like to ask a question.
- This **meeting is being recorded** but will not be shared. Slides will mailed to you.
- **Morning Icebreaker -**
C&C Music Factory! <https://www.youtube.com/watch?v=9oj8CbLRvM>



***“Things that make you go
HMM?!?!”***



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What's happening out there in Indiana?

Carrie Foote, Ph.D., She/her
Chair, HV Modernization Movement Indiana
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www.hivmodernizationmovement.org

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Session Objectives

Understand:

1. The Research on court cases under Indiana's HIV/Hepatitis criminal laws
2. Indiana Lived Experiences
 - Johnny's story
3. Activity: Analyzing an HIV Criminal Law and Improving It.
4. Bills Filled: Law Reform Efforts To-date



*"Ms Ys apparent effort to deliberately **cough** into Deputy X's face, along with her knowledge of her infliction of HIV, presented the risk of a health hazard to Deputy X with potentially serious health consequences."*

(2020, Probable Cause Arrest Document)



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Indiana Laws that Criminalize PLHIV and Year Enacted

- **IC 16-41-7-1 (1988) / IC 35-45-21-3 (1998):**
 People living with HIV or HBV have a “duty to inform”** sexual and needle sharing partners of their status.
- **IC 16-41-14-17 (1989) / IC 35-45-21-1 (1988)**
 Donation, sale, or transfer of semen for artificial insemination or blood/plasma when knowingly HIV+.
- **IC 35-42-2-1 (1995) / IC 35-45-16 (2002)**
 Battery/Malicious Mischief by bodily fluid/waste when it contains HIV/TB/Hepatitis (Felony sentence enhancement)



Mix of Public Health (IC 16) and Criminal Codes (IC 35)
 **HEA1340 modernized the language from “warn” to “inform” in 2020.

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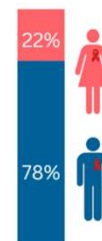
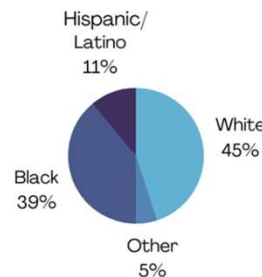
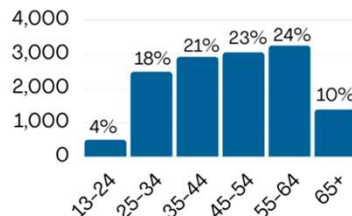
Objective 1: RESEARCH



How Many People are living with HIV In Indiana?

2022

Hoosiers Living with HIV
 13,618 people
 87% know their status
 75% retained to care
 67% undetectable U=U



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Is anyone being arrested and convicted?

Analyses for Cases Between: **2015-2022**

| HIV Criminal Codes | Persons | Persons with Convictions |
|---|---------|--------------------------|
| 35-42-2-1 Battery bodily fluid/waste | 33 | 15 |
| 35-45-21-3 Failure to inform prior to high-risk act | 25 | 14 |
| 35-45-21-1 Donate, sell, transfer blood products | 6 | 5 |
| 35-45-16-2 Malicious mischief bodily fluid/waste | 4 | 2 |
| 16-14-14-17 & IC sections for HIV transmission. | 0 | N/A |

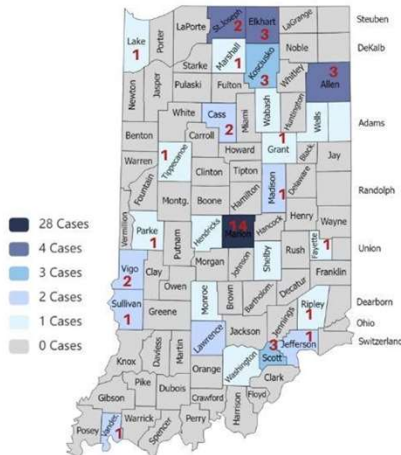
Demographics:

- Race:
- 48% White
 - 43% Black
 - 9% Other
- Sex:
- 76% Men
 - 14% Women
- Arrest Age:
- 18-58 yrs

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What do we know about these cases?



Cases were in **27** of **92** Indiana counties; Convictions in just **19** of them (count in red). **38%** of cases were filed in Marion County.

Most cases involve **NO** risk of HIV transmission. E.g., 94% of battery cases are for acts that **cannot** transmit HIV, such as spitting.



SPIT

The few donation cases occurred **only** at plasma centers & were **destroyed**. Blood and plasma are **SAFE**. No one has contracted HIV from US plasma products in **over 30 yrs**.



These HIV convictions **COST** Indiana taxpayers up to \$5 million just to incarcerate people (does **not** include law enforcement, court, or medical costs).



These prosecutions have **ZERO** public health benefits and actually **hurt** public health by being a barrier to testing and care. To end the epidemic we need to increase testing & treatment.



*Source: Indiana University & UCLA Williams Law Institute Research Study | IU IRB#12095 | Contact: Dr. Foote @ foote@iu.edu. Data from: IDOH HIV/STD/Viral Hepatitis Division, Indiana Supreme Court Records and Probable Cause for Arrest Documents.

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Are people living with viral hepatitis also arrested?

YES From 2015-22...

- **0 cases** under the Disclosure law
- About **80** cases under the Battery law
- **2** under Malicious Mischief law
- Vast **majority** are people living with Hepatitis C

Portage police officers tested after hepatitis-positive man spits at them, report says

Bob Kasarda Sep 28, 2022 Updated Nov 6, 2022 0



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Media Stigmatization:

- Sensationalized and inaccurate reporting
- Disclosure of private health information

County Jail inmate with HIV faces new charges after spitting on two officers.

HIV Positive Man charged after spreading it to multiple women

*Woman Donated Plasma Tainted with HIV
Woman knew she was HIV Positive, Officials Say*

Indiana Man gets 8 years for withholding HIV Status from dozens of sex partners.



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Objective 2: Indiana Lived Experiences

- *I have had clients decide **not to be tested** when they learned of Indiana's HIV criminal laws.*
- When I asked my patient why she attempted to donate plasma, she said she knew the plasma would be destroyed, but **needed the money** for diapers for her baby.
- *I was going through **opioid withdrawal** and having a seizure...went to an ER for help and all I remember was being put in handcuffs and a bag placed over my head for spitting at the doctors.*
- *I received my diagnosis from **a blood center**... The doctor was **particularly malicious** when they told me...they said: "You have HIV, which means you committed a felony by donating. And if you didn't know you were infected, you still broke the law by donating after engaging in risky behavior and then certifying to us that you weren't. You're lucky I didn't have the cops waiting here. So are you shooting up or sleeping with men?"*
- *I assure my **pediatric patients** that they can have normal healthy lives – just like any other child. But when they reach adolescence, I am forced to stigmatize them by informing them of IN's outdated laws just as they are starting to deal with the challenging transition to adulthood.*

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Indiana Lived Experiences With the Disclosure Law

- My newly diagnosed client was in **an abusive relationship** and was afraid to disclose to her partner as she feared he would hurt her. The lady at the health department still insisted she disclose because it was the law (*Provider*).
- I need to tell you that I lied to you about my status. **I am poz undetectable**. I have been **undetectable for several years**. When you asked me, I froze, and I lied. And I'm not sure why I did that. I'm not usually a liar. **People know I am undetectable**. Authenticity is something that is a strong value of mine. And then I didn't know what to say to you. I would have said something if we were going to go further than we did (*Text message quote In Probable Cause for Arrest Document*).
- **Johnny's story...**

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Johnny Jones

Johnny Jones joined HMM in 2017 and was a member of our first HMM +Advocacy Cohort. He currently is an Americorp Member working with the Marion County Health Dept. Ending the HIV Epidemic Division and Ryan White Services. In his free-time he is a man of many talents, including participating in the Ball Room scene, running fun and informative podcasts (e.g., he co-ran "I'll Drink to that" for several years showcased local small business, mental awareness, & community events) and you can regularly find him producing engaging Tik Toks. Follow Johnny here <https://www.tiktok.com/@johnnyjones101>



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Objective 3: Activity Analyzing an HIV Criminal Law & Improving It



IC 35-45-21-1 Transferring contaminated body fluids

Sec. 1. (a) As used in this section, "blood" has the meaning set forth in IC 16-41-12-2.5.

(b) A person who recklessly, knowingly, or intentionally donates, sells, or transfers blood or semen for artificial insemination (as defined in IC 16-41-14-2) that contains the human immunodeficiency virus (HIV) commits transferring contaminated body fluids, a Level 5 felony.

(c) However, the offense under subsection (b) is a Level 3 felony if it results in the transmission of the human immunodeficiency virus (HIV) to any person other than the defendant.

(d) This section does not apply to:

- (1) a person who, for reasons of privacy, donates, sells, or transfers blood at a blood center (as defined in IC 16-41-12-3) after the person has notified the blood center that the blood must be disposed of and may not be used for any purpose;
- (2) a person who transfers blood semen, or another body fluid that contains the human immunodeficiency virus (HIV) for research purposes; or
- (3) a person who is an autologous blood donor for stem cell transplantation.

As added by P.L.158-2013, SEC.547. Amended by P.L.213-2013, SEC.18.

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Question: What is problematic, if anything about this statute?

Battery by Bodily Fluid/Waste with disease sentence enhancement IC 35-42-2-1

(c)...a person who knowingly or intentionally:

(2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person; commits battery, a class B misdemeanor.

(f) The offense described in subsection (c)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or HIV.

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Question: What is problematic, if anything about this statute?

In Indiana (Battery by Bodily Fluid IC 35-42-2-1 with disease sentence enhancement:

(c) ...a person who **knowingly or intentionally**: (2) in a rude, insolent, or angry manner **places any bodily fluid or waste** on another person; **commits battery**, a **class B misdemeanor**.

(f) The offense described in subsection (c)(2) is a **Level 6 felony** if the person **knew or recklessly failed to know** that the bodily fluid or waste placed on another person **was infected with** hepatitis, tuberculosis, or HIV.

- **NO** intent to transmit the disease required (Only intent pertains to C2 the base crime) .
- **NO** harm even possible for HIV or at most negligent harm if hepatitis or TB.
- **Spreads misinformation** about how HIV is transmitted and adds to stigma.
- **Disproportionate** punishments: F6 is the same punishment for committing Battery by bodily fluid that results in **moderate bodily injury**

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Question: What could be done to improve the statute?

Battery by Bodily Fluid/Waste with disease sentence enhancement IC 35-42-2-1

(c)...a person who knowingly or intentionally:

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Question: What could be done to improve the statute?

In Indiana (Battery by Bodily Fluid IC 35-42-2-1 (f) (h) with disease sentence enhancement):

Options:

Repeal enhancement: ~~The offense described in subsection (c)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or HIV.~~

Modernize to include possibility for harm: The offense described in subsection (c)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or HIV, **and placing the bodily fluid or waste on the other person posed a substantial risk of infecting the other person with the disease specified in subsection (1)**

Decriminalize: ~~The offense described in subsection (c)(2) is a Level 6 felony~~ **a class A misdemeanor** if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or HIV.

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Objective 4: Bill History

Bill History

- 2019 HB1325
- 2020 HEA1182
- 2021 HEA1340
- 2022 HB1032
- 2023 HB1198



HB=House Bill
HEA=House Enrolled Act

Learn More Here:
<https://hivmodernizationmovement.org/laws/#Legislation>

2022 Interim Study Committee Indiana

Indiana panel recommends repealing HIV penalties



Watch News Coverage here:
<https://www.wishtv.com/news/politics/indiana-panel-recommends-repealing-hiv-penalties/>



Any questions or comments before we break for lunch?



Return by 1:00pm ET



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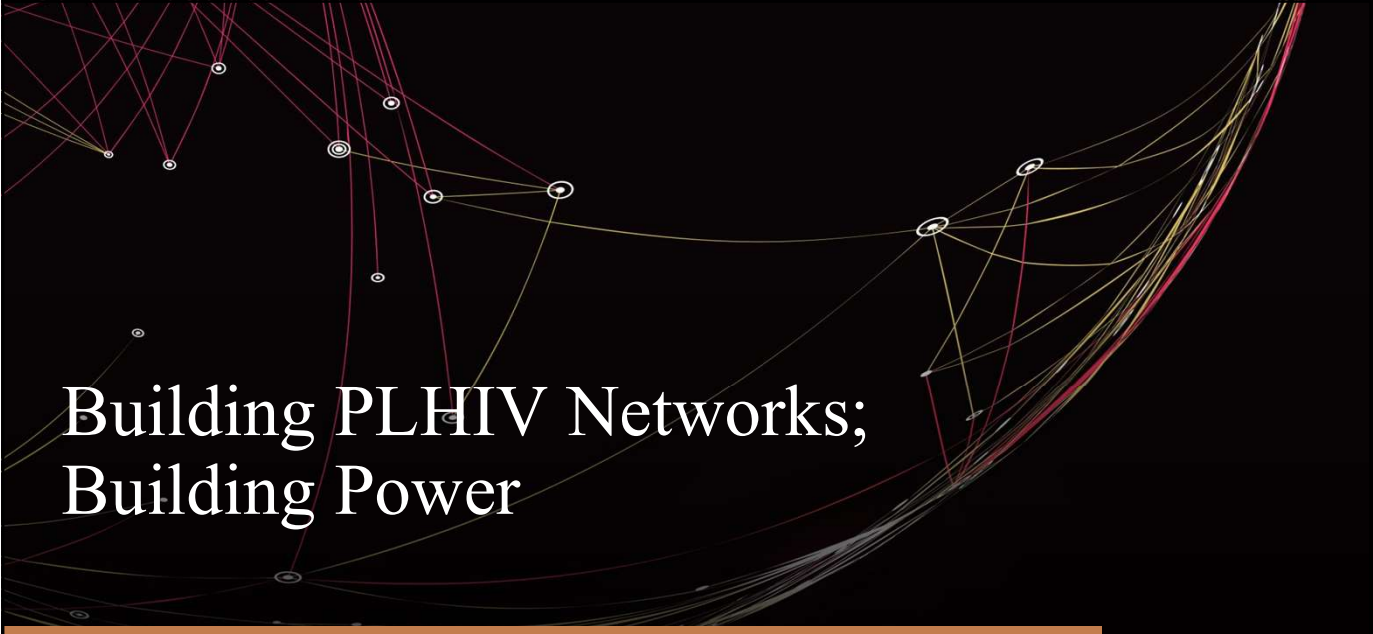
Tami Haught

- Tami Haught is Sero's Co-Director and was diagnosed in 1993 and lived with HIV in silence for 6 years, before embracing advocacy and HIV education. She is the President of PITCH (Positive Iowans Taking Charge) and as CHAIN (Community HIV/Hepatitis Advocates of Iowa Network) Community Organizer, from 2012 to 2014, managed the successful campaign to reform Iowa's HIV criminalization law. Tami is also a steering committee member of the US PLHIV Caucus, a member of the Positive Women's Network -USA and was inducted into the 2020 Leading Women's Society in 2015.



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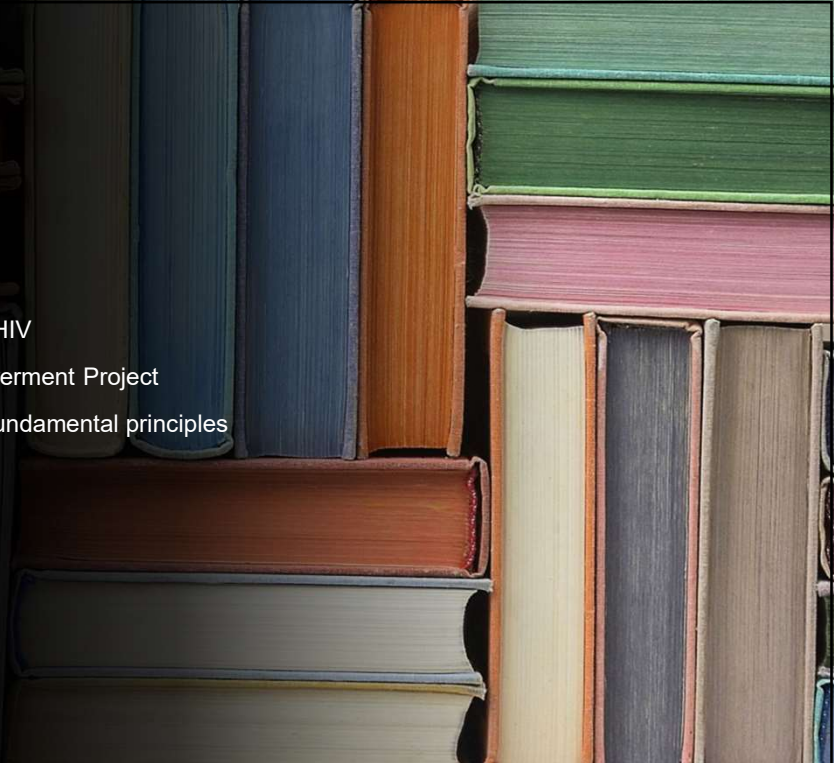
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Building PLHIV Networks; Building Power

HIV Modernization Movement -- Indiana

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Objectives

- Discuss building a stronger network of PLHIV
- Review information in the Network Empowerment Project
- Increase knowledge of MIPA history and fundamental principles

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Building PLHIV Networks

When we come together in partnership with other PLHIV, it enables us to:

- Define our own agenda and establish policy, advocacy and service priorities ...
- Select leadership of our own choosing, and hold those leaders accountable ...
- Speak with a collective voice ...
- Reduce internalized stigma (feeling ashamed, guilty or embarrassed about having HIV) ...
- Reduce external stigma by educating our families, communities and others ...
- Improve our quality of life and health outcomes ...
- Support each other to achieve our personal and group goals.

<https://www.seroproject.com/wp-content/uploads/2016/11/NEP-Took-Kit-Guide2.pdf>

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What is MIPA?

At its most basic, MIPA means two important things:



■ recognizing the important contribution people living with or affected by HIV/AIDS can make in the response to the epidemic

■ creating space within society for their involvement and active participation in all aspects of that response

UNAIDS (1999)

Photo credit: Poz Magazine (2013)

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THE DENVER PRINCIPLES

We condemn attempts to label us as 'victims,' a term which implies defeat, and we are only occasionally "patients," a term which implies passivity, helplessness, and dependence upon the care of others. We are 'People With AIDS.'" – From "The Denver Principles" (1983)



Photo credit: Peter Staley

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The Denver Principles

Recommendations for people with AIDS:

Form caucuses to choose their own representatives, to deal with the media, to choose their own agenda and to plan their own strategies.

Be involved at every level of decision-making and specifically serve on the boards of directors of provider organizations.

Be included in all AIDS forums with equal credibility as other participants, to share their own experiences and knowledge.

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Challenges of MIPA

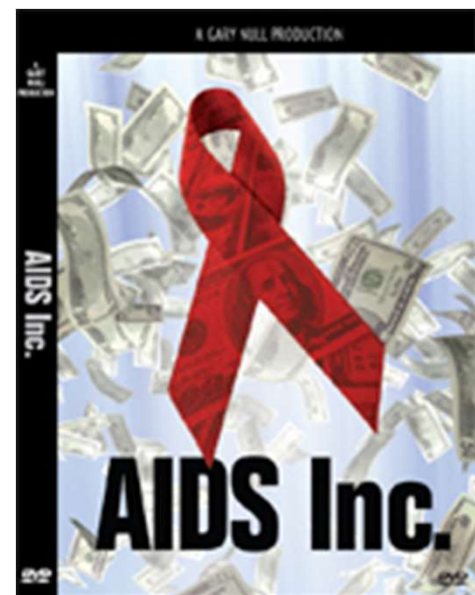


- Death, poor health and burn-out of early leaders
- Early movement dominated by white gay men - voices of people of color, PLHIV, WLHIV, and others often not heard
- Growth of funding and pressures of professionalization often decreased community engagement.
- Commitment to PLHIV leadership often faded.

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Current Challenges to MIPA

- Current funding environment does not support PLHIV organizing
- Fewer people with HIV receiving disability and more people having to work more hours, multiple or low-wage jobs, to make ends meet.
- Sense of urgency missing, complacency about treatment
- Epidemic larger, more diverse than ever
- Not developing or using PLHIV resources properly



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Why does MIPA Matter?

- PLHIV are intimately familiar with issues that impact our lives
- Can help reduce HIV stigma and discrimination
- Studies show that when individuals and communities are proactively engaged in ensuring their own wellbeing, improved health outcomes are more likely.

International HIV/AIDS Alliance and Horizons (2003). The Involvement of People Living with HIV/AIDS in Community-based Prevention, Care and Support Programs in Developing Countries.

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Benefits of MIPA

Individual level – involvement can

- build self-esteem,
- counter depression,
- increase HIV and health care knowledge,
- improvement engagement in care,
- develop stronger connections to the community,
- increase empowerment, autonomy and self-advocacy,
and
- improve health outcomes

Meaningful Involvement of People with HIV/AIDS
(MIPA) "Nothing About Us Without Us"

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Benefits of MIPA

Organizational level – involvement can

- Program processes and outcomes
- Cultural competency
- Responsiveness to client needs
- Quality of care and services can be improved
- Most importantly people feel more valued and invested in an organization when they are involved in the decision-making processes

Meaningful Involvement of People with HIV/AIDS (MIPA) "Nothing About Us Without Us"

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Benefits of MIPA

Community level – MIPA can

- Decrease stigma, discrimination, and myths
- Develop safe spaces for marginalized populations
- Increase opportunities for collaboration
- Improve services available
- Improve community pride

Meaningful Involvement of People with HIV/AIDS (MIPA)
"Nothing About Us Without Us"

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MIPA today

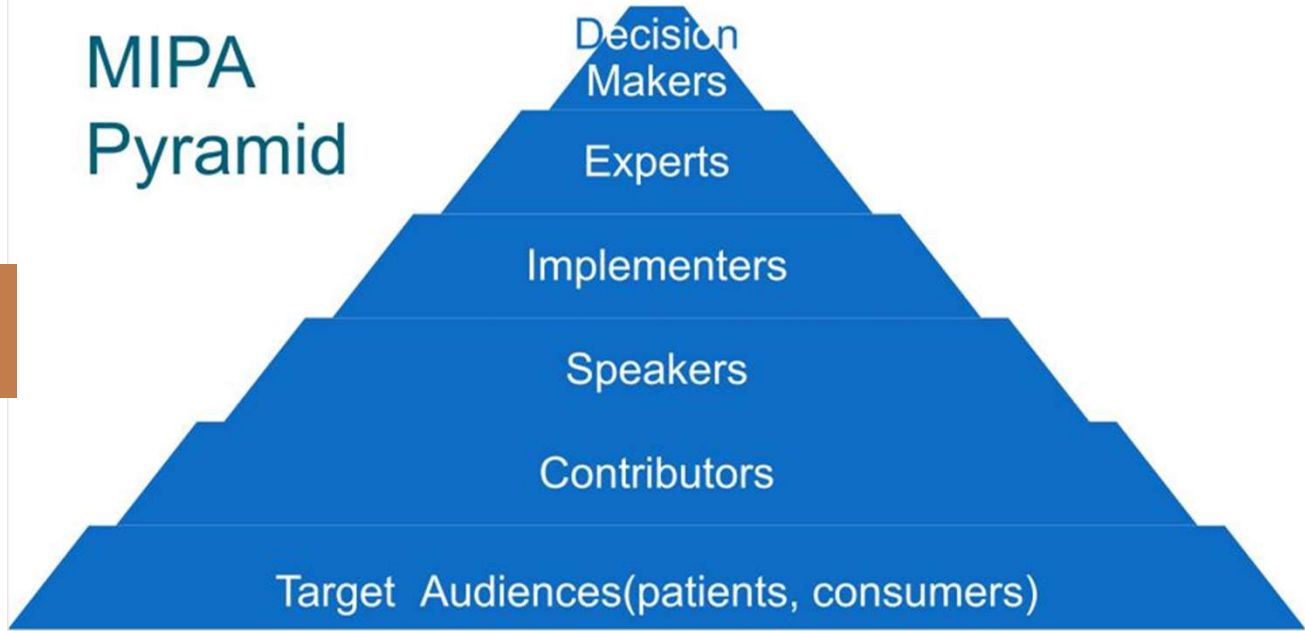


MIPA today is about ensuring that the communities most affected by HIV are involved in decision-making, at every level of the response.



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MIPA Pyramid



UNAIDS (1999)

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Poll

Where do you see yourself on the MIPA pyramid?

- Decision Makers
- Experts
- Implementers
- Speakers
- Contributors
- Target Audience

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Jamboard

How can people living with HIV be at the center of efforts – especially efforts at the top of the pyramid?

https://jamboard.google.com/d/1tEFi5VsgTarr_VHmymtXQipssdiy91CMeAuJVdKeKI/viewer?f=1

Coalition sustainability is a challenge for many state coalitions, what do you need to feel meaningfully engaged and continue your engagement beyond this training?

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MIPA in Criminalization Reform Work

- Developing state strategies
- Sharing stories to change hearts and minds
- Decide on negotiables during legislative session
- Educating community and legislators

HIV

IS NOT A CRIME

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DEMANDING BETTER:

**An HIV Federal Policy Agenda by
 People Living with HIV**



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Concretely elevating the meaningful involvement of people living with HIV and disproportionately impacted communities in the HIV response

- Staff federal bodies addressing the epidemic, such as the Office of National AIDS Policy, with people living with HIV from the communities most impacted by the epidemic and recharter the HIV advisory boards of the federal agencies to include a minimum of two seats for representatives of the HIV Caucus.
- Develop a process to solicit input from, engage and consult with the HIV Caucus, and include meaningful involvement of people living with HIV indicators in the final version of the HIV National Strategic Plan and in updates to the Ending the HIV Epidemic Plan.

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Questions

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Contact info

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www.seroproject.com

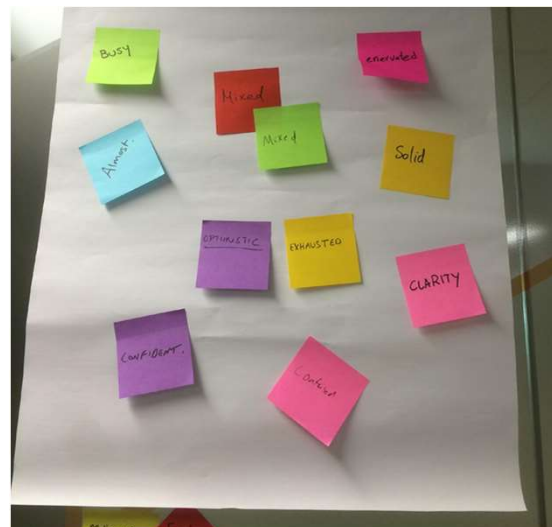
To join the Sero Project google group email Tami or info@seroproject.com.

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CLOSING AND TEMPERATURE CHECK



In 1-3 words, how are you feeling about the training today?



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Next Training Session
Saturday April 22

+Advocacy Training | Spring 2023

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<http://hivmodernizationmovement.org/> hmm.indiana@gmail.com / <https://www.facebook.com/hmmindiana>