

Criminalization as a Determinant of Public Health

This is the first in a three-document series on the role of public health in addressing the impacts of criminalization and policing.

What is criminalization?

Criminalization describes the process by which certain actions, behaviors, and activities become entangled with the criminal legal system. This system, often called “criminal justice,” encompasses several institutions, including:

- » Courts, including drug courts, family courts, and other courts
- » Police and other law enforcement, including officers who are responsible for civil violations, familial violations, parole, and probation officers
- » Jails¹ and prisons²
- » Immigration detention centers
- » Juvenile detention centers
- » Family regulation, also known as “child welfare”
- » Court-mandated services, including drug treatment programs

Criminalization is not an evidence-based public health process, but a sociopolitical one. Our current institutions of law and policing have roots in racist enforcement of the slave trade, land theft from and genocide of Indigenous people, and violent suppression and exploitation of migration.³ These systems are formed through a patchwork of local, state, and federal laws.

How does criminalization impact public health?

Broadly, entering the criminal legal system leads to worsened health outcomes for those who are experiencing policing, incarceration, detention, and family separation. This happens for a number of reasons, including:

- » Overcrowding within prisons and jails contributes to the spread of infection.
- » Disruption of healthcare and other services due to incarceration and lack of adequate services and treatment within facilities.
- » Physical and mental trauma from policing and living within jail and prison systems.
- » Stress from legal surveillance.
- » Limitations on access to basic health needs, like housing or to the ability to earn money, due to criminal record.
- » Destabilization of familial and community support systems through forced separations.
- » Physical and sexual violence from corrections officers.

1 Facilities which hold those convicted of shorter sentences and those held in pre-trial detention

2 Facilities for holding individuals convicted for longer sentences

3 Lepore, Jill. “The Invention of the Police.” The New Yorker, 13 July 2020, <https://www.newyorker.com/magazine/2020/07/20/the-invention-of-the-police>.



- » Forcible diversion into inapplicable services, such as forcing people arrested for sex work charges to anti-trafficking service providers (regardless of evidence of trafficking or need for services).
- » Appropriation of public health resources, such as for overdose prevention, towards criminalization rather than health promotion approaches.
- » Health inequities due to targeted policing and incarceration of particular communities, especially Black, Indigenous, and Latinx communities.
- » These health inequities are exacerbated by the cumulative layers of marginalization experienced by people who also experience disabilities, mental health challenges and substance use.
- » Criminal records can disrupt access to public benefits, including cash and food assistance, public housing, employment, student loans, etc., which negatively impacts health.
- » Undermining an individual's ability to safely seek substance use treatment, preventative care, and prenatal care because they are afraid of being reported and entrapped in the criminal and family regulation system.
- » Undermining the ability of service providers to confidently provide information or ask for information on health and safety due to criminalization and mandatory reporting requirements.

Why should public health learn more about criminalization?

Public health extends beyond infectious disease, including several areas that heavily intersect with criminalization — public safety, interpersonal violence, overdose prevention and the health of people who use drugs. While recognizing that multi-sector collaboration is key to system-wide change, public health must understand when and how partnerships with the criminal legal system cause more harm than they help.