

# Safehouse Wins First Round in Federal Court

A federal judge has handed a huge victory to Safehouse, the Philadelphia non-profit seeking to open the first overdose prevention site in the nation.

Judge **Gerald A. McHugh** of the Eastern District of Pennsylvania ruled Oct. 2 that the services Safehouse would provide are not illegal under the Controlled Substances Act. The ruling came in response to a lawsuit filed Feb. 5 by U.S. Attorney **William M. McSwain** contending that Safehouse would violate the so-called “crack house” provision of the act.

“The ultimate goal of Safehouse’s pro-

posed operation is to reduce drug use, not facilitate it,” the judge wrote.

Judge McHugh ruled that legislators had not envisioned facilities such as Safehouse when they adopted the provision in the 1980s in response to the crack cocaine epidemic.

Safehouse wants to offer a range of overdose prevention services, including safe consumption and post consumption rooms staffed by a medical staff that could administer overdose reversal when needed.

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# The Man With No Name

Word is getting out on the street about the legal clinic the AIDS Law Project runs at the Kensington headquarters of Prevention Point Philadelphia.

That became clear when a 27-year-old man came to the clinic in April with an unusual problem. He had no first name, legally speaking.

He first learned of the problem when he was a teenager trying to get legal identification. He needed his birth certificate, so he and his mother applied for a copy. To their surprise it came back with his name as “Unrecorded” and his mother’s last name.

He had a first name. He had used it his whole life. It was on his hospital birth records. But legally his first name was “Unrecorded.”

“We don’t know where it went wrong, but it definitely went wrong,” said **Adrian M. Lowe**, a staff attorney at the AIDS Law Project.

The client and his mother tried to get his birth certificate corrected by contacting the state Department of Vital Records, but were told they would need to do

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Photo by Mark Spencer

**Brian Sanders’ A Multi-Experience Event:** Guests at the AIDS Law Project’s Nov. 3 fundraiser donned white jump suits for a virtual reality telephone booth experience. More photos, **Page 4**

## INSIDE

### LONGTIME BENEFITS RESTORED

Losing Social Security benefits and Medicare after many years imperils a mother and her two children.

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### DEBT MADE MANAGEABLE

Student loan debt threatens to crush a man even after his health improves and he returns to work full time.

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### NEW JERSEY COURT PROTECTS PRIVACY

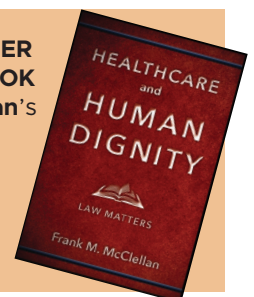
A South New Jersey court backs a man in a pre-trial intervention program who sought to keep his HIV status confidential.

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### BOARD MEMBER RELEASES BOOK

**Frank McClellan’s** new book is now available from Rutgers University Press.

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FROM THE  
EXECUTIVE  
DIRECTOR

## Harm Reduction Is the Foundation of Safehouse

A recent federal court decision in support of Safehouse not only moves supervised consumption sites forward, but also importantly recognizes the legitimacy of harm reduction.

On Oct. 2, Judge **Gerald A. McHugh** of the Eastern District of Pennsylvania ruled that Safehouse was not illegal under the so-called “crack house” provision of the Controlled Substances Act, as claimed by federal prosecutors. The goal of Safehouse is to “reduce drug use, not facilitate it,” he wrote.

The judge also wrote that “(w)ith respect to medical harm reduction efforts in particular, federal law expressly permits a number of tactics that aim to reduce harm and increase access to treatment for drug abuse.”

We encounter harm reduction strategies every day. You buckle up in your car. Athletes don protective gear to prevent or minimize injuries. Friends out for a night on the town choose a designated driver so everyone gets home safe.

Harm reduction is the foundation on which Safehouse is built. It acknowledges that an entrenched “just say no” mentality has failed to stem the opioid crisis. The reality is that people need help staying alive until they are ready to seek treatment.

Safehouse offers a medically based model to address a public health crisis, including safe consumption and post-consumption rooms where medical personnel can reverse overdoses. It then offers a range of services, including on-site initiation of Medically Assisted Treatment and recovery counseling.

Judge McHugh wrote that drug use at overdose prevention sites “is subsidiary to the purpose of ensuring proximity to medical care while users are vulnerable to fatal overdose.”

This is harm reduction.

For the AIDS Law Project, embracing Safehouse as a client is a natural extension of our long history of helping people in the midst of a public health crisis. We think Philadelphia may be the first city in the United States to open a site, but we know that it will not be the only one.

We will be facing many more hurdles before supervised consumption and harm reduction are part of the mainstream conversation, but we are in the fight for the long haul. Too many people are dying not to be.

*Ronda*

N A V I G A T I N G

## Longtime Benefits Restored After Termination

‘UNPAID HELP’ PROVISION HELPS MOTHER,  
TWO CHILDREN REGAIN BENEFITS, MEDICARE

The 40-year-old woman with intellectual disabilities was distraught when the Social Security benefits she had received all her adult life and used to support her two teenaged children were terminated.

“She was very upset,” said **Jacob M. Eden**, a staff attorney for the AIDS Law Project. “This was a benefit she’d had for many years and needed to survive.”

Her Medicare also had been cancelled, a disastrous development for someone who has lived with HIV since 1993.

As Jacob unraveled the complicated case, he learned that the woman received Disable Adult Child (DAC) benefits, which among other rules requires the recipient have a disability or impairment that goes back to before they were 22 years old.

DAC rules allow people to earn up to a certain threshold without losing their benefits. The woman did limited work for several years and never had a problem. But then in 2017 she earned too much without realizing it and her benefits were terminated.

She had started taking care of a good friend’s children five days a week and sometimes overnight.

She had reported her income to the IRS, but had failed to report it to Social Security. That resulted in an overpayment of about \$20,000 that Social Security wanted repaid.

As Jacob researched the case he realized the woman could not have done the job on her own and she received extensive help from her teenaged daughter in caring for the children.

“Her daughter was doing a lot of the work,” Jacob said.

Jacob argued that under a provision called “unpaid help” the value of her daughter’s work could be deducted from her earnings. Working with the local Social Security Administration office, the overpayment was cancelled and her benefits restored.

He also got her Medicare restarted and got her Medical Assistance to help with costs not covered by Medicare.

“She was very excited when I told her the news,” Jacob said. “She was relieved it was all over.”

### GOOD COUNSEL BY E-MAIL

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## Student Loan Debt Threatens Progress

### GARNISHMENT CUT FROM \$150 TO \$5 AFTER APPEAL

The man knew he was racking up significant student loans while in college, but was confident he could repay them once he entered the workforce full time.

Then in 2008, shortly before he graduated, he found out he had HIV.

His life fell apart. His health declined, he was unable to work and his bid to get Social Security disability benefits turned into a long, arduous battle.

With no income, he was unable to pay his bills, including the \$80,000 in student loans he owed.

Eventually, things slowly started to turn around for him. He started getting disability benefits in 2014, and the collection of his student loans was

suspended. By 2018, his health had improved enough that he returned to work full time.

But just as he was getting back on his feet he hit another obstacle. The U.S. Department of Education sought to garnish his wages to the tune of \$150 a month for his student loans.

He knew he couldn't afford that, but his efforts to negotiate a lower payment were unsuccessful.

A longtime AIDS Law Project client, he got it touch with **Juan M. Baez**, deputy managing attorney of the AIDS Law Project.

"The burden of the debt was crushing him," Juan said.

With the loan in default, Juan had to file an appeal to get the garnishment lowered. He reviewed his client's finances and determined that his increased income still fell slightly

short of his basic expenses. Most of his income was going to keeping a roof over his head, transportation and food.

The Department of Education will only consider "reasonable and necessary expenses," so Juan carefully documented his client's expenses.

"That's the part that trips up a lot of people," Juan said. "It's tricky for a lot of folks."

With that documentation in hand, Juan convinced the Department of Education to cut the garnishment from \$150 to \$5, the minimum to rehabilitate a defaulted federal student loan.

The Department of Education also sent him a check refunding the higher garnishment it had already started collecting.

"He was incredibly relieved," Juan said.

## Breaking a Cycle To Ensure Continued Benefits

### CHRONIC HOMELESSNESS, HEALTH PROBLEMS EXACERBATED BY LOSING BENEFITS

The 26-year-old transgender woman had fallen into a debilitating cycle.

Although she does not have HIV, she has serious physical and mental health problems and a history of unstable housing. With no family support, she depends on public assistance to get by.

But recipients need to update their applications regularly and she found the paperwork overwhelming, according to **Adrian M. Lowe**, a staff attorney at the AIDS Law Project.

Often she would let her benefits lapse and her health would decline.

"She ended up in the hospital over and over again," Adrian said.

The most recent time it happened she was referred to the AIDS Law Project as a former resident of the Morris Home in Philadelphia, a residential recovery program for trans and gender-nonconforming individuals.

The AIDS Law Project helps Morris Home residents with legal name changes and advanced planning documents, as well as other matters on a case-by-case basis.

Adrian's client currently lives in subsidized housing

for chronically homeless individuals. With stable housing and improving health she was able to get a part-time job.

She completed the renewal package for her Medical Assistance and SNAP (food stamps) benefits, reporting that she is now working.

The Pennsylvania Department on Human Services sent her a notice terminating her benefits because the pay from her job put her over the income eligibility limit.

Adrian appealed the termination and worked with her to obtain proof of her health problems. Once the proof was obtained the DHS reopened her medical benefits in a disability category with no break in coverage.

DHS then sent her another notice saying that she had been overpaid SNAP benefits and must repay them. She had not known the importance of reporting changes to her income as they occurred.

"It's complicated for many people to know what they must report," Adrian said. "She's doing the very best she can."

Adrian negotiated a re-payment plan for her SNAP overpayment in which DHS takes \$10 per month from her monthly SNAP amount.

"Hopefully the cycle has been broken and she can build on the hard-won stability she has gained," Adrian said.

# THE AIDS LAW PROJECT

## Court Protects Privacy of Man With HIV

Although he posed no risk to his partner, having sex while living with HIV nearly derailed the life of a 36-year-old South New Jersey man until the AIDS Law Project came to his aid.

His trouble started when an ex-girlfriend accused him of not disclosing his HIV status when they lived together. She said she figured it out when she saw his HIV medications in the home they shared.

The man has had HIV since birth and the amount of virus in his blood was undetectable, thanks to the medications he took. A person who has an undetectable virus cannot transmit it to a sexual partner.

Even though his ex-girlfriend did not acquire HIV, she pursued criminal charges against him for having sex while HIV positive. The man entered a pre-trial intervention program, and he was placed on probation for two years. His record will be expunged if he successfully completes probation.

He accepted this plea arrangement, but soon realized the unexpected consequences. He was a hard-working man with a full-time job and sleeping on the sofa at his mother's house. He wanted his own place.

He applied for an apartment and the prospective landlord did a criminal background check. The results read "felony, sexual penetration by diseased person – HIV, status open PTI."

The landlord refused to rent him the apartment and he

contacted **Charlotte Hollander**, senior staff attorney at the AIDS Law Project's New Jersey office, for help.

The client had moved from sleeping on his mother's couch to an air mattress in a friend's roach-infested apartment. He was afraid that he would never be able to get his own apartment with his HIV status open to the public.

"He was exhausted, very depressed and upset," Charlotte said.

In researching the case, Charlotte learned that although most criminal records in New Jersey are open to the public, there are exceptions. One of those exceptions is for records disclosing HIV and AIDS status.

Charlotte first approached the prosecutor in the case to get the record sealed, but was rebuffed. She then filed a motion to seal in New Jersey Superior Court.

The first encouraging sign at the Sept. 27 hearing was when the judge agreed to Charlotte's request to clear the courtroom for the proceeding.

After hearing Charlotte's arguments, the judge agreed to seal the portion of her client's record that mentioned HIV.

"The judge said the point of pre-trial intervention is not to further punish a person," Charlotte said. "The point is to help a person do better."

Her client now has that chance.



Photo by David Talento



Photo by David Talento



Photo by David Talento

### 2019 Fundraising Gala

From a virtual reality experience to an escape room to a stunning dance performance by **Brian Sanders' Junk**, guests had a night to remember on Nov. 3 at a historic 19th-century Victorian church in Philadelphia.

The revelers included, at left, former board member **Mike Ippoliti** and **Lily Kleschick**, and at right, **Dirk Allen**, **Ronda Goldfein** and **Glenn Sykes**.





# THE AIDS LAW PROJECT AT WORK

## Tenant takes on landlord

The AIDS Law Project prides itself on building strong relationships with our clients.

Our relationship with a 47-year-old woman who came to us in February goes back more than 20 years.

We first met her when she was struggling with her recent HIV diagnosis. We helped her get public benefits and successfully represented her when the state sought to terminate her parental rights.

As much as we tried to support her over the years, she suffered from housing instability because she was afraid to challenge her landlords.

Instead, she moved from apartment to apartment.

But as her health stabilized, so did her self-confidence. She found stable housing and returned to work as a home health aide helping elderly and disabled individuals.

After a dozen years of housing security, she finally felt

brave enough to complain to her landlord about the lack of heat, plumbing issues and ceiling leaks.

When the landlord failed to respond to her repeated complaints, she met with **Jeni Wright**, the AIDS Law Project's housing attorney.

"It was really hard on her, especially the lack of heat," Jeni said. "She said the cold was in her bones."

Jeni told her she had the legal right to withhold rent until the repairs were made. The landlord threatened to evict her for non-payment, but with Jeni's assistance she held her ground. With the confidence she cultivated over 20 years of living with HIV, we went to court and aggressively argued her case.

The landlord backed down and agreed to make the repairs and gave up his claim for the two months of rent she had withheld.

"She felt extremely vindicated," Jeni said. "She didn't have to suffer in silence."

## Board Member Releases Book

We are proud that our long-time board member **Frank McClellan**, professor of law emeritus at the Beasley School of Law at Temple University, has a new book coming out.

Frank wrote *Healthcare and Human Dignity: Law Matters* for the general public, but he hopes it will engage lawyers and health professionals.

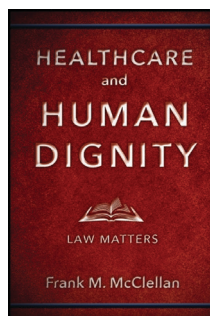
With a focus on regulation of drugs and devices, product liability, medical malpractice, risk management, health care financing, and bioethics, Frank has a distinguished litigation career.

He has represented patients

in hundreds of cases, litigated more than 20 complex medical malpractice and product liability cases to verdict, and argued numerous appeals before federal and state appellate courts. He has won several multi-million-dollar verdicts in jury trials.

In *Healthcare*, Frank presents cases and individual experiences that reinforce that human dignity is of the utmost priority in the everyday process of healthcare decision making.

The book is available from Rutgers University Press and can be ordered at [www.rutgersuniversitypress.org](http://www.rutgersuniversitypress.org).



## ABOUT US

### WHAT WE DO

The AIDS Law Project of Pennsylvania is a non-profit, public-interest law firm. We publish *Good Counsel* semiannually for our friends, volunteers and colleagues committed to protecting the rights of people with HIV and those at risk of HIV. Last year, we worked on 2,160 legal issues, nearly all from people with HIV. We help people navigate the legal system, the welfare system, the housing system, and the worlds of public and private insurance. We provide education and training to professionals who work with people with HIV.

### WHO WE ARE

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Juan M. Baez, Esq.	<i>Deputy Managing Attorney</i>
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On Facebook: [AIDS Law Project of Pennsylvania](https://www.facebook.com/AIDSLawProjectofPennsylvania)  
On Twitter: [@AIDSLawPa](https://twitter.com/AIDSLawPa)

### HOW TO HELP

Remember us at workplace giving time. When you donor-designate in your workplace giving campaign, remember your neighbors served by the AIDS Law Project of Pennsylvania.

**United Way of SEPA:** Specific Care Option #09067  
**Combined Federal Campaign:** Donor Option #36027

# INSIDE THE AIDS LAW PROJECT

## Attorney named to POZ 100

**Adrian M. Lowe**, a staff attorney at the AIDS Law Project, has been named to the 2019 POZ 100 list, designed to recognize advocates in the fight against HIV.

The 10th annual POZ 100, developed by POZ Magazine and poz.com., celebrates advocates who are transgender, gender-nonconforming and non-binary. This population has seen some of the highest HIV rates in the country.

Each year the list has focused on a different segment of the community and honored advocates devoted to making life better for them.



Adrian has been a staff attorney with the AIDS Law Project since he graduated from law school in 2012. His clients are people living with HIV who need help with public benefits appeals, legal name changes, estate planning and probate matters.

Adrian has represented clients before administrative agencies and in federal and state court in a number of HIV-related civil rights cases.

We are incredibly proud of Adrian and the outstanding work he does every day on behalf of people with HIV.



**AIDS WALK:** The AIDS Law Project was once again well represented by Team 0008 at AIDS Walk Philly 2019 on Oct. 20.

## BRIEFLY NOTED



**THANK YOU:** We are thankful for the invaluable assistance we received this summer from our social justice interns. From left are **Graham Ball**, a second-year student at Penn State Law, **Sarah Kim**, a second-year student at Temple University Beasley School of Law, and **Xavier O'Connor** and **Zoe Cunningham-Cook**, both third-year law students at Temple. Not pictured is **Evan Meduna**, a master's in social work candidate at West Chester University, who is helping us with intake interviews through spring 2020.

**WELCOME:** We are thrilled to have **William J. Freshwater** back for a second stint on our board of directors. Bill, a retired CPA, is a former board member of the AIDS Fund and was a volunteer for Prevention Point Philadelphia.

**FAREWELL:** **Messapotamia Lefae**, data and development manager, has left the AIDS Law Project to pursue other interests.



## Deputy Managing Attorney Designated a 'Rising Star'

For the third year in a row, **Juan M. Baez**, our deputy managing attorney, has been selected as a Rising Star according to Super Lawyers magazine.

This peer designation is awarded only to a select number of accomplished attorneys in each state.

Juan has been our deputy managing attorney for more than four years. He first worked with us as a student at the Thomas R. Kline School of Law at Drexel University, when he was part of the 2009-2010 Civil Practice Field Clinic.

We soon realized how much value he brought to our firm and committed to offering him a job.

In addition to assisting our other attorneys with their cases, Juan has his own consumer debt, tax, estate planning, social security disability and student loan caseload. He is admitted to practice law in Pennsylvania, New Jersey, and New York.

In 2014, he graduated from Temple University James E. Beasley School of Law with a Masters in Law in Trial Advocacy.

We are incredibly proud of Juan and grateful that our clients get the benefit of his skills.





# THE AIDS LAW PROJECT AT WORK

## Safehouse

Continued from Page 1

The ruling garnered national attention and was a crucial victory, but the battle is far from over.

**Ronda B. Goldfein**, executive director of the AIDS Law Project, said Safehouse would not open until it has a final order from the court.

“We’ve consistently said that we’d be respectful of the law,” she said.

**Jose A. Benitez**, executive director of Prevention Point Philadelphia, is president and treasurer of the Safehouse board of directors and Ronda is vice president and secretary.

**Edward G. Rendell**, former mayor and district attorney of Philadelphia and former governor of Pennsylvania, is on the board of directors and signed the documents to incorporate Safehouse.

The AIDS Law Project represents Safehouse along with the international law firm DLA Piper, which is providing its representation free of charge, with **Ilana Eisenstein** as lead counsel.

Although there are no overdose prevention sites in the U.S., several other cities are considering them. There

are about 120 in Canada, Europe and Australia. Ronda said one encouraging aspect of the ruling is it brings overdose prevention sites into the mainstream of public policy discussions.

“Other places considering a similar move should be heartened by this ruling,” Ronda said. “We believe this changes the discussion about these sites no matter where you are.”

Safehouse developed a medically based model designed to keep people who use drugs alive until they are ready to seek treatment.

Safehouse would provide a range of services, including on-site initiation of medically assisted treatment, recovery counseling, education about substance use treatment, basic medical services and referrals to supporting services such as housing, public benefits and legal services.

U.S. Attorney McSwain has vowed to continue to oppose Safehouse.

As they await the next step in court, Safehouse advocates continue to raise funds and identify potential sites.

To learn more about Safehouse, go to [www.safehousephilly.org](http://www.safehousephilly.org).

## Judges Rebuff Rules Barring Poor Immigrants

Three federal judges have temporarily blocked new regulations that could prevent low-income people from immigrating to the United States.

The Department of Homeland Security issued new regulations on Aug. 14 that expanded the public charge ground of inadmissibility for people applying for permanent residency, also called a green card.

The new rules require immigration officials to make forward-looking assessments about the likelihood that an immigrant, if admitted into the U.S., will become dependent on public assistance in the future.

Under the current rules, in effect since 1999, green card applicants are considered inadmissible only if they are likely to become “primarily dependent” on one of two types of public benefits: public cash assistance for income maintenance, or government-funded institutionalization for long-term care.

Immigration officials would not consider past, current or likely future receipt of any other benefits, such as Medicaid or SNAP, formerly known as food stamps.

The new rules would allow officials to consider whether an applicant might need Medicaid, SNAP and some types of federal housing or rental assistance.

AIDS Law Project Managing Attorney **Yolanda French Lollis**, who practices immigration law, said people coming to the U.S. are seeking a better way of life, not welfare.

“It’s just unfair,” she said of the proposed rules.

The new regulations were set to take effect Oct. 15, but three federal judges in New York, Washington state and California issued injunctions temporarily blocking the changes.

*Good Counsel* will provide updates as the issue is litigated.

## No Name

Continued from Page 1

a legal name change first. They had no idea how to do that and could not afford an attorney.

The lack of a birth certificate and legal ID hindered the man in the ensuing years in many ways, from continuing his education to applying for apartments and jobs.

He recently learned about the AIDS Law Project’s clinic from friends in Kensington. The clinic is specifically designed to help people get birth certificates and legal identification. The

man does not have HIV and is not a Prevention Point client, but the clinic is open to everyone.

He first met with **John C. Marrero**, the AIDS Law Project paralegal who oversees the clinic. John took down the details and forwarded the information to **Jacob M. Eden**, a staff attorney.

Jacob tried to resolve the situation administratively with the Department of Vital Records. That didn’t work, so he sent the case to Adrian to complete a legal name change.

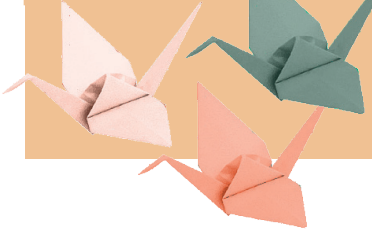
There were a few more twists in an already strange case. The state requires a record search be done on anyone seeking a name change to make sure

there are no outstanding judgments or unresolved criminal matters against the person.

The court required that search results be submitted under both names. Unrecorded had a clean record under both his legal name and the name he uses.

Finally, the name change decree was issued Sept. 23 and the man was eligible for a new birth certificate. John obtained the new birth certificate for the man and delivered it to him at Prevention Point.

“He had all these dreams that have been put on hold,” Adrian said. “Now he can pursue those dreams.”



# OUR FUNDERS AND DONORS

Gifts received April 1, 2019 through Sept. 30, 2019

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 Prevention Point Philadelphia

## Gifts of \$10,000 to \$15,000

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## Brian Sanders' A Multi-Experience Event

The following sponsors and in-kind donors helped to make the AIDS Law Project's 2019 fundraiser a success.

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