

The Honourable Madeleine Meilleur
Attorney General
Ministry of the Attorney General
720 Bay Street, 11th Floor
Toronto, ON M5G 2K1
mmeilleur.mpp@liberal.ola.org

August 29th 2014

RE: A Canadian Consensus statement on HIV and its Transmission in the Context of Criminal Law

Dear Minister Meilleur:

I am writing, along with Dr. Mark Tyndall, as co-Chair of the Canadian Experts on HIV and Transmission Team to share with you a Canadian consensus statement on HIV and its transmission in the context of the criminal law that was recently published in the *Canadian Journal of Infectious Diseases & Medical Microbiology*. The statement was developed by a group of six leading Canadian physicians and scientists to inform the criminal justice system about HIV and its transmission. It was further endorsed by more than 70 additional experts in HIV across the country as well as the Association of Medical Microbiology and Infectious Disease Canada.

In Canada, prosecutions are taking place in the absence of transmission and even in some cases where, based on our scientific understanding of HIV, the risk of transmission is close to zero – because a condom was used, or because the HIV positive partner had an undetectable viral load as a result of effective treatment. We are concerned that the criminal law is being used in an overly broad fashion against people living with HIV in Canada because of, in part, a poor appreciation of the scientific understanding of HIV and its transmission.

This statement sets out in clear, concise and understandable terms, our consensus expert opinion regarding HIV sexual transmission, HIV transmission associated with biting and spitting and HIV infection as a chronic manageable condition. This statement is based on a comprehensive review of the most relevant and reliable medical and scientific evidence related to HIV and HIV transmission.

It is crucial that the application of the criminal law as well as guidelines for Crown prosecutors be informed by the most recent and accurate scientific evidence related to HIV. We hope this

document will contribute to a fair use of the criminal law that is based on science and evidence, and that does not undermine public health efforts to combat HIV.

It is important to understand that this document was written and is meant for considerations regarding HIV transmission in the context of the criminal law, and not at an individual counseling level or in public health endeavours.

Many physicians and scientists from Ontario signed and endorsed the statement. We would greatly appreciate an opportunity to meet with you in person to present on our work and its implications.

Sincerely,



Mona Loutfy, MD, FRCPC, MPH

Associate Professor, Department of Medicine & Institute of HPME, University of Toronto
Clinician Scientist, Women's College Research Institute, Women's College Hospital



Mark Tyndall MD, FRCPC, ScD

Professor and Head, Division of Infectious Diseases, University of Ottawa Hospital
Senior Scientist, Ottawa Hospital Research Institute
Applied Chair in HIV Research, Ontario HIV Treatment Network

cc.

The Honourable Eric Hoskins, Minister of Health and Long-Term Care
James L. Cornish, Assistant Deputy Attorney General, Criminal Law Division