

HALCO

HIV & AIDS Legal Clinic Ontario

65 Wellesley Street East, Suite 400, Toronto, Ontario M4Y 1G7

October 17, 2011

Mr. Murray Segal
Deputy Attorney General
McMurtry-Scott Building
720 Bay Street, 11th Floor
Toronto, ON M7A 2S9

Dear Mr. Segal:

Re: Meeting request - criminalization of HIV non-disclosure

On behalf of the Ontario Working Group on Criminal Law and HIV Exposure (CLHE), please accept this request for an immediate meeting regarding the criminalization of HIV non-disclosure.

As you know, Ontario is home to the majority of HIV-related prosecutions in Canada, and is also one of the leading jurisdictions in the world when it comes to such prosecutions. While criminal prosecutions may be warranted in some situations of HIV non-disclosure, the HIV community is gravely concerned about the current expansive use of criminal law against people living with HIV. CLHE, comprised of people living with HIV, lawyers, activists, academics, and AIDS service organization staff, came together in 2007 to respond to this issue.

In 2010, CLHE called on Ontario's Attorney General to develop prosecutorial guidelines for Crown prosecutors handling allegations of HIV non-disclosure. In July 2010, CLHE began meeting with Ms. Erin Winocur, Assistant Crown Attorney, to discuss the development of guidance materials for Crown prosecutors. In a letter dated December 16, 2010, attached, Ms. Winocur confirmed that the Ministry of the Attorney General (MAG) "is engaged in a process to develop a Practice Memorandum for Crown prosecutors in the area of HIV prosecutions." The letter further states that the consultation process undertaken by CLHE "will inform the process MAG will be engaged in regarding the development of Ministry guidelines," and that MAG will share a draft of the Practice Memorandum prior to its issuance.

To inform the development of guidelines, CLHE conducted a robust consultation with people living with HIV/AIDS, communities affected by HIV, legal, public health, criminal justice and scientific experts, health care providers, and advocates for women's rights in the context of sexual violence and the criminal justice system. Flowing from the consultation, in June 2011, CLHE provided MAG with the attached *Consultation on Prosecutorial Guidelines for Ontario Cases Involving Non-disclosure of Sexually Transmitted Infections: Community Report and Recommendations to the Attorney General of Ontario*.

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In July and August 2011, representatives from CLHE met with Ms. Winocur to discuss the *Report and Recommendations*. As of today, CLHE has not been informed when MAG will be honouring its commitment to develop prosecutorial guidelines.

Guidelines are urgently needed to ensure that HIV-related criminal complaints are handled in a fair and non-discriminatory manner. The guidelines must ensure that decisions to investigate and prosecute such cases are informed by a complete and accurate understanding of current medical and scientific research about HIV and take into account the social contexts of living with HIV.

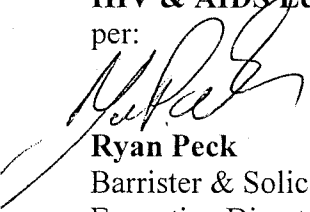
We request an immediate meeting with you to discuss this matter.

We look forward to hearing from you shortly.

Sincerely,

HIV & AIDS Legal Clinic (Ontario)

per:



Ryan Peck

Barrister & Solicitor

Executive Director

Enclosures

cc: The Honourable Chris Bentley, Attorney General
The Honourable Glen Murray, Minister of Research and Innovation
John Ayre, Assistant Deputy Attorney General, Criminal Law Division, Ministry of the Attorney General