

**ONTARIO WORKING GROUP ON
CRIMINAL LAW +
HIV EXPOSURE**



7 May 2013

VIA ELECTRONIC MAIL

James Cornish
Assistant Deputy Attorney General
Criminal Law Division
Ministry of the Attorney General
McMurtry-Scott Building
720 Bay Street
Toronto, ON M7A 2S9

Dear Mr. Cornish:

Re: HIV & the criminal law

Please accept this reply to your response, dated 30 April 2013, to our letter, dated 23 April 2013, to Premier Wynne.

In your letter, you indicate that the “Ministry has engaged in extensive consultation with the Ontario Working Group on Criminal Law and HIV Exposure (CLHE).” You further state that prosecutorial guidance in relation to alleged HIV and STI exposure is being created and should be finalized by fall 2013. In addition, you indicate that you “do not anticipate conducting any further external consultations,” but that you would consider additional information in writing by 31 May 2013.

On behalf of CLHE, I thank you for your response and for providing us with a timeline by which prosecutorial guidance will be created. Guidelines are urgently required and we are therefore pleased that you have confirmed a timeline. However, we have a serious concern with your indication that you are not anticipating further external consultations.

We request an in-person meeting to discuss the content and orientation of the guidance material. While it is true that CLHE has met with Ministry of the Attorney General (MAG) representatives, there has been little substantive discussion, before or after the recent Supreme Court of Canada rulings, regarding the content of prosecutorial guidance. Rather, the meetings that took place focussed on the urgent need for guidelines. While we sincerely appreciate the promise that former Attorney General Bentley made to share a draft prior to issuance, now that you have confirmed a timeline it is vital that meaningful discussion take place with CLHE surrounding the substance of the guidance.

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I note that CLHE has been in discussions with established community mediation programs about the potential development of a community mediation pilot designed to respond to alleged HIV non-disclosure matters. This is but one of the matters that CLHE would like to discuss with MAG.

In short, MAG has not meaningfully consulted with CLHE on substantive issues in relation to the content of guidance. As a result, we request that an in-person meeting be scheduled as soon as possible, while the guidance is being developed.

Thank you for your attention to this matter. We look forward to hearing from you shortly.

Sincerely,



Ryan Peck

Barrister & Solicitor, Executive Director, HIV & AIDS Legal Clinic Ontario
Co-chair, Ontario Working Group on Criminal Law and HIV Exposure

c.c. The Honourable Kathleen Wynne, Premier
The Honourable John Gerretsen, Attorney General
The Honourable Deborah Matthews, Minister of Health and Long-Term Care
The Honourable Glen Murray, Minister of Infrastructure/Transportation