

Ministry of the Attorney General
Assistant Deputy Attorney General
Criminal Law Division

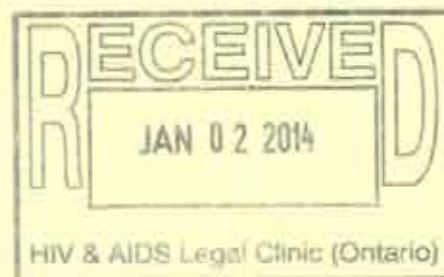
6th Floor, 720 Bay Street
Toronto ON M7A 2S9

Tel.: (416) 326-2615
Fax: (416) 326-2063

Ministère du Procureur général
Sous-procureur général adjoint
de la Couronne – droit criminel

6th étage, 720 rue Bay
Toronto, On M7A 2S9

Tél. : (416) 326-2615
Télééc. : (416) 326-2063



December 20, 2013

Mr. Ryan Peck
Executive Director
HIV & AIDS Legal Clinic Ontario
Co-chair, Ontario Working Group on Criminal Law and HIV Exposure
65 Wellesley Street East, Suite 400
Toronto, Ontario
M4Y 1G7

Mr. Jonathan Shime
Cooper, Sandler, Shime & Bergman LLP
Barristers & Solicitors
439 University Avenue
Suite 1900
Toronto, Ontario
M5G 1Y8

Mr. Richard Elliot
Executive Director
Canadian HIV/AIDS Legal Network
1240 Bay Street, Suite 600
Toronto, Ontario
M5R 2A7

Dear Messrs. Peck, Shime and Elliot:

Over the past several years, officials with this Ministry have communicated and met with you on several occasions to discuss draft guidelines to prosecutors on issues relating to the non-disclosure of HIV/AIDS. We have listened and have carefully considered your submissions made to this Ministry as well as to various courts as the law relating to this issue has evolved. In December 2010, we advised you that we would offer you an opportunity to review draft guidelines and provide input before the guidelines were released.


We are now in a position to offer you an opportunity to provide input on the contents of a draft Practice Memorandum addressing the issue of non-disclosure of sexually transmitted infections. We are prepared to fulfil our prior commitment to share this confidential document on the following conditions and terms.

First, you will appreciate that in its present form the draft Practice Memorandum is a confidential document. The document contains legal advice to prosecutors and, as such, is a privileged document and remains so until the privilege is waived. We are prepared to share this draft document with you upon your undertaking that the contents of the document will not, in any way, be disclosed to any other parties, including your clients, at any time either before or after this consultative process without the prior written consent of this Ministry. We enclose a written undertaking for this purpose.

Second, upon receipt of the signed undertaking, we would be prepared to permit you a two week period of time to review and consider the contents of the draft document. A meeting with Howard Leibovich, Director, Crown Law Office – Criminal and Rosella Cornaviera, Deputy Director, Criminal Policy Group will be scheduled to occur at the conclusion of that two week period. The one hour meeting will occur at the Crown Law Office Criminal, 10th floor, 720 Bay Street in Toronto. Mr. Leibovich and Ms. Cornaviera would be happy to receive any written materials you wish to provide either before or during the meeting.

If you are in agreement with these conditions and terms, please advise Mr. Leibovich by phone at (416) 326-2002. Upon receipt of the signed undertakings, the draft Practice Memorandum will be provided to you.

Yours truly,



James L. Cornish
Assistant Deputy Attorney General
Criminal Law Division

To: James Cornish
Assistant Deputy Attorney General
Criminal Law Division
Ministry of the Attorney General for Ontario

From: Ryan Peck
Executive Director
HIV & AIDS Legal Clinic Ontario

Jonathan Shime
Barrister and Solicitor
Cooper, Sandler, Shime & Bergman LLP

Richard Elliot
Executive Director
Canadian HIV/AIDS Legal Network

Date: December 20, 2013

Re: Draft Practice Memorandum,
Non-Disclosure of Sexually Transmitted Infections

UNDERTAKING

We each undertake that we will not disclose the contents of the Draft Practice Memorandum dealing with the non-disclosure of sexually transmitted illnesses at any time, to any persons either before or after the consultative process without the prior written consent of James Cornish, Assistant Deputy Attorney General, or his designate.

Signed on _____

Ryan Peck

Jonathan Shime

Richard Elliot