

ONTARIO WORKING GROUP ON CRIMINAL LAW + HIV EXPOSURE



November 15, 2016

VIA ELECTRONIC MAIL (Delia.Greco@ontario.ca)

Delia Greco, Senior Policy Advisor
Office of the Hon. Yasir Naqvi, Attorney General
Ministry of the Attorney General
720 Bay Street, 11th Floor
Toronto, ON M5G 2K1

Dear Ms. Greco,

Re: Criminal law and HIV

Thank you for meeting with us on October 6, 2016 and for your interest in the issues surrounding the criminalization of HIV non-disclosure.

Please find attached the amended brief presented at our meeting. Below are links to the films produced by the Canadian HIV/AIDS Legal Network.

- Consent – <http://www.consentfilm.org/watch-the-film-discussion-guide/> (28 min)
- Positive Women: Exposing Injustice – <http://positivewomenthemovie.org/> (45 min)

As discussed during our meeting, the Ontario Working Group on Criminal Law and HIV Exposure (CLHE), which is comprised of people with HIV, staff from AIDS service organizations, academics, lawyers and others, has attempted for many years to engage in a meaningful manner with the Ministry of the Attorney General (MAG).¹ Unfortunately, that good faith has not been reciprocated by MAG. As a result, Ontario continues to be a global leader in prosecuting people living with HIV even in circumstances where the risk of HIV transmission is extremely low, if not zero, and no transmission occurs. Not only are such prosecutions having a disproportionate impact on the most marginalized and vulnerable of persons living with HIV, but there is evidence that an overly broad use of the criminal law is bad public health policy.

Attorney General Yasir Naqvi demonstrated a clear understanding of the issues when he met with CLHE members on November 2, 2011. The crafting of an overall approach to HIV-related prosecutions is a political matter that is the responsibility of the Attorney General. We know that evidence-based policy making, in step with human rights, is at the heart of the Liberal agenda. To this end, we request that Mr. Naqvi immediately take action to ensure that prosecutions for HIV non-disclosure are informed by a complete and

¹ Please see <http://clhe.ca/advocacy-timeline> for the history of the written record of discussions.

accurate understanding of current medical and scientific research about HIV, and are compatible with broader scientific, medical, public health, and community efforts to prevent the spread of HIV and to provide care, treatment and support to people living with HIV. The upcoming Ministers' roundtable on December 5, 2016, shortly after World AIDS Day, is an opportunity to discuss avenues for moving forward together.

Prior to the roundtable, we request a commitment from MAG to meaningfully engage with CLHE and others, including leading HIV clinicians/scientists and women's rights advocates, to bring the law in line with science and human rights. To this end, we request, *inter alia*, that you and the Attorney General (i) arrange a series of meetings with CLHE and others, including a meeting before the Ministers' roundtable on December 5 to discuss concrete measures to be proposed and discussed at the roundtable; (ii) facilitate a meeting with the Crown expert group (who we will be contacting) that currently oversees prosecutions related to HIV non-disclosure; and (iii) facilitate an opportunity to participate in Crown attorney training sessions as you suggested during our meeting.

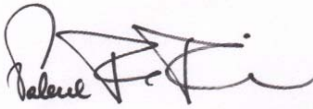
We very much look forward to hearing from you, and thank you for your attention to this matter.

Sincerely,



Ryan Peck

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



Valérie Pierre-Pierre, Director, African and Caribbean Council on HIV/AIDS in Ontario
Co-Chair, Ontario Working Group on Criminal Law and HIV Exposure

Encl

- Exploring avenues to address problematic prosecutions against people living with HIV in Ontario: Meeting with the Office of the Attorney General, Ontario Ministry of the Attorney General (Ontario Working Group on Criminal Law and HIV Exposure, October 6, 2016)