

Criminal law and HIV non-disclosure



Do service providers have a legal obligation under the criminal law to report a client's potentially criminal behaviour?

This information is not legal advice. The facts of every situation are different. If you have questions about a specific situation or circumstance, contact a lawyer.

- **Generally speaking, there is no obligation under the criminal law to report a crime to the police or provide the police with information about a client unless such a requirement is set out in a search warrant.** (For more information on search warrants and subpoenas, see the section on “Client confidentiality and record-keeping.”)
- But the facts of every situation are different. For instance, a person may be criminally charged if considered to be resisting or willfully obstructing the police. If service providers have a concern about whether they have an obligation, under the criminal law, to report a crime to the police (i.e., if they could be charged for failing to do so), they and their organization should consult with a criminal lawyer.

N.B.: This document does not address the very specific duty to report that may arise when a child is “in need of protection” under the applicable provincial or territorial legislation.

For information on confidentiality and civil liability, see the sections on “Client confidentiality and record-keeping” and “Civil liability issues for PHAs and AIDS organizations,” both in this resource kit.

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