

December 13, 2016

The Hon. Jody Wilson-Raybould, P.C., Q.C., M.P.
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8
Email: mcu@justice.gc.ca

Dear Minister Wilson-Raybould:

Re: Putting an end to the over-criminalization of HIV non-disclosure

On behalf of the Canadian Coalition to Reform HIV Criminalization, we would like to thank you for making an important statement on World AIDS Day denouncing the over-criminalization of HIV non-disclosure in Canada.

The Canadian Coalition to Reform HIV Criminalization is a group of people living with HIV, including people with lived experience of HIV criminalization, community workers, lawyers and academics from across the country. We are working towards reforming discriminatory and unjust criminal and public health laws and practices that criminalize and regulate people living with HIV in relation to HIV exposure, transmission and non-disclosure in Canada.

The recently formed Coalition is committed to ensuring that people living with HIV, including people with lived experience of HIV criminalization, are at the center of the response against unjust HIV prosecutions as per the GIPA (Great Involvement of People with HIV and AIDS) and MIPA (Meaningful Involvement of People with HIV and AIDS) principles. Respecting the GIPA and MIPA principles ensures that the response is relevant, effective and based on people's first-hand experience.

The over-criminalization of HIV non-disclosure is a critical issue for people living with HIV, and they ought to be at the table when the government discusses measures that may affect their lives in such dramatic ways. Many members of our community have been charged, prosecuted and sent to jail for allegedly not disclosing their HIV status, even in circumstances where they had no intent to harm their partner, did not transmit the virus and engaged in sex that posed minimal to zero risk of transmission. Many are now registered as sexual offenders for life even though they did not engage in coerced or forced sex.

The consequences of the current use of the criminal law on people living with HIV and the community as a whole are extremely severe. As you rightly noted in your statement, "the over-criminalization of HIV non-disclosure discourages many individuals from being tested and seeking treatment and further stigmatizes those living with HIV or AIDS." HIV criminalization is indeed rooted in discrimination and fear. It ruins people's lives and does nothing to prevent HIV. We welcome your announcement to address this injustice and to work with affected communities.

Attention to Canada's approach to HIV non-disclosure is growing, including internationally. Just a few weeks ago, the United Nations Committee on the Elimination of Discrimination against Women recommended that Canada "limit the application of criminal law provisions to cases of intentional transmission of HIV/AIDS, as recommended by international public health standards."¹ We hope your commitment will translate into concrete actions that effectively put an end to unjust HIV prosecutions in Canada. Measures will need to be taken at both the provincial and federal levels, and people living with HIV, including people with lived experience of HIV criminalization, and organizations that have been working on this issue for many years should be consulted.

Members of the Canadian Coalition to Reform HIV Criminalization bring important perspectives on this issue, and we respectfully request to be involved in this process.

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

Sincerely,

Canadian Coalition to Reform HIV Criminalization (CCRHC)
c/o 1240 Bay St., Suite 600, Toronto, Ontario, Canada M5R 2A7

Members of the Steering Committee:



Cécile Kazatchkine, senior policy analyst, Canadian HIV/AIDS Legal Network

Chad Clarke, advocate with lived experience of HIV criminalization

Grant Cobb, advocate living with HIV

Liz Lacharpagne, lawyer and human rights and HIV/AIDS program coordinator, Coalition communautaire des organismes québécois de lutte contre le sida

Alexander McClelland, advocate and doctoral student at Concordia University

Valerie Nicholson, advocate living with HIV, Co-Chair of Red Road HIV/AIDS Network and past Chair of the Board of Positive Living BC

c.c.: The Hon. Dr. Jane Philpott, P.C., M.P.
Minister of Health

¹ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined eighth and ninth periodic reports of Canada, CEDAW/C/CAN/CO/8-9, November, 18, 2016.