



How Criminalization is Affecting People Living with HIV in Ontario

- Adam BD, Corriveau P, Elliott R, Travers R, English K, Globerman J, Bekele T
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What research question is addressed by 'How Criminalization is Affecting People Living with HIV in Ontario'?

This research project examines how people living with HIV (PHAs) perceive the law and the legal obligation to disclose their HIV infection status to sexual partners. It also analyses PHAs' perceptions of the impact of high-profile media events and public perceptions of HIV.

Why is this question important?

Eighty-four percent of criminal prosecutions for alleged HIV non-disclosure to sexual partners have occurred in the six years spanning from 2004-2010. It is important to understand how this increase in prosecutions affects PHAs and how they interpret these laws.

How was the study conducted?

A series of questions on the law, disclosure, criminalization, and HIV were added to the questionnaires completed by participants of the Ontario HIV Treatment Network Cohort Study (OCS) (N=492) and the Positive Spaces, Healthy Places cohort study (PSHP) (N=442). Another 122 PHAs provided in-depth interviews. The data from these three sources were analysed to identify common themes and highlight the lived experience of the PHAs who participated. The sample of PHAs who participated was broadly representative of all PHAs in Ontario when compared by gender, age, HIV exposure category, and ethno-cultural origin.

What were the main results of the study?

PHAs were highly reliant on mass media for information about the law, disclosure, criminalization, and HIV. Health professionals were the next most important source of information to participants.

Most PHAs interviewed felt that current Canadian HIV disclosure and criminalization laws have unfairly shifted the burden of proof, such that, PHAs are guilty until proven innocent. Other themes that emerged from this research include:

- Given the power of the law, PHAs could be caught in a difficult he-said/(s)he-said situation of having to justify their actions;
- Disgruntled partners of PHAs have a legal weapon to wield against them, regardless of the facts; and,
- Women living with HIV are doubly vulnerable to criminalization laws, as the decision to use of prevention tools are not necessarily made by women (i.e., male partners decide whether to use a condom).



While the majority of PHAs reported a heightened sense of fear, anxiety, or vulnerability, because of criminalization laws, others felt that the climate of acceptance is still better than in the early days of the epidemic.

Most PHAs (72%) agreed that someone with HIV who has unprotected vaginal or anal sex and does not tell their partners that they are HIV-positive should, in some circumstances, be charged with a crime; but that having protected sex should not trigger a penalty. These views were consistent across respondents regardless of gender, sexual orientation, or ethno-cultural background. Only education affected the overall opinion on the issue of disclosure and punishment, with more educated people holding less punitive views.

Regarding their own disclosure practices, 45% of people filling out the OCS survey said they did not have an HIV-negative partner or a partner whose HIV status they did not know in the last six months. Another 36% told all their partners that they were HIV-positive. The remainder disclosed to some but not others, dropped hints or felt out partners' view on HIV, or presumed it was not necessary to disclose.

What do the study results mean for the treatment and care of people living with HIV?

This study identifies gaps in coordination amongst public health and AIDS service organizations (ASO) with respect to meeting educational needs and providing appropriate support to PHAs around law, disclosure, criminalization, and HIV. Currently the onus is on PHAs themselves to navigate this complex system, and filter out the many influences of the media.

Where can I find the full-length publication of this study?

This study was published as a research report by the OHTN. The full text version is available at:
<http://www.ohtn.on.ca/Documents/Research/B-Adam-OHTN-Criminalization-2012.pdf>.

The **Ontario HIV Treatment Network Cohort Study (OCS)** is an ongoing research study that collects clinical, social and behavioural information about people living with HIV (PHA) in Ontario. Participation in the study is voluntary, and all personally identifying information of study participants is removed to ensure confidentiality. The OCS was established to improve our understanding of HIV and to inform HIV prevention, care and treatment strategies for people living with HIV and groups at increased risk of HIV infection. For more information about the OCS, please contact the OCS Research Coordinator, Brooke Ellis at: bellis@ohtn.on.ca.