

HALCO

HIV & AIDS Legal Clinic Ontario

Annual Report

*Free legal services
for people living with
HIV/AIDS in Ontario*

2012
-2013

The HIV & AIDS Legal Clinic Ontario (HALCO) is a not-for-profit charitable organization founded in 1995.

HALCO's Mission

The mission of the HIV & AIDS Legal Clinic Ontario is to provide legal services to persons living with HIV/AIDS in Ontario that are relevant to their well-being and that enable them to participate fully in the communities in which they live.

HALCO's Vision

HALCO's vision is a society where laws and the legal system help reduce discrimination, stigma, poverty and injustice faced by people living with HIV/AIDS.

HALCO's Statement of Principles

It is agreed that:

1. People living with HIV/AIDS are confronted with unique legal problems of enormous proportions and complexity;
2. Those best equipped to make choices regarding HIV/AIDS issues and problems are those individuals who are HIV-positive themselves;
3. People living with HIV/AIDS must have control over their own lives;
4. The HIV/AIDS affected communities are very diverse and are confronted by overwhelming challenges derived from both their diversity and from their common experience as people living with HIV/AIDS;
5. It is necessary to create and foster a climate of understanding and mutual respect for the dignity and worth of people living with HIV/AIDS; and
6. The confidentiality, bodily security, autonomy and privacy of people living with HIV/AIDS must be respected, which include but are not limited to:
 - a) the right of individuals to exercise control over their own medical treatment;
 - b) the right of individuals to exercise control over decisions concerning their own socio-economic position;
 - c) the right of all persons living with HIV/AIDS to be fully informed of all processes and procedures in which their interests are in any way involved; and
 - d) the right of all persons living with HIV/AIDS to consent, or withhold their consent, in all matters affecting them.

Message from the Chair and the Executive Director

On behalf of the board of directors and staff of the HIV & AIDS Legal Clinic Ontario (HALCO), we are very pleased to provide this year's annual report.

This past year marked the 18th year that we have steadfastly worked with community to realize the rights of people with HIV. Since our inception in 1995, we have done our utmost to assist people with HIV in overcoming the rampant stigma surrounding HIV that unfortunately persists in Canada. In that time, we have handled more than 35,000 legal issues and engaged in countless public legal education, law reform and community development initiatives.

This year was no different – we continued with front-line work while also engaging in systemic work. What was different this past year, however, was the occurrence of a startling array of problematic judicial and governmental decisions. In October 2012, the Supreme Court of Canada released its extremely disappointing decision regarding the criminalization of HIV non-disclosure. We are, very unfortunately, now seeing the fallout from this overly broad approach to the use of the criminal law in relation to HIV non-disclosure. Shortly thereafter, the federal government introduced drastic changes to the immigration/refugee system, placing displaced persons and others fleeing persecution at risk. A few months later, the Court of Appeal for Ontario declined to uphold a lower court decision that found Canada's medical cannabis scheme unconstitutional, thereby leaving individuals with serious health conditions without effective access to legal authorization to use cannabis as medicine. And just this past summer, HALCO itself received the news of a significant budget cut (which was thankfully reversed).

HALCO responded to these challenges by working with people with HIV and organizations dedicated to human rights. From intervening in matters at the Supreme Court of Canada, to providing workshops and legal advice to people with HIV in all corners of Ontario, we accomplished much in a difficult climate.

Message from the Chair and the Executive Director

And with the help of community, we grew our volunteer base to a record high 88 individuals and also raised a record high \$122,160, all of which goes directly into services for people with HIV in Ontario.

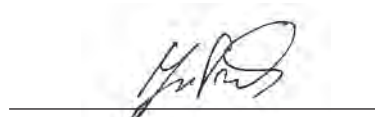
HALCO warmly thanks all of you for your ongoing support and participation in the clinic's activities. The pages that follow highlight some of the activities of HALCO's busy year (please note that the Activity Report is for the period of August 1, 2012 to July 31, 2013, while the Audited Financial Statements are for the period of April 1, 2012 to March 31, 2013):

Michael Capp
Barrister & Solicitor
Chair, Board of Directors

Ryan Peck
Barrister & Solicitor
Executive Director



Signature



Signature

Casework

HALCO's areas
of legal practice
include:

- Housing
- Income Maintenance
- Human Rights
- Immigration
- Employment Standards
- Privacy
- Health
- Substitute Decision-Making
- Regulated Health Professions complaints
- HIV/AIDS-related prison matters
- Insurance
- Other administrative law matters

HALCO's primary focus is the provision of direct legal services for people living with HIV in Ontario. The clinic's direct legal services, referred to as "casework," are comprised of intake (summary advice, brief services, and referrals), and representation.

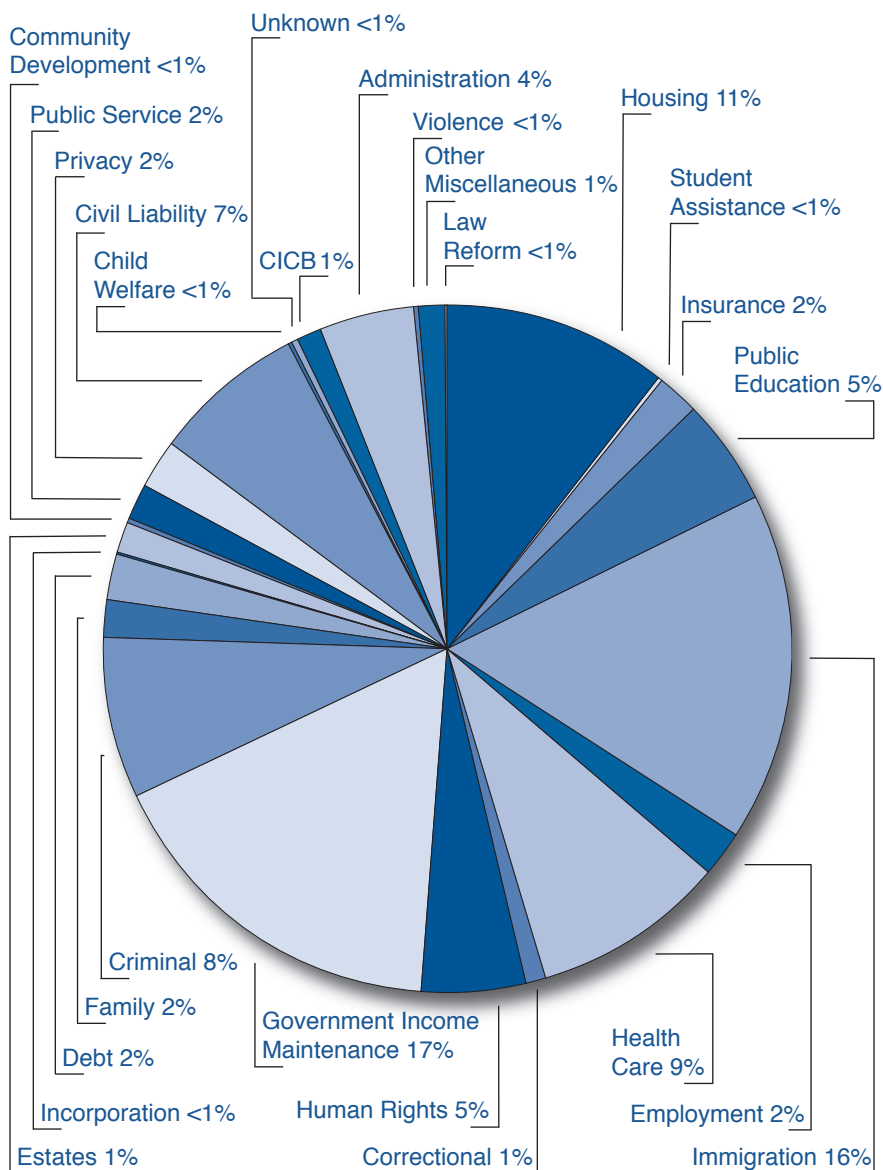
Intake: Advice, Brief Services and Referrals

HALCO continues to devote the majority of its resources to intake services. The clinic's intake services are available to people with HIV in Ontario, regardless of income.

The clinic handled 4069 intakes in this reporting period, which amounts to approximately 340 intakes per month. Housing and income maintenance matters comprised 28% of intakes, and immigration matters comprised 16%. The remainder were extremely varied, including criminal, health, human rights, and privacy law matters.

The chart on the following page provides a breakdown of HALCO's intake services for the reporting year of August 1, 2012, to July 31, 2013:

CASEWORK



CASEWORK

Representation

In addition to intake, the clinic provides full legal representation to financially eligible people living with HIV in Ontario. For this reporting period, the clinic opened 142 case files.

Almost 45% of the case files consisted of housing and income maintenance matters, and 30% consisted of immigration matters. The clinic also assisted clients with various other legal issues, including human rights, privacy, and health law matters.

Some Case File Examples

- assisted in reuniting a family from Africa who had been apart for over 6 years (husband, wife and 3 children)
- assisted in obtaining refugee status for a Caribbean man who faced persecution in his home country due to his HIV status and mental health issues
- successfully represented a number of prisoners whose health information was inappropriately shared with prison staff and other prisoners
- assisted a client in regaining a subsidy for rent-geared-to-income housing although the due date had long passed to appeal the decision
- assisted a client in obtaining reimbursement from the Ontario Health Insurance Plan for surgery that took place in relation to side effects caused by HIV medication
- assisted a client in obtaining a refund of insurance premiums when, after the client had been paying premiums for 10 years, it was determined that the client was not eligible for the insurance

Law Reform

HALCO works to improve laws and the legal system to better meet the needs of people living with HIV. Law reform activities are frequently based in community development initiatives and seek to involve as many and as broad a range of individuals living with HIV as possible. HALCO has played a leading role in campaigns, court interventions and more. In this reporting period, HALCO appeared at the Supreme Court of Canada on two occasions (*Brian Cuthbertson, et al. v. Hassan Rasouli*, and, *Attorney General of Canada, et al. v. Terri Jean Bedford, et al.*).

For this reporting period, the clinic's primary law reform activities focused on:

- the criminalization of HIV non-disclosure;
- sex work; and
- immigration/refugee law.

Criminalization of HIV non-disclosure

The criminalization of HIV non-disclosure continues to be the most pressing legal issue facing people with HIV in Canada. Unfortunately, Canada remains one of the world leaders in pursuing these types of prosecutions. The clinic is involved in various projects, all designed to bring fairness and consistency to the use of criminal law in relation to HIV non-disclosure.

As part of a country-wide coalition of AIDS service organizations, HALCO intervened in the HIV non-disclosure matters that were heard by the Supreme Court of Canada in February 2012. Unfortunately, the Supreme Court's decisions, released in October 2012, unjustly expanded the law, contrary to current scientific research surrounding HIV and HIV transmission risks. Due to the Supreme Court's ruling, people with HIV can be branded as violent sexual offenders and face lengthy jail sentences even when a condom is worn and the risk of HIV transmission is exceedingly low.

LAW REFORM

To ensure that the law is developed in accordance with up-to-date science and human rights, HALCO continues to:

- provide information and advice to people with HIV,
- work with defence counsel to ensure the best possible representation for people accused of non-disclosure offences, and
- fight for prosecutorial guidelines for Crown prosecutors handling allegations of HIV non-disclosure.

In addition to continuing its leadership role in the Ontario Working Group on Criminal Law and HIV Exposure, HALCO continues to work with community partners on developing alternatives to the use of the criminal law in relation to HIV non-disclosure. The clinic also provided submissions to the Ontario Association of Chiefs of Police on the importance of developing guidelines for police handling HIV-related investigations.

Sex Work

Canada's laws surrounding sex work continue to harm those engaged in sex work. While sex work itself is not illegal, Canada's Criminal Code prohibits sex workers from communicating in public for the purpose of engaging in sex work, working with other sex workers, or hiring individuals such as bodyguards or drivers. These prohibitions force sex workers into very dangerous situations, thereby exposing sex workers to physical harm and impeding access to health care services.

LAW REFORM

In 2010, an Ontario judge found all of these Criminal Code provisions unconstitutional. The federal government appealed this decision, and in 2012, the Court of Appeal for Ontario agreed with the trial judge on most issues but unfortunately found that the prohibition on communicating in public was not unconstitutional. HALCO, along with its partners, made arguments at the Court of Appeal.

The federal government again appealed, and in June 2013 HALCO, along with its partners, intervened in the matter at the Supreme Court of Canada. HALCO argued that the trial decision should stand because the laws surrounding sex work directly harm sex workers. The Supreme Court's decision is pending.

Immigration/Refugee

For the past five years, approximately half of HALCO's immigration and refugee law practice has been devoted to assisting refugees living with HIV and other persons facing hardship in their country of citizenship. In June 2012, the Federal government made changes to Canada's refugee and immigration laws which sharply curtailed the ability of these clients to obtain legal status in Canada. In response, HALCO has taken an active role in:

- developing strategies to overcome the new obstacles,
- educating the community,
- supporting private bar immigration lawyers with HIV-positive clients, and
- taking on a large number of individual cases.

LAW REFORM

HALCO also works in coalition with the national refugee law community, which is considering legal challenges to the new refugee law regime.

In June 2012, the Federal government also made cuts to the Interim Federal Health Program (IFHP) – the public health care benefits provided to refugee claimants. While HIV treatment was not one of the benefits cut, certain classes of individuals are no longer able to obtain coverage to treat opportunistic infections, side effects of treatment, or non-HIV-related conditions. HALCO has done extensive outreach both within the HIV community and in the broader community to educate people with HIV, physicians, nurses, social workers and others with respect to the cuts. In addition, HALCO is providing support to the coalition of lawyers and doctors who are currently challenging the cuts.

The most direct way that immigration regulations impact immigrants living with HIV is the exclusion known as “medical inadmissibility” on excessive demand grounds. Most classes of immigrants who have health conditions that are costly to treat are excluded from immigrating to Canada on cost grounds. HALCO has always believed this exclusion to be discriminatory, and in summer 2013 the clinic undertook the development of a litigation strategy to challenge the medical inadmissibility exclusion. HALCO looks forward to playing a leading role in this court challenge.

Public Legal Education

For this reporting period the clinic opened a record high 351 public legal education files, over 100 of which related to in-person workshops. Over 50% of the files were related to public health law and the criminalization of HIV non-disclosure, almost 10% related to immigration law, and the remainder were devoted to legal issues including social assistance, privacy and human rights law. The clinic spoke to various audiences, including people with HIV, AIDS service organization staff, legal clinic staff, lawyers, law students, health care professionals, and government.

HALCO engaged in specific outreach activities with various First Nations communities throughout Ontario. The clinic presented workshops exploring the criminalization of HIV non-disclosure at events sponsored by the Nishnawbe Aski Nation, the Ontario First Nations HIV/AIDS Education Circle, and the Chiefs of Ontario.

During this period, the clinic also produced three newsletters, had over 85,000 visits to its website and produced an updated version of its *HIV testing in Ontario* resource. As well, as this report goes to print, the clinic is finalizing a series of immigration law resources and an updated version of *HIV disclosure: a legal guide for gay men in Canada*.

HALCO provides information in print, on-line and in person to help people understand legal issues, advocate for themselves, and seek broader social change.

HALCO also provides public legal education for the broader community, including governmental and non-governmental organizations.

Board of Directors and Staff

Board of Directors

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Amy Wah, STAFF LAWYER
Kevin Wong, STAFF LAWYER

Lesley Freiberg, ARTICLING STUDENT (JULY 2012 – JUNE 2013)
Javier Arvizu, ARTICLING STUDENT (JULY 2013 – JUNE 2014)

HIV & AIDS LEGAL CLINIC (ONTARIO)**Statement of Financial Position****As at**

	LAO Operating Fund	MOH AIDS Bureau Fund	LAO Legal Disbursements Fund
ASSETS			
Current assets			
Cash	\$ 64,753	\$ 25,274	\$ 5,368
Interfund advances	10,821	1,812	(51)
Short-term investments (note 4)	-	-	-
Funding receivable	5,000	-	-
Sales tax recoverable	6,745	236	48
Prepaid expenses	11,603	-	-
	\$ 98,922	\$ 27,322	\$ 5,365

LIABILITIES AND FUND BALANCES

Current liabilities			
Accounts payable and accrued liabilities	\$ 40,998	\$ 24,790	\$ -
Deferred revenue	75,108	-	-
Interfund payable (receivable)	23,432	12,901	231
	139,538	37,691	231
Fund balances (deficit)			
Externally restricted	-	(10,369)	5,134
Internally restricted	-	-	-
Unrestricted	(40,616)	-	-
	(40,616)	(10,369)	5,134
	\$ 98,922	\$ 27,322	\$ 5,365

Donations Fund	TCTC Fund	Project Funding Fund	March 31, 2013 Total	March 31, 2012 Total (Unaudited)	April 1, 2011 Total (Unaudited)
\$ 36,527	\$ 30,117	\$ 59,731	\$ 221,770	\$ 158,702	\$ 163,547
(6,303)	(48)	(6,231)	-	-	-
83,535	-	-	83,535	102,659	101,895
-	-	-	5,000	815	6,579
210	2,147	79	9,465	9,864	10,536
-	-	-	11,603	6,446	10,630
\$ 113,969	\$ 32,216	\$ 53,579	\$ 331,373	\$ 278,486	\$ 293,187
\$ 443	\$ -	\$ 3,614	\$ 69,845	\$ 49,535	\$ 60,156
-	32,450	54,471	162,029	83,237	93,411
(36,776)	25	187	-	-	-
(36,333)	32,475	58,272	231,874	132,772	153,567
-	(259)	(4,693)	(10,187)	13,923	9,514
150,302	-	-	150,302	158,109	153,840
-	-	-	(40,616)	(26,318)	(23,734)
150,302	(259)	(4,693)	99,499	145,714	139,620
\$ 113,969	\$ 32,216	\$ 53,579	\$ 331,373	\$ 278,486	\$ 293,187

HIV & AIDS LEGAL CLINIC (ONTARIO)**Statement of Operations and Fund Balances****Year ended March 31**

	LAO Operating Fund	MOH AIDS Bureau Fund	LAO Legal Disbursements Fund
Revenue			
Legal Aid Ontario			
Direct receipts	\$ 564,863	\$ -	\$ 2,475
Indirect receipts (note 5)	9,090	-	-
AIDS Bureau	-	329,148	-
Project funding	-	-	-
Donations	-	-	-
Interest	137	22	9
Recovered from clients	-	-	1,446
	574,090	329,170	3,930
Expenses			
Salaries and benefits	401,418	326,467	-
Occupancy	98,166	-	-
Indirect payments (note 5)	9,090	-	-
Supplies and services	22,678	2,500	-
Communications	24,158	-	-
Library	9,276	-	-
Travel	9,447	-	-
Professional dues	7,216	5,929	-
Equipment and maintenance	6,939	-	-
Fundraising development	-	-	-
IT development	-	-	-
Renovations and furniture	-	-	-
Legal disbursements	-	-	8,334
Project expenses	-	-	-
	588,388	334,896	8,334
Excess (deficiency) of revenue over expenses	(14,298)	(5,726)	(4,404)
Fund balances (deficit), beginning of year	(26,318)	(4,643)	9,538
Interfund transfer	-	-	-
Fund balances (deficit), end of year	\$ (40,616)	\$ (10,369)	\$ 5,134

Donations Fund	TCTC Fund	ACAP Fund	Project Funding Fund	2013 Total	2012 Total (Unaudited)
\$ -	\$ 32,000	\$ -	\$ -	\$ 599,338	\$ 636,251
-	-	-	-	9,090	5,369
-	-	-	-	329,148	366,227
-	-	-	63,005	63,005	45,774
58,445	-	-	-	58,445	30,504
906	29	-	42	1,145	942
-	-	-	-	1,446	944
59,351	32,029	-	63,047	1,061,617	1,086,011
55,177	-	-	74,114	857,176	789,875
-	-	-	-	98,166	94,061
-	-	-	-	9,090	5,369
-	-	-	-	25,178	22,085
-	-	-	-	24,158	18,769
-	-	-	-	9,276	9,117
-	-	-	-	9,447	7,564
-	-	-	-	13,145	17,104
-	-	-	-	6,939	4,882
14,939	-	-	-	14,939	12,406
-	-	-	-	-	-
-	-	-	-	8,334	37,995
-	-	-	-	8,334	7,632
-	31,984	-	-	31,984	53,058
70,116	31,984	-	74,114	1,107,832	1,079,917
(10,765)	45	-	(11,067)	(46,215)	6,094
158,109	(304)	2,958	6,374	145,714	139,620
2,958	-	(2,958)	-	-	-
\$ 150,302	\$ (259)	\$ -	\$ (4,693)	\$ 99,499	\$ 145,714

Funders and Donors

The generosity of HALCO's funders and donors allows the clinic to provide legal services to the HIV community. The clinic is grateful to all those who provide support, and particularly grateful to the following funders:

- *CORE FUNDERS* Legal Aid Ontario
Ministry of Health and Long-Term Care
- VISIONARY FUNDER M•A•C AIDS Fund
- LEADER ViiV Healthcare Shire Canada
Pride and Remembrance Association

HALCO also sincerely thanks all of the individuals who provided us with charitable donations.

THANKS

HALCO owes a special thanks to the following individuals for their support of our work:

Lizz Bryce	Michael Power
Paul Burstein	Priya Sarin
Hana Dhanji	Megan M. Schwartzentruber
Neil Evans	Jonathan Shime
Cynthia Fromstein	Marshall Swadron
Senay Johnson	Maddy Tosca
Jesse Kalyshov	Flying Beaver Pubaret
Arlo Litman	Pro Bono Law Ontario
Marie-France Major	Pro Bono Students Canada
Eugene Meehan, Q.C.	John Plater Health Law
Mercedes Perez	Internship

HALCO

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