

Trans Legal Needs Assessment Project

June 2014

Toronto, Ontario

The HIV & AIDS Legal Clinic Ontario (HALCO) and Legal Aid Ontario (LAO) are pleased to announce the initiation of a legal needs assessment for trans people and communities in Ontario, Canada.

Trans is an umbrella term referring to people whose gender identity or gender expression is not reflected by the gender assigned to them at birth, including people with non-binary identities. Based on recent estimates, up to 1 in 200 adults may identify as trans, broadly defined.

The project will draw on the knowledge and experience of trans people and communities, legal service providers, and other stakeholders to ensure that contextualized, meaningful, and actionable information is available to achieve the project goals.

The project is being undertaken by HALCO, with financial support from LAO's "Fund to Strengthen the Capacity of Community and Legal Clinics."

Project background

In 2000, the Ontario Human Rights Commission's Policy on discrimination and harassment because of gender identity recognized that *"There are, arguably, few groups in our society today who are as disadvantaged and disenfranchised as transgenderists and transsexuals."* Pervasive experiences of discrimination, harassment, and social marginalization unfortunately persist, as documented by the Trans PULSE Project, "a community-based research project that was created to respond to problems identified within Ontario trans communities regarding access to health and social services."

The results of Trans PULSE's 2010 survey of 433 trans Ontarians provides a snapshot of who trans people are and some of the challenges they face. The study found that roughly one in four are parents, one in five were born outside of Canada, and most are spread out across the province with only one-third living in the Metropolitan Toronto Area. Trans Ontarians experience considerable barriers to accessing services such as health care, including emergency room services. About two-thirds have avoided public spaces for fear of transphobic harassment or violence, a fear that is unfortunately realistic. Alienation from family is not uncommon, and trans youth may be forced to leave their family homes. Many

report being denied employment (18-50%) or fired (13-28%) because they are trans, and half have annual incomes of less than the \$15,000 per year, all despite relatively high levels of education. About 15% have engaged in sex work or exchange sex (trading sex for housing or food) including roughly 2% who are currently employed in the sex trade. Approximately one-quarter of all trans people report being subjected to harassment by police, and roughly 6% have spent time in prison while presenting in their felt gender. Trans people who are Aboriginal or persons of colour report more frequent and negative experiences with law enforcement and the justice system. Trans people's experiences of social marginalization, discrimination, harassment and violence can lead to compromised mental health, adding to, or exacerbating, negative involvement with the legal system.

While Trans PULSE results make it clear that most trans people in Ontario are at low risk of acquiring HIV, overall self-reported HIV prevalence within trans communities is about ten times the estimated baseline prevalence for the province. People living with HIV deal with a multitude of distinct legal issues, and for the segment of trans communities living with or vulnerable to HIV, there is a great need to give voice to their experience, to investigate intersecting legal needs, and to ensure that barriers are identified and addressed.

Although there are clearly many sites of intersection between the law and the lives of trans people in Ontario, there remains a dearth of information quantifying and qualifying their legal needs or issues impacting their ability to access justice.

With the passage of Toby's Act in 2012, co-sponsored by members of all three provincial parties, the *Ontario Human Rights Code* was amended to add gender identity and gender expression as prohibited grounds of discrimination and harassment. Toby's Act heralds a societal call to trans inclusion and a legal imperative to eliminate discrimination and harassment because of gender identity and gender expression. In heeding that call, this project will fill a significant gap, and help a wide range of legal service providers make their vital services more available and accessible to all trans people.

The team

The initial project team includes:

- N. Nicole Nussbaum, Legal Aid Ontario staff lawyer, president of the Canadian Professional Association for Transgender Health and vice-chair of the Canadian Bar Association Sexual Orientation and Gender Identity Conference.
- Ryan Peck, Barrister & Solicitor, executive director, HALCO.

- Greta R. Bauer, associate professor in the Department of Epidemiology and Biostatistics at Western University's Schulich School of Medicine and Dentistry, co-principal investigator, Trans PULSE Project.
- David J. Brennan, associate professor, Factor-Inwentash Faculty of Social Work, University of Toronto.

For more information

The HIV & AIDS Legal Clinic Ontario (HALCO) is a charitable not-for-profit community-based legal clinic that provides free legal services to people living with HIV in Ontario. For information about HALCO, see www.halco.org.

For more information about this project, please contact:

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Legal Aid Ontario (LAO) is an independent, publicly funded not-for-profit corporation with a statutory mandate to promote access to justice throughout Ontario for low-income individuals. For information about LAO, see www.legalaid.on.ca.