

# HALCO

HIV & AIDS Legal Clinic Ontario

# news

HALCO provides free legal services for people living with HIV in Ontario

Dignity    Equity    Justice

## Autumn/Winter 2019



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# Commitment to Reconciliation



We acknowledge that since time immemorial the land on which we live and work has been the home and traditional territory of Indigenous Peoples, including the Mississaugas of the Credit, Haudenosaunee and Huron-Wendat, and is now home to many diverse First Nations, Inuit, and Métis relatives.

Our work is carried out across the many traditional territories of this land that is also known as Ontario. We are grateful to have the opportunity to live and work in the community on this land. We acknowledge our privilege as well as our role in the systems of colonization.

Our recognition must also be connected to efforts to realize the **Calls to Action** of the **Truth and Reconciliation Commission of Canada**<sup>1</sup> and the **National Inquiry into Missing and Murdered Indigenous Women and Girls**.<sup>2</sup>

Indigenous people in Ontario are 1.7 times more likely to be living with HIV than non-Indigenous people. While there are a number of factors that contribute to incidence of HIV, the key determinant remains colonization and its continuing social and health impacts. Moving towards Reconciliation is an opportunity to work with Indigenous communities to, among other things, ensure that Indigenous people with HIV in Ontario have access to the best available legal services, care, treatment and support.

HALCO works for health and justice. We must do our part to address the ongoing injustices as well as the resulting health inequities that face Indigenous Peoples and that contribute to the impact of the HIV epidemic on Indigenous communities.

We are committed to this effort. In addition to joining in the June celebration of Indigenous History Month and Indigenous Peoples Day (and closing our office on June 21 to mark the latter), the HALCO board will be working on a Reconciliation Action Plan. We recognize that we have plenty to learn and plenty to do. We recognize that it is up to us, partners and allies, to acknowledge and act. We are committed to doing so, working in collaboration with and following the lead of Indigenous colleagues and organizations.

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<sup>1</sup> <http://nctr.ca/reports.php>

<sup>2</sup> <https://www.mmiwg-ffada.ca/>



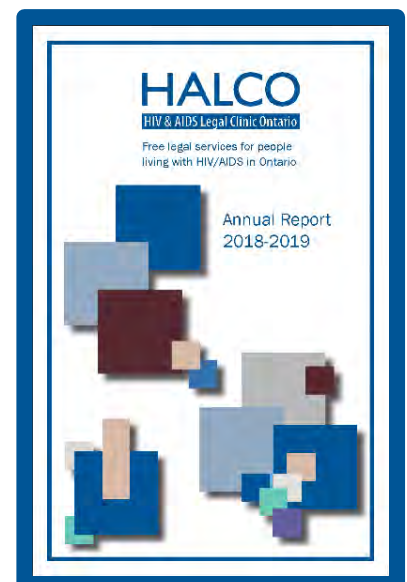
## Annual General Meeting 2019 and Annual Report 2018-2019

Our 2019 Annual General Meeting took place on Monday, October 28, 2019.

Charles Harnick, Board Chair, Legal Aid Ontario, provided remarks, and a panel discussion, **The Right to be Forgotten: The Importance of Privacy Law Protections in Canada**, took place (Amy Wah, HALCO Policy Lawyer; Muluba Habanyama, Independent Community Advisor; Alex McClelland, Activist and Postdoctoral Fellow; and Mark Phillips, Privacy Lawyer). For more information about the internet and privacy, please see “The right to be forgotten” on page 10.

Board members Jessica Demeria, Maureen Owino, Robert Maich and Robert Newman were re-elected. Continuing board members are Judith Odhiambo, Marcus McCann, Noah Aiken-Klar, Sari Feferman and Shazia Islam.

HALCO’s **Annual Report 2018-2019** was also presented (available on our website: <https://www.halco.org/2019/news/annualreport2018-19>).



# Funding cuts to legal aid services

As reported, on April 11, 2019, the Ontario government cut funding to Legal Aid Ontario (LAO) by 30% for this fiscal year (2019-2020). They also announced additional cuts to be implemented in future years. In addition, the government also made clear that LAO is unable to use any provincial money for refugee/immigration law services.

## Background

On June 12, 2019, LAO announced how the budget cuts would be implemented. HALCO's funding was cut, but we continue to provide our full array of services and we encourage people living with HIV in Ontario who are in need of legal services to contact us (see last page). Although HALCO escaped the brunt of the initial cuts, other community legal clinics were targeted for large budget reductions. We stand with those clinics. In addition, many central supports for clinics have been cut or eliminated, and all clinics have been directed to no longer "prioritize" engagement in systemic advocacy activities.

In August 2019, the federal government announced one-time funding for refugee/immigration law services in Ontario for the fiscal year of April 1, 2019 to March 31, 2020. Based on this funding, beginning on August 16, 2019, legal aid coverage for refugee/immigration law services resumed at levels offered prior to April 15, 2019 (when those services were reduced).

In December 2019, the government announced (i) new legal aid legislation, *The Smarter and Stronger Justice Act* bill, to replace the *Legal Aid Services Act* and (ii) that Legal Aid Ontario's budget will not be reduced in 2020-2021.

## Next steps

While we need to closely examine the new legislation, we are very pleased that the new legislation recognizes the important role independent community legal clinics play in providing crucial poverty law services to Ontario's most vulnerable communities. We are also very pleased to hear that further budget reductions to legal aid have been taken off the table.

It is now time for the government and Legal Aid Ontario to begin work on repairing the damage done by this year's cut by reinvesting resources into, among other things, community legal clinics. We, along with our partners, will do our utmost to ensure that the legal aid system remains intact and continues to provide the array of vital legal services that are essential for so many people in Ontario. Access to justice is a fundamental right.

We will share more information as it becomes available, including information about how to contact government officials to inform them of the vital importance of legal aid services.



# The importance of legal services for people living with HIV

There is some wonderful news surrounding the HIV response in Ontario. People who have access to sustained treatment and care have more or less the same life expectancy as those who are HIV-negative. In addition, knowledge of prevention strategies is better than ever, and it is much harder to transmit HIV than generally supposed. For example, the risk of transmission is zero if a condom is used properly and remains intact as well as when a person living with HIV has a suppressed viral load.

While this reality must not be ignored, many people continue to face significant institutional, social and economic barriers to accessing health care and life-saving medications. Moreover, social attitudes have not nearly kept pace with science; HIV-related stigma and accompanying discrimination remain entrenched and pervasive. Based on the two most recent attitudinal studies (2012<sup>3</sup>, 2018<sup>4</sup>) commissioned by the Public Health Agency of Canada, it is shameful that:

- 24 per cent of people in Canada feel uncomfortable wearing a sweater once worn by a person living with HIV
- 22 per cent feel uncomfortable shopping at a small neighbourhood grocery store owned by someone living with HIV
- 15 per cent feel afraid of becoming infected with HIV when they are near someone with HIV
- 25 per cent believe that individuals may not get tested because they fear people finding out and treating them differently
- 71 per cent believe that someone would hide their HIV status from others because of fear of the stigma associated with HIV

It is clear that stigma is the real disease. And with stigma comes discrimination. As a result, legal issues abound. From being denied services to being refused accommodation in the workplace, human rights concerns are widespread. Privacy is a constant worry for many, whether related to institutional actors, service providers, coworkers or neighbours, and legal recourse may be difficult to impossible to obtain. State surveillance, through public health authorities and the use of the criminal law, remains prevalent and overbroad.

*(Importance of legal services for people living with HIV - continues on page 6)*

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<sup>3</sup> <http://www.ekospolitics.com/articles/038-12.pdf>

<sup>4</sup> [http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-of-public\\_health\\_agency\\_canada/2018/056-17-e/report.pdf](http://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-of-public_health_agency_canada/2018/056-17-e/report.pdf)

*(Importance of legal services for people living with HIV - continued from page 5)*

Moreover, it has always been the case that the epidemic has had a disproportionate impact on equity-seeking populations. In Ontario, those most affected are (i) men who have sex with men; (ii) African/Caribbean/Black persons; (iii) people who use intravenous drugs; and (iv) Indigenous individuals. It is also very important to remember that approximately one in five people in Ontario living with HIV are women.

Whether in urban, rural or remote settings, on or off reserve, people living with HIV remain at heightened risk of unwanted and negative contact with legal and other systems. This is particularly the case for certain populations including Indigenous and racialized individuals who may be marginalized due to complex and intersecting issues related to HIV, poverty, colonialism, racism, sexism, homophobia, transphobia, immigration status, trauma, and violence. Mental health medical conditions and substance use, both of which remain highly stigmatized, often further compound matters.

As a result, many people are reluctant to approach mainstream service providers. Safe and expert places to access services are required. Places where one's HIV status can be disclosed without fear and where the complex reality of living with HIV is understood. AIDS service organizations were established in most communities in Ontario to provide that safe and expert place. HALCO was established to provide such a place but with the necessary legal expertise. Having access to these safe and specialized places is vital to the physical, emotional and mental health of people living with HIV.

HALCO is the only legal clinic in Canada that provides services exclusively for the HIV community, and we take very seriously the meaningful involvement of people living with HIV. For example, the majority of our board of directors must be living with HIV. We are deeply embedded in the HIV community through partnerships with various community entities and involvement with activities such as the education workshops we routinely conduct.

Community rootedness, which is led through our board of directors who directly connect us with different communities of people living with HIV, ensures layers of accountability, including that our legal services are in touch with what is needed on the ground. And what has always been needed is access to an array of legal services, from summary advice, brief services, referrals, and representation, to public legal education, law reform and community development.

*(Importance of legal services for people living with HIV - continues on page 7)*



*(Importance of legal services for people living with HIV - continued from page 6)*

Casework services are essential to respond to day-to-day issues that people face – it would be unacceptable to ignore evictions, discrimination, or bureaucratic decisions that disempower and leave individuals without income, housing or access to medications.

However, to focus solely on individual matters would be unacceptable. We would become complicit in maintaining and supporting the *status quo*. And in a world of finite resources, it would also be inefficient.

As a result, there is the imperative to also engage in other activities, including public legal education and law reform activities. But it is only with the knowledge gained through community rootedness and casework that effective systemic activities can take place: A perfect feedback loop.

Since opening our doors in 1995, we have responded to over 65,000 inquiries related to various areas of law, including human rights, health, housing, social assistance, privacy, immigration, insurance, criminal, and employment. We have conducted countless workshops in all corners of the province for people living with HIV, students, governmental and non-governmental organizations, healthcare providers, lawyers and others. We have submitted policy briefs to governmental bodies, and intervened in many court matters, including 11 at the Supreme Court of Canada.

The first six months of this fiscal year were no different. In spite of the attack on legal aid services, we continued to do what we have always done: engage in a broad array of services to respond to issues faced by people living with HIV. For some highlights for the period of April to September 2019, please see page 15.

In partnership with people living with HIV and legal and human rights organizations, we will continue to work tirelessly to bring about social, economic and racial justice.



# Criminalization of people living with HIV

For many years, Canada has had the terrible distinction of being a world leader in criminalizing people living with HIV. Canada is also the only country known to use aggravated sexual assault charges in relation to HIV non-disclosure, even when (i) there is no allegation of transmission of HIV; (ii) there is no intention to transmit; and (iii) the sexual activity in question poses negligible to zero risk of transmission.

The consequences related to HIV criminalization, which have a disproportionate impact on Indigenous, African/Caribbean/Black and gay persons, are extremely serious. For example, a conviction attracts a maximum life sentence and leads to a presumptive lifetime inclusion on sex offender registries. In addition, for those who are not Canadian citizens, a conviction generally leads to deportation.



Over-criminalization is also harmful from a public health perspective. It hinders HIV prevention efforts and hampers care, treatment and support for those living with HIV by providing disincentives for HIV testing and deterring honest and open conversations with health care and other providers, including public health authorities, for legitimate fear that such conversations will be used in court.

**For many years**<sup>5</sup>, HALCO and many others have been urging courts and governments to cease contributing to this over-criminalization. On December 1, 2017, we were finally encouraged when the Ontario government **announced**<sup>6</sup> that provincial prosecutors will no longer prosecute cases of alleged HIV non-disclosure where a person on antiretroviral therapy can demonstrate that their HIV has been “suppressed” – which means a viral load under 200 copies/ml of blood – for at least 6 months prior to the alleged sexual activity.

We also welcomed the federal government’s December 2018 **directive**<sup>7</sup> to Crown prosecutors who have jurisdiction in the three territories. While imperfect, the directive reduces the circumstances under which HIV-related prosecutions will be mounted in the territories.

*(Criminalization - continues on page 9)*

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<sup>5</sup> <http://clhe.ca/advocacy-timeline>

<sup>6</sup> <https://www.ontario.ca/document/crown-prosecution-manual/d-33-sexual-offences-against-adults#section-0>

<sup>7</sup> [http://clhe.ca/owg-criminal-law-hiv-exposure/wp-content/uploads/2019/01/AGCanada-Directive\\_CanadaGazette\\_8Dec2018.pdf](http://clhe.ca/owg-criminal-law-hiv-exposure/wp-content/uploads/2019/01/AGCanada-Directive_CanadaGazette_8Dec2018.pdf)



*(Criminalization - continued from page 8)*

Soon after the release of the directive, the House of Commons Standing Committee on Justice and Human Rights held hearings on the issue, at which HALCO<sup>8</sup> and many others<sup>9</sup> appeared. In June 2019, the Committee released a report entitled *The Criminalization of HIV Non-Disclosure in Canada*.<sup>10</sup> While we strongly disagree with the recommendation to extend the criminal law to other infectious diseases – criminalizing more health conditions does not solve the problem – we welcome the call to remove HIV non-disclosure from the reach of sexual assault law and limit the criminalization of HIV to actual transmission of HIV. In addition, we support the recommendations to review historic prosecutions and convictions, and to improve access to HIV testing, including anonymous testing.

But we must go further. As recommended by United Nations' expert health and human rights bodies, and as indicated in a **Canadian community consensus statement**<sup>11</sup> endorsed by over 170 organizations, criminal prosecution should be removed from the law of sexual assault and be limited to cases of actual and intentional transmission.

In order to arrive at this consensus position, we require legislative reform undertaken in consultation with the HIV sector. While reform is pending, provincial attorneys general must develop or update guidance to properly limit over-criminalization.

Over the coming months we will be sharing information about the law reform campaign.



As always, HALCO will continue to do its utmost, in partnership with people living with HIV and human rights organizations, to ensure that the law is brought in line with science and human rights in a manner that is supportive of HIV-related care, treatment, and prevention.

In December 2018, we produced a factsheet on HIV and the criminal law in Ontario that is available on our website:

[www.halco.org/wp-content/uploads/2018/12/HIV-crim-Ont2018Dec.pdf](http://www.halco.org/wp-content/uploads/2018/12/HIV-crim-Ont2018Dec.pdf)

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<sup>8</sup> <https://openparliament.ca/committees/justice/42-1/145/ryan-peck-1/only/>

<sup>9</sup> <https://www.ourcommons.ca/Committees/en/JUST/StudyActivity?studyActivityId=10485413>

<sup>10</sup> <https://www.ourcommons.ca/DocumentViewer/en/42-1/JUST/report-28/>

<sup>11</sup> <http://www.hivcriminalization.ca/community-consensus-statement/>

## “The right to be forgotten”

If a person’s HIV-positive status ends up on the internet, it may be discovered or stumbled upon through a search for the person’s name. In some cases, the law can be used to force the removal of information from a webpage. However, there is currently no legal avenue in Canada to demand that internet search engines “de-index” or “de-list” webpages so that a search does not produce the information in its results.

Unlike Canada, European Union data protection laws include the “Right to Be Forgotten,” which recognizes the right of individuals to request that sensitive personal information be deleted or links to information be removed from search engine results if privacy outweighs the public interest in having access to the information. The Office of the Privacy Commissioner of Canada (OPC) recognized this gap in our law and is exploring whether federal privacy legislation, the *Personal Information Protection and Electronic Documents Act* (PIPEDA), which deals with how businesses collect, use and disclose personal information, applies to the use of information by internet search engines such as Google.

Last year, HALCO made a [submission](#)<sup>12</sup> to the OPC to highlight that the unwanted disclosure of someone’s HIV status can lead to harms related to discrimination, such as loss of opportunity, social exclusion, harassment, and even violence. Our submission also supported the OPC [draft position](#)<sup>13</sup> that PIPEDA applies to search engine activity and can give people in Canada, in some circumstances, a right to request the removal of search engine results associated with their name. Last month, HALCO and the Canadian HIV/AIDS Legal Network applied to intervene in the OPC’s request that the Federal Court of Canada decide if PIPEDA applies to Google search engine activity. We will provide an update on our intervention shortly.

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<sup>12</sup> <https://www.halco.org/2018/news/online-reputation-submissions-2018apr>

<sup>13</sup> [https://www.priv.gc.ca/en/about-the-opc/what-we-do/consultations/consultation-on-online-reputation/pos\\_or\\_201801/](https://www.priv.gc.ca/en/about-the-opc/what-we-do/consultations/consultation-on-online-reputation/pos_or_201801/)

# Ontario government reverses some changes that were planned for Ontario Disability Support Program and Ontario Works

As reported, the government of Ontario announced a new direction for social assistance in Ontario. The proposed changes relate to the Ontario Disability Support Program (ODSP) and Ontario Works.

You can find information on our website:

- July 2019: <https://www.halco.org/2019/news/odsp-update-2019july>
- November 2018: <https://www.halco.org/2018/news/odsp-update2018nov>

In early October 2019, we **welcomed**<sup>14</sup> the Ontario government **decision**<sup>15</sup> to reverse some of the changes, including the decision to continue the Transition Child Benefit (TCB) and not move forward with changes to treatment of earned income.

While the planned increases to the earned income exemption would have been most welcome, the alteration of the income clawback from 50% to 75% was not.

At this time, we do not know if there will be any change to the definition of disability for ODSP eligibility.

We encourage people who may be eligible for ODSP to apply for benefits now. Those who are receiving ODSP/OW are encouraged to ensure they are receiving all the benefits that they are entitled to receive, including any Special Diet Allowances and health benefits. If you are living with HIV in Ontario, please contact us for free legal advice about ODSP/OW or other legal issues (please see last page).

**Note:** On December 4, 2019, the Office of the Auditor General of Ontario released its 2019 Annual Report addressing many government programs and services, including ODSP. We will provide more information soon.

<sup>14</sup> <https://www.halco.org/2019/news/sa-changes-2019oct>

<sup>15</sup> <https://www.mcsc.gov.on.ca/en/mcsc/programs/social/updates.aspx>

# Criminal Injuries Compensation Board has been eliminated

As reported in our [summer 2019 newsletter](#), the Ontario government planned to eliminate the existing approach to compensation for victims of crime and replace it with an administrative process.

On September 6, 2019, the Ontario government **announced**<sup>16</sup> that the Criminal Injuries Compensation Board (CICB) would stop receiving applications for compensation as of midnight on September 30, 2019. The CICB will process all existing applications before it ceases operating. Here is a link to the CICB website: <http://www.sjto.gov.on.ca/cicb/>

You can find more information on our website: <https://www.halco.org/2019/news/cicb-eliminated>

## New Victim Quick Response Program+

The government also **announced**<sup>17</sup> that the Victim Quick Response Program was being enhanced to become the new Victim Quick Response Program + (VQRP+). The VQRP+, which took effect October 1, 2019, is the administrative process that replaces the CICB process and the Financial Assistance for Homicide Victims program.

The VQRP+ is very different from the CICB in terms of the supports that may be provided and the process involved. According to the VQRP+ [website](#), the program focuses on supports for “the most basic and critical needs when no other means are available.” VQRP+ applications are not adjudicated by a tribunal and there are no hearings. VQRP+ applications are handled by service delivery organizations across the province (generally victim services organizations).

Here is a link to the Ontario government VQRP+ website: <https://www.attorneygeneral.jus.gov.on.ca/english/ovss/vqrp.php>

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<sup>16</sup> <https://news.ontario.ca/mag/en/2019/09/ontario-providing-new-supports-to-victims-of-crime.html>

<sup>17</sup> <https://news.ontario.ca/mag/en/2019/09/ontario-providing-new-supports-to-victims-of-crime.html>

# Parole, community-based residential facilities (halfway houses) and Ontario social assistance benefits

Ontario's social assistance programs, Ontario Works (OW) and the Ontario Disability Support Program (ODSP), have rules about eligibility for people who are living in a community-based residential facility (CBRF), which is also known as a "halfway house." The OW/ODSP regulations are different depending on whether the federal or provincial government funds the person's CBRF placement.

If you live in a CBRF after being incarcerated in a provincial institution, you are eligible for an OW/ODSP personal needs allowance if you live in the CBRF full-time. If you live there part-time, you are very likely eligible for pro-rated basic needs as well as a full shelter allowance for your housing costs outside of the CBRF.

If you are in a CBRF after being incarcerated in a federal institution, your placement is usually at least partially funded by Correctional Service Canada (CSC). If you are living in a halfway house full-time and CSC is funding your placement, you are not eligible for OW/ODSP. However, two recent HALCO cases make clear that you are eligible for some OW/ODSP if you are living part-time on a placement funded by CSC. You may also be eligible for pro-rated Special Diet Allowance, full drug coverage and other OW/ODSP benefits.

If you are living with HIV in Ontario, please contact us for free legal advice about ODSP/OW or other legal issues (please see last page).

# New dental program for low-income seniors



The Ontario government launched the new Ontario Seniors Dental Care Program (OSDCP).

OSDCP provides free routine dental care for low-income Ontario seniors age 65 and older who do not have access to any other dental benefits. Seniors with private insurance or who have dental coverage under Ontario Works, the Ontario Disability Support Program or other government programs are not eligible for OSDCP.

OSDCP coverage includes:

- check-ups, including scaling, fluoride and polishing
- repair of broken teeth and cavities
- x-rays
- removal of teeth or abnormal tissue (oral surgery)
- anesthesia
- treatment of infection and pain (endodontic services)
- treatment of gum conditions and disease (periodontal services)
- dental prosthetics (prosthodontic services), including dentures [partial coverage only].

You can find more information on the Ontario government website [Ontario.ca/SeniorsDental](https://www.ontario.ca/SeniorsDental)<sup>18</sup> and in the [News Release](#).<sup>19</sup>

<sup>18</sup> <https://www.ontario.ca/page/dental-care-low-income-seniors>

<sup>19</sup> <https://news.ontario.ca/opo/en/2019/11/ontario-launches-free-routine-dental-care-for-low-income-seniors.html>



## Casework (April 1, 2019 – September 30, 2019):

- **HALCO staff responded to 1,927 legal issues:** 24% refugee/immigration, 19% income maintenance, 11% housing, 7% health, 5% human rights, and the remainder various other areas of law.
- **HALCO staff opened 100 case files:** 32% refugee/immigration, 24% income maintenance, 17% housing, 11% human rights, 7% health, and the remainder various other areas of law.

## Public Legal Education (April 1, 2019 – September 30, 2019):

We provided **63 public legal education workshops** at events, conferences and community organizations across Ontario. For information about our public legal education workshops, please see page 22. Some of our recent public legal education activities include:

- **HALCO news Summer 2019 newsletter.**
- **HALCO Annual Report 2018-2019.**
- **HALCO website:** 86,395 visits.
- **Litigating Ontario's Sex Education Curriculum:** moderated panel at Ontario Bar Association event.
- **Law Society of Ontario Pride event:** moderated panel.
- **Trans Women HIV Research Initiative (TWIRI) 2019 conference:** presented summary of the first **TRANSforming JUSTICE project report**<sup>20</sup>.
- **Social Assistance, Ontario Disability Support Program and related issues:** conducted 19 workshops across the province (e.g., Réseau Access Network, Black Coalition for AIDS Prevention, Ontario Aboriginal HIV/AIDS Strategy, Toronto General Hospital, St. Michael's Hospital, Sick Kids Hospital).
- **Immigration/Refugee Law:** conducted 7 workshops (e.g., Moyo Health and Community Services, North American Refugee Health Conference, Toronto-based women living with HIV group).
- **HIV Disclosure and the Law - Criminal and Public Health Issues:** conducted 19 workshops (e.g., Ontario Aboriginal HIV/AIDS Strategy, Hassle Free Clinic, HYPE Positive Youth Summit, Toronto Public Health staff, Latinos Positivos).
- **Privacy and HIV:** conducted 2 workshops (Alliance for South Asian AIDS Prevention group, Toronto-based women living with HIV group).

*(HALCO highlights - continues on page 16)*

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<sup>20</sup> <https://www.halco.org/2018/news/transforming-justice-tfj>

*(HALCO highlights - continued from page 15)*

- **HIV and the Law Overview:** conducted 6 workshops (e.g., Access Alliance LGBTQ2+ newcomer group, Interim Place staff, Planned Parenthood Toronto).
- **HALCO updates/info sheets:**
  - Elimination of Criminal Injuries Compensation Board: see article on page 12.
  - Social Assistance Changes updates: see article on page 11.
  - Interim Pathway for Caregivers to Apply for Permanent Residence in Canada info sheet: <https://www.halco.org/2019/news/caregiver-interim-path2019apr>
- **Provided input into a number of publications,** including:
  - AIDS Committee of Toronto (ACT) document about travelling with HIV medications.
  - Community Legal Education Ontario material regarding OHIP eligibility and the Immigration Medical Exam.

## **Law Reform and Community Development:**

[www.halco.org/our-services/law-reform-community-development](http://www.halco.org/our-services/law-reform-community-development)

Some of our recent Law Reform and Community Development activities include:

- **United Nations Committee on the Elimination of All Forms of Discrimination Against Women:** Submission by HALCO and the Canadian HIV/AIDS Legal Network (2019Oct): <https://www.halco.org/wp-content/uploads/2019/10/UN-CEDAW-sub2019Oct.pdf>.
- **Ontario's new 2019 Health and Physical Education Curriculum** (sex education): We issued a statement about the new curriculum (2019Aug): <https://www.halco.org/2019/news/new-sex-ed-2019aug>.
- **Remarks before the Justice and Human Rights Committee regarding criminalization of non-disclosure of HIV status:** <https://openparliament.ca/committees/justice/42-1/145/ryan-peck-1/only/>
- **Intervened in *R. v. B.*** (Court of Appeal for Ontario), a matter that overturned lower court convictions for attempted murder based on HIV non-disclosure.
- **Granted intervener status in *R. v. N.*** (Court of Appeal of Alberta), where we argue that an HIV-related conviction should not lead to mandatory inclusion on the national sex offender registry (decision pending).
- **Granted intervener status in *R. v. S.*** (Court of Appeal for Ontario), where we argue that the law restricting sentencing options of many who are convicted of HIV-related offences is unconstitutional (decision pending).

*(HALCO highlights - continues on page 17)*

## Some Media Highlights:

- **Why HIV testing needs informed consent** article in **Healthy Debate** (2019Sept): <https://healthydebate.ca/opinions/hiv-testing-informed-consent>
- **Social Assistance Changes** articles in **Press Progress**:
  - **Ford Government Will Claw Back Even More Money From Struggling Ontarians and Low-Income Parents: Report** (2019August): <https://pressprogress.ca/ford-government-will-claw-back-even-more-money-from-struggling-ontarians-and-low-income-parents-report/>
  - **Doug Ford's Changes to Social Assistance Will Push Ontarians Into Homelessness, Service Providers Warn** (2019Sept): <https://pressprogress.ca/doug-fords-changes-to-social-assistance-will-push-ontarians-into-homelessness-service-providers-warn/>
- **HIV decriminalization changes welcome but not enough** article in **Lawyer's Daily** (2019July): <https://www.thelawyersdaily.ca/articles/13764/hiv-decriminalization-changes-welcome-but-not-enough-ryan-peck>

## Some Endorsements:

- **Correctional Service of Canada must fix fundamental flaws with prison needle exchange program** (2019Aug): <https://www.halco.org/wp-content/uploads/2019/10/PrisonNeedleStatement2019Aug.pdf>
- **Right to Housing Toronto**: <https://right2housingto.ca/supporters/>
- **Action Canada for Sexual Health and Rights solidarity statement for sex workers' rights**: <https://secure.actioncanadashr.org/solidarity-sex-workers-rights>

# HALCO thanks funders and supporters

### Core Funders

- Legal Aid Ontario
- AIDS Bureau, Ministry of Health and Long-Term Care

### Funding Partners

- M·A·C AIDS Fund
- ViiV Healthcare

### Individuals

- **To all those who support us in so many ways: thank you!**

HALCO is a registered charity and welcomes donations. Tax receipts are issued for donations of \$20.00 or more. You can make a donation by clicking on the **DONATE** button on our website at [www.halco.org](http://www.halco.org) or by contacting us (see last page).

# HALCO bids farewell to Jill McNall

## - message from Ryan Peck, HALCO executive director/lawyer

After 13 years at HALCO, Jill McNall, community legal worker extraordinaire, will be retiring. Jill's impact on countless people in the HIV and legal clinic communities (and beyond), is incredibly profound. Her skills, dedication, dependability and thoughtfulness are matched only by her kindness. Jill is the definition of a mensch.

Among many things, we will miss Jill's keen attention to detail as well as her fantastic ability to effectively use plain language to convey complex legal issues. While it is incredibly difficult to imagine HALCO without Jill, and while all of us will miss her something terrible, we could not be happier for her as she heads into retirement.

Over the coming weeks, we will have much more to share about Jill, including information regarding a celebration that will take place in early 2020. In the meantime, we offer our deepest and sincerest of thanks to Jill for pouring her entire being into her work at HALCO, and for being the kind of co-worker that dreams are made of.

# Thank you everyone and all the best!

## - message from Jill McNall

Wow, what an amazing time it has been! Thirteen years ago, I was the community legal worker at Willowdale Community Legal Services, where I very much loved my colleagues, clients, community and work. Although I felt it might be time for a change, there were not many opportunities for someone like me (with my tendency to be somewhat insubordinate but generally for a good purpose) that would provide the opportunity to continue my passion for advocacy, education and community development.

Having been involved with community legal clinics ever since I began volunteering at a law student clinic in my university days in early 1981, I knew of and was impressed by HALCO's vital work for access to justice and the dedicated staff including Ruth Carey (then HALCO executive director), Rick Lobodzinski (still with HALCO), and some of the stellar articling students, including Ryan Peck (still with HALCO, and still as committed and incredibly hardworking). Although I knew about HIV, I really did not know very much about the remarkable and diverse communities encompassed in the HIV movement. When I was hired as the HALCO community legal worker in January 2007, I had no idea just what the work would mean to me or how it would enrich my life.

*(Farewell Jill - continues on page 19)*

*(Farewell Jill - continued from page 18)*

I have had the privilege and honour of meeting and working with incredible people living with HIV, as well as so many involved in the HIV, social, economic and racial justice movements, who have so generously shared their knowledge, expertise, lives and friendship. I want to especially acknowledge the many people living with HIV who have trusted me, and HALCO, and who have shared such sensitive, personal information at often very difficult times in their lives. Working together to advocate both for individuals and for systemic change has been unbelievably inspiring and satisfying, and has enabled me to learn and grow personally and professionally in ways I could not have imagined.

But it has also been unbelievably frustrating. HIV has a disproportionate impact on gay men, Indigenous and racialized people, and those with low incomes. There has been much progress, but if stigma, discrimination and systemic injustices could be really fully addressed, HIV would be treated like any number of other health conditions and HALCO's specialized legal services for people living with HIV would not be needed. If our society was fair, equitable and just, we would not need community legal clinics either. Sadly, neither is the case - in fact, our communities are, in many ways, under attack and our services are needed as much if not more than ever.

Although I am retiring on January 31, 2020, the HIV and legal clinic communities will be forever in my heart. Somehow 'thank you' seems inadequate, but it is truly heartfelt. I thought about naming some of the individuals who have mattered so much to me but the list would be pages and pages long, and I might inadvertently leave someone out. I must acknowledge all my stalwart HALCO colleagues and most especially my amazing life partner who have all supported me and enabled me to do this work that I so love.

If this all seems rather over the top, perhaps it is, but as anyone who has heard me give a workshop knows, I always have a lot to say.

We have had quite the journey together. I will miss everyone very much and I hope that our paths continue to cross. I remain an optimist and I wish you all the enduring courage and fortitude needed to persevere in the struggle.

In solidarity.

Jill McNall  
HALCO community legal worker (licensed paralegal)

# HALCO

HIV & AIDS Legal Clinic Ontario

## People

### Welcome Vivien and Madeline

In September 2019, we were pleased to welcome law students **Vivien Cheng** and **Madeline Thomas** through Pro Bono Students Canada. Vivien and Madeline, who are first year students at University of Toronto Law, are working with us to update our refugee/immigration law country condition packages that we use for our own cases and that we share with other legal service providers.

### HALCO Board of Directors

HALCO's skilled and dedicated volunteer board members oversee our governance:

- **Jessica Demeria**  
(secretary/treasurer)
- **Judith Odhiambo**
- **Marcus McCann** (vice-chair)
- **Maureen Owino**
- **Noah Aiken-Klar**
- **Robert Maich**
- **Rob Newman** (chair)
- **Sari Feferman**
- **Shazia Islam**

For more information about our board and board committees, please contact us or visit **Get Involved** on our website:

[www.halco.org/get-involved](http://www.halco.org/get-involved)

### HALCO Staff

- **Amy Secord** (director of administration)
- **David Cote** (staff lawyer)
- **Eddy Carroll** (staff lawyer)
- **Jill McNall** (community legal worker)
- **Rick Lobodzinski** (admin. assistant)
- **Ryan Peck** (executive director/lawyer)
- **Amy Wah** (staff lawyer)
- **Debbie Rachlis** (staff lawyer)
- **Glenn Betteridge** (staff lawyer)
- **Khalid Janmohamed** (staff lawyer)
- **Robin Nobleman** (staff lawyer)



# Getting help from HALCO

## - intake process for new inquiries

HALCO provides free legal services for people living with HIV in Ontario.

Anyone living with HIV in Ontario can call us at 416-340-7790 or toll-free at 1-888-705-8889. Our intake hours for new inquiries are: **Monday, Wednesday and Friday (9 a.m. to 5 p.m.)**. Interpreters are available. When you call us about a new legal issue, we will go through our intake process with you. You do not need an appointment for intake but depending on how busy we are, you may have to wait to speak with the lawyer on intake.

Many legal matters have time limits called “limitation periods”. Please **contact us** as soon as you have a question or problem so that we can have enough time to try to help. Some matters may be complex and take a long time, while others may be brief.

Through our intake process, our staff will ask you questions and may:

- provide legal advice
- provide a brief service
- help you to represent yourself
- represent you for your case, and/or
- provide a referral to other services.



Our office is wheelchair accessible. HALCO is a “scent-reduced environment” - please avoid wearing scented products or fragrances when coming to our office.

We welcome your feedback and we also have a Complaint Process if you are not satisfied with our services.

You can find more information in our HALCO pamphlet (please contact us to request print copies): [https://www.halco.org/wp-content/uploads/2019/11/HALCO\\_pamphlet.pdf](https://www.halco.org/wp-content/uploads/2019/11/HALCO_pamphlet.pdf)

# HALCO website: [www.halco.org](http://www.halco.org)



Our **What's New** website sidebar helps keep you up-to-date on current issues, announcements, events and more.

Our **Areas of Law** pages include information about many different legal topics:  
[www.halco.org/areas-of-law](http://www.halco.org/areas-of-law)

You can apply to become a member of HALCO or to renew your HALCO membership:  
[www.halco.org/getinvolved/membership](http://www.halco.org/getinvolved/membership)

## HALCO public legal education workshops

HALCO staff organize, conduct and participate in public legal education events across Ontario and provide workshops on topics of interest to people with HIV as well as HIV-related legal issues for the broader community.

Please **contact us** or visit the **Public Legal Education** section of our website for more information: [www.halco.org/our-services/public-legal-education](http://www.halco.org/our-services/public-legal-education)

### Our workshop legal topics include:

- HIV and the Law Overview
- HIV Disclosure and the Law: Criminal and Public Health Issues
- Changes to Social Assistance/Ontario Disability Support Program
- HIV and Immigration Law
- HIV and Privacy Law
- HIV and Employment Law
- HIV and Human Rights
- Medical Cannabis
- Planning for illness: legal information for people living with HIV in Ontario

Please **contact us** if you would like to request a workshop or our participation in an event (see last page for HALCO contact information).

# HALCO Membership

HALCO's work is supported by our members. HALCO membership is free and renewed every 3 years. Please offer your support by becoming a member of HALCO.

If you are a resident of Ontario age 18 years or older, and you agree with our **Statement of Principles** (below), you can apply for HALCO membership. Membership applications can be made:

- on our HALCO website: [www.halco.org/get-involved/membership](http://www.halco.org/get-involved/membership)
- by **contacting us** to ask for a membership application form by mail (please see last page for HALCO contact information).

You do not have to be a HALCO member to contact us for legal services from HALCO. However, we encourage people to become members. Benefits of membership include voting privileges at our membership meetings (after minimum 30 days membership), and the right to stand for election to our Board of Directors.

## **Statement of Principles of the HIV & AIDS Legal Clinic Ontario** Adopted January 30, 2006, by the Board of Directors

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.



## Getting Legal Help

If you are living with HIV in Ontario and have a legal question or problem (it does not have to relate directly to HIV), please **contact us** for free legal advice at 416-340-7790 or toll-free 1-888-705-8889. For more about getting help from HALCO, please see page 22.

People in Ontario can contact their local community legal clinic to ask about local services: <https://www.legalaid.on.ca/services/legal-clinics/>

HALCO is a registered charity funded by Legal Aid Ontario, the Ontario Ministry of Health, and other sources including corporate, foundation and individual donors. We welcome **donations**.

*HALCO news* contains general information only. It is not legal advice.

Laws, policies and practices can and often do change.

If you have a legal question or problem, you need legal advice. Please **contact HALCO**, your local legal clinic or a licensed lawyer/paralegal for legal advice.

*HALCO news* is published by the HIV & AIDS Legal Clinic Ontario (HALCO) and is distributed free to our members, interested individuals, agencies and organizations. Previous editions are on our website: [www.halco.org/our-services/our-publications](http://www.halco.org/our-services/our-publications)

Please **contact HALCO** if you want to reproduce or excerpt any part of our newsletter. The views expressed in HALCO news may not reflect those of HALCO board and/or staff, or funders.

(HALCO – 2019 December)