

**AIDS Committee of Toronto  
Position Statement: Criminal Law and HIV Transmission**

Preventing HIV transmission is primarily the responsibility of Public Health, not criminal law.

People with HIV are entitled to full and satisfying sex lives. People with HIV are not criminals, and are under no general obligation to inform their partners of their HIV status.

People with HIV are obligated to take the same precautions expected of everyone, and not place others at risk -- that is, to use condoms.

Criminal law must only be used as a measure of last resort. When public health efforts have failed and an individual continues, knowingly, maliciously and intentionally, to place others at risk, particularly those who have no reason to suspect any risk, then measures under criminal law may be an option.

But in other cases, it has no application. The best way to prevent HIV transmission is through responsive and effective Public Health efforts - not criminal law.

**Background**

Attempting to prevent HIV transmission through criminal law is using a very blunt instrument to address a sensitive and complex objective - altering human sexual behaviour.

Sexual behaviour is notoriously difficult to change. To do so requires effective communication, positive reinforcement and realistic goals. Criminal law has never had a substantial impact on altering human sexual behaviour.

Criminal law deals in the business of laying blame, of determining guilt and innocence.

But when two people knowingly engage in high risk activity, the issue is not one of blame or guilt. The issue is how to send out the message that people need to behave responsibly and protect themselves and others through safer sex. And that is best done by redoubling our efforts to encourage and reinforce risk-reducing behaviour -- particularly, the use of condoms.

*Michael?*  
*Liberal!*

*who says?  
Act?  
HPPA?*

*male!*

*contact tracing?  
quarantine?  
what measures?*

*who cares? this is not the discussion.*

*what is our overall goal re. change to sb.?*

*monitor stop?*

*So does P.H.*

*ideal? mutually consensual sex? whose Ph?*