

HALCO *news*

HIV & AIDS Legal Clinic Ontario

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

Dignity

Equity

Justice

Spring 2017



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HALCO's Ryan Peck Receives the Sidney B. Linden Award

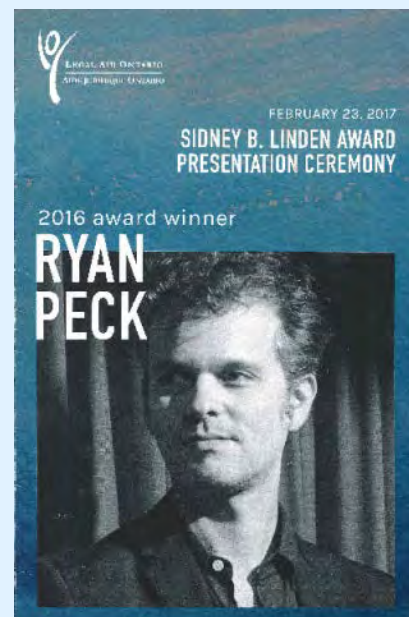
Ryan Peck, HALCO's executive director and lawyer, received the **Sidney B. Linden Award** from Legal Aid Ontario on February 23, 2017.

The award, named in honour of **Justice Sidney B. Linden**, Legal Aid Ontario's first chair of the board of directors, is presented annually. It recognizes exceptional individuals who have demonstrated a commitment to helping low-income people, and have given their time and expertise towards ensuring access to justice in Ontario.

Held in the historic Convocation Hall at Osgoode Hall, the award presentation ceremony was hosted by the chair of Legal Aid Ontario **John McCamus**.

Ed Bennett, executive director of 2-Spirited People of the 1st Nations provided a warm Opening. Ontario Attorney General the Honourable **Yasir Naqvi** and the Honourable **Justice Sidney B. Linden** gave remarks.

The moving keynote speech was given by **Shazia Islam** of the Alliance for South Asian AIDS Prevention, and, **Amy Wah**, HALCO policy lawyer, provided a heartfelt introduction for Ryan.



In his acceptance speech, Ryan highlighted the importance of the community legal clinic system and of responding to stigma and discrimination faced by people living with HIV.

For more information about the award, please visit Legal Aid Ontario's website: www.legalaid.on.ca/en/news/newsarchive/2017-01-10_SBLaward-winner.asp

Please see page 3 for photos from the ceremony

Sidney B. Linden Award Ceremony

February 23, 2017



Ryan Peck and Mr. Justice Linden



John McCamus, Ryan Peck and the Honourable Yasir Naqvi



Shazia Islam



Amy Wah



Ed Bennett

Photos courtesy of **Tim Fraser** for the Law Society of Upper Canada

Campaign to Stop Unjust HIV-related Criminal Prosecutions in Ontario

People living with HIV continue to be charged with aggravated sexual assault – one of the most serious offences in Canada’s Criminal Code, designed to respond to the most horrific of forced sex acts — which carries a maximum penalty of life imprisonment and designation as a sex offender. These prosecutions are happening even in circumstances where:

- (i) sexual behaviour is consensual;
- (ii) there is negligible to no risk of HIV transmission;
- (iii) there is no intention to transmit HIV; and
- (iv) transmission does not occur.

However, the problematic nature of the current use of the criminal law is finally being recognized by government. As we reported in our [Autumn/Winter 2016 newsletter](#), on December 1, 2016, after many years of silence, the federal government is speaking up. In a World AIDS Day 2016 statement, federal Minister of Justice **Jody Wilson-Raybould** stated, “[T]he over-criminalization of HIV nondisclosure discourages many individuals from being tested and seeking treatment, and further stigmatizes those living with HIV or AIDS. Just as treatment has progressed, the criminal justice system must adapt to better reflect the current scientific evidence on the realities of this disease.” Further, the Minister committed to working with provincial and territorial counterparts, medical professionals and affected communities to examine this issue.



To date, the federal government has consulted with the HIV community, including through a meeting with the **Canadian Coalition to Reform HIV Criminalization** (www.aidslaw.ca/site/canadian-coalition-to-reform-hiv-criminalization/?lang=en).

In addition, HALCO and the Canadian HIV/AIDS Legal Network provided the federal government with a brief “Exploring Avenues to Address Problematic Prosecutions Against People Living with HIV in Canada”, which is available on our website: www.halco.org/2017/news/new-brief-exploring-avenues-to-address-problematic-prosecutions-against-people-living-with-hiv-in-canada.

In March 2017, a meeting took place between the federal government and provincial and territorial counterparts to discuss this issue.

Campaign to Stop Unjust HIV-related Criminal Prosecutions - continues on page 5

At the same time, the **Ontario Working Group on Criminal Law and HIV Exposure (CLHE)** continues to advocate for change at the provincial level. Currently, CLHE is requesting that Ontario Attorney General **Yasir Naqvi**:

1. Impose an immediate moratorium on all HIV non-disclosure prosecutions, unless there is alleged intentional transmission of HIV, while law reform options are being explored and sound prosecutorial guidelines are being developed – in conjunction with the community – to limit the current misuse and overextension of the criminal law.
2. Publicly state that the Ontario Ministry of the Attorney General is committed to ending the overly broad application of the criminal law in cases of alleged HIV non-disclosure and to reviewing Ontario’s approach to these prosecutions.
3. Engage in meaningful dialogue with CLHE as well as people living with HIV and scientific experts when developing prosecutorial guidelines and other responses to this issue.

To send an email to the Attorney General, please go to

<http://clhe.ca/hiv-is-not-a-crime>.

For more information about CLHE, see www.clhe.ca.



If you are facing HIV-related criminal charges in Ontario, please contact HALCO right away for free legal advice (see last page for HALCO contact information).

HIV Criminalization in Canada: Key Trends and Patterns is a new report from the Canadian HIV/AIDS Legal Network that provides a snapshot of the temporal and demographic patterns of HIV criminalization in Canada from 1989 to 2016. It also updates information on the outcomes of HIV non-disclosure criminal cases. The report authors are **Colin Hastings, Cécile Kazatchkine** and **Eric Mykhalovskiy**. You can access the report on the Canadian HIV/AIDS Legal Network website: **www.aidslaw.ca/site/hiv-criminalization-in-canada-key-trends-and-patterns/?lang=en**.

Canada’s top HIV researchers and the Canadian Association for HIV Research Board of Directors endorsed an important statement to express their deep concern about the ongoing, overly broad use of the criminal law in HIV non-disclosure cases:

- English: **clhe.ca/wp-content/uploads/52.HIV-and-the-Criminal-Law-FINAL-EN.pdf**.
- French: **clhe.ca/wp-content/uploads/52.HIV-and-the-Criminal-Law-FINAL-FR.pdf**.

Mileage Rate Increase for Social Assistance Recipients (ODSP and OW)

The mileage rate for people in receipt of Ontario Disability Support Program (ODSP) or Ontario Works (OW) benefits has increased to:

- 40 cents per kilometre (previous rate was 18 cents)
- 41 cents per kilometre for the north and northeast regions of Ontario (was 18.5 cents)

The mileage rate increase for medical travel is retroactive to October 1, 2016. The Ontario government website indicates that ODSP and OW recipients who were eligible for and received mileage for medical travel since October 1, 2016 will receive retroactive payment for the increase.



The business expense deduction mileage rate increases started on January 9, 2017, and are for ODSP and OW recipients:

- who are self-employed and use their personal vehicle for travel that is necessary for their business, and
- where the purpose of travel is to generate income.

This is very good news and is the result of years of work by community legal clinics. You can find more information at:

- Income Security Advocacy Centre
website: <http://incomesecurity.org/litigation/increase-won-to-odsp-ow-medical-travel-mileage-rate/>.
- the Ontario government website:
www.mcass.gov.on.ca/en/mcass/programs/social/mileageRates.aspx.

Employment Insurance (EI) Waiting Period Reduced to 1 Week

The Canadian government announced in the 2016 budget that the waiting period for Employment Insurance (EI) benefits would be reduced from 2 weeks to 1 week. This change took effect on January 1, 2017, and applies to EI claims filed on or after January 1, 2017. The EI waiting period had been 2 years since 1971. You can find more information about the EI waiting period on the Government of Canada website: www.canada.ca/en/services/benefits/ei/waiting-period.html.

HIV and Private Insurance

Eligibility for travel medical and life insurance coverage is a common concern for people living with HIV. **If you are living with HIV and have questions about insurance or other legal issues, please contact us for free legal advice** (see last page).

Travel Medical Insurance

In November 2015, the Ontario Human Rights Commission website reported about emergency travel medical insurance and HIV. Here is information from the ORHC website: www.ohrc.on.ca/en/news_centre/insurer-removes-hivaids-exclusion-emergency-travel-medical-insurance-policy:

In May 2015, the Ontario Human Rights Commission (OHRC) learned that a Canadian insurance company (RSA Canada) would not issue an emergency travel medical insurance policy to anyone who had ever been diagnosed with HIV or AIDS and obtained a copy of the exclusionary policy.

The OHRC wrote to RSA Canada to express concern that the HIV/AIDS exclusion might contravene Ontario's Human Rights Code.

While exceptions in the Code allow insurers to make distinctions based on certain Code grounds (including disability), the distinctions must be reasonable and bona fide. The Supreme Court of Canada has established a test for determining whether a rule or restriction is bona fide.

In October 2015, RSA Canada advised the OHRC that it had removed the HIV/AIDS exclusion from the emergency travel medical insurance policy, and that individuals with HIV/AIDS will now be treated in the same way as people with other pre-existing medical conditions.

The OHRC recommends that all organizations identify and remove barriers to human rights. We encourage all insurers to review their policies for similar eligibility exclusions, and to ensure equitable coverage for persons living with HIV and other disabilities.

Life Insurance

As we reported in our **Spring 2016 newsletter**, life insurance is available in Canada to people living with HIV. In April 2016, Manulife announced that it would accept applications for individual life insurance policies for people living with HIV. In November 2016, Sun Life made a similar announcement.

HALCO views this as a significant step towards insurance companies basing their policies for people living with HIV on current medical and scientific evidence. While HALCO is encouraged to hear that Canadian insurers are offering life insurance to people living with HIV, we do not in any way endorse these companies or particular products.

Fourth Increase to Legal Aid Ontario Financial Eligibility Guidelines

Legal Aid Ontario (LAO) imposes financial eligibility guidelines for most legal aid services, including for services provided by community legal clinics such as HALCO.

We welcome the fourth increase to Legal Aid Ontario financial eligibility guidelines, which began April 1, 2017. On November 1, 2014, the first increase since 1994 took effect, followed by increases on April 1, 2015, and April 1, 2016.

These increases to the guidelines expand access to justice in Ontario as more low income people in Ontario become eligible for LAO services.

HALCO Is Developing a New Strategic Plan

In early 2017, HALCO began the process to develop a new Strategic Plan to guide our activities for the next three to five years.

We are collecting feedback from a wide range of people and groups as part of our planning process, with the key group being people living with HIV in Ontario.

Our Strategic Plan development activities include:

- meeting and consultations with our board of directors and staff.
- a survey for people living with HIV.
- focus groups with people living with HIV.
- surveys and focus groups with key stakeholders including staff from AIDS service organizations, health care providers, community legal clinics, other community agencies, and funders.

To assist us in this process, we engaged the services of the consulting firm of SN Management. We anticipate that our new Strategic Plan will be completed and launched by fall 2017.



Our previous Strategic Plan is available on our website:

www.halco.org/wp-content/uploads/2011/09/HALCO_Strategic_Plan_2011-2014.pdf.

HIV Testing and Reporting in Ontario

The reporting regulation under the *Health Protection and Promotion Act* (HPPA) changed: the names and contact information of people who test positive for HIV at anonymous testing clinics may **not** have to be reported to Public Health in Ontario.

If you have your initial HIV test at an anonymous testing clinic you may be able to use your positive anonymous HIV test code to have anonymous HIV viral load testing. This may significantly reduce the likelihood of your name and HIV status being reported to Public Health authorities.



For more information please visit our website:
www.halco.org/areas-of-law/health/hiv-testing.

Anonymous HIV tests are free in Ontario, and you do not need an Ontario Health Insurance Plan (OHIP) card or number to get an anonymous HIV test.

To find an anonymous HIV testing clinic in Ontario, you can contact the free, confidential **Ontario AIDS & Sexual Health Infoline** (you do not have to provide your name or information):

- English and a number of other languages: 416-392-2437 or toll-free in Ontario 1-800-668-2437
- French: toll-free in Ontario 1-800-267-7432
- website: www.toronto.ca/health/sexualhealth/aids_hotline.htm.

Free Public Legal Education Workshops at HALCO in April and May 2017

Our free workshops are held in person at the HALCO office/Specialty Legal Clinic Co-op, 55 University Avenue, 15th Floor Room C2, Toronto (just south of King Street West and the fully accessible St. Andrew subway station).

Workshop:	Presenter:	Date & Time:
Rent Increases: Protecting your Rights	Matthew Malott HALCO Articling Student	Thursday April 20 - 1:30 p.m. to 4 p.m.
Canadian Immigration: Sponsoring Your Family	Clare McMullen-Crummey HALCO Staff Lawyer	Tuesday April 25 - 1:30 p.m. to 4 p.m.
HIV Disclosure and the Law: Criminal and Public Health Issues	Ryan Peck HALCO Executive Director and Lawyer	Thursday May 11 - 1:30 p.m. to 4 p.m.
Privacy, HIV, Human Rights and the Law	Khalid Janmohamed HALCO Staff Lawyer	Wednesday May 17 - 1:30 p.m. to 3:30 p.m.
I owe money but cannot pay: dealing with debts	Glenn Betteridge HALCO Staff Lawyer	Wednesday May 24 - 1:30 p.m. to 4 p.m.

Everyone is welcome to attend these general interest workshops but space is limited so registration is required.

How to Register:

Please include your name, your contact information, your organization (if any), and the titles of the workshop(s) that you would like to attend:

- Email to talklaw@halco.org
- Phone 416-340-7790 or toll-free 1-888-705-8889 (or FAX to 416-340-7248)

Please avoid wearing scents or fragrances when coming to our offices. Our offices are accessible. If you require other disability accommodation, please contact us. We regret that our budget does not permit us to provide refreshments or transportation assistance.

For more information or to request other workshops, please contact us at the numbers above.

You can find more information about our other workshop options on page 12.

HALCO Website: 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.

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

HALCO Public Legal Education Workshops

As always, our staff provide legal education workshops for groups and organizations across Ontario. Our workshops are on topics of interest to people living with HIV as well as HIV legal issues for the community in general. We also hold a series of free legal education workshops twice a year that is open to everyone (see page 10).

Please contact us or visit the **Public Legal Education** section of our website for more information: 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
- HIV and Immigration Law
- HIV and Privacy Law
- HIV and Private Insurance
- HIV and Employment Law
- HIV and Human Rights
- Medical Cannabis (marijuana)
- 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).

ASSESSING THE
LEGAL NEEDS OF
TRANS* PEOPLE
IN ONTARIO

TRANSforming
JUSTICE

TRANS* LEGAL NEEDS ASSESSMENT ONTARIO

TRANSforming JUSTICE: Trans* Legal Needs Assessment Ontario Project

HALCO is administering the TRANSforming JUSTICE: Trans* Legal Needs Assessment Ontario project.

The data collection phase of the project has been completed and analysis of the data is taking place now. It is anticipated that findings and recommendations will be released over the coming months.

The project uses "trans" as an umbrella term to refer to people whose gender identity or expression is not reflected by the sex assigned to them at birth, including people who identify as two-spirit, non-binary, agender, gender queer, cross dresser, transgender, or transsexual, as well as those who identify as men or women with a history that involves a gender transition. While the project is focussed on the needs of the broader trans community, a specific component of the project is dedicated to trans people living with HIV.

Funded by Legal Aid Ontario (LAO) and the Ontario HIV Treatment Network, the project gathered data from members of trans communities as well as legal service providers.

Project partners include HALCO, Western University, the University of Toronto and Ryerson University. HALCO is the lead organization on the project and **N. Nicole Nussbaum** is the project lead.

For more information, please visit our website:

www.halco.org/our-services/trans-legal-needs-assessment-ontario.

HALCO
HIV & AIDS Legal Clinic Ontario

LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO

OHTN

FACTOR-INWENTASH
FACULTY OF SOCIAL WORK
UNIVERSITY OF TORONTO

Schulich
MEDICINE & DENTISTRY

Western

People

HALCO Staff

- **Amy Secord** (director of administration)
- **Amy Wah** (staff lawyer)
- **Clare McMullen-Crummey** (staff lawyer)
- **Glenn Betteridge** (staff lawyer)
- **Jill McNall** (community legal worker)
- **Julia Brown** (staff lawyer)
- **Khalid Janmohamed** (staff lawyer)
- **Matthew Malott** (articling student)
- **Meagan Johnston** (staff lawyer)
- **Rick Lobodzinski** (admin. assistant)
- **Ryan Peck** (executive director/lawyer)

HALCO Board of Directors

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

- **Andrew Mantella**
- **Angela Smith**
- **Barbara Ncho**
- **Jessica Demeria**
- **Judith Odhiambo**
- **Marcus McCann**
- **Neesha Rao**
- **Noah Aiken-Klar**
- **Rodney Kort**

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

www.halco.org/get-involved.

HALCO Thanks Funders and Supporters

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

Funding Partner - **M-A-C AIDS Fund**

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 or by contacting us (see last page).

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.
- by contacting us to ask for a membership application form by mail (please see last page for HALCO contact information).

Please note that HALCO membership has no effect on eligibility to receive legal services from HALCO.

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, please contact us for free legal advice at 416-340-7790 or toll-free 1-888-705-8889.

Others in Ontario can contact their local community legal clinic to find out about local services: www.legalaid.on.ca/clinics.

HALCO takes new inquiries on Monday, Tuesday, Thursday and Friday from 9 a.m. to 5 p.m. (not on Wednesdays). A HALCO caseworker is assigned to deal with new inquiries each day.

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

HALCO is a registered charity funded by Legal Aid Ontario, the AIDS Bureau of the Ministry of Health and Long-Term Care, 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 lawyer for legal advice.

HALCO news newsletter is published by the HIV & AIDS Legal Clinic Ontario (HALCO) and is distributed free to our members, interested individuals, agencies and organizations. Prior editions are on our website: 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 – 2017 April)