

Aboriginal People and HIV/AIDS: Legal Issues

info sheet 1

This info sheet explains why, at this point in the HIV/AIDS epidemic, addressing legal issues relating to Aboriginal people and HIV/AIDS is important; explains what the main legal issues are; and emphasizes that a response to Aboriginal HIV/AIDS-related issues must start from an understanding of the racism, discrimination, and cultural denigration experienced by Aboriginal people in Canada and must include consideration of broad social, cultural, economic, and political issues affecting Aboriginal communities.

ISSUES

WHY A PROJECT ON LEGAL ISSUES RELATING TO ABORIGINAL PEOPLE AND HIV/AIDS?

Based on the reports of Aboriginal AIDS workers and organizations, and the prevalence of risk factors, there is a serious HIV/AIDS epidemic in the Aboriginal population of Canada.

In *HIV/AIDS Epidemiology among Aboriginal People in Canada*, from the Bureau of HIV/AIDS, STD and TB Epi Update Series, May 1998, the Laboratory Centre for Disease Control (LCDC) reports the proportion of AIDS cases attributed to Aboriginal people increased from two percent before 1989 to more than 10 percent in 1996-97. Recent data (1993-97) from British Columbia, Alberta, and Saskatchewan show that Aboriginal people comprise 15 percent, 26 percent, and 43 percent respectively of newly diagnosed HIV-positive cases.

Also of concern, LCDC reports that Aboriginal AIDS cases are younger on average than non-Aboriginal AIDS cases (29.8 percent versus 18.6 percent diagnosed at less than 30 years of age), and that Aboriginal AIDS cases are more likely than non-Aboriginal AIDS cases to be attributed to injection drug use, particularly in women. In some cities up to 75 percent of clientele

using inner-city services such as needle exchanges are Aboriginal.

Evidence suggests that the HIV epidemic among Aboriginal people shows no signs of abating.

HOW CAN ABORIGINAL HIV/AIDS-RELATED ISSUES BE ADDRESSED?

Aboriginal people in Canada have suffered from the ongoing effects of cultural denigration, racism, and colonialism. The legacy of this experience is apparent: on average, Aboriginal people have higher rates of incarceration, higher rates of suicide, drug and alcohol use, more poverty, and poorer health than the non-Aboriginal population of Canada. These are risk factors for HIV.

In these circumstances, it is important that Aboriginal HIV/AIDS-related issues be addressed in a comprehensive, coordinated, and holistic fashion, with a view to broader socioeconomic, health, and cultural issues.

WHAT ARE THE LEGAL ISSUES?

Discrimination: HIV/AIDS-related discrimination continues to be a problem in Canada. The discrimination experienced by Aboriginal people generally adds to the level of discrimination against Aboriginal people

This is one of a series of nine info sheets on Aboriginal People and HIV/AIDS: Legal Issues

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living with or affected by HIV/AIDS experienced both within and outside Aboriginal communities.

Jurisdictional issues: Addressing problems of discrimination for Aboriginal people living with or affected by HIV/AIDS is made more difficult by the complicated jurisdictional divisions that affect Aboriginal people. Jurisdictional divisions also complicate the sources and effectiveness of funding for HIV/AIDS services and programs for Aboriginal people. The Aboriginal population in Canada is not homogenous: Métis and First Nations people and the Inuit experience different levels of service depending on where they live, and for First Nations people, whether they are part of treaties or members of a band makes a difference.

Testing and confidentiality: The significance of where you live for an Aboriginal person is shown by differences in the accessibility of HIV testing and in the confidentiality issues related to testing that arise for Aboriginal people.

HIV/AIDS-related discrimination, jurisdictional divisions, funding problems, and testing and confidentiality issues complicate the development of a comprehensive and coordinated response to HIV/AIDS in Aboriginal communities.

WHAT CONCLUSIONS CAN BE DRAWN?

Three broad themes can be developed:

1. A response to Aboriginal HIV/AIDS-related issues must start from an understanding of the racism, discrimination, and cultural denigration experienced by Aboriginal people in Canada and must include consideration of broad social, cultural, economic, and political issues affecting Aboriginal communities.
2. With the negotiation of new treaties, self-government initiatives, and health transfer arrangements, among other developments, this is a period of dramatic change for First Nations, Métis, and Inuit communities. Despite the ravages of racism and oppression, there is a resurgence of Aboriginal culture and community in Canada. During this process, it is important that attention be directed toward HIV/AIDS issues for Aboriginal people.
3. The success of HIV/AIDS programs and services for Aboriginal people will depend on the extent to which Aboriginal expertise guides, directs, and implements the process.

The information in this series of info sheets, prepared in partnership by the Canadian HIV/AIDS Legal Network (Legal Network) and the Canadian Aboriginal AIDS Network (CAAN), is taken from three discussion papers prepared by Stefan Matiation, based on discussions with key informants working in the field of Aboriginal people and HIV/AIDS: (1) *Discrimination, HIV/AIDS and Aboriginal People*; (2) *HIV/AIDS and Aboriginal People: Problems of Jurisdiction and Funding*; and (3) *HIV Testing and Confidentiality: Issues for the Aboriginal Community*. Copies of the revised, second edition of the papers and of the info sheets are available on the Legal Network website at www.aidslaw.ca, through the Canadian HIV/AIDS Clearinghouse (tel: 613 725-3434, email: aids/sida@cpha.ca), or through CAAN (tel: 613 567-1817; fax: 613 567-4652; email: caan@storm.ca). Reproduction of this info sheet is encouraged. However, copies may not be sold, and the Legal Network and CAAN must be cited as the source of this information. For further information, contact the Legal Network (tel: 514 397-6828; fax: 514 397-8570; email: info@aidslaw.ca) or CAAN.

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