



Research paper

Awareness and understanding of HIV non-disclosure case law among people living with HIV who use illicit drugs in a Canadian setting



Sophie Patterson^{a,b}, Angela Kaida^a, Gina Ogilvie^c, Robert Hogg^{a,b}, Valerie Nicholson^a, Sabina Dobrer^b, Thomas Kerr^{a,c}, Jean Shoveller^{a,c}, Julio Montaner^{a,c}, M.-J. Milloy^{a,c,*}

^a Faculty of Health Sciences, Simon Fraser University, Burnaby, Canada

^b British Columbia Centre for Excellence in HIV/AIDS, St. Paul's Hospital, Vancouver, Canada

^c Faculty of Medicine, University of British Columbia, Vancouver, Canada

ARTICLE INFO

Article history:

Received 17 May 2016

Received in revised form 6 February 2017

Accepted 21 February 2017

Keywords:

HIV disclosure

Criminalization

Supreme Court of Canada

Illicit drug use

Canada

HIV

Antiretroviral therapy

ABSTRACT

Background: In 2012, the Supreme Court of Canada (SCC) ruled that people living with HIV (PLWH) could face criminal charges if they did not disclose their serostatus before sex posing a “realistic possibility” of HIV transmission. Condom-protected vaginal sex with a low (i.e., <1500 copies/mL) HIV viral load (VL) incurs no duty to disclose. Awareness and understanding of this ruling remain uncharacterized, particularly among marginalized PLWH.

Methods: We used data from ACCESS, a community-recruited cohort of PLWH who use illicit drugs in Vancouver. The primary outcome was self-reported awareness of the 2012 SCC ruling, drawn from cross-sectional survey data. Participants aware of the ruling were asked how similar their understanding was to a provided definition. Sources of information from which participants learned about the ruling were determined. Multivariable logistic regression identified factors independently associated with ruling awareness.

Results: Among 249 participants (39% female), median age was 50 (IQR: 44–55) and 80% had a suppressed HIV VL (<50 copies/mL). A minority (112, 45%) of participants reported ruling awareness, and 44 (18%) had a complete understanding of the legal obligation to disclose. Among those aware (n = 112), newspapers/media (46%) was the most frequent source from which participants learned about the ruling, with 51% of participants reporting that no healthcare providers had talked to them about the ruling. Ruling awareness was negatively associated with VL suppression (AOR:0.51, 95% CI:0.27,0.97) and positively associated with recent condomless sex vs. no sex (AOR:2.00, 95% CI:1.03,3.92).

Conclusion: Most participants were not aware of the 2012 SCC ruling, which may place them at risk of prosecution. Discussions about disclosure and the law were lacking in healthcare settings. Advancing education about HIV disclosure and the law is a key priority. The role of healthcare providers in delivering information and support to PLWH in this legal climate should be further explored.

© 2017 Published by Elsevier B.V.

Introduction

The insight that HIV RNA plasma viral load (VL) suppression through optimal adherence to antiretroviral therapy (ART) dramatically reduces the risk of onward HIV transmission (Grulich et al., 2015; Cohen et al., 2015; Montaner et al., 2006; Rodger et al., 2014) has led to the implementation of Treatment-as-Prevention (TasP)-based strategies in many settings worldwide (WHO, 2012). This approach seeks to normalize HIV testing and to facilitate and

support immediate access to HIV treatment and care (Montaner et al., 2010b), and has been shown to reduce HIV/AIDS morbidity, mortality and viral transmission (Montaner et al., 2010a, 2010b). However, structural barriers continue to limit the full realization of the individual and community-level benefits of early and sustained ART exposure among people living with HIV (PLWH), particularly within marginalized and criminalized communities (Milloy, Montaner, & Wood, 2014; UNAIDS, 2014). In at least 61 countries, PLWH have been prosecuted for HIV transmission, exposure, or non-disclosure (Bernard & Cameron, 2016). Punitive criminal and HIV-specific laws may directly undermine HIV prevention and treatment efforts to normalize HIV (Moyer & Hardon, 2014).

The criminalization of HIV non-disclosure has been shown to represent a structural barrier to the healthcare engagement of

* Corresponding author at: Urban Health Research Initiative, British Columbia Centre for Excellence in HIV/AIDS, St. Paul's Hospital, 608-1081 Burrard Street, Vancouver, BC V6Z 1Y6, Canada. Fax: +1 604 806 8464.

E-mail address: uhri-mjism@cfenet.ubc.ca (M.-J. Milloy).

PLWH (Mykhalovskiy, 2015; O'byrne, Bryan, & Roy, 2013a; Patterson et al., 2015b). The tension between public health and criminal justice system approaches to HIV prevention is arguably most acutely felt by marginalized and otherwise criminalized groups, including PLWH who use illicit drugs. Studies consistently show that exposure to the criminal justice system is one of the most important barriers to engagement with HIV treatment and care (Cescon et al., 2011; Small, Kerr, Charette, Schechter, & Spittal, 2006; Suárez-García et al., 2016; Werb et al., 2008). People who use illicit drugs confront intersecting axes of disadvantage and stigma, experience high levels of surveillance from the criminal justice system, and face considerable social and structural barriers to retention in HIV treatment and care (Cescon et al., 2011; Kuchinad et al., 2016; Small et al., 2006; Suárez-García et al., 2016; Werb et al., 2008).

Among countries with a history of prosecutions for HIV non-disclosure, exposure or transmission, Canada has one of the most aggressive approaches to the use of the criminal law against PLWH (Bernard & Bennett-Carlson, 2012). At least 181 people have faced charges for HIV non-disclosure since the late 1980s (Patterson et al., 2016), with socio-economically marginalized individuals overrepresented (Canadian HIV/Aids Legal Network, 2014). In the absence of HIV-specific laws, Canadian prosecutors apply existing criminal laws (predominantly sexual assault laws) to cases of HIV non-disclosure, guided nationally by precedents set by the Supreme Court of Canada (SCC). In October 2012, the SCC set a new legal test to guide HIV non-disclosure prosecutions (Supreme Court of Canada, 2012a, 2012b), ruling that PLWH who fail to disclose their HIV status to sexual partners before sex that poses a “realistic possibility” of HIV transmission could be convicted of aggravated sexual assault. The court clarified that condom-protected vaginal sex with a low plasma HIV RNA VL (defined by the court as below 1500 copies/mL) would be sufficient to avoid the legal obligation to proactively disclose to sexual partners. While the SCC suggested that the interpretation of the “realistic possibility” test may vary based on case-specific circumstances and scientific advances (Supreme Court of Canada, 2012b) (and lower courts have deviated from the SCC's ruling (Provincial Court of Nova Scotia, 2013)) PLWH must assume the strictest interpretation to protect themselves from prosecution.

In releasing its 2012 ruling, the SCC increased the reach of criminal liability for HIV non-disclosure in Canada past that which was previously established by the SCC in its 1998 ruling in *R v. Cuerrier* (Grant, 2013; Supreme Court of Canada, 1998). Clinicians, public health experts, and human rights activists have criticised the SCC's ruling that both condom use and a low VL are required to avoid a “realistic possibility” of HIV transmission, maintaining that this ruling is based on conceptions of HIV transmission risk inconsistent with scientific evidence (Canadian HIV/Aids Legal Network et al., 2012; Kazatchkine, Bernard, & Eba, 2015; Loutfy et al., 2014), and cautioning that this revised legal test may disproportionately impact the most marginalized PLWH, who experience barriers to effective engagement with HIV treatment and care (Symington, 2013).

Canadian healthcare providers have expressed concern over suboptimal awareness and understanding of the current legal obligation to disclose HIV serostatus to sexual partners among PLWH (Savage, Braund, & Stewart, 2014). However, awareness and understanding of the legal obligation to disclose HIV serostatus to sexual partners remain largely unexplored among the most marginalized Canadian PLWH (Patterson et al., 2015b). Furthermore, few studies have directly explored opinions of PLWH regarding the preferred role of health and social care providers in providing information and support around HIV disclosure and the law. There is an urgent need to clarify the extent to which Canadian

PLWH who use illicit drugs are aware of the current legal obligation to disclose to sexual partners, to inform public health policies and strategies to advance health and rights in the current legal climate among this marginalized and otherwise criminalized population.

To address this need, we used data from a community-recruited cohort of PLWH using illicit drugs in Vancouver to determine the prevalence and correlates of awareness of the 2012 SCC ruling on HIV non-disclosure. We also assessed sources of information and completeness of understanding of the legal obligation to disclose, and determined the preferred role of healthcare providers in discussions around HIV disclosure and the law.

Methods

Data sources

We used data from the AIDS Care Cohort to evaluate Exposure to Survival Services (ACCESS), an ongoing prospective cohort of PLWH in Vancouver who have used illicit drugs (Strathdee et al., 1998). Individuals were eligible for the study if they were HIV-positive, aged at least 18 years and had used illicit drugs other than cannabis at least once in the 30 days before completing the baseline survey. Participants were recruited from community settings by word-of-mouth, postering and extensive street-based outreach in Vancouver's Downtown Eastside (DTES) area, the epicenter of an extensive HIV outbreak among people who use injection drugs beginning in the mid-1990s (Patrick et al., 1997). In recent years, it has also been the setting of an ongoing TasP-based initiative to scale up HIV testing and ART uptake, particularly among illicit drug users (Montaner et al., 2010a, 2010b). The DTES has an active open drug market, in addition to high levels of drug use, homelessness and poverty.

At baseline and during semi-annual study visits, ACCESS participants complete an interviewer-administered questionnaire, which elicits information on lifetime and recent characteristics, behaviours and exposures. Participants also receive an examination from a nurse, which includes HIV clinical monitoring. A longitudinal HIV clinical profile is available for ACCESS participants through a confidential linkage to the Drug Treatment Program (DTP), housed at the BC Centre for Excellence in HIV/AIDS in Vancouver. The DTP administers all HIV/AIDS treatment, including medications and clinical monitoring, free of charge to PLWH in BC through a universal healthcare program (Patterson et al., 2015a).

Data collection instrument

To collect participant information on awareness and understanding of the 2012 SCC ruling on HIV non-disclosure, a novel supplementary survey was devised in collaboration with community and legal partners. Questions were selected following a comprehensive literature review (Patterson et al., 2015b) and community consultation. The content and wording of the survey questions were community-driven, and proposed questions were piloted with ACCESS frontline research staff prior to use, to identify and remedy problems with question comprehensibility and flow. Interviewers underwent training on the criminalization of HIV non-disclosure in Canada to ensure their own understanding of the case law. Referral services and information on HIV disclosure and the law were made available to participants (Canadian HIV/Aids Legal Network, 2014; Positive Living Society of British Columbia, 2015).

Ethical considerations

The ACCESS study and supplement were reviewed and approved by the University of British Columbia/Providence

متن کامل مقاله

دریافت فوری ←

ISIArticles

مرجع مقالات تخصصی ایران

- ✓ امکان دانلود نسخه تمام متن مقالات انگلیسی
- ✓ امکان دانلود نسخه ترجمه شده مقالات
- ✓ پذیرش سفارش ترجمه تخصصی
- ✓ امکان جستجو در آرشیو جامعی از صدها موضوع و هزاران مقاله
- ✓ امکان دانلود رایگان ۲ صفحه اول هر مقاله
- ✓ امکان پرداخت اینترنتی با کلیه کارت های عضو شتاب
- ✓ دانلود فوری مقاله پس از پرداخت آنلاین
- ✓ پشتیبانی کامل خرید با بهره مندی از سیستم هوشمند رهگیری سفارشات