

Placing Others At Risk:

POAR

Partner Notification Officer

Office of the Chief Health Officer

Department of Health

Today we will discuss:

- General legislative considerations
- POAR
 - What it is
 - Departmental process
 - How it's done
 - Current case load
 - Police involvement
 - General observations & experience
- How to contact us

PARTNER NOTIFICATION OFFICERS

health

Tom Carter
Kristine Stone
Robert Barlow

General Nurses with Psychiatric/Psychology experience and training

Direct accountability to Chief Health Officer – Dr John Carnie

On call 24/7

State wide service

Office off site

Our work role:

Four main areas of work:

- POAR
- Contact Tracing
- Epidemiology
- Other duties as directed – eg brothels

Legal Framework

Legal framework

Three main Victorian Acts of Parliament to consider:

- Public Health & Wellbeing Act 2008
- Crimes Act 1958
- Health Records Act 1988

All run in parallel

What about Contact Tracing?

Public Health and Wellbeing Act 2008 (PHWA 2008):

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Came into action on 1st January 2010

Part8: Division 1: Principles – relating to all infectious diseases including STIs & HIV):

- (a) ...spread of a disease prevented or minimised with the minimum restriction on the rights of any person...
- (b) ...a person at risk of contracting a disease should take all precautions to avoid getting the disease...

Public Health and Wellbeing Act 2008 (PHWA 2008) cont:

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- (c) ...a person who has, or suspects they have a disease should-
 - ...ascertain if have disease & what precautions to take to prevent others from getting the disease..
 - ...take all reasonable steps to eliminate or decrease the risk of transmission to others
- (d) ...a person who is at risk or has the disease is entitled:
 -to receive information about the disease and any treatment available
 - ...to have access to treatment...

Crimes Act 1958:

- Police lay charges under The Crimes Act
- Section 17 – causing serious injury recklessly – maximum 15 years jail
- Section 19A – intentionally causing a very serious disease – subsection (1) defines serious disease as HIV - maximum 25 years jail
- Section 22 – conduct endangering life – maximum 10 years jail
- Section 23 – conduct endangering persons – maximum 5 years jail

Health Records Act 1988

Health Privacy Principles:

- 2.2 (h) the organisation reasonably believes that the use or disclosure is necessary to lessen or prevent—
- (i) a serious and imminent threat to an individual's life, health, safety or welfare; or
 - (ii) **a serious threat to public health**, public safety or public welfare—

Placing Others at Risk (HIV)

P.O.A.R.

POAR:

Used to be referred to as Knowing and Reckless:

- Client knows they have HIV – ie they have tested and been informed
 - Client is reckless in placing others at risk of getting HIV –for any of the following reasons:
 - Psychiatric/psychological- need appropriate treatment & care
 - Alcohol and drug use – need A & D
 - Disabled – need disability services
 - Ignorant of risks – need education & support
 - Range of social, economic, political, cultural reasons
- AND
- Disordered Personalities

POAR:

- Highly emotional & charged area
- Huge number of stakeholder groups – including police, lawyers, PLWHA, AIDS Councils, media, politicians, civil libertarian groups

AND

The general public

- Can be very stressful for those of us who work in this area – police, search warrants, court appearances, difficult clients, responding to a range of differing views and strategies

If a person becomes aware that a HIV positive individual is POAR – they can:

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- Talk with the person
- Talk with friends/significant others
- Talk with a range of groups and organisations – government & NGO
- Do nothing
- Tell the Department of Health
- Tell/statement to police
- Do all of above or in a range of combinations

IF THE PMA MAKES AN ALLEGATION OF POAR TO THE DEPARTMENT OF HEALTH

- PNOs are responsible for receiving allegation and investigating it
- PNOs directly accountable to CHO

The 'system' includes:

- Fortnightly Case Management Meetings– member of Panel is involved
- HIV Case Advisory Panel – meets 3 monthly and as needed – advises CHO if he requests it – CHO makes final decision
- National Guidelines for Management of POAR – endorsed 18 April 2008 by all government Health Ministers – describes 5 stage plan – all state governments **MUST** follow these guidelines
- Victorian Department of Health Guidelines for Management of POAR – based on National Guidelines

Basic philosophy is minimal intervention to
maintain the public health

The 5 Stage Approach:

1. Counselling, education & support
2. Counselling, education & support under advice from HIV Case Advisory Panel or the CHO
3. Letter of Warning
4. Public Health Orders – behavioural – restrictions
5. Public Health Orders – Detention/Isolation

Current PNO Case Load:

1. Stage 1 – none
2. Stage 2 – five
3. Stage 3 – two
4. Stage 4 – five
5. Stage 5 - none

Victorian stats for 2010: 01/01/2010 – 29/09/2010

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- Total cases:31
 - Male: 30
 - Female: 1
- Levels of Management:
 - Stage 1: 16
 - Stage 2: 3
 - Stage 3: 4
 - Stage 4: 6
 - Stage 5: 0

Referral to Police:

- MOU between police and CHO (Department of Health) regarding referral of POAR cases
- Referred:
 1. Intentionally trying to infect others
 2. Serious criminal offence – such as rape, child sexual abuse, involvement with child pornography

Often PMA makes allegation to both Police and Health Department – both work independently of each other

Legal:

Public Health and Wellbeing Act 2008

PHWA

- A number of disease control powers are vested in CHO
- Includes – examination & testing, education & counselling, requiring certain assessments to be done (psychological, neurological), letters of warning, restriction Orders, Isolation Orders
- Sections 117 - 124

IF THE PMA MAKES AN ALLEGATION OF POAR TO THE POLICE

- Any citizen in Victoria can make a Statement to the police about anything – in this case POAR
- Police make decision to investigate and possibly lay charges
- May go to court

Australian HIV Exposure/Transmission Prosecutions (by year): AFAO May 2009

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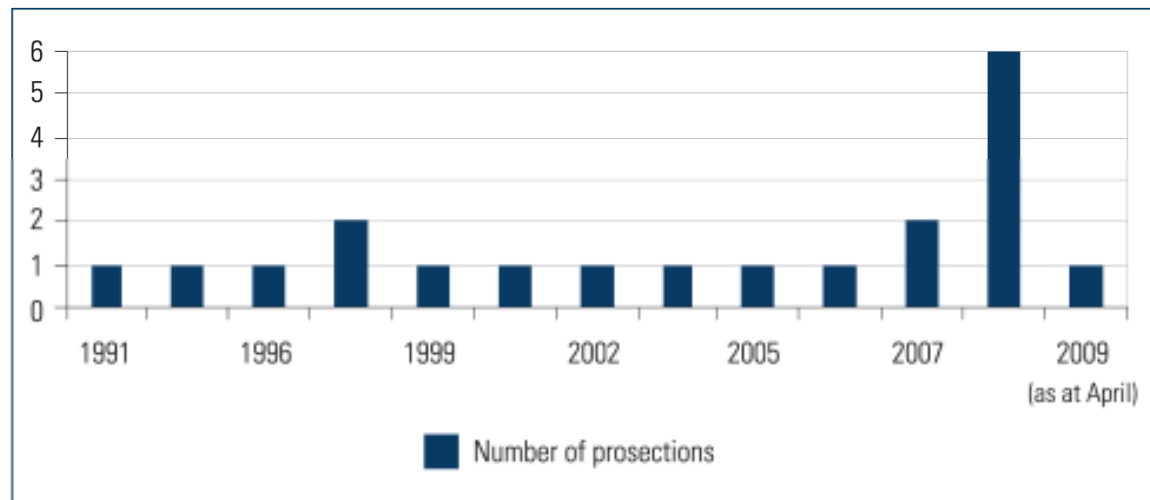


Figure 1 Australian HIV Exposure/Transmission Prosecutions (by year)

Why was 2008 so busy?

Australian HIV Exposure/Transmission Proseutions (by state): AFA) May 2009

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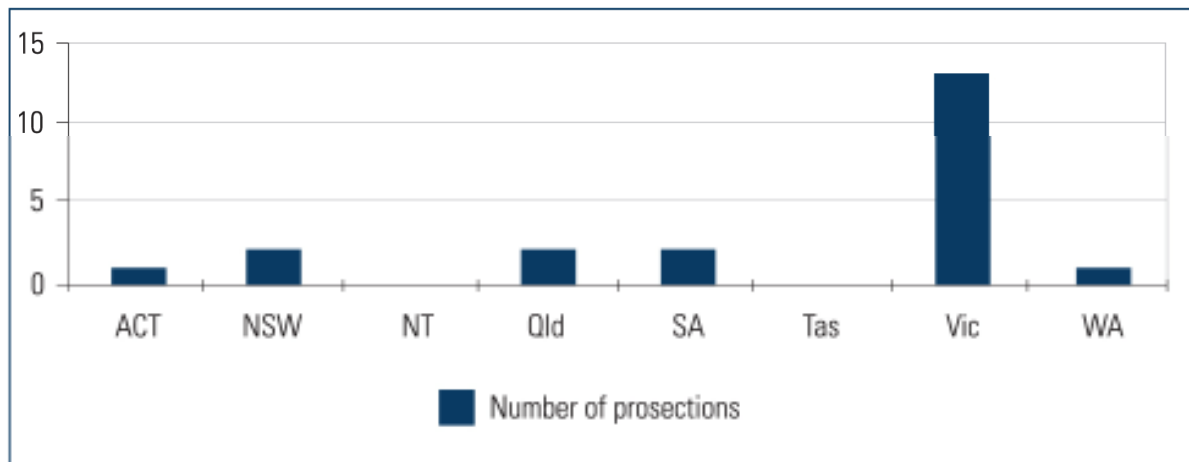


Figure 2 Australian HIV Exposure/Transmission Prosecutions (by state)

Why has Victoria had so many prosecutions?

If a PLWHA informs a partner that he is HIV antibody positive prior to sexual activity occurring – and the partner consents to have unsafe sex with the person

The PLWHA can still be charged under the Crimes Act 1958 – consent is not a defence

Current PNO Cases waiting police/court action & decisions:

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- We currently have 4 cases
- Of these 4 cases – only 1 is actively being monitored by PNOs – that person has Stage 4 health Order

What advise should we be giving to PLWHA when they are going to have sex with someone?

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To be absolutely sure that they will have no Health Department or Police & Court intervention –

They must always use condoms –
practise safe sex

Some general observations:

- Most PMAs used to be heterosexual women talking about male partners – who were either from overseas or were bisexual – we saw very few gay men
- Now – vast majority of cases involve gay men
- Case notes/files can be search warranted to court – you have to hand them over
- PMAs notes/files can also be taken – The department fought against this in Melbourne Magistrates Court – and lost

If you deal with a client who wants to make a formal allegation about a POAR person

They should be informed

They can contact the police

OR

They can contact the PNOs

OR

Do both

Partner Notification Officers:

Department of Health

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Carlton

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Mobile: 0412 22 11 35 (only available to Health professionals)

Email: contact.tracers@health.vic.gov.au



Thank you