

When the law enters intimate life:

Women's experiences of HIV, disclosure and criminalisation in Aotearoa

HIV Women's Day, 16 September 2026

Brooke Maria Hollingshead¹, Rodrigo Olin German², Pete Hanl², Mark Fisher³, Jane Bruning⁴, Milly Stewart⁵

¹ National HIV Advocacy Alliance, ² Burnett Foundation Aotearoa, ³ Body Positive Inc., ⁴ Positive Women Inc., ⁵ Toitū te Ao,



Scan the QR
code to read
the full report!

**Burnett
Foundation
Aotearoa**

Positive Women
Wāhine Kaha



Context

In Aotearoa, people living with HIV may be prosecuted for non-disclosure, exposure or transmission (Crimes Act, 1961).

- *criminal nuisance*
- *the duty of person in charge of dangerous things (an infectious disease)*
- *the need to take reasonable precautions to avoid harm*
- *wounding with intent for grievous bodily harm*
- *wilfully infecting with disease for international transmission*

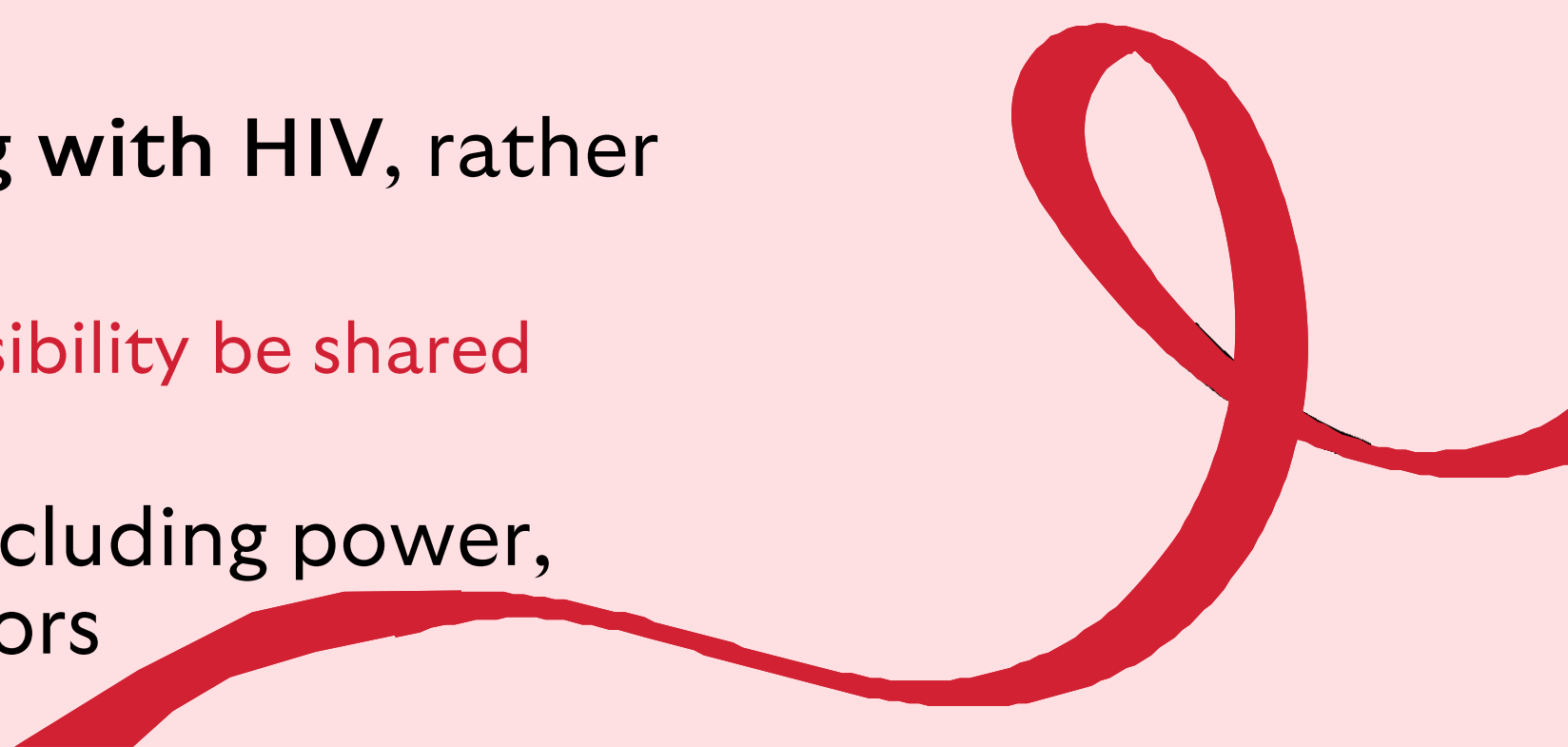
Health Act (1956)

NZ has one of the
highest rates of
HIV criminalisation
per capita globally
!!!!!!

14 prosecutions 1993-2018

- 2005 ruling: condoms established as a 'reasonable precaution'
- 2012 non-criminal ACC case:
 - Non-disclosure = mental injury, PTSD, changing nature & quality of sex, vitiated consent
- 2018: reduced sentence due to HIV treatment
- Decline in reports and cases... Is U=U already being applied? No clear case law precedent

Concerns about HIV criminalisation

- Overstates contemporary HIV transmission risk, particularly in the era of effective treatment and U=U
 - Limited evidence of public health benefit or that criminalisation prevents HIV transmission
 - Can undermine prevention and care by reinforcing stigma and potentially discouraging testing, disclosure and engagement with services
 - Disproportionately affects already marginalised communities, compounding existing inequities
 - Can infringe rights, including privacy, autonomy and sexual/intimate citizenship
 - Can produce wider policy effects, reinforcing outdated assumptions about HIV across health, justice and other systems
 - Places responsibility disproportionately on people living with HIV, rather than recognising shared responsibility for sexual health
 - Whose responsibility is sexual health — and how should responsibility be shared between sexual partners?
 - Can overlook the complexity of sexual decision-making, including power, substance use/chemsex, stigma and other contextual factors
- 

Methods

- Community-led national anonymous survey
- Online/ in-person peer-supported; English or Māori
- People living with HIV, 18+, residing in NZ.
- Closed- and open- ended items examining:
 - awareness of the legal and policy context
 - personal beliefs and attitudes about criminalisation
 - the impact of HIV criminalisation on wellbeing, relationships and healthcare engagement, and
 - preferences for support, advocacy and reform.
- 247 participants.
- Qualitative responsive: Reflexive Thematic Analysis (Braun and Clarke, 2025) informed by sociological framework.
- Today: looking specifically at what women told us.



Scan the QR
code to read
the full report!

A quick refresher: what were the numbers?

Gender:



● Male ● Female ● Another

17%

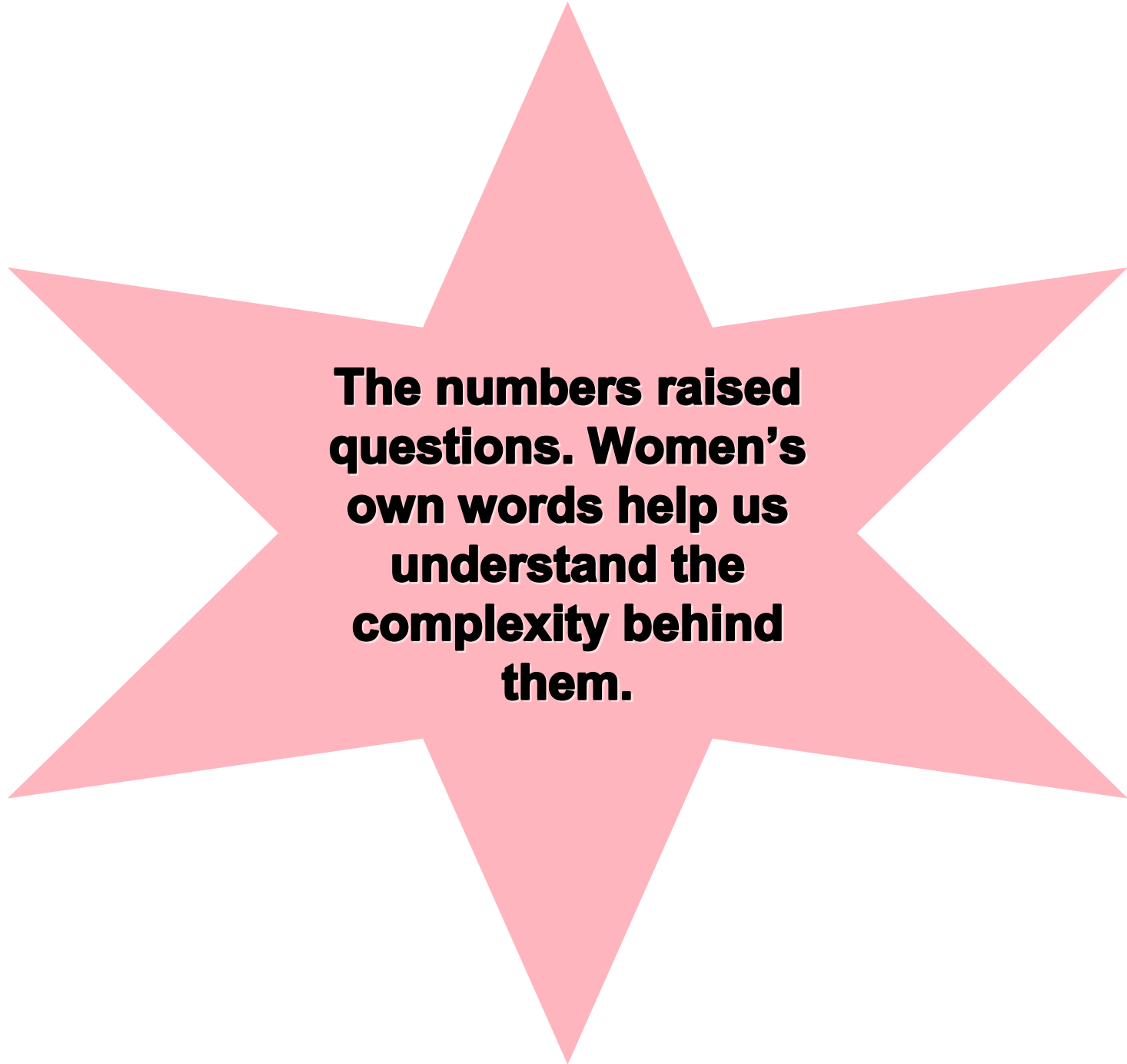
knew HIV transmission could also be managed through the Health Act
vs 38% of men

55%

supported Public Health authorities managing HIV transmission
vs 76% of men

48%

said the current legal situation made them more likely to use condoms
vs 29% of men



HIV: A health, moral or legal issue?

We are not criminals.

(55-64, straight, female, Pākehā)

The police and mainstream media definitely contributed to the hate, stigma, discrimination and death threats I received and ultimately shaped the public's perception of someone living with HIV in a negative way.

(45-54, female, straight, Pacific)

Health authorities should absolutely manage the transmission of HIV. Health authorities are trained, educated and will know best how to manage the transmission with education, medicine options and connect the person to support groups and organizations.

(45-54, straight, female, Pacific)



**Does
criminalisation
make women
safer?**

Law enforcement experienced as punitive state power, reproducing and reinforcing stigma

Kaore ratou e mohio ana ki nga tikanga [They do not know the customs/ protocols]

(55-64, straight, female, Māori)

People who have the HPV virus that causes cancer of the cervix or throat are not criminalized, people that get these cancers are not criminalized either, they are helped and supported because it's 'cancer'.

(55-64, straight, female, Pākehā)

*This is a barbaric and disgusting proposition!!!
People living with HIV are not criminals.*

(55-64, heterosexual, female, Pākehā)



Women's perspectives were not uniform

Only if done on purpose.

(65-74, straight, female, Pākehā)

I think there should be criminalisation only if there is malicious intent or gross negligence involved. Accidental and incidental infection could be on a case-by-case basis or should be reviewed by a health professional.

(55-64, straight, female, Pacific)

There does need to be something in place that makes sure a positive person with detectable load does not purposefully try to infect others none the wiser.

(25-34, straight, female, Pākehā)

**For some women,
criminal law could
represent
protection**

**Others rejected
broad
criminalisation**

**The question
becomes: when is law
experienced as
protective...and when
does it become
another source of harm
or control?**

Healthcare and peers trusted*

***conditionally**

Health authorities are trained, educated and will know best how to manage the transmission with education, medicine options and connect the person to support groups and organizations.

(45-54, straight, female, Pacific)

55%

supported
Public Health
authorities
managing HIV
transmission
vs 76% of men

I am not sure what is meant by public health authorities. My infectious disease doctor manages my HIV with my compliance because I want to live a long and normal life. If she is a public health authority then yes. But if a public health authority refers to some officious busybody social worker type person trying to manage my life and how to live it then no.

(55-64, straight, female, Pākehā)

I prefer an HIV support group does this for confidentiality.

(45-54, straight, female, Pākehā)

If this means any authority other than an HIV support group then I disagree that any other organization or body should have access to this information.

(45-54, straight, female, Pākehā)

**Who gets to know?
Trust, privacy and
autonomy**

**Trust
with
healthcare
workers was
relational
and
local**

“All this criminalisation stuff is overblown. We haven’t had a case in years!”

(Fictitious quote but often said by many 😞)

“The mere possibility of criminalisation was a persistent emotional and psychological presence”

(Me, Brooke Hollingshead, 2026)

I don’t put myself in that situation. But that is really sad and has had a bad impact on my life for over 20 years now.

(65-74, straight, female, Pākehā)

I have had countless sleepless nights over 25 years worrying about this.

(55-64, straight, female, Pākehā)

**The law does not
need to be used
to have an effect**

To disclose or not to disclose?

If you are undetectable I think it is the individual's decisions to disclose or not.

(35-44, straight, female, Pākehā)

Undetectable = Untransmittable, the law needs to reflect the science and research. I thought the law for a HIV + person was when having sex with a partner that they must use "reasonable precaution" and I'm 100% sure being on antiretroviral meds and being undetectable is the most precaution an HIV + person could do.

(45-54, straight, female, Pacific)

I have joked with other HIV+ people that I would be the face of legal change, others have also expressed to me that they would be willing to be charged for not disclosing to sexual partners and take on the legal system with the facts and science behind them.

(45-54, straight, female, Pacific)

Anyone who is HIV positive should be disclosing or taking precautionary measures to prevent transmission, there is no excuses for this. Having said that, accidental transmission such as infected blood transfusions should also be criminalised.

(25-34, straight, female, Pākehā)

If I had a sexual partner, I would hope to have a relationship built in friendship, trust, honesty. For me if they can accept the whole of me they aren't getting a part of me.

(55-64, straight, female, Pākehā)

If your viral load is undetectable and you are using condoms you don't need to disclose.

(55-64, straight, female, Pacific)

The law CREATES risk and vulnerability

I have an obligation to divulge this information to any potential sexual partner whether or not it ends in abuse or rejection.

(25-34, straight, female, Pākehā)

I commenced a new relationship, disclosed my HIV+ status prior to engaging in any sexual contact with my partner...I also insisted upon condom use and safe sex practices. This relationship was later ended...My ex-partner threatened me with going to Police and saying that I didn't disclose my status and had sexually assaulted him. This caused me immense stress and fear for an extended period.

(55-64, straight, female, Māori)

It is too broad there are so many different circumstances which should not be criminalised.

(65-74, straight, female, Pākehā)

... “criminal nuisance due to exposure” reinforces stigma and discrimination of the HIV positive person, depicting them as a potential “criminal” who puts others at potential risk of harm when there is no potential for exposure if the person has an undetectable viral load and therefore the potential for exposure is non-existent, so therefore it is INACCURATE and a FALSE LAW based on outdated information.

(55-64, straight, female, Māori)

When the law shapes sex as...

... trusted or anonymous

I tend to stick to partners I can trust so it isn't that scary, but it gets on my mind when having a new partner.

(18-24, pansexual, genderfluid, African)

I seek partners who are HIV+ or on prep.
(55-64, gay, male, Middle Eastern)

Usually when I engage in sexual activity they are at venues that are anonymous.
(25-34, gay, male, ethnicity not stated)

... condom compliant

I do use condoms because the outdated law requires me to.
(45-54, straight, female, Pacific)

I always would [use condoms] after my diagnosis anyway the criminalisation is not the reason.
(65-74, straight, female, Pākehā)

I don't engage in sex, but of course, even though I am far beyond the age of fertility and menstrual flow, I would always choose to have sexual intercourse (if that was ever a possibility for me) with a pleasure depleting condom, because I could be prosecuted if I didn't.

(55-64, straight, female, Pākehā)

48%

said the current legal situation made them more likely to use condoms
vs 29% of men

Scientifically
established

Legally recognised

When the law shapes sex as...

... an impossibility

It is such a crushingly distressing issue for me that I woefully chosen to avoid sexual pleasure with another human for the past 25 years. I am a beautiful, sensual, attractive women bereft of any loving intimate and essential human interaction and sexual expression because of this hideously foreboding law.

(55-64, straight, female, Pākehā)

I have for years been reluctant to even go near another potential relationship due to fear of rejection if I tell someone. It has happened and it was horrible. More recently with the U+U campaign I was starting to feel like maybe I could go ahead with sex without disclosure if I used a condom. Now seeing this survey and the actual legal situation I need to review that sense that maybe I now had more options :(

(65-74, straight, female, Pākehā)



Constrained intimate citizenship

Who gets to love, have sex, form relationships and feel safe doing so?

When I was dating, I would avoid sex mostly because of transmission but also legal stuff

(35-44, straight, female, Māori)

I feel sometimes in the heat of the moment or other things are influencing, and he just puts it in me without a condom, I almost feel scared to tell them after the fact that I am HIV+ because of the fear how they might react in the moment. I know there is no risk and why would I make someone else panic and go through those painful thought processes, have I/haven't I.

(45-54, straight, female, Pacific)

I do not engage or attempt to have any type of relationship or any type of sexual contact due to the current laws. (55-64, straight, female, Māori)

What did women's stories add?

- ☑ The law enters intimate life
- ☑ Disclosure isn't a simple act
- ☑ 'Public health' isn't automatically experienced as safer
- ☑ U=U changed HIV. The law hasn't fully caught up.
- ☑ Protection must not create new forms of vulnerability.

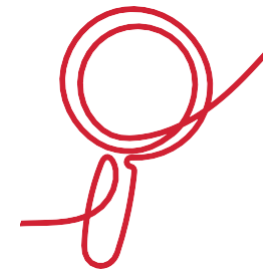


Where to from here?



Law and policy

- HIV ≠ grievous bodily harm
- Avoid criminal responses where there is no realistic possibility of transmission
- Keep an eye on potential consent law reforms
- Should some cases be revisited and appealed?



HIV-specific Investigation Guidelines

Prosecutorial guidelines
Media Guidelines



U=U at a national level

Align responses with contemporary HIV science, including U=U



Systems

HIV education for all frontline Police and other frontline professionals

Ensure public health responses are proportionate, confidential and non-stigmatising



Community education and resources

Better legal-literacy resources specifically for women living with HIV

Peer support around disclosure, rights and navigating allegations

Meaningful involvement of women living with HIV in reform



HIV Women's Day 2026

Does criminalisation make women safer?

What is your main question?

How is HIV criminalisation understood and experienced among people living with HIV in Aotearoa New Zealand?

What did you find?

Women's experiences don't give us a simple yes or no.

But they show that laws intended to protect can also shape disclosure, privacy, sexual decision-making, relationships and women's sense of safety and autonomy. **The impacts of HIV criminalisation extend far beyond the courtroom.** The perceived possibility of prosecution contributes to stigma, anxiety, and social isolation while influencing health and relationship decisions. Aligning legal and policy responses with contemporary HIV science will reduce harm, strengthen trust, and improve the wellbeing of people living with HIV.

Any response to HIV-related harm must therefore be grounded in contemporary science, attentive to power and gender, and developed with women living with HIV.



Scan the QR code to read the full report!

Brooke@positivewomen.nz

Ngā mihi Thank you

Thank you to all
people living with HIV
who have generously
shared their
experiences and
stories with us through
this survey.



Burnett
Foundation
Aotearoa

Positive Women
Wāhine Kaha

BODY POSITIVE
NEW ZEALAND
Tūhono Ora Aotearoa

TOITU
TE AO