

Policed, or protected?

Insights from the HIV Criminalisation Survey in Aotearoa New Zealand

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Disclosure of interest

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Context

- **People living with HIV may face prosecution under the Crimes Act (1961) for:**
 - HIV non-disclosure,
 - transmission, or
 - exposure during sex (if not using a condom).
- **Aotearoa New Zealand has one of the highest rates of HIV criminalisation per capita globally.**
- **Public Health Act (1956)**
- **No research to date.**



Methods

- Cross-sectional, anonymous online survey available in English or te reo Māori. In-person option also available with a person living with HIV.
- Eligible participants were living with HIV, aged 18+, and residing in NZ.
- The 24-question survey included 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.

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Results



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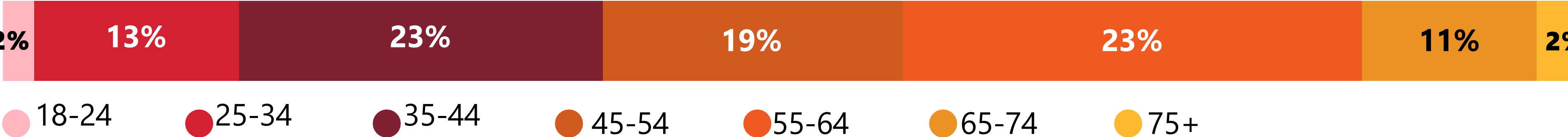


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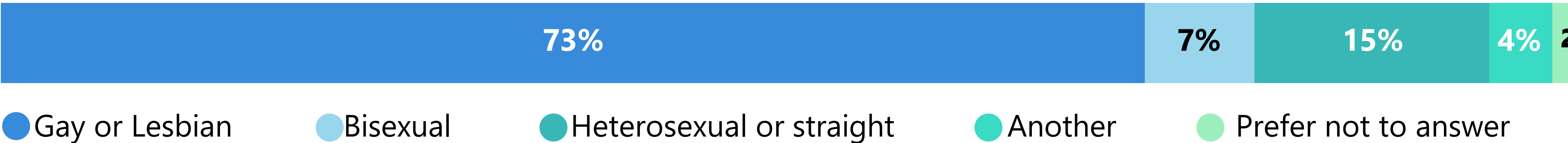


Who took part?

Age:



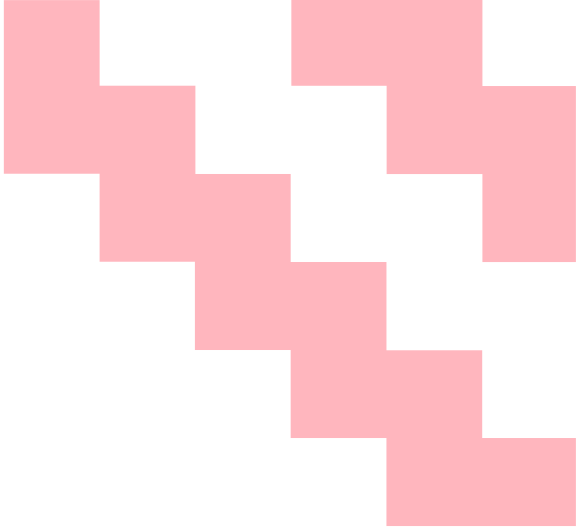
Sexual Identity:



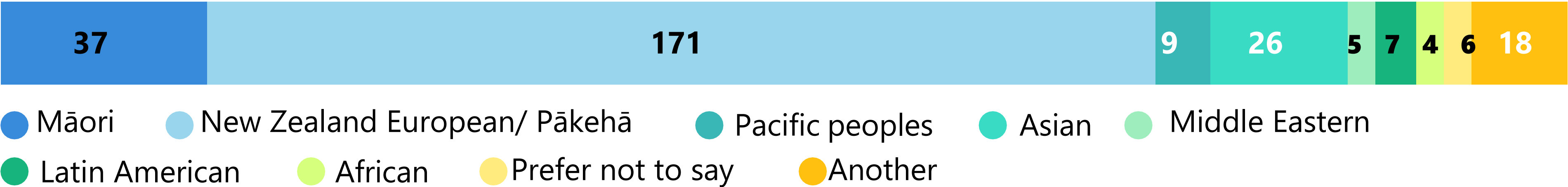
Gender:



Who took part?



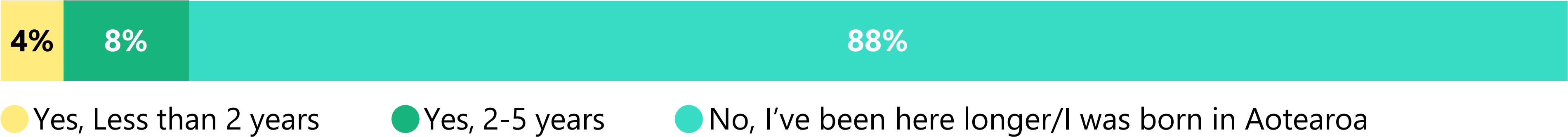
Ethnicity (multiple answers possible):



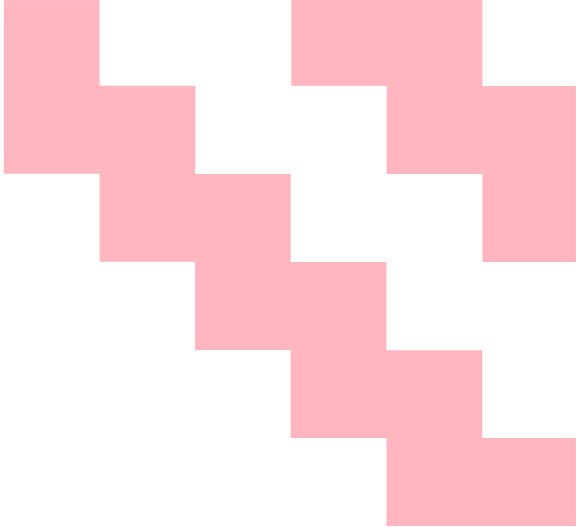
Time known living with HIV?



Are you a recent migrant to Aotearoa?



Did you know this? Awareness



Telling sexual partner(s) you have HIV is required by law unless using a condom



You can be charged for criminal nuisance for ‘exposure’ and potential transmission under the Crimes Act 1961, even if transmission doesn’t occur if you don’t tell your partner you have HIV

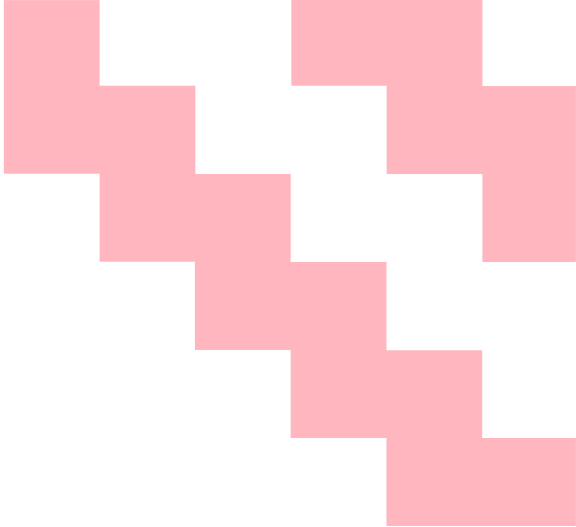


HIV transmission can be managed through the Public Health Act 1956



● Yes ● No ● Don't know ● Prefer not to say

Attitudes



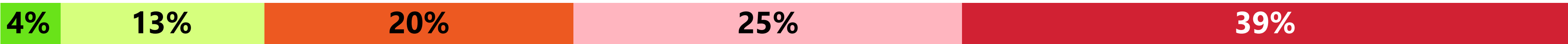
People with an undetectable viral load must always tell their sexual partner they have HIV



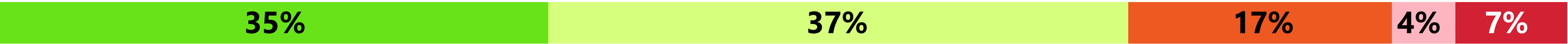
The Police should manage the transmission of HIV



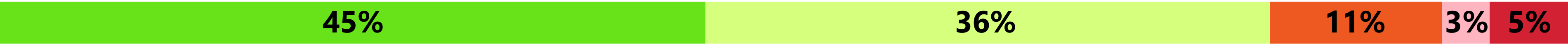
The criminalisation of HIV transmission in Aotearoa New Zealand is fair



Public Health Authorities should manage the transmission of HIV



Only intentional or deliberate HIV transmission should be criminalised



● Strongly agree ● Agree ● Neither agree or disagree ● Disagree ● Strongly disagree

Attitudes: On Disclosure

“ Why should I risk being bashed because I might cruise up some nice anonymous sex and be required to say something that can have ZERO EFFECT on the other party (they cannot get HIV) yet may see me bashed? ”

(Gay Māori male, aged 55-64)

“ I was seeing someone for a while, and when things turned bad in our relationship, he thought he would blackmail me as I hadn't told him my status until I was more comfortable, which had been after we had slept with each other a few times. The criminalisation aspect adds to the stigmatisation of HIV and for some to take advantage of it. ”


(Gay Pākehā male, aged 45-54)

“ If I did not get tested and know my status, I would not need to say anything to a potential partner. However, because I have done the correct thing. I can get legally penalised. Someone who does not get tested for any disease and is infectious, can go around with legal immunity ”

(Gay Pākehā male, aged 55-64)

“ It is a personal moral and ethical “feelings” issue. Not a risk activity that involves public health concerns. ”

(Heterosexual Pākehā female, aged 55-64)



Attitudes: On role of Police/ Public Health

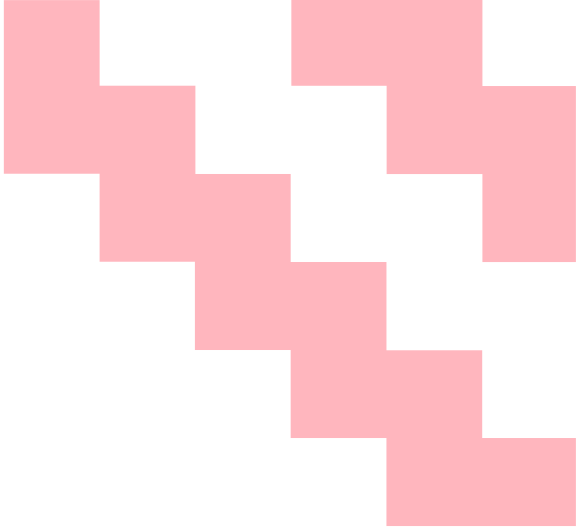
“ This is a barbaric and disgusting proposition!!! People living with HIV are not criminals. ”
(Heterosexual Pākehā female, aged 55-64)

“ Intentional transmission of HIV seems to be rare; but nevertheless it has to be equated with grievous bodily harm, assault or even manslaughter where someone dies. ”
(Gay Pākehā/African male, aged 65-74)

“ People with HIV aren't risks to manage, but people with rights and dignity. ”
(Gay Pākehā male, aged 35-44)



How do these laws affect you?



The current legal situation makes me...
worried about not telling my sexual partner/s I have HIV



avoid sexual encounters



worried about being charged or convicted



worried to talk about my sexual practices with service providers



more likely to use a condom during sex



● Strongly agree ● Agree ● Neither agree or disagree ● Disagree ● Strongly disagree

Navigating Sex

“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 forboding law.”
(Heterosexual Pākehā female, aged 55-64)

“Yes just complying with the legislation”
(Gay Pākehā male, aged 65-74)



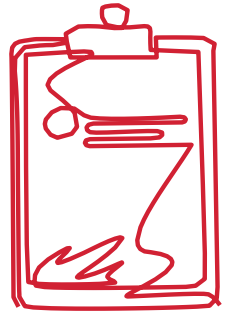
Preliminary Insights

- Strong confidence in U=U being accepted
 - HIV is not a crime - No role for police
 - Strong support - it is a public health issue, but there needs to be greater awareness of public health pathways.
- “ Do remove this ridiculous law completely. ”
- Discussions needed:
 - Role of law in cases of intentional transmission
 - Disclosure and U=U
 - Education in broader community, especially the exes!

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Advocacy needed



Legislative reform?

- HIV ≠ grievous bodily harm
- Should some cases be revisited and appealed?



HIV-specific Investigation
Prosecutorial guidelines
Media Guidelines



Continued targeted education to police,
prosecutors, defence lawyers and judges



U=U at a national level



Resources to support community
understanding



Community education and resources

Next steps

- Disaggregate data by population
- Need for sensitivity managing data and sharing results:
 - I'm concerned that drawing public attention to the potential legal issue will do more actual harm than good to HIV+ individuals who otherwise wouldn't be targeted in the course of their daily lives. Everyone in this country has a right to life free from discrimination regardless of their medical status.
(Gay, Pākehā, trans, 35-44)
- Thematic analysis of qualitative data



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**Ngā mihi
Thank you**



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