



SACRAMENTO POLICE DEPARTMENT

GENERAL ORDERS



240.04 AIDS PETITION AND DECLARATION 09-16-91

PURPOSE

To establish procedures for employees who have had contact with persons, in which an exchange of bodily fluids may have occurred, to determine if they have contracted the AIDS virus.

POLICY

To provide legal processes to employees who may have been exposed to the AIDS virus in the line of duty. These processes are intended to provide an opportunity for employees to determine if they have been infected with the AIDS virus.

PROCEDURE

A. GENERAL

1. Current law and court decisions regarding AIDS testing address ONLY processes involving persons who have been criminally charged and certain other persons.
2. This Order shall be updated according to significant changes in the law.
3. The Office of Technical Services (OTS) shall ensure the availability of AIDS Test Packages to each office.
4. Each Office shall establish procedures to ensure an adequate supply and distribution of AIDS Test Packages.

B. DOCUMENTATION

1. Employees who, during the course of duty, have had contact with persons in which an exchange of bodily fluids may have occurred, shall inform their supervisor of the incident and obtain an AIDS Test Package which contains:
 - a. a Report of Industrial Injury (WC001).
 - b. an Employee's Claim for Workers' Compensation Benefits (DWC 1).
 - c. an Employee Contact With Bodily Fluid (SPD 184), for each subject involved.

The completed form shall provide the following:

 - (1) The name of the subject involved.
 - (2) Names of witnesses to the incident.
 - (3) A narrative of the incident.
 - (4) The subject's statement, if possible.
 - (5) The subject's response to voluntary blood testing.
 - (6) A statement that the "Employee requests blood testing by the County Health Officer".
 - d. a Consent for AIDS Test (SPD 185).
 - e. an Authorization for Blood Test (SPD 189).
 - f. a Petition For Order To Test Accused's Blood, used when the subject will not volunteer for blood testing. The Petition shall contain:
 - (1) an outline of circumstances of the bodily fluid transfer.
 - (2) the employee's desire for blood testing of the arrestee.
 - (3) facts enabling the court to determine probable cause for the test.
 - g. a Declaration In Support of Petition, which states the employee's willingness to testify, and the circumstances of the case.
2. While all the documents in the AIDS Test Package are not used in every case, they shall ALL be completed at the time of the exposure, so all the procedural steps described below, which MAY occur, will be covered. Subjects may agree to, or refuse, blood testing at the time of the exposure, then reverse the decision when contacted at a later date.
3. After completion, the AIDS Package shall be returned to the supervisor.

C. TESTING FOR AIDS

1. A blood test can be obtained, without petitioning the court in the following cases:
 - a. If the subject is an arrestee and:

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- (1) is hospitalized, or is treated at a hospital, and volunteers for testing, testing can be done by the hospital staff. The hospital staff will confidentially notify the employee only if the test is positive. Employees MUST first notify the Emergency Room staff of the incident, and complete the required entries on the Infectious Disease Notification Log.
- (2) is not hospitalized, or treated at a hospital, and volunteers for testing, testing can be done at the Sobriety Testing Station. The Health Department's staff will confidentially notify the employee only if the results of the test are positive.
- b. If the subject is not an arrestee and:
 - (1) is hospitalized, and volunteers for testing, the hospital will take the blood sample and confidentially notify the employee only if the results of the test are positive. Employees must first notify the Emergency Room staff of the incident, and complete the required entries on the Infectious Disease Notification Log.
 - (2) is injured, treated at a hospital but not hospitalized, and volunteers for testing, the hospital will take the blood sample and confidentially notify the employee if the results are positive. Employees must first notify the Emergency Room staff of the incident, and complete the required entries on the Infectious Disease Notification Log.
 - (3) is not injured, and volunteers for testing, the subject will have to use private resources for testing and notification. (If the subject has a change of mind after volunteering for testing, consult the City Attorney regarding any changes in the law which may cover this circumstance.)
- c. If an incident becomes a Coroner's case:
 - (1) officers may telephone the Coroner's office as soon as practical and provide necessary information on the incident to the Coroner's staff.
 - (2) the County Health Department staff will confidentially notify the employee if results are positive.
2. If the subject is an arrestee and does not volunteer for blood testing, whether injured or not, a Petition must be filed with the City Attorney.
Note: If the arrestee is incarcerated, the Petition may go to either the County Health Officer or to the Court.
3. If the subject is not an arrestee, is not injured and does not volunteer for blood testing, employees should consult the City Attorney regarding any changes in the law which may cover this circumstance.

D. PROCESSING

1. It is the responsibility of the employee to start the petition process. Employees shall be given release time to meet with the City Attorney or to appear in court regarding the petition process. However, no overtime is authorized for such purposes.
2. As described in paragraph B2, ALL documents in the AIDS Package should be completed at the time of the incident to preclude loss of information in the event samples are misplaced, records destroyed, subjects change their minds, etc.
3. After ensuring that ALL forms in the AIDS Package are completed, supervisors shall:
 - a. immediately discuss the situation with the subject, request their consent for blood testing for the AIDS virus and write the subject's response on the appropriate forms.
 - b. tell the employee of the subject's response and ensure that the employee understands the processes, including the possible need to file a Petition and Declaration.
 - c. forward the AIDS Package, with appropriate Police Reports, to the Personnel Services Division (PSD) within 2 working days.
4. If the subject was not tested, the PSD shall take the following actions within three working days of the receipt of the AIDS Package:
 - a. Review the Report of Industrial Injury, Employee's Claim for Workers' Compensation Benefits, Employee Contact With Bodily Fluids, Authorization For Disclosure, and Consent For AIDS Test forms.

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- b. Notify the employee of the Petition and Declaration process and refer the employee to the City Attorney.
 - c. Forward the Petition and Declaration package to the City Attorney.
 - d. Forward the AIDS Test Package to the County Health Officer, if appropriate (i.e. when the individual is incarcerated).
5. Current agreements require the County Health Officer to review the reports and forms for follow-up action and prepare a justification report if indicated.
- a. Based upon the follow-up by the County Health Officer:
 - (1) the subject or the employee may appeal the action taken by the County Health Officer within 3 days.
 - (2) if appealed, the County Health Officer convenes a panel to determine the case. The decision of the panel is final and exhausts all administrative efforts to have the blood test performed.
 - (3) if no appeals are filed, the blood test can be administered. The Health Department's staff will confidentially notify the employee if the results of the test are positive.
 - b. The County Health Officer will confidentially notify the employee of the panel's decision so it will be known if the City Attorney will have to present the documentation to the court.
6. City policy requires the City Attorney to:
- a. represent the employee during the court process.
 - b. assist the employee in presentation of the Petition, Declaration, and the case to the court.
 - c. contact the PSD if more information is needed.