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ATTACHMENT I  
PROPOSED MODEL POLICY

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ACQUISITIONS

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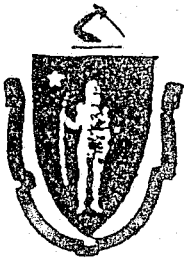
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# Massachusetts Sheriffs' Association

239 Charles Street  
Boston, Massachusetts 02114

## MASS. SHERIFFS' ASSOCIATION POLICY PROPOSAL

SUBJECT: AIDS - SUPERVISION, EDUCATION, AND TESTING

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### .01 PURPOSE

This regulation is instituted in order to establish procedures for: supervision of inmates who carry or who are reasonably suspected of carrying the AIDS virus (HIV); education and training of staff and inmates; and confidential voluntary testing of inmates.

### .02 POLICY

- Inmates who have or who are reasonably suspected of having an infectious disease shall not be denied rights or services because of their medical condition. They shall be subject to the provisions of this policy in order to protect their rights and the rights of others who may be exposed to infection.
- Mandatory training and education shall be required for all staff and inmates.
- Confidential HIV testing will be done only upon written request by the inmate after education and counseling.

### .03 GENERAL PRECAUTIONS

- When interacting with inmates in confrontational situations, medical emergencies, or at other times when staff could be exposed to contact with blood or other body fluids, staff should take the following precautions:
  - . Be careful to avoid sharp objects during searches and in emergency situations involving weapons.

- . Wear gloves when searching, and in emergency situations.
- . Use mechanical resuscitation equipment or barrier protective devices when administering C.P.R..
- . Immediately wash with soap and hot water after contact with blood, saliva or other body fluids.
- . Bites, cuts, scratches and abrasions should be immediately cleaned and reported for medical attention.
- . Blood or body fluids on any surface shall be cleaned while wearing gloves, with a 1:10 solution of bleach and water or by another approved disinfectant cleaner.

#### .04 ADMISSION PROCEDURES

- If transporting officers are informed by the court, the inmate/detainee or a credible source that the inmate/detainee has or may have an infectious disease, this information shall be reported to the booking officer.
- Booking officers shall note on the receiving screening form information indicating that an inmate/detainee has or may have an infectious disease.
- If it is determined through completion of the receiving screening form that an inmate/detainee has or may have an infectious disease, the medical division shall be notified.

#### .05 MEDICAL TREATMENT

- When medical screening indicates the possibility of infectious disease, the facility physician shall order such treatment as may be necessary.
- Inmates/detainees who have confirmed cases of infectious disease and who represent high risk of infection to staff and others shall be hospitalized when necessary at the direction of the facility physician.

#### .06 USE OF FORCE

- In all cases involving the use of force, officers should exercise caution against exposure to infection. Follow general precautions.
- In the event of an assault or use of force which results in bleeding by any inmate/detainee and/or officer, medical examination shall be conducted as soon as possible.

- When use of force can be reasonably anticipated, and a delay in its application will not increase the danger to officers or others - such as with forced cell moves - it is recommended that officers utilize such protective clothing and equipment as may be appropriate including: helmet with visor, jumpsuit, gloves, and body shield.

.07 TRAINING AND EDUCATION

- Participation in AIDS education/training shall be mandatory for all staff and inmates/detainees.
- All staff shall participate in training which defines AIDS, explains disease transmission, identifies high risk groups and behaviors, describes symptoms and disease progression, and discussion of precautions.
- All new admission inmates shall receive AIDS education (including the topics listed above) as part of their orientation to the facility. Education shall include film presentation, distribution of literature, and, as necessary, discussion/counseling by human services or health care staff.
- Human services and health care staff shall receive intensive training to prepare them for personal discussion or counseling with inmates.

.08 TESTING

- In accordance with General Laws Ch 111 sec. 70F mandatory testing is prohibited.
- HIV testing will be done only upon written request by an inmate/detainee who meets the following criteria:
  1. Inmate/detainee must receive AIDS education.
  2. Inmate/detainee must be examined by and discuss testing with the facility physician.
  3. The earliest expected release date (including next scheduled court date) must be more than fourteen days after the test date to ensure that the inmate/detainee will be in custody when test results are received. Inmates/detainees who expect earlier release will be provided with a list of outside testing sites.
  4. Inmate/detainee agrees to participate in follow-up confidential counseling which addresses the implications of test results both negative and positive.
- Test results must be confidential between the inmate/patient and health care providers.

## THE DISEASE

The acronym, "AIDS", stands for the deadly disease, Acquired Immune Deficiency Syndrome.

One's body fights off infections everyday (the most noticeable is the common cold). It does so by first identifying the invading virus or germ and then developing antibodies or antigens which assist the body in defeating the virus or germ. The body's defense is called the immune system. If the immune system fails, then the body is susceptible to the infection which may be lethal. The AIDS virus attacks the immune system and eventually causes it to collapse, leaving the body defenseless against otherwise minor infections. The final stages of the immune system collapse is manifested by a series of infections which are not normally seen in a person whose immune system is intact. These rare simultaneous multiple infections in one person produce signs and symptoms which together are called a syndrome.

The virus which causes the disease is acquired. It is neither airborne nor easily transmitted. In fact, an intimate co-mingling of blood or semen is necessary before one can acquire or become infected with the disease. There is no evidence that casual contact in any social setting can cause the virus to be transferred. Even daily contact between family members and an AIDS victim does not produce any real evidence of viral transfer. (See Appendix H). Nor is there any evidence that contact with the tears, sweat, urine or saliva of an infected person will produce a viral transfer. Thus all evidence indicates that either the blood or semen of an infected person must come into direct contact with another person's bloodstream before one can become infected.

Upon infection with the AIDS virus, the body may take as long as four months before antibodies are developed which can be detected by current testing methods. During this four month period, blood samples will show no evidence of the virus, and the infected person displays no symptoms of the disease. Furthermore, an infected person may never display any signs of illness, but can still infect others through direct intimate contact.

A manifestation of the presence of the virus is an illness known as ARC (Aids-Related Complex) that is evidenced by a loss of appetite, fever, swollen lymph nodes and susceptibility to other infections. Blood testing on an ARC patient would show positive results for the presence of the HIV (Human Immunodeficiency Virus). However, the virus is still only able to be transferred by direct blood to blood or semen to blood contact. Therefore, even at this stage, daily, routine, casual contact between individuals will not cause the virus to be transmitted.

In summary, the routine daily casual contact with a person who has tested positive for the AIDS virus, who has ARC, or who is in the final stages of AIDS, poses no significant threat of infection. Only through direct exchange of blood or semen will viral infection take place. In fact, a "healthy" person poses more danger to a person with advanced AIDS than vice-versa, because the healthy individual may infect the AIDS victim with an illness from which the patient's body is unable to protect itself.

Of all persons who have been infected by the Human Immunodeficiency Virus, ten to thirty percent (10-30%) will develop AIDS Related Complex. Among those with ARC, thirty to fifty percent (30-50%) will develop AIDS. The statistics indicate that the occurrence is four to five times higher for minorities than for white males. The incidence among heterosexuals is about four percent (4%) with only one documented lesbian transmittal.

## Scope of the Problem Among Staff

Employees who fear exposure to AIDS from an inmate/detainee might demand that the employer take action to insure their safety. Their demands might include revealing the name of a suspected inmate/detainee; transferring or segregating a suspected inmate/detainee; testing the inmate/detainee for the AIDS antibody; or providing special protective gear or procedures.

The actions demanded by employees may, however, conflict with the legal rights of the suspected AIDS inmate/detainee and expose the Sheriff to legal liability. In light of the virtually non-existent chance of contracting the disease in the workplace, it is imperative that the Sheriff employ all reasonable means to adequately train County Correctional staff.

The Massachusetts Department of Public Health provides assistance, ranging from short simple fact sheets that can be made available in the workplace, to more elaborate programs, utilizing medical experts and more involved materials. Each Sheriff must determine whether advance education or testing would be useful given the present climate within his institution.

If a testing program is undertaken, a number of liability issues would have to be addressed. If the confidentiality of the test results was compromised both medical staff and the Sheriff may be liable for unauthorized dissemination of information. There may be the possibility of legal action for defamation if false information was recklessly circulated. In addition to actions taken due to the breakdown of confidentiality, there may also be actions taken by employees for alleged exposure to the virus by employees or inmates/detainees and failure to protect infected inmates/detainees from harm by others.

An argument can be made for providing testing to employees who fear they have come in contact with the virus as a result of an incident on the job. In this case the Sheriff should be willing to pay for testing of the employee only after the employee requests an HIV test. The test should be done immediately to establish whether or not the employee had been infected prior to the incident. Another test should be done in approximately 4 months. Results from these tests may be important if a Worker's Compensation case arises out of the initial incident.



## EDUCATION

The spread of the AIDS virus may approach epidemic proportions in the next few years according to the Surgeon General of the United States. The disease is spreading among high risk groups who routinely have indiscriminate exchange of bodily fluids by means of hypodermic syringes or intimate sexual contact. Prevention through education seems to be the only effective method to reduce the spread of the disease. Education will not only allay fears and prevent discrimination through understanding, the mechanism of infection but also will prevent logarithmic increase of the spread of the disease through modification of behavior.

The Task Force recommends that there be mandatory education regarding AIDS for all County Correctional staff which would include, but not be limited to:

1. Viewing the American Correctional Association (A.C.A.) video tape, "AIDS - Key Facts For Correctional Staff" (35 minutes);
2. A question and answer period with a physician;
3. Sensitivity training (30 minutes);
4. Precaution training (15 minutes); and,
5. Policy and procedures review/update(s).

The sensitivity training would involve information on the thanatological (the study of the theory or doctrine of death and dying) and emotional consideration of the AIDS victim as well as staff members who may still harbor some reservations about the disease. The precaution training, and policy and procedure review/update(s) would include instruction on the use of disposable gloves, and other protective measures if there is the reasonable risk of bleeding or infection. (See Attachment 1). Through comprehensive education and use of reasonable precautions, staff fear of AIDS contamination will be reduced and true understanding of the nature of the disease will produce a calmer working environment.

The Task Force further recommends that all incoming detainees and inmates receive an initial mandatory AIDS education component. The purpose of mandatory intake orientation education is twofold:

1. It is designed to be non-labor intensive while reaching a maximum number of persons; and,
2. it will provide reliable information to a high risk population (up to 75% of certain county correctional populations are substance abusers) who may modify their behavior as a result of receiving education about the prevention of AIDS.

This orientation would include, but not be limited to:

1. Viewing the video tape "AIDS - A Bad Way to Die;"
2. Pamphlets and Handout Fliers would be distributed; and,
3. Inmates and Detainees would be informed that further information is available through medical and/or social services.

Further educational and counseling sessions should be available upon request to any inmate or detainee who wants additional information.

It is clear that some detainees may see the videotape five or six times during their tenure as a pretrial detainee (each time he or she returns from a court appearance); however, the repetition will serve as a valuable review.

## TESTING FOR HIV ANTIBODIES

Within four months of infection, HIV antibodies are detectable by current blood testing techniques. An inexpensive initial screening, the ELISA Test, produces many false positive results necessitating the use of an expensive confirmation procedure such as the Western Blot or Fluorescent Antibody tests. The confirmation procedure is approximately ninety-nine percent accurate for presence of the HIV antibody. A negative initial screening result is usually available within two days. The confirmation procedure for a positive initial screening takes up to twelve days for accurate results.

The flat fee cost for testing ranges from forty dollars (\$40.00) to seventy-five dollars (\$75.00). That fee would include both the initial screening examination of the blood sample and any necessary confirmation procedure if the initial screening indicated a positive result. Funding for county correctional testing may be available through the Executive Office of Human Services.

A 1986 law, M.G.L. c.111 section 70F (See Appendix A), both prohibits mandatory testing and mandates confidentiality of all test results. The violation of this statute has substantial monetary consequences with immediate and expedited recourse through the courts under the M.G.L. c. 93A consumer protection statute. Further, the Massachusetts Commission Against Discrimination (MCAD) has a clear policy against any form of discrimination against anyone who has a positive test result or, who is actually suffering from AIDS (See appendix B).

The Sheriffs have a responsibility, under M.G.L. c. 127 section 21, to classify prisoners committed to their custody in order to assure, among other considerations, "safe custody and the economy of ... (the prisoners') support..." However, the medical evidence indicates that the AIDS virus is less easily transmittable than Meningitis or Hepatitis and that it is not transmittable by a person assigned to kitchen duties (See Appendix E page 7-3, and Appendix J). Therefore, there is no valid medical reason to either segregate or restrict an inmate or detainee from normal routine assignment. Without substantiated articulable facts to bolster any restriction or segregation of an HIV infected or AIDS person, a department would be in violation of state statutory and regulatory laws. Indeed, the confidentiality restriction of c.111 section 70F prohibits the dissemination of test result information to custodial staff. Therefore, access to information indicating that an inmate has been tested, and/or the results of such a test, should be restricted to medical staff only.

Current law and Department of Public Health regulations regarding testing also require the following:

1. Presenting education and counseling which includes, but is not limited to information about the disease;
2. Voluntary written consent which indicates that the person requesting to be tested has an understanding about the disease, the testing procedure, and the accuracy of the tests; and,
3. Post-test counseling.

The statute and its interpretation by the General Counsel of the Massachusetts Department of Public Health (See Appendix Q), also requires specific non-generic informed waivers in order for the information to be released from any medical files.

The consideration for voluntary testing of detainees and inmates stems from the Sheriffs' concern for the public safety. Favorable behavior modification by a person who has a positive HIV antibody test result can and should be encouraged. The increased awareness on the part of an inmate or detainee with a positive HIV antibody test result (IODPOS) may cause him or her to take extreme precautions not to infect loved ones and citizens when returning to the community. In fact, because testing requires additional hours of pre-test and post-test counseling, whether or not one is an IODPOS, the potential behavior modification benefits through heightened awareness of the at risk group within the County Correctional System may be well worth the effort.

Members of the Task Force recommend that a voluntary HIV antibody testing program only on a case-by-case basis be included among the medical services provided within the County Correctional system. A number of issues need to be addressed:

1. The confidentiality law and potential liability is significant;
2. The potential for inmate violence against IODPOS is significant due to the "loose lips" of the inmate and detainee population;
3. The increased work-load upon medical and other County Correctional staff for counseling would create an extraordinary burden; and,
4. The increased potential for suicide attempts may be significant.

The Task Force realizes that some or all of the above-listed concerns may be alleviated by increased staffing of the medical, psychological, and social programs in each facility. The counseling, confirmation of testing, consent of the individual, and confidentiality of results all need further exploration.

THE FOLLOWING INFORMATION ON AIDS IS BEING PROVIDED TO INMATES AT THE FRANKLIN COUNTY HOUSE OF CORRECTION FOR TWO IMPORTANT REASONS:

- 1) TO DISPEL ANY FALSE BELIEFS OR FEARS ABOUT THE CONDITION BY STATING THE LATEST FACTS.
- 2) TO ADVISE INMATES ON THE BEST WAYS TO PROTECT THEMSELVES FROM POSSIBLE INFECTION, BOTH WHILE INCARCERATED AND AFTER RELEASE.

WHAT EXACTLY IS AIDS? AIDS IS NOT A DISEASE, BUT RATHER A CONDITION CAUSED BY A VIRUS. THIS VIRUS WEAKENS OR EVEN DESTROYS THE BODY'S ABILITY TO FIGHT DISEASE. THE VICTIM THEN GETS SICK EASILY AND CANNOT RECOVER.

WHAT DOES "AIDS" MEAN?

- A = ACQUIRED. (YOU MUST GET IT FROM SOMEWHERE)
- I = IMMUNE. (THE BODY'S DEFENSE AGAINST DISEASE)
- D = DEFICIENCY. (NOT ENOUGH)
- S = SYNDROME. (CONDITION, OR GROUP OF SYMPTOMS)

HOW DOES ONE GET THE VIRUS WHICH CAUSES AIDS? THE VIRUS, CALLED "HIV", IS TRANSMITTED THROUGH BODILY FLUIDS, SPECIFICALLY SEMEN OR BLOOD. THIS IS DONE THROUGH SEXUAL INTERCOURSE OR BY DIRECT BLOOD-TO-BLOOD CONTACT WITH AN INFECTED PERSON. THE VIRUS IS NOT PASSED THROUGH SALIVA, TEARS, SWEAT, OR ANY OTHER NON-SEXUAL CONTACT. YOU CANNOT BECOME INFECTED SIMPLY BY BEING AROUND AN INFECTED PERSON, OR BY USING OBJECTS HE HAS TOUCHED, OR BY BEING COUGHED ON, SNEEZED ON, OR EVEN SPIT ON.

ARE CERTAIN PEOPLE MORE LIKELY TO GET THE VIRUS? 73% OF ALL VICTIMS ARE HOMOSEXUAL OR BISEXUAL MALES. 17% ARE INTRAVENOUS DRUG USERS, SINCE SHARING NEEDLES IS AN EASY WAY OF CAUSING DIRECT BLOOD-TO-BLOOD CONTACT. THE REMAINING 10% WERE INFECTED BY CONTAMINATED BLOOD TRANSFUSIONS, OR ARE CHILDREN OF INFECTED MOTHERS.

HOW DOES THE VIRUS WORK? IF A PERSON DOES CONTRACT THE HIV VIRUS (THROUGH SEXUAL CONTACT OR A DIRTY NEEDLE), HE MAY NOT KNOW IT FOR A LONG TIME. THE VIRUS CAN LIE DORMANT FOR 5 OR 6 YEARS AFTER INFECTION, THEN SUDDENLY ACTIVATE AND WORK RAPIDLY. ONCE THE VIRUS ACTIVATES, IT MAY WEAKEN THE VICTIM'S IMMUNE SYSTEM SO THAT HE GETS SICK EASILY AND RECOVERS SLOWLY. THIS CONDITION IS CALLED "ARC" (AIDS RELATED COMPLEX), AND ALTHOUGH IT MAKES THE VICTIM MISERABLE, IT WILL NOT KILL HIM. BUT IF THE VIRUS DAMAGES THE IMMUNE SYSTEM BEYOND A CERTAIN POINT, THEN THE VICTIM IS SAID TO HAVE AIDS, AND WILL EVENTUALLY DIE, USUALLY OF SKIN CANCER OR PNEUMONIA.

IF I AM EXPOSED TO THE HIV VIRUS, HOW LIKELY AM I TO GET AIDS? STATISTICALLY, NOT VERY. RIGHT NOW, OF ALL THE PEOPLE WHO HAVE THE VIRUS, ONLY 10% WILL HAVE THEIR IMMUNE SYSTEMS AFFECTED, AND ONLY ABOUT 2% WILL DEVELOP AIDS.

IS THERE ANY WAY OF KNOWING IF A PERSON HAS THE VIRUS BEFORE THE SYMPTOMS SHOW UP? THERE IS A BLOOD TEST WHICH CAN TELL IF A PERSON IS CARRYING THE VIRUS. THE TEST WILL NOT TELL WHETHER OR NOT THAT PERSON WILL DEVELOP AIDS...ONLY THAT HE HAS BEEN INFECTED.

HOW CAN I PROTECT MYSELF FROM AIDS?

- 1) AVOID SEXUAL CONTACT WITH PERSONS WHO HAVE TESTED POSITIVE FOR THE VIRUS.
- 2) AVOID SEXUAL CONTACT WITH TOO MANY DIFFERENT PEOPLE, OR WITH PEOPLE YOU DO NOT KNOW WELL.
- 3) AVOID SEXUAL CONTACT WITH INTRAVENOUS DRUG USERS.
- 4) IF YOU ARE AT ALL UNSURE OF YOUR PARTNER, USE CONDOMS.
- 5) DO NOT SHARE NEEDLES.