

AIDS Calgary believes that individuals should have as much access to as many types of HIV testing as possible. This access to testing should be voluntary and should be accompanied by accurate, comprehensive, unbiased and non-judgmental information, which should be provided by local, provincial and federal Health authorities.

This position statement is compiled from the following sources:

1. **Canadian HIV/AIDS Legal Network (www.aidslaw.ca)**, HIV Testing and Confidentiality: Final Report: Fall 1998.
 2. **Canadian AIDS Society (www.cdn aids.ca)**
 3. **United States Centres for Disease Control (www.cdc.gov)**
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Areas of Concern for Testing

There are several areas of concern under the general topic of HIV testing. The three that are receiving the most discussion and the three that are most controversial are rapid-testing, home-testing and mandatory testing (of immigrants, sex offenders, prison inmates, pregnant women and newborns). Each area of concern raises its own unique issues.

Rapid Testing

Currently in Canada HIV testing follows a certain process. A trained health care provider draws blood for the test from the client in a clinic setting. Blood is tested in a laboratory and any initial blood tests that are positive are tested a second time. Once the results have been confirmed in this manner they are returned to the health care provider who ordered the test. This form of testing usually takes two weeks and the client must return to the clinic to receive the results. If the clinic is part of a STD testing centre or an HIV/AIDS Service Organization, pre- and post-test support and counselling are provided to the client.

In 1998 a new form of testing became available in Canada – called Rapid Testing. Rapid testing was first introduced to be used by health care providers, but it can be used in a clinic setting to test non-health care providers. Rapid tests produce results within minutes.

The major benefit of the rapid test is the fact that a certain percentage of those who have traditional HIV tests do not return for their results [i.e. A study in the United States conducted by the CDC showed that in 1996 26% of those who tested HIV+ did not return for their results and 33% of those who tested HIV- did not return for their results].

At the same time there are certain drawbacks for rapid testing:

1. As with all HIV tests there is a chance of false positive results. Traditional testing requires that all initially positive blood tests be confirmed with a second test. Rapid testing does not permit rapid confirmation of positive tests with a second test. Confirmatory tests must be done in the traditional manner and these results take approximately two weeks to return.
2. This new format of testing will require a modification of the support and counselling services currently provided along with traditional HIV testing.
3. Likely rapid testing will not be effectively administered within a traditional doctor's office and will be more suited for use in a clinic that specifically deals with STD testing or HIV testing.

Home Testing

There are two types of home HIV tests that have been marketed in the United States. One type is referred to as a “home sample collection” test. This type of test requires that a person purchase a kit at a drug store and take a blood sample in her own home. The person then mails the sample to a laboratory and later the person receives her results via phone.

The other home testing method, the “true home” test, is similar to a home pregnancy test. This method is a rapid HIV conducted by a person herself in her own home. The person buys the kit at a drug store, takes the blood sample at home and interprets her own results at home in minutes. Instructions for follow up are provided in the kits if a test produces a reactive result.

Neither of these tests is legally available in Canada, but because of Internet commerce and our relatively open borders, it is likely that Canadians will not have trouble accessing such tests.

Some of the benefits of at home testing are:

1. Its convenience may encourage reluctant people to be tested and this may lead to earlier detection and thus decreased transmission and earlier treatment.
2. It makes anonymous testing available to people in Canada who currently do not have access to anonymous testing.
3. It is less physically invasive than traditional testing and this may also encourage more people to partake in it.

At the same time, some concerns with at home testing are:

1. Both tests can be less reliable than traditional HIV tests because the samples are not taken by trained health care providers. In the case of true at home tests the interpretation of the results can be less reliable because the results are not interpreted by trained health care providers.
2. There is little or no pre- and post- test support or counselling provided. True at home tests provide no support and counselling and qualitative research has shown that although at home collection test kits claim to provide support and counselling when results are communicated via phone, the support and counselling are very poor. The individuals giving the support and counselling appear untrained, often giving incorrect information, and they do not provide information on ASOs in the client’s area where more effective support and counselling can be obtained.
3. There is the potential that individuals may be tested without their consent using these home-testing methods (for example by border patrols, employers, parents, sexual partners, etc.)
4. Home testing may lead to a decrease in overall public safety as partner notification will not be encouraged
5. Home testing may compromise confidentiality as purchase at a store is open to public view and purchase over the internet requires giving personal information to the seller of the test.
6. HIV testing is already financed as part of our publicly funded health care system; at home testing will be confined to those individuals with the available finances.

Mandatory Testing

The general consensus is that HIV testing should be done only with the informed consent of the person being tested. Concern with public safety and concern for unborn and newly born children has prompted some to call for mandatory testing of immigrants, sex offenders, prisoners, pregnant women and newly born children.

In general, mandatory testing damages efforts to prevent HIV transmission. More specifically, mandatory HIV testing has the following problems:

1. Mandatory testing in general violates the bodily integrity and security of person guaranteed by the Canadian Charter of Rights and Freedoms
2. Mandatory testing in general is expensive and will divert scarce resources from effective prevention measures.
3. Mandatory testing of immigrants is a discriminatory practice and does not sit well with Canada's commitment to multiculturalism, both of which are contrary to the principles espoused in our Charter. Further, mandatory testing does not mesh with Canada's commitment to the protection of needy refugees.
4. Mandatory testing of pregnant women and newly born children may discourage some women from obtaining pre-natal care and may even encourage some women to not obtain medical care at the time of birth. It is also unconstitutional as it violates a woman's Charter guarantee of equality. It is significant to note that studies have shown that if given complete and accurate information and support regarding HIV testing, pregnant women and women who have just given birth are very likely to be voluntarily tested or to voluntarily allow their newly born children to be tested, thus permitting health care providers to take steps to ensure a safer birth and a healthier newborn.

Likely the only way in which mandatory testing of any of the above mentioned groups will be legal is if the following criteria are met:

1. The purpose of the testing is pressing and substantial.
2. The mandatory testing is logically connected to the purpose of the testing.
3. It has been proven that the mandatory testing is the least intrusive or least restrictive manner of meeting the purpose of the testing.
4. The benefit gained by the testing is proportional to the loss of civil liberty experience by the person mandatorily tested.