



The Fortune Society
Prisoner Re-Entry
CHANGING MINDS & BUILDING LIVES

Testimony Before the City Council: December 20, 2006

Re: HIV testing, counseling and informed consent

My name is Sam Rivera. I'd like to thank the New York State Assembly, the Committee on Health and the chair Richard Gottfried for the opportunity to testify at this public hearing on HIV testing, counseling and informed consent. The bulk of my work has been conducted with prisoners and former prisoners and my testimony will focus on how the proposed changes to Article 27F affect these populations. My ideas on how to address the barriers to HIV testing for prisoners and former prisoners have been shaped by my twenty plus years of experience in HIV prevention.

These experiences have enabled me to view this epidemic from a number of vantage points. I'm a trainer of trainers for the NYS AIDS Institute and I have trained over 500 participants to become NYS HIV Test Counselors. I have conducted HIV testing and counseling in 3 NYS prisons and I have supervised HIV Testing and Counseling services that have tested more than 3000 NYS prisoners. I am a former prisoner. And currently I am the Senior Director of Health and Transitional Services at The Fortune Society, an organization dedicated to helping former prisoners successfully reenter their communities.

There are a variety of barriers to HIV testing for someone while in prison and **written informed consent** isn't one of them. This change to Article 27 F might be the biggest barrier of all. Please understand that news travels fast in jails and prisons, especially news that creates further issues of trust. Once a prisoner is tested for HIV and shares to their peers that he/she wasn't asked to sign a consent form or the moment a prisoner is tested for HIV and doesn't realize that he/she gave consent, the goal to increase HIV testing will be greatly affected. In fact, if someone were to present these changes to prisoners or former prisoners while trying to encourage testing, participation would be extremely low.

The inability of health care providers to engage patients to test for HIV or to simply offer HIV testing routinely must not be addressed by taking away a right of the patient. In the past successful HIV testing services always presented a high level of client-centered support that participants valued. With the elimination of written informed consent prisoners and former prisoners would fear the obvious, is mandatory testing next?

As an organization that has been providing services to prisoners and former prisoners for almost 40 years, The Fortune Society supports the need for routine testing in jails and prisons that includes **signed informed consent**. Routine HIV testing in the jail and prison setting must be offered to all prisoners at entry. Diagnosis and treatment of HIV in these settings can further public health goals of HIV control, prevention, and education. Routine HIV testing can be incorporated into primary and secondary prevention programs in prisons.

In order to Increase Volunteer HIV Testing in Jails and Prisons, I would make the following recommendations:

1. Provide HIV information to all prisoners arriving at each facility.
2. Routinely offer HIV testing to all prisoners during the medical evaluation at intake into the facility
3. Routinely offer prevention counseling in accordance with the CDC counseling, testing, and referral guidelines
4. Routinely provide confidential notification of HIV test results to all prisoners tested
5. Establish a system to document **written consent** for testing and test results, and to track specimens sent for confirmatory testing.
6. Notify all prisoners whose rapid HIV test result is positive that the result indicates a preliminary positive result and that a confirmatory test needs to be performed. A blood specimen should be obtained from the inmate and confirmatory testing initiated
7. Establish procedures and responsibilities for reporting HIV cases to the health department and requesting assistance with partner counseling and referral services
8. Each facility must specify written policies and procedures to determine eligibility for EIA (enzyme immunoassay) HIV testing and rapid HIV testing. In general, prisoners who are likely to be released before results from EIA testing are available should be offered rapid testing during their medical evaluation.
9. Ensure care and treatment is provided, based on the prisoner's projected length of incarceration.
10. Ensure confidentiality and security of data related to HIV testing.
11. Discharge Planning:
 - a. Initiate the referral process for all HIV-infected prisoners and those at high risk of acquiring HIV infection by making the first appointment with an appropriate care provider, CBO, or both.
 - b. Whenever possible, the initial appointment should occur while the prisoner is in the facility. If this is not possible, health department or CBO personnel should initiate contact with the individual, and accompany the released prisoner to appointments, if appropriate.
 - c. Work with participating CBOs to establish procedures and responsibilities for referral services for prisoners as part of discharge planning.

Systematic Considerations to Increase Voluntary HIV Testing

Health departments should initiate discussions with prison and jail systems that do not routinely offer HIV testing to prisoners during the intake medical evaluation to determine their willingness to implement routine HIV testing. Collaboration between health department, prison and jail, and CBO personnel is critical to the successful implementation of routine HIV testing and prevention services. If facilities conclude that rapid testing is to be a part of routine screening in the institution, specific training in rapid HIV testing must occur.

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