

Testing of Sex Offenders

The mission of the Pennsylvania Coalition Against Rape is to work to eliminate all forms of sexual violence and to advocate for the rights and needs of victims of sexual assault. 🌊

Position:

PCAR advocates for a victim's /survivor's right to make an informed request for any relevant testing of an offender and for that request to be honored.

Rationale:

PCAR believes that victims have the right to information and counseling which will enable them to address the potential of HIV infection from the sex offender. The victim/survivor has a right to be informed of and have access to all medical options including those regarding HIV infection.

Victims have the right to be informed of their legal rights to request relevant testing of an offender. While victims must be informed of this right, this information must be provided within the context that the assurance that the offender will be tested upon arrest or conviction is not a substitute for education and information regarding the transmission of HIV. Inaccurate and incomplete information may compel the victim/survivor to do nothing while waiting for the possibility of an arrest or conviction. There is no guarantee that an arrest, prosecution or conviction of a sex offender will occur in a short period of time. An arrest may never be made.

The victim/survivor should receive AIDS counseling, information regarding the pros and cons of testing, an assessment of risk factors for the disease and information on anonymous testing. The victim's choice to request testing of the offender should also be provided within the context of potential discrimination against those who are assumed to be HIV positive. If the sex offender tests positive, some may assume that the victim/survivor automatically is also positive for HIV infection. This may lead to discrimination against the victim/survivor.

Background:

Mandated involuntary pre-conviction testing of sex offenders (35 PA. C. 5 § 7620. 302) when triggered by a victim's/survivor's request. The request to test the offender must be



made within six weeks of the conviction. The victim/survivor has the right to know the results.

There is no conclusive evidence to indicate that sex offenders are at high risk for HIV infection. The risk of infection from a single sexual assault is minimal. Even where multiple assaults are present by the same offender, it is difficult to establish a causal link between the HIV status of the survivor and that of the offender. If an offender tests negative, this does not mean he does not carry the virus. There is a period of time before antibodies develop which HIV can be transmitted. If the offender is found to be positive, it does not mean that the victim/survivor will test positive.

PCAR may issue statements regarding public policy affecting sexual violence victims and rape crisis centers. All position statements adopted by the Pennsylvania Coalition Against Rape will be viewed as the official position statement, the center, when publicly or privately voicing opposition to the statement, will do so in the capacity of an independent program and in no way as a member of PCAR.

Resources:

Gostin, L. O., Lazzarini, Z., Alexander, D., Brandt, A. M., Kenneth H. Mayer, K. H., & Silverman, D. C. (1994). HIV testing, counseling, and prophylaxis after sexual assault. *JAMA*, 271, 1436-1444. doi:10.1001/jama.1994.03510420068036



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