

# Analysis of Data from California's Court-Ordered HIV Tests of Prostitutes, 1990-1998

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## Introduction

A California law passed in 1988 mandated statewide HIV testing of convicted prostitutes by local courts as part of an effort to halt the AIDS epidemic. This law and the testing procedures that resulted from it are summarized in the Appendix. This article presents results of analyses of the reporting system data.

## Methodology

As required by the Penal Code, county courts are required to complete a "DHS 8485 (CONFIDENTIAL REPORT OF COURT-ORDERED HIV TESTING)" for each person tested under this law. The county court then forwards the form, with a copy of the HIV antibody test results, to the Office of AIDS (OA). The form had been designed in a collaborative process that involved state legal staff, county district attorneys and other law enforcement officials. In 1996, the form was revised to allow collection of racial/ethnic information and both negative and positive HIV test results; the negative test result data are incomplete for 1996.

OA staff review the form and enter the information in a Microsoft Access database. A separate database contains authorized District Attorney (DA) staff members who can access the results, as allowed by the law. Once data are entered into the database, it is accessible to DA office staff via OA personnel.

Microsoft Excel and Access software were used to analyze the data and present the information in tables and graphs. San Diego data were analyzed separately because that county has reported HIV negative test results since 1990.

## Results Excluding San Diego

By the end of December 1998, a cumulative total of 1,286 recorded HIV tests were received in the OA. Of these results, Los Angeles reported 75 percent (969). San Francisco, Fresno and Orange, the three next-highest reporting counties, contributed less than 10 percent each.

Males represented approximately 49 percent of all HIV tests (634 of 1,286). Of the positive tests (n=989), 65 percent were from males. In Los Angeles, nearly 80 percent of the HIV positive test results were from males, which was higher than for any other county.

Figure 1 shows HIV testing by year. Reported HIV positive results peaked in 1994 (about 180) but have held steady at about 100-120 per year since then.

From 1997 through 1998, approximately half the tests received were positive. By race/ethnicity, the highest number of tests and the highest percent positive was among Blacks (Figure 2). A large percentage of reports do not identify race/ethnicity; therefore, they are included as "Unspecified."

## **San Diego County Results**

San Diego County began HIV testing of prostitutes in 1990. As of December 31, 1998, 1,546 tests had been administered (see Figure 3). Of that total, more than 60 (about 4 percent) have had a positive HIV test result. Figure 3 illustrates San Diego HIV testing by year along with the percent showing positive reactions. The percent positive ranges yearly from a low of about 2 percent to 12 percent in 1995. By gender, San Diego has slightly more male than female test results, but the percent positive was much higher among males (Figure 4).

## **Discussion**

Studies have shown a wide range of HIV seropositivity in prostitutes. A study of 1,396 female sex workers in six U.S. cities found an HIV seroprevalence of 12 percent, ranging from 0 percent to 47.5 percent depending on the city and the level of injected drug use.<sup>1</sup> In the Bay Area, the seroprevalence in the late 1980's among female prostitutes was 4.4 percent to 5.7 percent.<sup>2</sup> A study of 235 male street sex workers in Atlanta, GA, found 29.4 percent seroprevalence, with highest rates among those who had receptive anal sex with nonpaying partners.<sup>3</sup> A study in New Orleans found a seroprevalence of 17.5 percent among male prostitutes.<sup>4</sup> The analysis showed that a higher percentage of males than females tested positive.

The data used for this article have several limitations. First, some counties are underreporting both the total number of tests and the numbers of positive tests. The extent of the underreporting is unknown. To address this, the OA has mailed cover letters with the reporting form advising counties that the law requires reporting of test results. In an attempt to provide immediate availability of the reporting form, as well as improve reporting compliance, the form will soon be available on the OA web site. A statewide system of reporting would be ideal, however any tracking system faces the very real problem that there are hundreds of court jurisdictions within the state, and some courts may lack the ability to institute effective reporting.

The second limitation is that transmission risk is not included on the reporting form. Knowledge of transmission risk could assist with HIV prevention planning. Any anticipated form revision will address this issue systematically.

## **Acknowledgement**

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## References

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## Appendix

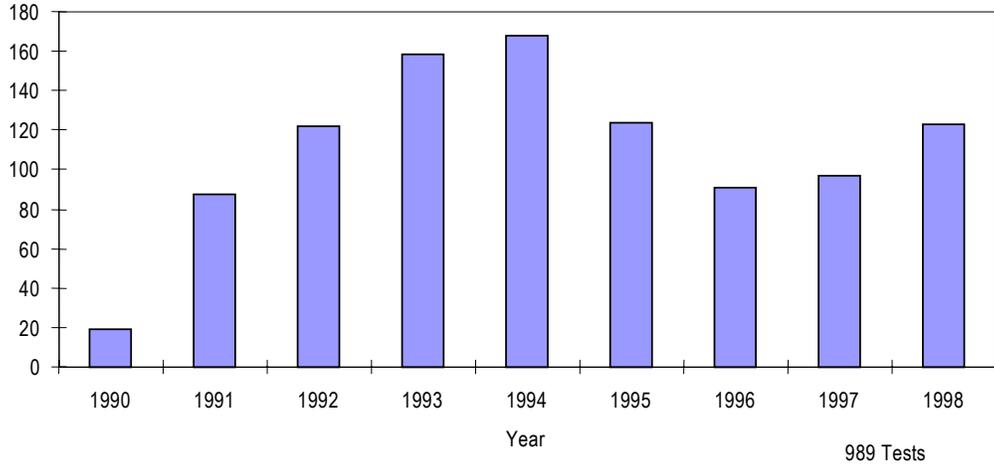
Senate Bill 1007 was signed into law on September 30, 1988. The law was an attempt to control the AIDS epidemic by imposing more severe penalties on HIV positive prostitutes who were perceived as a threat. It added Sections 647, 1202.1, 1202.6, and 12022.85 to the state's Penal Code. These Penal Code sections authorize HIV testing of convicted prostitutes, upon re-arrest, with the penalty enhanced to a felony status for those testing positive for HIV.

The law mandates the following actions: “. . . The court shall . . . order the defendant to complete instruction in the causes and consequences of acquired immune deficiency syndrome (AIDS) . . .” If convicted, then the court orders the defendant to be tested for AIDS and the tests results are forwarded to the OA. With a second conviction: “. . . If the previous conviction and informed test results are found to be true, the person shall be guilty of a felony, rather than a misdemeanor.” For a given prostitute, the law is implemented in two phases:

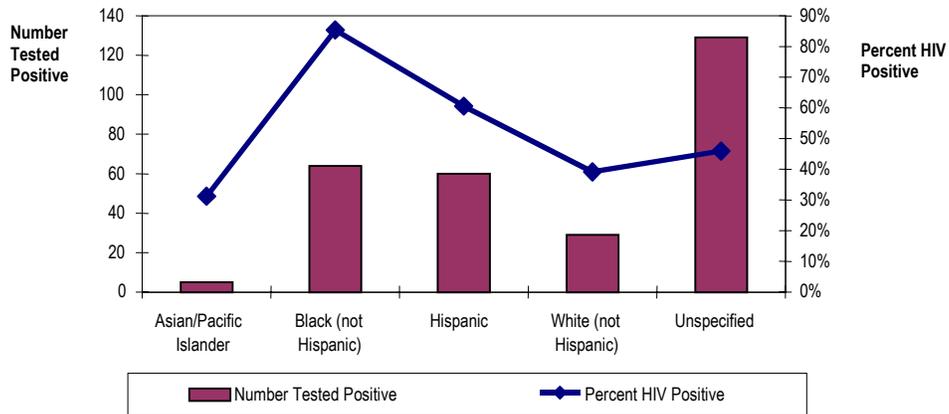
- **Phase one - original arrest:** Upon conviction, the subject is instructed about HIV/AIDS, and the HIV/AIDS test is performed. Positive and negative test results are forwarded to the State OA on an approved form (DHS 8485). The form includes the name of the prostitute and other identifying information such as gender, age, name of court and HIV status. The results are added to the OA database.
- **Phase two - subsequent arrest for prostitution (prior to conviction):** The DA contacts the OA for verification. Then, the OA verifies the test results on the OA database. OA sends a “Certification Letter” confirming the positive HIV status to the DA for further action. The DA upgrades the suspect's penalty to a felony.

**Number Tested Positive**

**Figure 1. Court-Ordered HIV Testing of Prostitutes:**  
California, Number Tested Positive, by Year of Test, 1990-1998  
(Excludes San Diego)



**Figure 2. Court-Ordered HIV Testing of Prostitutes:**  
California, Number Tested Positive, and Percent Positive by Ethnicity, 1990-1998  
(Excludes San Diego)



Note: American Indian/Alaska Native excluded due to small numbers (1 positive test, 1 negative test)

Total Tests=989 Total HIV Positive with Race/Ethnicity=288

