

# AIDS/HIV - Testing Process

(Revised 6/21/19)

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## Forms

The following forms are referenced in this file:

- 04-24A-P Authorization to Use or Disclose Protected Health Information - All Providers
- 04-24A-P-sp Authorization to Use or Disclose Protected Health Information - All Providers (Spanish)
- 04-29 Authorization to Use or Disclose Protected Health Information - Single Provider
- 04-29sp Authorization to Use or Disclose Protected Health Information - Single Provider (Spanish)
- 04-86C Application for an Order for Medical/Dental/Surgical Treatment (CWS/CMS template)

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## HIV Risk Assessment

Determine if the child is at risk of HIV infection by considering the following risk factors:

- Parent or child has history of STD or HIV infection
- Parent or child has history of drug or needle use (including positive toxicology newborn)
- Parent or child has history of multiple sex partners
- Parent or child has history of incarceration for drug or prostitution related offenses, or other behaviors and cannot obtain a history.

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## Child Living in the Parent's Home

When a child is living in the parent's home, it is the parents' responsibility to ensure the child and mother test, if the SW's assessment indicates risk. When the concern is transmission from mother to child, the SW should encourage the mother to test by advising the mother of the risk factors. The SW should refer the mother to any of the free and confidential community clinics for testing or advise the mother to go to:

County Health Services Complex  
3851 Rosecrans, Suite D  
San Diego, CA 92101

If molest is the risk factor, the case will be handled on an individual basis and additional consultation may be warranted.

## Test Methods for Children in Out of Home Placement

### Child under age 12

There are two methods to test a child under the age of 12, in an out-of-home placement:

1. The mother may test or sign at the testing site to consent to have the child tested,  
**OR**
2. If the parent is not available or refuses to sign a consent, permission to test the child must be obtained from the Juvenile Court. For infants under 12 months of age, a SW may provide consent if the items below apply. A voluntary test by the mother is the preferred method.

For testing on an infant under 12 months of age, Health and Safety Code §121020 authorizes a SW to provide written consent for an HIV test when:

- the infant has been taken into temporary CWS custody or
- has had a petition filed,

and when all of the following have occurred:

- the attending physician/surgeon determines and documents that HIV testing is necessary to render appropriate care to the infant
- the SW provides information concerning the infant's possible risk factors regarding exposure to HIV to the attending physician/surgeon
- the SW has made reasonable efforts to contact the parent/guardian for signature but was unable to do so and the SW has documented the contact efforts.

### Child age 12 and over

- A court-ordered consent to test cannot be used for children age 12 or older.
- Children age 12 and over must volunteer to be tested by signing a consent to test form provided by the testing site.

**NOTE:** If the child refuses and the test **must** be completed, then the SW will obtain a Court Order. A Parent cannot consent if the child refuses.

## Obtaining Court Order for Testing

To obtain a court order to have a child HIV tested, the SW will:

Step	Action
1	Complete a 04-86C template.
2	<ul style="list-style-type: none"><li>• Put the testing documents that need signature (if applicable) and the 04-86C in an envelope and seal it.</li><li>• Label the envelope as "Confidential."</li></ul>
3	<ul style="list-style-type: none"><li>• Complete a generic ex parte court report that states that consent/ authorization is being sought to order "a confidential blood test" on the child and "see attached confidential envelope."</li><li>• SW will not have the words "HIV" or "AIDS" in the generic ex parte.</li></ul>

**Obtaining Court Order for Testing (cont.)**

Step	Action
3 (cont.)	<ul style="list-style-type: none"><li>• All attorneys must receive proper notice when submitting the ex parte.</li><li>• Only the judge’s copy of the ex parte will contain the sealed envelope attachments. Any ex parte copies for attorneys or others will not contain any HIV information/attachments.</li></ul>
4	Attach the sealed confidential envelope to the generic ex parte and hand deliver to court. Await signature, and retrieve signed documents and hand deliver back to CWS office.
5	<ul style="list-style-type: none"><li>• Provide a copy of the approved ex parte and signed testing documents to the HIV testing site.</li><li>• File the original ex parte and copy of signed testing documents in the sealed envelope in the child’s paper case file labeled “Confidential.”</li></ul>

**NOTE:** If a case attorney asks the SW for a copy of the signed 04-86C, the attorney may only have information that pertains to their client. The SW must redact any information that pertains to other clients. For example, the child’s attorney has a right only to the child’s information. If the child’s attorney asks for a copy of the 04-86C, any parent information (e.g., if testing reason is due to mother being HIV positive) must be blacked out prior to giving a copy to the child’s attorney.

**HIV Testing**

HIV testing and follow-up care are handled by the:

UCSD Mother Child and Adolescent HIV Program  
4076 Third Ave. Suite 301  
San Diego, CA 92103

The SW may provide the mother/caregiver/any client these brochures for additional information about the program: [English brochure](#) or [Spanish Brochure](#).

The UCSD program serves families countywide. UCSD may utilize and refer to the child’s pediatrician for testing, if the UCSD site is not convenient.

The appointment phone number, (619) 543-8089, is a message number where the call will be returned within one day.

When test results are received, the SW will file the results in a manila folder labeled “Confidential” in the CWS case file. If the results of the HIV test for a client come back positive, the SW will notify the Court via a confidential ex parte. No open court reports or attachments to any court report will contain the word “HIV” or “AIDS.” See procedures below.

Infants who are born to an infected mother and who test antibody positive for HIV might **not** be infected with the virus. The child may be carrying the mother’s antibodies. These children (18 to 24 months) are tested again and followed by a pediatric HIV medical specialist at UCSD for the development of HIV symptoms.

**Procedures for HIV-Positive Children**

The SW will follow these procedures when the child’s HIV test result is positive:

Step	Action
1	<ul style="list-style-type: none"> <li>• Notify Juvenile Court of the positive test result by sending a confidential ex parte.</li> <li>• HIV issues <b>cannot</b> be discussed in regular court reports. When the Juvenile Court needs to be updated about the child’s medical condition, the SW is responsible for providing this information in a special confidential ex parte. This is accomplished by attaching the information in a sealed envelope marked “confidential,” to an ex parte that does not use HIV language, and hand delivering it to the court.</li> <li>• All attorneys must receive proper notice when submitting the ex parte.</li> <li>• Only the judge’s copy of the ex parte will contain the sealed envelope attachments. Any ex parte copies for attorneys or others will not contain any HIV information/attachments.</li> </ul> <p>In the body of the ex parte report, the material will be referenced as:</p> <ul style="list-style-type: none"> <li>• Attached is the confidential report regarding medical testing on this child, who has a chronic medical condition.</li> <li>• Please see attached envelope.</li> </ul> <p>The envelope is sealed and hand carried, by the SW or the Court Unit, to the assigned court.</p>
2	Refer the child to UCSD for medical follow-up.
3	Review the child’s need for specialized care and specialized care increments.
4	<p>If the HIV test was one that a SW authorized (for a an infant under 12 months of age) and that test is positive for HIV, Health and Safety Code 121020 further requires:</p> <ul style="list-style-type: none"> <li>• The SW to provide to the physician/surgeon any available contact information for the biological mother for purposes of reporting the HIV infection to the local health officer.</li> <li>• If the physician/surgeon determines that immediate HIV medical care is necessary to render appropriate care to that infant, the provision of HIV medical care shall be considered emergency medical care, pursuant to WIC 369 (d) which allows the treatment to commence without a court order, with authorization of the SW, if there have been reasonable efforts to obtain the consent or notify the parent.</li> </ul>
5	Ensure that the caregiver accepting placement of an HIV positive child is provided with necessary form. See AIDS/HIV - Confidentiality and Documentation under “Placement of HIV Positive Child.”

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**Release of Information**

The following table shows who can sign to release the HIV test results:

Who	Release of Information Process
Parent	If the parent did not sign a release of information at the testing site allowing CWS to receive the testing results, a parent must complete the 04-29 and specifically list UCSD or other testing site in order for the results to be disclosed to CWS. This form will be filed in the separate confidential manila envelope in the CWS case file.
Child under age 12	In order to disclose the test results of a child under age 12, the parent must sign a consent (or the court if the parent is unwilling or unavailable). If the parent did not sign a release of information at the testing site allowing CWS to receive the testing results, a parent must complete the 04-29 and specifically list UCSD or other testing site in order for the results to be disclosed to CWS. This form will be filed in the separate confidential manila envelope in the CWS case file.
Child 12 and older	<p>A child age 12 and older must consent for the release of their HIV test results. If the child did not sign a release of information at the testing site allowing CWS to receive the testing results, the child must complete the 04-29 and specifically list UCSD or other testing site in order for the results to be disclosed to CWS. This form will be filed in the separate confidential manila envelope in the CWS case file.</p> <p>If the court ordered the consent for the child's test (over the child's objection), then the court would also authorize the information sharing/consent for release of test results. See AIDS/HIV - Confidentiality and Documentation for additional information.</p>

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**Confidentiality of HIV Information**

Any HIV related documents will be filed in a separate manila envelope in the CWS case file. See AIDS/HIV - Confidentiality and Documentation for more information.

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**Alignment with SET**

This policy aligns with SET [Value 3](#) by ensuring a focus on children's well-being while in our care.

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