

Anonymous HIV Testing

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"Despite their endemic nature, (sexually-transmitted diseases) were, and still are, a "secret malady". Persons have endeavored to keep their sexually-transmitted infections hidden from the social world."¹ Today, the emergence of HIV infection has further pushed the fact of sexually-transmitted infections deeper into the abyss of secrecy. This secrecy is doubly shrouded to some extent by the constitutional grant to these individuals (with sexually-transmitted disease) the "right to be left alone".

Individuals who are infected with the HIV virus clearly possess a constitutional right to privacy, albeit not absolute, regarding their condition.² To protect this right to privacy an individual who is voluntarily seeking HIV testing, Republic Act 8504, otherwise known as the "Philippine AIDS Prevention and Control Act of 1998", provided for "anonymous testing". It refers to an HIV testing procedure whereby the individual being tested does not reveal his/her true identity. An identifying number or symbol is used to substitute for the name and allows the laboratory conducting the test and the person on whom the test is conducted to match the test results with the identifying number or symbol.³ To be more specific, the Implementing Rules and Regulations of the law further stated two kinds of anonymous testing. One is the "unlinked anonymous method" which tests the blood drawn for other purposes for HIV antibodies without the subject's knowledge and with all identifying data removed. The other kind is the "voluntary anonymous method" which tests blood drawn from volunteers who have no identifying information, except a code number which is matched with a similar code of a given test result.⁴

As added measure "(a)ny person who submits to anonymous HIV testing shall not be required to provide a name, age, address or any other information that may potentially identify the same. In the case of voluntary anonymous HIV testing an identifying symbol is substituted for the person's true name or identity. The symbol enables the laboratory doing the test and the test person to match the test result with the said symbol."⁵ Furthermore, "(i)t is (also) acceptable for a person being tested to use an assumed name or code name instead of the real name and written informed consent using said assumed or code name shall constitute lawful consent."⁶ In other words, the testing laboratory cannot go beyond what the person says his name is, nor it can ask for any competent proof of

identity. Of course, this is without prejudice to reportorial duty of physicians, laboratories or hospitals under the law.

"HIV status is information of a most personal nature given society's negative moral judgments about the high-risk activities associated with the disease, including sexual activity and drug use. Thus, the potential for harassment and discrimination increases greatly with disclosure."⁷ It is so personal that most of the time, even undergoing the HIV testing itself leaves the individual very uncomfortable. "Anonymous testing remains an option for individuals who truly fear having their HIV diagnosis reported by name or even having their name associated with a unique identifier code."⁸

References

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2. **Doe v. City of New York**, 15 F.3d 264 (2d Cir. 1994)
3. **Section 3(b)**, Republic Act 8504 otherwise known as the "Philippine AIDS Prevention and Control Act of 1998"
4. **Resolution No. 1, IRR of Rule 1 Section 4 (3) "Title and Application"**, Republic Act 8504 otherwise known as the "Philippine AIDS Prevention and Control Act of 1998"
5. **Resolution No. 1, IRR of Rule 4, Section 29, "Testing, Screening and Counseling"**, Republic Act 8504 otherwise known as the "Philippine AIDS Prevention and Control Act of 1998"
6. **Resolution No. 1, IRR of Rule 4, Section 26, "Testing, Screening and Counseling"**, Republic Act 8504 otherwise known as the "Philippine AIDS Prevention and Control Act of 1998"
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8. **Stacey D. Blayer, But Names Will Never Hurt Me: HIV Surveillance & Mandatory Reporting**, 39 *B.C.L. Rev.* 1175 (1998)

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