

DEPARTMENT OF THE NAVY
Office of the Secretary
Washington, DC 20350-1000

SECNAVINST 5300.30C
OP-13C2
14 March 1990

SECNAV INSTRUCTION 5300.30C

From: Secretary of the Navy
To: All Ships and Stations

Subj: MANAGEMENT OF HUMAN
IMMUNODEFICIENCY VIRUS-1
(HIV-1) INFECTION IN THE NAVY
AND MARINE CORPS

Ref: (a) SECDEF Memo of 4 Aug 1988
(NOTAL)
(b) ASD (HA) Memo of 11 Sep 1987
(NOTAL)
(c) SECNAVINST 1850.4B (NOTAL)
(d) SECNAVINST 1910.4A (NOTAL)
(e) SECNAVINST 1920.6A
(f) SECNAVINST 5211.5C

1. **Purpose.** To establish the Department of the Navy's (DON) policy on identification, surveillance and administration of military members, applicants, and health care beneficiaries infected with Human Immunodeficiency Virus-I (HIV-1), in compliance with references (a) through (f). This instruction is a substantial revision and should be reviewed in its entirety.

2. **Cancellation.** SECNAVINST 5300.30B.

3. **Policy.** DON medical, manpower and personnel policies related to HIV-1 are intended to reflect current knowledge of the natural history of HIV-1 infection, the risks to the infected individual incident to military service, the risk of transmission of the disease to noninfected personnel, the effect of infected personnel on naval units, and the safety of military blood supplies. To this end the following policies are established:

a. Applicants who are HIV-1 antibody positive are not eligible for entry into the naval service. Accessions, for active duty or reserve programs, in initial military training who are

determined to be HIV-1 antibody positive as a result of serologic testing are not eligible for military service and will be separated.

b. Military personnel (active and reserve) shall be tested for the presence of HIV-1 antibodies to maintain the health of the force and to develop scientifically based information on the natural history and transmission of HIV-1, Acquired Immune Deficiency Syndrome (AIDS), and AIDS-Related Complex (ARC). Family members of active duty personnel and Department of Defense (DOD) civilian employees entitled to military medical care, on a voluntary basis, shall be tested as resources permit. Mandatory testing of civilians for serologic evidence of HIV-1 infection is not authorized except pursuant to valid requirements by host country. Testing of civilian employees shall conform to guidance in SECNAVINST 12792.4.

c. A surveillance program will be conducted for active duty and reserve component members, other than accessions in initial military training, to determine if HIV-1 infection exists.

(1) Active duty members who are HIV-1 antibody positive who show no evidence of clinical illness or other indication of immunologic or neurologic impairment related to HIV-1 infection shall not be separated solely on the basis of serologic evidence of HIV-1 infection.

(2) HIV-1 antibody positive members retained on active duty shall be assigned within the United States.

(3) Immunologic deficiency, neurologic involvement, or progressive clinical or laboratory abnormalities associated with HIV-1 are unfitting conditions. Active duty members who are HIV-1 antibody positive and demonstrate immunologic deficiency, neurologic involvement, or progressive clinical or laboratory abnormalities associated with HIV-1 shall be processed

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through the Disability Evaluation System (DES) under reference (c). Additionally, personnel diagnosed following the guidelines of reference (b) as having ARC and AIDS shall be processed through the DES.

d. Members of the reserve components (reservists not on extended active duty of more than 30 days) who are HIV-1 antibody positive and who can be assigned to mobilization billets in the United States which do not require immediate deployment and do not require availability for reassignment overseas or to deployable billets shall be retained in the Ready Reserve. All HIV-1 antibody positive reservists for whom such mobilization billet assignments cannot be made shall be transferred involuntarily to the Standby Reserve Inactive.

e. HIV-1 antibody positive reserve component members not on extended active duty are ineligible for medical evaluation in military treatment facilities.

f. To facilitate development of scientifically based information on the natural history and transmission patterns of HIV-1, it is important that HIV-1 antibody positive members assist the military health care system by providing accurate information. Accordingly, the mere presence of the HIV-1 antibody, in and of itself, shall not be used as a basis for disciplinary action against the individual under the Uniform Code of Military Justice (UCMJ) or a state code, or for adverse characterization of service. HIV-1 positivity may be used to prove an element of a punitive article of the UCMJ or a criminal provision of a state or United States code.

g. Informational programs will be conducted to reduce apprehensions about the risks of HIV-1 infection and to inform service members about the prevention and risks of HIV-1 infection.

4. Accession Policy

a. Both prior service and non prior service applicants for active or reserve service will be screened for exposure to HIV-1 prior to

entrance on active duty or affiliation in the Naval or Marine Corps Reserve. Individuals confirmed HIV-1 antibody positive are not eligible for naval service because:

(1) The condition existed prior to appointment or enlistment.

(2) Such individuals may suffer potentially life threatening reactions to some live-virus immunizations at basic training.

(3) HIV-1 antibody positive individuals are not able to participate in battlefield blood donor activities or other military blood donation programs.

(4) There presently is no way to differentiate those who will progress to clinical disease from those who will remain healthy.

(5) The DON will avoid medical costs and the possibility that the individual will not complete the initial service commitment.

b. Applicants for active and reserve enlisted service normally will be tested at Military Entrance Processing Stations (MEPS). Applicants not tested at the MEPS will be tested as part of their physical examination conducted prior to accession. If more than 12 months have elapsed between the pre-accession test and entry on active duty, a retest must be conducted. These new accessions who are confirmed HIV-1 antibody positive are not eligible for military service and will be processed for separation by reason of erroneous enlistment at the accession point under reference (d). Prior service applicants for entry into a reserve program must have an HIV-1 test within 12 months of entry.

c. Individuals who are participating in, or applying for, any commissioned or warrant officer procurement program who are HIV-1 antibody positive are not eligible for the program or for appointment as officers. Candidates for service as officers (either regular or reserve) shall be tested during the pre-contract physical examination required for acceptance in the particular program applied for, and during the

pre-appointment physical examination required prior to appointment or superseding appointment. Enlisted personnel also must be tested within 12 months prior to acceptance into the officer training program for which applying. Applicants who are ineligible for appointment due to HIV-1 antibody positivity shall be processed as follows:

(1) Individuals in Officer Candidate School/Officer Indoctrination School/Aviation Officer Candidate School/Platoon Leaders Class/Naval Aviation Cadet School/Aviation Reserve Officer Candidate School (OCS/OIS/AOCS/PLC/NAVCAD/AVROC) as their initial entry training shall be separated, discharged, or disenrolled as appropriate. Enlisted service members who are candidates in these programs shall be immediately disenrolled from the program. A candidate who was on extended active duty prior to entry into candidate status and who is HIV-1 antibody positive shall be retained in enlisted status unless the individual requests discharge or is separated for disability under reference (c). In either case, if the sole basis for discharge is HIV-1 positivity, an honorable or entry level separation as appropriate, shall be issued.

(2) Individuals in Naval Reserve Officer Training Corps (NROTC) shall be disenrolled from the program at the end of the academic term, i.e., semester, quarter, or similar period in which evidence of HIV-1 infection is detected. Disenrolled NROTC participants shall be permitted to retain any financial support through the end of the academic term in which the disenrollment is effected. Financial assistance received in these programs is not subject to recoupment if the sole basis for disenrollment is HIV-1 positivity.

(3) Naval Academy midshipmen shall be separated from the Naval Academy and discharged when confirmed HIV-1 positive. The Secretary of the Navy may delay separation to the end of the current academic year. A midshipman granted such a delay in the final academic year, who is otherwise qualified, may

be graduated without commission and thereafter discharged. If the sole basis for discharge is HIV-1 positivity, an Honorable discharge shall be issued.

(4) Commissioned officers in professional education programs leading to appointment in a military professional specialty (including but not limited to medical, dental, chaplain, and legal/judge advocate) shall be disenrolled from the program at the end of the academic term in which HIV-1 positivity is identified. Regular officers and reserve officers on active duty or who entered the program from active duty shall be retained in a designator or military occupational specialty determined by the Chief of Naval Operations (CNO) or the Commandant of the Marine Corps (CMC), as appropriate, on a case-by-case basis. Reserve officers on inactive duty who were commissioned for the purpose of participation in such programs shall be discharged. Except as specifically prohibited by statute, any additional service obligation incurred by participation in such programs shall be waived and financial assistance received in these programs shall not be subject to recoupment. Periods spent in these programs shall be applied fully toward satisfaction of any pre-existing service obligation.

d. Accessions who are confirmed positive for HIV-1 antibody will not be sent for medical evaluation. They will be informed of the test results; will be counseled on the relationship between the blood tests, HIV-1 virus, and AIDS, and will be provided medical, psychological and spiritual support while awaiting separation.

5. HIV-1 Testing Procedure

a. Testing of naval personnel for the antibodies associated with HIV-1 will include a Food and Drug Administration (FDA) approved screening test (enzyme immunoassay (EIA)), a confirmation test (immunoelectrophoresis (Western Blot)) and, if necessary, DOD approved supplemental tests, as they become available. All personnel with either serologic evidence of HIV-1 infection or a positive virus

isolation shall be classified under the standardized clinical protocol defined in reference (b).

b. Delays in obtaining results of confirmation tests shall be minimized to prevent uncertainty and apprehension of members awaiting the outcome. Military personnel not in a confined status shall not be segregated based on screening or confirmation tests.

6. Active Duty Testing

a. Active duty personnel serving in overseas and deployable units and all active duty health care providers shall be tested on an annual basis during each calendar year. All other personnel shall be tested in conjunction with routinely scheduled medical examinations if not tested within the preceding 12 months.

b. Active duty members issued Permanent Change of Station (PCS) orders to a continental United States deployable command are required to have an HIV-1 test within 12 months prior to transfer and results documented if received prior to transfer. If results are received after the member has transferred to the command, they shall be forwarded to the new duty station for insertion in medical/dental records.

c. Personnel issued PCS orders to an overseas duty station are required to have a negative HIV-1 test completed and results documented in health and dental records within 12 months prior to transfer.

d. Active duty health care providers may be screened more often when prescribed by the Surgeon General.

e. Due to increased risk of exposure to HIV-1, all military personnel identified with a Sexually Transmitted Disease (STD) will be retested on each episode or recurrence. Additionally, all military personnel counseled or treated for alcohol or drug abuse or presenting at prenatal clinics will be tested. Voluntary testing will be provided to beneficiaries, upon request,

presenting for treatment or evaluation of STD, alcohol, drug, or prenatal care.

f. All HIV-1 antibody test results must be documented in the medical/dental records under current Bureau of Medicine and Surgery (BUMED) guidelines. Commanding officers will assure all screening results are provided to appropriate medical and dental record holders.

7. Reserve Component Testing

a. Reserve personnel in the following categories shall be retested on an annual basis unless testing is required more frequently, as resources permit. Reserve health care providers may be screened more often when prescribed by the Surgeon General.

(1) Reserve personnel receiving orders to active duty for 30 days or more.

(2) Selected reserve personnel subject to deployment on short notice to areas of the world with a high risk of endemic disease or with minimal existing medical capability.

(3) Selected reserve personnel serving in units subject to deployment overseas.

(4) Selected reserve health care providers as appropriate.

b. Testing will occur during each routine physical examination including those required annually/tri-annually/quadrennially, as well as those examinations conducted for the purpose of reenlistment if a test has not been performed within the last 12 months.

c. Reserve units are not authorized to utilize HIV-1 results obtained from civilian blood collection agencies (e.g., American Red Cross). Test results obtained from civilian blood collection agencies are not subject to the DOD quality control standards and are therefore not acceptable to meet any DOD HIV-1 test requirement. Do not contact any civilian blood collection agency requesting HIV-1 results for reservists who have donated blood.

8. Evaluation of HIV-1 Positive Personnel

a. Active duty military members and, on a voluntary basis, dependents who test positive for exposure to HIV-1 virus will be medically evaluated to determine the medical status of their infection. The standardized DOD clinical protocol in reference (b) will be used. The medical evaluation for active duty members shall be documented by a medical board.

b. Reserve component members who are found HIV-1 positive shall be counseled regarding the significance of a positive HIV-1 antibody test by a medical officer designated for the purpose and referred to their private physician for medical care and counseling. Reserve component members not on extended active duty are ineligible for medical evaluation in military facilities.

9. Active Duty Assignment and Retention

a. Military personnel who demonstrate no evidence of immunologic deficiency, neurologic involvement, or clinical indication of disease associated with HIV-1 infection shall be retained in the service unless some other reason for separation exists. This policy is based on the following considerations:

(1) There is no demonstrated risk of transmission of disease in normal daily activities.

(2) An investment in training of these members has been made.

(3) The condition may be incident to service.

b. HIV-1 positivity shall not be used to deny reenlistment to members on continuous active duty.

c. Military personnel who are HIV-1 antibody positive and retained under this policy shall be assigned within the United States to a unit not normally programmed for deployment

and within 300 miles of a Naval Medical Treatment Facility (MTF) designated by the Surgeon General.

d. The CNO and CMC may, on a case-by-case basis, establish further limitations on assignment of such members to operational units or specific duties when deemed necessary to protect the health and safety of HIV-1 antibody members and of other military personnel (and for no other reason).

The Secretary of the Navy shall be advised 30 days in advance of each type of limitation in assignment or duties and the specific reasons therefore.

10. Active Duty Separation

a. Military personnel who are HIV-1 antibody positive who demonstrate unfitting conditions of immunologic deficiency, neurologic involvement, or clinical indication of disease associated with HIV-1 infection will be processed through the Disability Retirement System under Chapter 61 of Title 10 of the United States Code as implemented by reference (c).

b. Military personnel retained on duty under this policy, but who are found not to have complied with the directives given during lawfully ordered preventive medicine procedures, are subject to appropriate administrative and disciplinary actions including separation for cause under references (d) and (e).

c. A member who is HIV-1 positive and retained on active duty may request voluntary separation under the following guidelines:

(1) Members may apply for separation because of HIV-1 positivity within 90 days after initial medical evaluation and classification is completed. The 90-day period begins the day the medical board report of HIV-1 positivity is signed by the member. Personnel requesting separation after the 90-day period has expired will be considered on a case-by-case basis. Separation may be delayed up to 180 days after initial evaluation in order to minimize manning shortfalls and to provide for continuity of

functions. Members who volunteer for separation will be processed for convenience of the government due to compelling personal need. The discharge shall be characterized as warranted by service record following the guidelines in references (d) and (e). Members who elect separation will not be allowed re-entry into the service at any further date.

(2) The CNO and CMC will normally deny the request if the member:

(a) Is serving in a competitive category, designator, rating, Navy enlisted code, occupational field, or military occupational specialty in which the CNO or the CMC determines that significant personnel shortage justifies retention or;

(b) Has not completed obligated service incurred for funded education programs, enlisted education and/or training including Enlisted Education Advancement Program, advanced educational or technical training, initial and advanced skill training which required obligation beyond current service obligation, nuclear power field, advanced electronic field, and advanced technical field programs, and similar programs or;

(c) Was notified of HIV-1 positive status prior to executing orders or entering a program requiring obligated service.

(3) Due to the substantial investment in training of naval personnel, commands initially processing individuals requesting voluntary separation will ensure they have considered the cost to the naval service of voluntary separation. Additionally, the command will counsel the individual on the potential for lost benefits, resulting from a voluntary separation. The individuals request for separation must document lack of implied pressure or coercion, implied or otherwise.

(4) Notwithstanding the limitation in paragraph 10c(2), a request for separation may be approved when in the judgment of the SECNAV with the advice of the CNO or the

CMC, on a case-by-case basis, the applicant has demonstrated overriding and compelling, factors of personal need which justify separation for HIV-1 positivity.

(5) Members voluntarily separated from the active force by reason of HIV-1 positivity who have a remaining military obligation, will be transferred to the Standby Reserve Inactive unless there are other medical reasons why the member would not be available to meet mobilization requirements.

d. Separation for cause or for other reasons under references (d) and (e), based upon evidence other than HIV-1 positivity, is unaffected by this instruction, subject to the limitations in paragraph 15.

11. Reserve Component Policy

a. Assignment. Reserve members applying for extended active duty for a period over 30 days or active duty for training over 30 days in any capacity must have a current negative HIV-1 test within 12 months of execution of orders documented in health and dental records. In circumstances where a current HIV-1 test is not available and cannot be obtained prior to the required active duty, the reserve member may be ordered to active duty and the HIV-1 test performed on blood drawn within the first 10 days. If that test is positive, the active duty will be terminated and the member will revert to inactive status. In addition, reserve personnel performing official duty outside the United States for any period must have a negative HIV-1 test documented in health and dental records within 12 months prior to departure date.

(1) Reserve component members testing positive for the HIV-1 antibody are ineligible for active duty over 30 days except under conditions of mobilization.

(2) Members of the reserve components (reservists not on extended active duty of more than 30 days) who are HIV-1 antibody positive and who can be assigned to mobilization billets in the United States which do not require

immediate deployment and do not require availability for reassignment overseas or to deployable billets shall be retained in the Ready Reserve. All HIV-1 antibody positive reservists for whom such mobilization billet assignments cannot be made shall be transferred involuntarily to the Standby Reserve Inactive.

b. Retention and Separation. HIV-1 antibody positive reservists who desire to continue affiliation with the Ready Reserve and for whom a billet is available for duty in the United States as described in 11a(2) above must obtain from his/her civilian physician an evaluation conforming to the protocol prescribed by the DOD for HIV-1 evaluation. Reserve personnel presenting documented evidence from their civilian physician showing no evidence of immunologic deficiency, neurologic involvement, or clinical indication of disease associated with HIV-1 antibody positivity as determined by military health care providers may be retained in the Ready Reserve. If evaluation results are not provided within two months of notification of being HIV-1 positive, the HIV-1 antibody positive reservist shall be transferred to the Standby Reserve Inactive or processed for separation depending on the needs of the naval service.

c. HIV-1 positivity shall not be used to deny continuous reenlistment of reservists in an active status. Continuous reenlistment will not be denied or delayed awaiting test results.

d. Reserve component members may apply for separation by reason of HIV-1 positivity within 90 days of their initial formal counseling by representatives of the naval service. The 90 day period begins the day the reservist is formally counseled per current service regulations. Reserve component members requesting separation after the 90-day period has expired will be considered on a case-by-case basis. Members who elect separation will not be allowed to re-enter into the service at any future date. The CNO and CMC may approve such requests based on manpower requirements and the needs of the service.

(1) The CNO and CMC will deny this request if the reserve component member has any remaining statutory service obligation.

(2) Any request for separation must document the lack of pressure or coercion, implied or otherwise, leading to such request by the command involved.

12. Medical and Epidemiological Factors

a. On-going Clinical Evaluation. An on-going clinical evaluation will be conducted at least annually of the health status of each active duty HIV-1 antibody positive military member using the DOD protocol established in reference (b).

b. Epidemiological Assessment. The initial and on-going medical evaluations of each HIV-1 positive individual will include an epidemiological assessment of the potential for transmission of HIV-1 to close personal contacts and family members. This information is vital to appropriate preventive medicine counseling and to continued development of scientifically based information regarding the natural history and transmission pattern of HIV-1.

(1) Upon notification that an individual is HIV-1 positive, the cognizant military health authority shall undertake preventive medical action including counseling of the individual and others at risk of infection such as his or her sexual contacts (who are military health care beneficiaries). Such preventive action and counseling will include information on transmission of the virus, coordination with military and civilian blood bank organizations to trace possible exposure through blood transfusion or donation of infected blood, and referral of appropriate case-contact information to the cognizant military or civilian health authority. Under the confidentiality and disclosure guidance in paragraph 14, any information linking the individual to HIV-1 antibody positivity is not to be released to civilian agencies or to military activities without a demonstrated need to know.

(a) HIV-1 positive individuals who are military health care beneficiaries shall be counseled by a physician or designated health care provider regarding the significance of a positive antibody test. They shall be advised as to the mode of transmission of this virus, the appropriate precautions and personal hygiene measures required to minimize transmission through sexual activities and/or intimate contact with blood products, and of the need to advise any past sexual partners of their infection and directed to follow these preventive medicine procedures. Women shall be advised of the risk of perinatal transmission during past, current, and future pregnancies. The beneficiary shall be informed that he or she is ineligible to donate blood, sperm, or any other body part.

(b) The assessment shall attempt to determine previous contacts of the HIV-1 positive individual. The individual shall be informed of the importance of case-contact notification to interrupt disease transmission and shall be informed that contacts will be advised of their potential exposure to HIV-1. Individuals at risk of infection include sexual contacts (male and female), children born to infected mothers, recipients of blood or blood products, organs, tissues, or sperm, and users of contaminated intravenous drug paraphernalia. Those individuals determined to be at risk who are identified and who are eligible for health care in the military medical system shall be notified. Active duty military members identified to be at risk shall be counseled and tested for HIV-1 infection. Other beneficiaries, such as retirees and family members, identified to be at a risk shall be informed of their risk and offered serologic testing, clinical evaluation, and counseling. The names of individuals identified to be at risk who are not eligible for military health care shall be provided to local civilian health authorities unless prohibited by the appropriate state or host nation civilian health authority. Anonymity of antibody positive individuals shall be maintained unless reporting is required under paragraph 12c.

c. Reserve Spouse Notification. Reference (a) requires that spouses of reservists found to be

HIV-1 positive be provided notification, counseling and testing.

(1) Spouses of reserve members are not normally DOD health care beneficiaries. When a reservist is found to be HIV-1 positive, the spouse will be offered HIV-1 testing and counseling within the Navy health care system. The services are not authorized to pay for testing and counseling outside of the military health care setting.

(2) Each MTF will establish a local Navy contact team comprised of one physician and one nurse, both trained in crisis intervention and current in HIV-1/AIDS information. These teams will be members of the MTF staff.

(3) The reserve member first will be informed that reference (a) requires official spouse notification of potential contact with HIV-1. The member should be encouraged to inform his/her spouse prior to this official notification. The member should be strongly encouraged to notify all high risk contacts including former spouses or sexual partners who are not legitimate spouses as identified by local state law.

(4) The local Navy contact team will perform the official notification via an appointment scheduled to be held at the local MTF or the member's or the spouse's home. The contact team will telephone the spouse to arrange an appointment time to discuss a medical matter with the member and spouse or require the member to telephone the appropriate Navy contact team if the spouse has no phone. Although it is preferred that both the member and spouse be present for the notification appointment, the member is not required to be there. At the time of the appointment, the spouse will be given the formal notification letter which offers testing and counseling.

(5) An official notification letter will inform the spouse that there may have been a potential exposure to HIV-1 virus during the

course of normal marital relationships and that voluntary counseling and testing will be provided at no cost to the spouse. The letter will contain space for the spouse to indicate either acceptance or refusal of this service, a space to annotate the date and location of testing and counseling, and a space for medical officer authentication of spouse decision. This letter must be available at the time of spouse official notification. The letter will not be mailed to the spouse.

(6) The spouse will be asked to indicate on the notification letter whether or not he/she wishes to accept the services offered. The notification procedures must comply with the Privacy Act of 1974, 5 U.S.C. Section 552a, including the provisions concerning routine uses.

(a) If accepted, counseling will be provided and blood drawn for HIV-1 testing. The spouse will be informed that the testing is voluntary. Two blood specimens will be drawn with each specimen numbered individually. Testing will be done at the designated Navy test facilities and consist of an ELISA screen and, if positive (x2), a Western Blot as prescribed in reference (a). The spouse may refuse testing or opt to obtain testing at a later time utilizing the local MTF.

(b) If the spouse opts to obtain testing at a later time, the notification letter will be left with the spouse who will be afforded 90 days to request the test. This action will be noted on the duplicate letter and maintained by the contact team. The spouse will be given a point of contact at the nearest MTF so that he/she may schedule an appointment. At the appointment time the spouse will be required to present the notification letter as well as identification. The testing date will then be indicated on this letter.

(c) If the spouse refuses testing, the spouse signs the notification letter so indicating. The spouse will be informed of the local public

health facilities and encouraged to obtain testing and counseling through local health care facilities.

(d) If the spouse declines to indicate his/her wishes on the form, the contact team will so indicate on the form by writing, "[spouse's name] declined to sign. [date]."

(e) The contact team will advise the spouse of test results and provide in person post test counseling to include interpretation of the test results, precautions to prevent transmission, pregnancy risks, and exclusion from blood or organ donation. Additional information will include follow-up instructions for the spouse utilizing local health care facilities. Completion of this post-test counseling must be documented by the contact teams. If allowed by state law, in an effort to provide follow-up evaluation and counseling, a local public health authority counselor will be present at post test counseling.

(f) As allowed by state law, state public health authorities will be notified of both the index and contact cases.

(7) Treatment, follow-up evaluation, testing or counseling to the spouse are not authorized, regardless of the test results, beyond the scheduled meeting for the review of spouse test results and post-test counseling. If the spouse is not present to receive his/her test results, another appointment time shall be scheduled. Test results are not to be mailed to the spouse. If the spouse fails to appear for the scheduled appointment, the contact team shall attempt telephone contact with the spouse in an effort to secure another appointment. The test results are not to be given over the telephone. If after reasonable documented efforts the spouse fails to report for the appointment or refuses further contact, the local public health authorities will be notified and contact with the spouse established in accordance with local public health authority guidance.

(8) Documentation (notification, and post-test counseling letters) confirming spouse notification and counseling will be retained by

the contact team until after the post-test counseling at which time the documents will be forwarded to BUMED (MED-37) for final retention.

d. Data Base of HIV Exposure. BUMED will establish and maintain a central data base of DON Military personnel exposed to HIV-1 to support on-going clinical evaluation and longitudinal epidemiologic evaluation. Based on the guidance in paragraph 15 including data required by reference (b), data base information and information derived therefrom, including any information linking individuals to HIV-1 antibody positivity, but excluding statistical data not linked to identifiable individuals, is not to be released to civilian agencies or to military activities without a demonstrated need to know. Within these limitations, information may be disclosed only as follows:

(1) To medical and command personnel to the extent necessary to perform their required duties.

(2) To civilian health authorities but only in response to a valid request. All such requests will be referred to BUMED. He will determine whether the civilian requirement to report HIV-1 positivity is a valid formal request for such reporting from a civilian health authority.

(3) To activities outside DOD upon request, limited to aggregated testing data. All requests for such data will be referred to the CNO or CMC as appropriate.

(4) To authorized personnel for the purpose of conducting scientific research, epidemiological assessment, management audits, financial audits or program evaluation. Personnel receiving information from the data base shall not identify, directly or indirectly, any individual service member in any report of such research, assessment, audit or evaluation, or otherwise disclose service member identities in any manner.

(5) In response to an order of the judge of court of competent jurisdiction.

(6) The Director, Naval Medicine, under the CNO, will provide a quarterly report of HIV-1 testing results for the active forces and the reserve components including trend analysis and evaluations of the reported information to the CNO, CMC, and Assistant Secretary of the Navy (Manpower & Reserve Affairs) (ASN(M&RA)) within 30 days of the end of each fiscal quarter.

e. Safety of the Blood Supply

(1) Armed Services Blood Program Office policies, FDA guidelines, and accreditation requirements of the American Association of Blood Banks will be followed in the DON blood program and by civilian blood agencies collecting blood on naval installations. In the event that units of blood shall not be screened for infectious agents prior to transfusing (contingency of battlefield situations), the Armed Services Blood Program office in coordination with the military departments and unified or specified commands shall provide guidance to operational units.

(2) Individuals found to be HIV-1 antibody positive will be designated ineligible to donate blood or to be used as source of emergency transfusions. Military personnel found to be HIV-1 antibody positive shall be designated as blood donor ineligible in their health records.

13. Information Programs. The CNO and CMC will conduct an ongoing information, education and motivation program on the prevention of HIV-1 infection and AIDS following the Deputy Secretary of Defense Program Framework guidelines.

a. The Deputy Chief of Naval Operations (Manpower, Personnel and Training) and the CMC (Drug, Alcohol and Health Affairs) will carry out all education and motivation programs

on the prevention of HIV-1 infection and AIDS with specific attention being directed to the following groups: Commanders and supervisors, drug and alcohol counselors, emergency personnel (i.e., police, fire, security, etc.), recruits at points of entry into the services, drug and alcohol orientation and service treatment programs, chaplains, parent/family and youth support groups, ROTC and service academies, family and community service centers to include child care providers.

b. BUMED will provide information, education and motivation programs to all Department of the Navy health care personnel, infected personnel and those whose behaviors put them and others at high risk of infection. The following groups will receive particular emphasis: personnel infected or at increased risk (including family members), patients treated for sexually transmitted diseases (STD's), personnel seen in drug and alcohol rehabilitation programs, personnel seen in prenatal clinics/clinical laboratories/blood banks/family planning clinics and other appropriate groups/classes, occupational health program patients (particularly at-risk occupational groups) and health care beneficiaries overseas.

c. The Chief of Information (CHINFO) in conjunction with the Director of Marine Corps (Public Affairs) will develop, implement, and review on an annual basis, an internal information plan which provides information on the prevention of HIV-1 infection, utilizing print and broadcast media under their control or oversight.

14. Confidentiality and Disclosure.

Information on the sources of HIV-1 exposure and the progress of the disease is limited. There is much misinformation and unwarranted apprehension about who is or who can be a source of infection. Allegations and suspicions based on the current tests, which identify only the presence of HIV-1 antibodies, can be disruptive to unit morale and unjustly harm professional standing and acceptance in military units. There are potential problems associated with disclosing a person's HIV-1 positivity, such

as discrimination in employment, health and life insurance, school attendance, etc. For these reasons:

a. HIV-1 test results must be treated with the highest degree of confidentiality and released to no one without a demonstrated need to know. Strict compliance with the provisions of the Privacy Act instructions in reference (f), is required.

b. All command and medical personnel with access to such information must ensure careful, limited distribution within the specific guidelines of paragraphs 12c, 15 and reference (f) to affirmatively combat unfounded innuendo and speculation about the meaning of the information.

15. Limitation on the Use of Information

a. Information obtained from a service member during or as a result of an epidemiologic assessment interview may not be used against the service member in a court martial; nonjudicial punishment; involuntary separation (other than for medical reasons); administrative or disciplinary reduction in grade; denial of promotion; an unfavorable entry in a personnel record; bar to reenlistment; and any other action considered by the Secretary of the Navy to be an adverse personnel action. The term epidemiologic-assessment interview means: that part of the medical assessment of an HIV-1 positive individual where the questioning of the member is for the direct purpose of obtaining epidemiologic or statistical information regarding the occurrence, source, and potential spread of the infection. The epidemiologic-assessment interview will be conducted by the interviewing health care professional during the medical evaluation used to determine the possible mode of transmission and the status of potential infection.

b. Results obtained from laboratory tests performed under this instruction may not be used as the sole basis for separation of the Navy member, except for a separation based upon physical disability or as specifically authorized

by this instruction. Laboratory test results confirming the serologic evidence of HIV-1 infection may not be used as an independent basis for any disciplinary or adverse administrative action. However, such results may be used for other purposes including:

- (1) In a separation for physical disability.
- (2) In a separation under the accession testing program.
- (3) In a voluntary separation for the convenience of the government.
- (4) In any other administrative separation action authorized by DOD policy.
- (5) In any other manner consistent with law or regulation (e.g., the Military Rules of Evidence) including:
 - (a) To establish the HIV-1 positive status of a member who disregards the preventive medicine counseling or the preventive medicine order, or both, in an administrative or disciplinary action based on such disregard or disobedience.
 - (b) To establish the HIV-1 positive status of a member as an element of any permissible administrative or disciplinary action (e.g., as an element of proof of an offense charged under the UCMJ).
 - (c) To establish the HIV-1 positive status of a member as proper ancillary matter in as administrative or disciplinary action (e.g., as a matter in aggravation in a court-martial in which the HIV-1 positive member is convicted of an act of rape committed after he is informed that he is HIV-1 positive).

c. The limitations in paragraph 15a pertaining to the use of information obtained from a member by a health care professional during the epidemiologic-assessment interview does not apply to: the introduction of evidence for impeachment or rebuttal purposes in any

proceeding in which the evidence of drug abuse or relevant sexual activity (or lack thereof) has been first introduced by the service member or to disciplinary or other action based on independently derived evidence; or, nonadverse personnel actions such as reassignment, disqualification (temporary or permanent) from a personnel reliability program, denial, suspension or revocation of a security clearance, suspension or termination of access to classified information, and duties requiring a high degree of stability or alertness such as flight status, explosive ordnance disposal, or deep-sea diving. Nonadverse personnel actions which are supported by serologic evidence of HIV-1 infection shall be accomplished under governing Naval regulations, considering all relevant factors, on a case-by-case basis.

d. If any personnel actions are taken because of or are supported by serologic evidence of HIV-1 infection or information described in paragraph 13a, care shall be taken to ensure that no unfavorable entry is placed in a personnel record in connection with the action. Recording a personnel action, including recording a disciplinary action, is not itself an unfavorable entry in a personnel record. Additionally, information that reflects that an individual has serologic or other evidence of HIV-1 infection is not an unfavorable entry in a personnel record.

e. The CNO and the CMC may propose, with supporting justification, actions that should be considered to be adverse as defined in paragraph 15a.

16. Policy Review. The policies in this instruction will be reviewed following the next review of the policy guidance of reference (a) or as required by the Secretary of the Navy. This review will assess developments in medical management of HIV-1 infections, information obtained through longitudinal epidemiologic studies of the natural history of HIV-1 infections and of the effects on manpower and personnel management of these policies.

17. Responsibility

a. The ASN(M&RA) is responsible for overall HIV-1 policy and execution. The CNO and CMC are responsible for carrying out the policies in this instruction. The CNO will ensure that medical assistance and laboratory testing is maintained to support the prescribed testing program consistent with maintaining quality control to assure the minimum achievable false positive and false negative confirmation rates, to meet the full testing requirements of the Navy and Marine Corps and their respective reserve components.

b. The Director, Naval Medicine, under the CNO, is responsible for the policy development of professional medical and epidemiological aspects of the HIV-1 management program. He will participate in tri-service development of a standardized clinical protocol for medical evaluation of infection. He shall keep ASN(M&RA), CNO, and CMC advised of DON and DOD epidemiological information and trends.

c. CHINFO shall conduct DON-wide information programs using all information media under his control or oversight.

d. BUMED will establish and maintain a DON data base for statistical purposes and detailed analysis as needed. He is also responsible for entering all HIV-1 test results (positive and negative) into the Reportable Disease Data Base System (RDDBS).

e. The Surgeon General, in coordination with the Director of the Naval Reserve and the CMC, will implement the procedures for notification of spouses of reserve component members found to be HIV-1 infected either through local public health authorities or by DOD health care professionals.

18. **Reports.** The reporting requirements contained in this directive are exempt from reports controlled by SECNAVINST 5214.2B.

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