



## Guidance for HIV Testing of Sexual Assault Defendants

January 2024

Table 1: Follow-Up Based on Results of Defendant HIV Testing [a] Performed 7 to 30 Days Post-Sexual Assault		
Defendant Test Results	Survivor PEP	Defendant Retesting and Follow-Up
<ul style="list-style-type: none"> <li>• <b>RNA assay:</b> Negative (-)</li> <li>• <b>Ag/Ab assay:</b> Negative (-)</li> </ul>	PEP may be discontinued after consultation with physician.	<ul style="list-style-type: none"> <li>• No follow-up testing of defendant recommended for benefit of survivor.</li> <li>• As a standard of care for defendant, repeat Ag/Ab testing in 3 months if at ongoing risk for infection.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>RNA assay:</b> Positive (+)</li> <li>• <b>Ag/Ab assay:</b> Positive (+)</li> </ul>	PEP should be continued.	<ul style="list-style-type: none"> <li>• An HIV-1/HIV-2 supplemental antibody test should be performed. If test does not confirm antibodies, HIV-1 infection is still present but may be in the acute or early stage.</li> <li>• No other follow-up testing is required.</li> <li>• Defendant should be referred for care.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>RNA assay:</b> Positive (+)</li> <li>• <b>Ag/Ab assay:</b> Negative (-)</li> </ul>	PEP should be continued.	<ul style="list-style-type: none"> <li>• Repeat both tests as soon as possible.</li> <li>• There is a very brief window within the acute stage of infection when RNA is detectable but HIV-1 p24 antigen has not reached detectable levels.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>RNA assay:</b> Negative (-)</li> <li>• <b>Ag/Ab assay:</b> Positive (+)</li> </ul>	PEP should be continued.	<ul style="list-style-type: none"> <li>• To confirm antibodies, an HIV-1/HIV-2 supplemental antibody test should be performed.</li> <li>• Defendant should be referred for care or continue care if already receiving it.</li> </ul>
Inconclusive or invalid results from either the Ag/Ab or RNA assay.	PEP should be continued.	Repeat both tests as soon as possible in consultation with an HIV specialist.
<p><b>Abbreviations:</b> Ab, antibody; Ag, antigen; PEP, post-exposure prophylaxis.</p> <p><b>Note:</b></p> <p>a. Tests to obtain: FDA-approved HIV-1/2 Ag/Ab combination immunoassay and either qualitative or quantitative plasma HIV RNA assay. If antibodies are not confirmed, but the differentiation assay is positive, the defendant is considered positive for HIV and is likely to be in the acute stage of infection.</p>		