

7-1-1991

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John R. Austin

Rebecca S. Trammell

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Suggested Citation

John R. Austin and Rebecca S. Trammell, AIDS and the Criminal Justice System: An Annotated Bibliography, 11 N. Ill. U. L. Rev. 481 (1991).

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BIBLIOGRAPHY

AIDS and the Criminal Justice System: An Annotated Bibliography

BY JOHN R. AUSTIN*

AND

REBECCA S. TRAMMELL**

AIDS, the Acquired Immune Deficiency Syndrome, was first identified in May, 1981.¹ This fatal disease, caused by the Human Immunodeficiency Virus, HIV,² affects a substantial number of persons. By 1988 the Centers for Disease Control reported that 56,212 persons had AIDS and between 1,000,000 and 1,500,000 individuals were infected by HIV.³ In 1989 35,238 new AIDS cases were reported to the Centers for Disease Control.⁴ HIV infection and AIDS are transmitted only through exposure to contaminated blood, semen and vaginal fluid. Therefore the virus is transmitted primarily through sexual and needle sharing activities.⁵ Since the criminal justice system is perceived to process large numbers of individuals who engage in

* J.D., DePaul University; M.L.S., Indiana University. Associate Professor, Northern Illinois University College of Law Library.

** J.D., University of Denver; M.L.S. Rosary College. Assistant Professor, University of Nebraska at Lincoln College of Law Library.

1. Centers for Disease Control, *Pneumocystis Pneumonia-Los Angeles*, 30 MORBIDITY AND MORTALITY WKLY. REP. 250 (1981). This report detailed unusual pneumonia infections present in five homosexual men. *Id.* at 250-51. The particular type of pneumonia was uncommon and found only in persons with severely depressed immune systems. *Id.* at 251.

2. V. DANIELS, AIDS: THE ACQUIRED IMMUNE DEFICIENCY SYNDROME 46 (2d ed. 1987). Several viruses have been implicated in the AIDS disease. The viruses suspected of causing AIDS have been known by several acronyms, including LAV, HTLV-1 and HIV. The scientific community has agreed upon the designation of HIV to indicate the causative agent of AIDS. *Id.* at 47-48.

3. CENTERS FOR DISEASE CONTROL, *Quarterly Report to the Domestic Policy Council on the Prevalence and Rate of Spread of HIV and AIDS in the United States*, 37 MORBIDITY AND MORTALITY WKLY. REP. 223-224 (1988).

4. CENTERS FOR DISEASE CONTROL, *Update: Acquired Immunodeficiency Syndrome - United States, 1989*, 39 MORBIDITY AND MORTALITY WKLY. REP. 81 (1990).

5. T. HAMMETT, AIDS AND THE LAW ENFORCEMENT OFFICER: CONCERNS AND POLICY RESPONSES 3-4 (1987).

this sort of HIV/AIDS transmitting conduct, the AIDS disease has become an important concern for criminal justice personnel.⁶

One result of this concern has been numerous articles and books addressing the various aspects of the AIDS disease in contemporary society. The following annotated bibliography attempts to identify and categorize those books and articles focusing primarily on the legal issues growing out of the impact of HIV infections and the AIDS disease on the criminal justice system.

This bibliography is divided into two parts. Part I identifies and annotates printed materials which focus on HIV/AIDS and the criminal justice system. Part II of this bibliography describes on-line databases, bibliographies and current awareness tools such as looseleaf services, periodicals and newspapers that could be useful to the legal researcher in keeping abreast of new developments.

For the purposes of this bibliography the criminal justice system is considered to include the police, the courts, detention centers, jails and prisons, and all activities associated with probation and parole. Articles are included which focus on the use of state coercive power to criminalize any aspect of the HIV/AIDS disease. Also included are articles discussing the state's power to mandate testing of and/or to quarantine HIV/AIDS positive individuals in correctional institutions or in the population at large. Every effort has been made to identify all significant books and articles meeting the above described criteria which have been published in response to the AIDS crisis. Newspaper and popular magazine articles have been excluded. This bibliography, begins with the first relevant articles written about the disease in the early 1980's.

In an effort to make this bibliography as useful as possible the materials are categorized to reflect the major areas of importance for HIV/AIDS and the criminal justice system. Some articles may appear in more than one category. In order to obtain maximum usefulness and to insure that all pertinent articles are identified, it is suggested that readers consult all relevant categories. The index categories used are:

Corrections -

This category refers to all matters dealing with prisons, jails and detention centers including matters relating to inmates, corrections officials, mandatory testing in the correctional environ-

6. A. Khan, *The Application of Section 504 of the Rehabilitation Act to the Segregation of HIV-Positive Inmates*, 65 WASH. L. REV. 839-840 (1990).

- ment, and education for inmates and/or correctional personnel.
- Courts - This category contains articles discussing the responsibilities of judges, attorneys and other courts personnel in relation to HIV/AIDS infected defendants. Included in this category are articles relating to judicial discretion to require HIV/AIDS testing and to courtroom procedures appropriate for HIV/AIDS infected defendants.
- Criminalization-Quarantine -This category includes all articles discussing the use of coercive state sanctions against HIV/AIDS infected individuals. Articles concerning mandatory testing for the general population are also included under this category.
- General Information - This category contains articles giving an overview of HIV/AIDS that may be useful in developing policies and implementing procedures relating to HIV/AIDS positive individuals.
- Sentencing-Post Conviction -This category contains information about special sentencing/early release provisions for HIV/AIDS positive defendants/inmates. Included in this category are articles discussing pre and post trial motions for HIV/AIDS positive criminal defendants.
- Probation and Parole - This category contains articles concerning the special probation/parole needs of HIV/AIDS positive individuals. Also included here are articles discussing the perceptions and education of probation and parole officials.

PART I. ARTICLES AND BOOKS

CORRECTIONS

1. C. C. ABT & K.M. HARDY, AIDS AND THE COURTS (1990).

This is a collection of articles focusing on the impact of AIDS on the American court system. Included in this anthology are articles on AIDS testing and the criminal justice system, AIDS in the prison environment, criminalizing conduct to control the spread of AIDS and a variety of articles focusing on the management of AIDS in the courtroom. A topical bibliography is also included.

2. *Acquired Immunodeficiency Syndrome in Correctional Facilities: A Report of the National Institute of Justice and the American Correctional Association*, 35 MORBIDITY AND MORTALITY WKLY. REP., Mar. 28, 1986, at 195.

(Note: The MMWR is prepared by the Centers for Disease Control, Atlanta, Georgia, and frequently reports statistics, information and articles relevant to AIDS in general.). This report presents statistics regarding AIDS in the correctional environment including the number of infected inmates, correctional testing policies and correctional housing policies. Similar information can be found in the various National Institute of Justice publications described in this bibliography.

3. *AIDS and the Criminal Justice System: A Preliminary Report and Recommendations*, 42 REC. A. B. CITY N.Y. 901 (1987).

This report provides basic information regarding AIDS in the criminal justice system. It presents interim recommendations for immediate action to address the problem of AIDS in the criminal justice system and requests input regarding the AIDS crisis from all interested agencies and personnel. The response to this request will be included in the final report and recommendation. (See *infra* Corrections number 34 Final Report).

4. AIDS AND THE LAW (W.H.L. Dorente ed., 1987).

Published in 1987, this book offers an explanation of the medical background of the AIDS virus as well as associated legal issues for members of the medical and legal professions. The book also presents an overview of the rights of persons afflicted with AIDS. Two chapters deal directly with the criminalization of AIDS. Chapter nine, entitled Criminal Sanctions and Quarantine, discusses statutory proposals and the AIDS crisis. Chapter ten, AIDS and the Criminal Justice System, focuses on AIDS in prisons and jails as well as factors involved in prosecuting and sentencing the defendant with AIDS.

5. AIDS COORDINATING COMMITTEE, AMERICAN BAR ASSOCIATION, AIDS: THE LEGAL ISSUES DISCUSSION DRAFT (1988).

In 1987 the American Bar Association established the Coordinating Committee on AIDS. This Committee focused on fifteen legal issues that are the subject of this discussion draft. One of these issues, criminal law and prisons, analyzes the application of non-criminal sanctions and criminal laws together with the possible need for new criminal laws as a response to the AIDS crisis. The draft also presents an overview of other AIDS related issues concerning courtrooms and prisons.

6. *American Bar Association Policy and Report on AIDS*, 21 U. TOL. L. REV. 1, 21 (1989).

The American Bar Association presents a series of resolutions relating to all aspects of AIDS in American society. Following these resolutions is a report of the AIDS Coordinating Committee which addresses AIDS in several areas including mandatory testing, discrimination, and public health law. Also included are recommendations concerning criminal sanctions, criminal procedure and courtroom procedure, and responses in correctional facilities.

7. Barry, Cleary, & Fineberg, *Screening for HIV Infection: Risks, Benefits, and Burden of Proof*, 14 LAW MED. & HEALTH CARE 259 (1986).

This article reviews the technical performance of HIV antibody tests and then discusses how decisions about the use of these tests should be influenced by the accuracy and reliability of the tests themselves. The authors conclude that the burden of proof for the necessity of HIV screening should rest with those requesting the tests, and these requests for tests should be rigorously screened. This article presents background information for HIV testing in the criminal justice system.

8. Baxter, *AIDS Education in the Jail Setting*, 37 CRIM. & DELINQ. 36 (1991).

This article discusses advantages of and obstacles to HIV/AIDS education programs in the jail setting. The article focuses on an education project in the Maricopa County (Phoenix, AZ) jail and concludes that such projects must be carefully designed and implemented.

9. Belbot & del Carmen, *AIDS in Prison: Legal Issues*, 37 CRIM. & DELINQ. 135 (1991).

The authors review current statutory and case law dealing with the HIV/AIDS virus in the prison setting.

10. Berg, & Berg., *AIDS in Prison: The Social Construction of a Reality*, 32 INT'L. J. OFFENDER THERAPY & COMP. CRIMINOLOGY 17 (1988).

This article presents an ethnographic study of prison inmates' perceptions of AIDS. The study reveals that inmates have many misconceptions regarding the disease. This article is relevant for prison administrators and corrections officials who institute AIDS educational programs for inmates. An awareness of prisoner misconceptions can result in the development of better, more successful AIDS educational programs.

11. Blumberg, *Transmission of the AIDS Virus Through Criminal Activity*, 25 CRIM. L. BULL. 454 (1989).

The possibility that AIDS may be transmitted from high risk groups to the population at large through criminal activity such as rape and prostitution raise significant constitutional issues. The author indicates that these issues include mandatory testing of prison inmates, mandatory testing of individuals charged with sex offenses, and disclosure of test results to victims. The author concludes that there is little possibility that the AIDS virus can be, or is, transmitted through criminal activities.

12. Blumberg & Langston, *Mandatory HIV Testing in Criminal Justice Settings*, 37 CRIME & DELINQ. 5 (1991).

The authors examine proposals for mandatory HIV testing by the criminal justice system and conclude that such screening is not justified.

13. Branham, *Opening the Bloodgates: The Blood Testing of Prisoners for the AIDS Virus*, 20 CONN. L. REV. 763 (1988).

The author examines possible constitutional prohibitions against mandatory testing for HIV infection (including violations of the search and seizure provisions of the Fourth Amendment and/or the right to privacy) and also questions whether or not there might be a constitutional mandate for such testing provided by the due process and cruel and unusual punishment provisions of the Constitution. The author concludes that mandatory HIV testing could be constitutionally required. (See Hanssens and Jacobi, *Blood Testing of Prisoners for the AIDS Virus* for a reply to this article).

14. Branham, *Out of Sight, Out of Danger?: Procedural Due Process and the Segregation of HIV-Positive Inmates*, 17 HASTINGS CONST. L.Q. 293 (1990).

The author discusses the reasons for potential segregation of HIV/AIDS positive inmates as well as the procedural due process safeguards that should attach to such projected segrega-

tion. She concludes that such a segregation policy might actually "facilitate rather than curb" the spread of the HIV/AIDS disease within the prison by making inmates believe that they are safe from the disease and can therefore engage in disease transmitting conduct.

15. Chang, *AIDS in Prison: Breaking the Barriers*, 17 HUMAN RTS. Q. 46 (1990).

The author recounts her experiences in litigating an early (the third major suit filed) civil rights action on behalf of AIDS infected inmates in a Connecticut prison. Information on related litigation is also included.

16. Comment, *The Legal Aspects of AIDS in the Correctional Setting*, 14 LAW & PSYCHOL. REV. 185 (1990).

The author presents an overview of AIDS in correctional institutions. She concludes that, while prisoners do retain some constitutional rights, these rights must sometimes give way to security interests and interests in the safety of others. In light of the AIDS crisis, mandatory testing and segregation programs do not infringe unreasonably on the constitutional rights of prison inmates.

17. Closen, *Mandatory Disclosure of HIV Blood Test Results to the Individuals Tested: A Matter of Personal Choice Neglected*, 22 LOY. U. CHI. L.J. 445 (1991).

Closen focuses on the almost completely overlooked right of individuals tested for HIV antibodies not to be informed of their test results. Closen points out that most mandatory testing statutes, including those affecting prisoners, require that individuals being tested be informed of the test results. Closen maintains that individuals should have the right not only to make informed consensual decisions regarding antibody testing, but should also be allowed to decide in advance of testing whether or not they wish to be informed of the test results. Closen indicates that anything less deprives individuals of their Constitutional rights to personal choice, privacy and liberty.

18. Comment, *AIDS Behind Bars: Prison Responses and Judicial Deference*, 62 TEMP. L. REV. 327 (1989).

This comment reviews studies focusing on the incidence and treatment of AIDS in prisons and discusses existing case law arising from inmate challenges to these correctional responses to AIDS. The author concludes that a balanced response by correctional officials is essential, and that the courts must, through judicial activism, insure that discrimination and abuse do not occur within the prison setting.

19. Comment, *The AIDS Crisis in Prison: A Need for Change*, 90 J. CONTEMP. HEALTH L. & POL'Y 221 (1990).

This comment details the impact of AIDS on state and federal prisons. The author discusses mandatory AIDS testing for prisoners, describes the problems of confidentiality, segregation and medical care for HIV and/or AIDS positive inmates, and concludes with recommendations for consistent correctional policies to deal with the AIDS crisis in prison.

20. Comment, *Sentenced to Prison, Sentenced to AIDS: The Eighth Amendment Right to be Protected from Prison's Second Death Row*, 92 DICK. L. REV. 863 (1988).

The author examines the applicability of the Eighth Amendment's guarantee of protection against cruel and usual punishment to the duty of the state to institute AIDS prevention programs in the prisons. The author concludes that the state is under an Eighth amendment mandate to provide such protection to prison inmates.

21. Cooper, *AIDS Law: The Impact of AIDS on American Schools and Prisons*, ANN. SURV. A. L. 117 (1987).

This article discusses the response of courts and policy makers to AIDS in schools and prisons. Part I presents a medical overview of AIDS; Part II discusses AIDS in schools; and Part III details the present court response to decisions of prison administrators dealing with AIDS in the prison setting. The author contends that the courts are deferring to administrative policies regarding AIDS in both schools and prisons, and it is therefore necessary to develop humane, medically sound guidelines for such policies.

22. Coughlin, *AIDS in Prisons: One Correctional Administrator's Recommended Policies and Procedures*, 72 JUDICATURE 63 (1988).

In detailing policies appropriate for dealing with AIDS in the correctional setting, Coughlin indicates that administrators must be aware of important legal issues including quality inmate care, access to programming, maintenance of normal inmate privileges, availability of an inmate grievance procedure and absolute confidentiality of inmate medical records for infected prisoners. The author maintains that correctional administrators who adhere to these principles will prevail in most litigation focusing on the prison response to AIDS infected prisoners.

23. H.L. DALTON & S. BURRIS, *AIDS AND THE LAW A GUIDE FOR THE PUBLIC* (1987).

This work is divided into six parts, each dealing with a separate aspect of the AIDS health crisis. Part Five, AIDS

Institutions, includes a section on AIDS in prisons. This chapter presents an overview of the incidence of AIDS in prison as well as the correctional response to the disease.

24. Dubler, et al., *Management of HIV Infection in New York State Prisons*, 21 COLUM. HUM. RTS. L. REV. 363 (1990).

This report was formulated over a six month period in response to the rising number of AIDS infected prisoners housed in New York prisons. Sixteen areas of concern were identified ranging from services for infected inmates to early release of all terminally ill inmates. Recommendations were developed for each area.

25. R. Epstein, *The Permissible Police Power Regulation of AIDS*, in AIDS: THE LEGAL COMPLEXITIES OF A NATIONAL CRISIS 11 (1987).

Epstein presents his own outline and various articles by other authors discussing elements of AIDS and police power.

26. Field, *Testing for AIDS: Uses and Abuses*, 16 AM. J.L. & MED. 33 (1990).

The author considers forced or mandatory testing proposals for both the population at large and for certain specific sub-populations including prison inmates and prostitutes. The author concludes that forced or mandatory testing poses a significant threat to the civil liberties of the population as a whole, and in the absence of clear public health benefits from mandatory testing, the protection of civil liberties would best be served by education and voluntary testing programs.

27. Grady, *AIDS Challenges the Criminal Justice System*, 126 N.J. L. 36 (1989).

The author discusses the impact of AIDS on the criminal justice system. Included in this discussion is information on what conduct is and should be controlled through criminalization and/or sanctions against incarcerated inmates. The author considers treatment of HIV/AIDS positive prison inmates, and indicates that inmate testing is the first step in identifying and controlling the AIDS crisis in prisons and jails.

28. T.M. HAMMETT, *AIDS AND THE LAW ENFORCEMENT OFFICER: CONCERNS AND POLICY RESPONSES* (1986).

This volume is part of the *National Institute of Justice Issues and Practices in Criminal Justice* series. It presents an overview of law enforcement concerns regarding AIDS. The author indicates that education will insure the most appropriate response by the law enforcement officer to the AIDS crisis. An appendix is attached containing medical information on the HIV virus, a

resource list and examples of AIDS law enforcement policies.

29. T.M. Hammett, *AIDS and HIV Training and Education in Criminal Justice Agencies*, NATIONAL INSTITUTE OF JUSTICE AIDS BULLETIN (Aug., 1989).

This AIDS Bulletin summarizes essential elements of an effective AIDS education and training program for criminal justice personnel.

30. T.M. HAMMETT, *AIDS IN CORRECTIONAL FACILITIES: ISSUES AND OPTIONS*, (3d ed. 1988).

The *Issues and Practices in Criminal Justice series* published by the National Institute of Justice has produced a volume entitled: *AIDS IN CORRECTIONAL FACILITIES: ISSUES AND OPTIONS* each year since 1986. These volumes present the most current information available regarding the AIDS disease. Key issues in developing correctional policies regarding AIDS are discussed and policy options are presented. An appendix is included containing resource lists, sample forms and examples of AIDS correctional policies. This report is supplemented by an update report issued in 1989. (See *supra* Corrections number 45 Moini and Hammett).

31. Hammett, et al., *Stemming the Spread of HIV Among IV Drug Users, Their Sexual Partners, and Children: Issues and Opportunities for Criminal Justice Agencies*, 37 CRIM. & DELINQ. 101 (1991).

The authors maintain that AIDS prevention education should be undertaken by criminal justice agencies at the pretrial, corrections and community release stages. Because the criminal justice system deals with a substantial number of individuals in the HIV/AIDS high risk group such education programs are appropriate for implementation by the criminal justice system.

32. Hanssens & Jacobi, *Blood Testing of Prisoners for the AIDS Virus: A Brief Reply*, 20 CONN. L. REV. 813 (1988).

The authors examine mandatory HIV testing under a Fourth Amendment and privacy analysis and conclude that such testing would violate prisoners' rights under each of these constitutional protections. Branham's analysis of the same issues (See *supra* Corrections number 15 Branham annotation) is critiqued and criticized.

33. D.E. HUNT, *AIDS IN PROBATION AND PAROLE* (1989).

This book is part of the *Issues and Practices in Criminal Justice* publication series, and focuses on the AIDS disease as it impacts on probation and parole. In addition to a review of medical information about AIDS, the author discusses confiden-

tiality, legal and labor issues relating to the disease. Various state and federal correctional policies addressing AIDS issues are included in the appendix.

34. Jaffe, *What Doctors Want to Tell Judges About AIDS*, 29 JUDGES J. 8 (1990).

Dr. Jaffe presents background information on the AIDS epidemic, including information on the transmission of the disease. He concludes with a discussion of special transmission issues relevant in the judicial and correctional settings. Dr. Jaffe also includes a discussion regarding the prospects for controlling the AIDS epidemic.

35. JOINT SUB-COMMITTEE ON AIDS IN THE CRIMINAL JUSTICE SYSTEM, COMMITTEE ON CORRECTIONS AND COMMITTEE ON CRIMINAL JUSTICE OPERATIONS AND BUDGET, *AIDS and the Criminal Justice System: Executive Summary of the Final Report*, 44 REC. A. B. CITY N.Y. 601 (1989).

This report concludes a review of AIDS issues that began in 1987 when this Joint Sub-Committee issued their preliminary report. This final report includes a medical overview of HIV infection and related diseases and calls on the city and state of New York to set a national example in addressing problems created by AIDS in the criminal justice system. Divided into 6 chapters, the report identifies various problems and makes recommendations for their solutions. (See *supra* Corrections number 3).

36. Kahn, *The Application of Section 504 of the Rehabilitation Act to the Segregation of HIV-Positive Inmates*, 65 WASH. L. REV. 839 (1990).

The author discusses the segregation of HIV/AIDS positive inmates within correctional institutions in light of § 504 of the Rehabilitation Act. The author concludes that the "legality of the segregation of HIV-positive inmates under § 504 is hardly a settled question." However, the author maintains that HIV-positive inmates may be considered handicapped individuals under the provisions of this act and as such blanket segregation is inappropriate. Case by case analysis and case by case decisions are a much more appropriate response by prison officials to the presence of incarcerated HIV-positive inmates.

37. Kiel, *AIDS*, 48 CORRECTIONS TODAY 68 (1986).

This author provides corrections personnel with information on American Correctional Health Services Association and American Correctional Association guidelines for dealing with AIDS in the prison environment. The author also provides sources for

obtaining additional information about the disease including sources for information about AIDS testing and other legal issues.

38. Kleiman, *Aids, Vice and Public Policy*, 51 LAW & CONTEMP. PROBS. 315 (1988).

The author presents a policy analysis of AIDS in relation to those activities and groups commonly associated with vice, prostitutes, prisoners, homosexuals, and IV drug users. The author concludes that some direct intervention beyond mere education is necessary to control the AIDS epidemic.

39. Lanier, *AIDS Awareness and the Impact of AIDS in Juvenile Corrections*, 16 CRIM. JUST. & BEHAV. 395 (1989).

The author surveyed juvenile offenders to determine their knowledge about the AIDS disease, their awareness of preventive measures, and to determine the effect of AIDS education for these offenders. The author concludes that education does improve understanding of the disease among juveniles. The author also determined that educational efforts should emphasize specific precautions and the continual need to take these precautions in order to avoid contracting or transmitting the disease.

40. Lazlo & Smith, *Evaluating Criminal Justice Training Addressing AIDS Policy*, 37 CRIME & DELINQ. 19 (1991).

The authors discuss the AIDS Policy, Training, and Technical Assistance Project which attempted to assist criminal justice personnel in developing and implementing local HIV/AIDS policies. They provide a description of the three day training programs and indicate that even such short training programs appear to impact positively on the agencies involved. A sample policy statement for probation and parole officers relating to the supervision and management of AIDS related clients, and a sample employee policy statement are included in the appendix to the article.

41. Legal Aid Society of New York, *Inmates of New York State With HIV v. New York*, 5 NOTRE DAME J.L. ETHICS & PUB. POL'Y 89 (1990).

This is a model complaint filed by the New York Legal Aid Society in the Federal District Court for the Northern District of New York on behalf of all HIV/AIDS infected inmates in the New York State prison system. The editors of the journal indicate that they have published this complaint because it represents "a novel and unique piece of legal literature."

42. Luecke, *Tracking AIDS (Acquired Immunodeficiency Syndrome) In the Criminal Justice System*, 3 POLICE MISCONDUCT & CIV. RTS. L. REP. 13 (1990).

The author presents an overview of HIV/AIDS testing procedures and isolation of infected inmates in the prison setting. She concludes that until such testing becomes more reliable the mandatory testing and segregation of infected prison inmates is inappropriate.

43. Lurgio, *Practitioners' View on AIDS in Probation and Detention*, 53 FED. PROBATION, Dec. 1989, at 16.

The author reviews a study exploring contemporary issues affecting probation and court services. Illinois detention and probation workers participated in the survey by answering a series of AIDS related questions. The study reveals that concerns differ between detention personnel and probation personnel. The survey indicates that AIDS problems can best be met through education, case load management strategies, and a sensitive attitude toward AIDS victims.

44. Margolis, *The AIDS Epidemic: Reality Versus Myth*, 72 JUDICATURE 58 (1988).

It has been recognized that AIDS presents significant problems for the criminal justice system, and these problems can only be dealt with effectively if current, accurate information regarding the AIDS epidemic is available. This article, written by a physician, is intended to provide judges and other criminal justice personnel with accurate information regarding AIDS.

45. McMartin, *HIV Infection In The Prison Environment: Medical Treatment; Teeth as Weapons; and HIV Infection as a Cause for Leniency*, WESTLAW TP Database (Aug., 1990).

Note: This article is published exclusively in WESTLAW. As such, no citation is provided for this work, which is intended solely to provide timely and concise commentary of interest to the bar on current legal developments and issues. A copy of this work may be obtained from the authors of this bibliography.

The author discusses various legal issues associated with the incarceration of HIV/AIDS positive individuals. This author maintains that resolution of these issues involves balancing the rights of infected inmates, the rights of uninfected inmates and the rights of society as a whole. The author concludes that monitoring evolving policies in these areas is essential.

46. McMartin, *HIV Infection in the Prison Environment: Mandatory HIV Antibody Testing*, WESTLAW TP Database (Aug., 1990).

Note: This article is published exclusively in WESTLAW. As such, no citation is provided for this work, which is intended solely to provide timely and concise commentary of interest to the bar on current legal developments and issues. A copy of this work may be obtained from the authors of this bibliography.

The author defines AIDS related terms and then discusses the legal issues involved in HIV testing for prison inmates. He includes a review of statutory and regulatory provisions governing HIV infected inmates, and details the constitutional interests affected by mandatory testing.

47. McMartin, *HIV Infection in the Prison Environment: Discrimination Against HIV-Infected Inmates —Segregated Living Conditions and Restricted Access to Prison Programs*, WESTLAW TP Database (Aug., 1990).

Note: This article is published exclusively in WESTLAW. As such, no citation is provided for this work, which is intended solely to provide timely and concise commentary of interest to the bar on current legal developments and issues. A copy of this work may be obtained from the authors of this bibliography.

The author defines AIDS related medical terms, discusses statutory and regulatory provisions affecting HIV/AIDS positive inmates, and presents an overview of constitutional issues impacting in this area.

48. Mapelli, *AIDS in Prison*, 20 COLUM. HUM. RTS. L. REV. S19 (1989).

Presented as part of a *Jailhouse Lawyer's Manual Supplement on Health and Family Law*, the author discusses litigation relating to AIDS in the prison setting. The author concludes that the deference given by the courts to corrections administrators makes the possibility of success for such litigation remote.

49. S. MOINI & T.M. HAMMETT, 1989 UPDATE: AIDS IN CORRECTIONAL FACILITIES (1990).

This volume updates Hammett's AIDS IN CORRECTIONAL FACILITIES: ISSUES AND OPTIONS. As part of the *Issues and Practices in Criminal Justice* series published by the National Institute of Justice, AIDS updates have been issued in 1986, 1988 and currently in 1989. This 1989 update includes recent medical and research developments, current statistics relating to AIDS and prisons and prisoners, and a review of current correctional policies and legal issues.

50. Moriarity, *AIDS in Correctional Institutions: The Legal Aspects*, 23 CRIM. L. BULL. 533 (1987).

The author examines equal protection arguments that have been advanced by HIV-positive inmates against special conditions imposed upon them, the duty of prison administrators to protect HIV-free prisoners from contracting the infection, and standards for adequate medical care employed by prisons relative to HIV-infected prisoners.

51. Moss, *AIDS in Prison - To Test or Not?*, 75 A.B.A. J. 17 (1989).

This brief article presents an overview of AIDS litigation focusing on whether or not mandatory AIDS testing for prison inmates can be implemented by prison administrators.

52. NATIONAL GAY RIGHTS ADVOCATES & NATIONAL LAWYERS GUILD AIDS NETWORK, *AIDS PRACTICE MANUAL: A LEGAL AND EDUCATIONAL GUIDE* (2d ed. 1988).

This practice manual discusses all aspects of AIDS including a chapter on criminal law and procedure and a chapter on AIDS in prisons and jails. The Appendix to the Criminal Law and Procedure chapter includes voir dire questions for both gay related issues and AIDS related issues. The chapter on AIDS in prisons and jails includes information about reduction/ change of sentence motions on behalf of HIV or AIDS positive defendants in state courts.

53. ACLU, *AIDS AND PRISONS: THE FACTS FOR INMATES AND OFFICERS*, NATL. PRISON PROJ. (1988).

This 14 page booklet, published by the National Prison Project, explains both how AIDS is transmitted and how to avoid contracting it in prison. This booklet also discusses the legal rights and responsibilities of prison inmates and officers including those rights related to testing for AIDS and treatment for AIDS infected inmates.

54. ACLU, *THE NATIONAL PRISON PROJECT: 1990 AIDS IN PRISON BIBLIOGRAPHY* (1990).

The National Prison Project continues to update their AIDS IN PRISON Bibliography. This bibliography includes information on state and federal correctional policies and a detailed description of AIDS litigation arising in the prison setting, arranged by subject. The bibliography also includes general non-prison AIDS cases of particular significance. It concludes with a list of relevant articles arranged by subject.

55. Note, *AIDS in Correctional Facilities: A New Form of the Death Penalty?*, 36 WASH. U. J. URB. & CONTEMP. L. 167 (1989).

This note contends that the most effective response of prison

officials to the AIDS crisis includes testing all inmates for AIDS and segregating those inmates infected with the disease. The author proposes federal legislation to require uniform AIDS testing and AIDS segregation procedures for all state prisons. The author also maintains that such policies will prevent the spread of AIDS and reduce or eliminate institutional liability connected with the disease.

56. Note, *AIDS in Prisons: Are We Doing the Right Thing?*, 13 NEW ENG. J. CRIM. & CIV. CONFINEMENT 269 (1987).

The author asserts that the decision upholding the right of prison officials to segregate and isolate AIDS prisoners in *Cordero v. Coughlin*, 607 F. Supp. 9 (S.D.N.Y. 1984) was incorrect in that it denied the prisoners' rights guaranteed by the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments and by the prohibition against cruel and unusual punishment provided by the Eighth Amendment.

57. Note, *Discrimination Against Prisoners With AIDS - Equal Protection and Due Process Claims Arising From Segregation and Denial of Conjugal Visits*, 6 N.Y.L. SCH. J. HUM. RTS. 99 (1988).

This note maintains that incarcerated persons are the most likely group to be punished for AIDS and the least likely group to receive necessary assistance to deal with the disease. The author discusses AIDS related prison cases and cases dealing with prison administrative regulations in general, and concludes with policy recommendations intended to protect prisoners' constitutional rights to due process and equal protection in light of the AIDS epidemic.

58. Note, *In Prison with AIDS: The Constitutionality of Mass Screening and Segregation Policies*, U. ILL. L. REV. 151.

This note provides an overview of the AIDS problem in state prisons. The author includes a medical discussion of the disease intended to provide a basis for determining appropriate correctional policies and legal standards regarding AIDS in prison. The note also addresses the Constitutionality of screening prison inmates for AIDS as well as those Constitutional issues involved in separating AIDS infected prisoners from the prison population in general.

59. Note, *Prisoners With AIDS: Constitutional and Statutory Rights Implicated in Family Visitation Programs*, 15 B.C. L. REV. 121 (1989).

This note discusses the constitutional and statutory issues raised in relation to limiting the eligibility of AIDS infected

inmates to participate in family visitation programs. Focusing on *Doe v. Coughlin*, 41 N.Y.2d 48, 518 N.E.2d 536 (1987), the author concludes that the court incorrectly applied the standard of review in upholding a denial of conjugal visitation for a prisoner with AIDS. This author maintains that prisoners should not be subject to harsher treatment during their incarceration merely because they are infected with AIDS.

60. Note, *Rethinking Conjugal Visitation in Light of the "AIDS" Crisis*, 15 NEW ENG. J. ON CRIM. CIV. CONFINEMENT 121 (1989).

The author argues in favor of conjugal visits in prisons and maintains that such visits might reduce the incidence of AIDS within the prison population.

61. Note, *Women In Prison With AIDS: An Assault on the Constitution?*, 64 S. CAL. L. REV. 741 (1991).

This note discusses the effect of prison policies for inmates testing positive for the HIV/AIDS as they impact on women prisoners. The author presents an overview of prison policies in relation to the AIDS virus and concludes that such prison policies as applied to women prisoners represent unconstitutional sex discrimination.

62. Quinlan & Moritsugu, *AIDS in Prison The Federal Experience*, JUDGES' J., Summer 1990, at 26.

Quinlan, the director of the Federal Bureau of Prisons, and Moritsugu, the assistant director of the Federal Bureau of Prisons and Assistant Surgeon General of the U.S. Public Health Department, detail the federal prison policies regarding HIV/AIDS positive inmates. Quinlan and Moritsugu maintain that isolation of HIV/AIDS infected inmates with "predatory or promiscuous" behavior together with an extensive education program for staff and inmates is the answer to the AIDS crises in prisons. They indicate that at the time of this article only 10 lawsuits had been filed within the federal prison system focusing on the treatment of HIV/AIDS positive inmates. Six of the ten cases have been disposed of favorably to the federal prison system policies.

63. Raburn, *Prisoners with AIDS: The Use of Electronic Processing*, 24 CRIM. L. BULL. 213 (1988).

The author explains how closed circuit television, telefacsimile and computer tracking of AIDS cases could be used by the courts to expedite processing of prisoners with AIDS.

64. Rowe, *Death Row: AIDS Is Turning a Prison Term into a Potential Death Sentence*, 7 CAL. L. 49 (1987).

This article, written by an inmate at the Wallkill Correctional Facility, Wallkill, New York, discusses the problem of AIDS in

prison from an inmate's view. He presents an overview of the increase in legal complaints resulting from inmates fears of contracting AIDS while incarcerated.

65. Schachter, *Preventive Medicine: AIDS Education for Law Enforcement*, 3 CRIM. JUST. 2 (1988).

The author indicates that AIDS constitutes a complex and ethically demanding challenge to the American criminal justice system. The author believes that this challenge can best be met through education that will result in a balance of institutional and individual interests. He concludes by presenting an overview of the type of education and training that should be utilized throughout the criminal justice system.

66. Sinkfield & Houser, *AIDS and the Criminal Justice System*, 10 J. LEGAL MED. 103 (1989).

The authors present an overview of AIDS and the criminal justice system, discussing AIDS in the correctional setting, court processing and handling of infected or sick prisoners, and AIDS as a factor in sentencing, probation and parole decisions. The article includes an overview of recent legislative decisions that impact on these issues.

67. Skoler & Dargan, *AIDS in Prisons-Administrator Policies, Inmate Protests, and Reactions from the Federal Bench*, 54 FED. PROBATION 20 (1990).

This article reviews the problems associated with AIDS in the prison environment and presents an overview of law suits resulting from these problems. The author concludes that courts have upheld most administrative actions, but have recognized prisoner's rights to confidentiality of test results and the provision of adequate medical care.

68. I.J. SLOAN, *AIDS LAW: IMPLICATIONS FOR THE INDIVIDUAL AND SOCIETY* (Legal Almanac Series No. 89, 1988).

The author presents what he describes as a preliminary effort to provide information and education in a changing field. Included in this presentation is a chapter on tort and criminal liability for sexual transmission of AIDS in which he discusses various criminal liability theories. A chapter is also included on AIDS in prisons. A variety of resources are listed in the Appendices including state AIDS related legislation and a resource list of legal organizations and attorney groups.

69. M. TANNER, *THE POLITICS OF HEALTH: A STATE RESPONSE TO THE AIDS CRISIS* (1989).

The American Legislative Exchange Council (ALEC) established the National Working Group On State AIDS Policy to

examine scientific and political literature as well as to consider expert and individual testimony in order to develop a response to the national AIDS crisis. This work presents both an overview of the AIDS disease and possible responses to AIDS in various areas of society including prisons. The AIDS in prisons section contains a sample HIV testing act.

70. Vaid, *Balanced Response Needed to AIDS in Prison*, 7 NAT'L PRISON PROJECT J. 1 (1986).

This article provides medical background about AIDS as well as a discussion and evaluation of mandatory inmate screening and segregation of inmates with AIDS. The article also includes a legal overview of these issues.

71. Vaid, *NPP Gathers the Facts on AIDS in Prison*, 6 NAT'L PRISON PROJECT J. 1 (1985).

This article presents the results of a National Prison Project survey designed to determine the incidence of AIDS in the nation's prisons. The article also presents an overview of various prison responses to the AIDS crisis. A review of litigation arising out of the prison response to AIDS is also included.

72. U. Vaid, *Prisons, in AIDS AND THE LAW: A GUIDE FOR THE PUBLIC* 235-250 (H. Dalton & S. Burris, eds. 1987).

Vaid presents an overview of the problems associated with AIDS in the correctional setting, including both medical and legal concerns. He identifies and describes the consequences for both prisoners and administrators in following segregation policies for HIV/AIDS positive inmates.

73. P.A. WAGNER, *AIDS and the Criminal Justice System*, in AIDS AND THE LAW 177-193 (W.H.L. Dornett ed. 1987 & Supp. 1989).

Wagner discusses all aspects of the criminal justice system in relation to the processing of HIV/AIDS positive defendants. She indicates that courts are granting prison administrators wide discretionary powers to deal with AIDS infected prisoners.

74. Werdel, *Mandatory AIDS Testing: The Legal, Ethical and Practical Issues*, 5 NOTRE DAME J.L. ETHICS & PUB. POL'Y 155 (1990).

The author focuses on practical, ethical and legal implications for mandatory AIDS testing of high risk populations including prisoners and prostitutes. The author concludes that testing should be mandatory for these identifiable high risk groups since the rights of these groups should not take precedence over the rights of society as a whole.

COURTS

1. C.C. ABT & K.M. HARDY, AIDS AND THE COURTS (1990).

See *supra* number 1 Corrections for annotation.

2. *AIDS and the Criminal Justice System: A Preliminary Report and Recommendations*, 42 REC. A. B. CITY N.Y. 90L (1987).
See *supra* number 3 Corrections for annotation.
3. *AIDS AND THE LAW* (Dorente, W.H.L. ed. 1987).
See *supra* number 4 Corrections for annotation.
4. AIDS COORDINATING COMMITTEE, AMERICAN BAR ASSOCIATION, *AIDS: THE LEGAL ISSUES DISCUSSION DRAFT* (1988).
See *supra* number 5 Corrections for annotation.
5. *American Bar Association Policy and Report on AIDS*, 21 U. Tol. L. REV. 21 (1989).
See *supra* number 6 Corrections for annotation.
6. R.T. Andrias, *Shed Your Robes Three reasons for Aggressive Judicial Leadership in Coping with the HIV Epidemic*, 19 JUDGES' J., Spring 1990, at 4.
The author provides background information for judges regarding the HIV/AIDS crisis. He maintains that the courts will play a key role in dealing with the AIDS crisis in the years to come, and that education for all court personnel will be a significant factor in successfully meeting this AIDS challenge in the future.
7. Barry, Cleary, & Fineberg, *Screening for HIV Infection: Risks, Benefits, and Burden of Proof*, 14 LAW MED. & HEALTH CARE 259 (1986).
See *supra* number 7 Corrections for annotation.
8. Blumberg, *Transmission of the AIDS Virus Through Criminal Activity*, 25 CRIM. L. BULL. 454 (1989).
See *supra* number 9 Corrections for annotation.
9. Blumberg & Langston, *Mandatory HIV Testing in Criminal Justice Settings*, 37 CRIME & DELINQ. 5 (1991).
See *supra* number 12 Corrections for annotation.
10. Chang, *AIDS in Prison: Breaking the Barriers*, 17 HUMAN RTS. Q. 46 (1990).
See *supra* number 15 under Corrections for annotation.
11. Comment, *Deadly and Dangerous Weapons and AIDS: The Moore Analysis is Likely to be Dangerous*, 74 IOWA L. REV. 951 (1989).

The author discusses the Eighth Circuit's decision in *United States v. Moore*, 846 F.2d 1163 (8th Cir. 1988) holding that the mouth and teeth of an HIV positive defendant could be considered a "deadly and dangerous" weapon. The author maintains that this analysis sets a dangerous precedent that could be applied in future AIDS related cases.

12. Field, *Testing for AIDS: Uses and Abuses*, 16 AM. J.L. & MED. 33 (1990).

See *supra* number 26 Corrections for annotation.

13. T.M. Hammett, *AIDS and HIV Training and Education in Criminal Justice Agencies*, in NATIONAL INSTITUTE OF JUSTICE AIDS BULLETIN (Aug., 1989).

See *supra* number 29 Corrections for annotation.

14. Jaffe, *What Doctors Want to Tell Judges About Aids*, 19 JUDGES' J., Spring 1990, at 8.

Dr. Jaffe presents background information on the AIDS epidemic, including information on the transmission of the disease. He concludes with a discussion of special transmission issues relevant in the judicial and correctional settings. Dr. Jaffe also includes a discussion regarding the prospects for controlling the AIDS epidemic.

15. Joint Sub-Committee on AIDS in The Criminal Justice System, Committee on Corrections and Committee on Criminal Justice Operations and Budget, *AIDS and the Criminal Justice System: Executive Summary of the Final Report*, 44 REC. A. B. CITY N.Y. 601 (1989).

See *supra* number 35 Corrections for annotation.

16. Lazlo & Smith, *Evaluating Criminal Justice Training Addressing AIDS Policy*, 37 CRIME & DELINQ. 19 (1991).

See *supra* number 40 Corrections for annotation.

17. Legal Aid Society of New York, *Inmates of New York State With HIV v. New York*, 5 NOTRE DAME J.L. ETHICS & PUB. POL'Y, 89 (1990).

See *supra* number 41 Corrections for annotation.

18. Lurigio, et al., *The Cook County Experience: Assessing AIDS Education for Judges*, JUDGES' J., Summer 1990, at 31.

The authors describe a judicial education program conducted in Cook County, Illinois designed to increase the medical and legal knowledge of judges regarding the HIV/AIDS virus. The results of this educational program, measured through preseminar and postseminar testing, indicate that a "relatively brief and focused seminar can significantly increase judges' knowledge about the medical and legal aspects of AIDS." The authors also state that the seminar presenters must have sufficiently prestigious credentials to establish their credibility; the material presented should be weighted toward legal rather than medical information; seminars should be scheduled to fit judicial schedules; and active participation by the judges should be encouraged for maximum learning effectiveness.

19. MacDonald, *AIDS, Rape, and the Fourth Amendment: Schemes for Mandatory AIDS Testing of Sex Offenders*, 43 VANDALIA L. REV. 1607 (1990).

The author maintains that given the unreliability of currently available AIDS testing, mandatory testing of sex offenders should not be required. He notes that requirements for mandatory testing must balance the competing interests of the sex offender and the victim.

20. Margolis, *The AIDS Epidemic: Reality Versus Myth*, 72 JUDICATURE 58 (1988).

See *supra* number 44 Corrections for annotation.

21. Messitte, *AIDS: A Judicial Perspective*, 72 JUDICATURE 205 (1989).

The author, an associate judge, maintains that generally the AIDS crisis presents no new issues from a judicial perspective. This article focuses on numerous questions raised by the AIDS epidemic including the presence of a defendant with AIDS in a courtroom. Messitte discusses various decisions regarding the presence of an AIDS infected prisoner in court and concludes that a well-developed body of law exists from which decisions in this area can be derived.

22. Morgan, *The Problems of Testing for HIV in the Criminal Courts*, 29 JUDGES' J. 22 (1990).

The author discusses the problems and concerns facing judges who are asked to order HIV tests for criminal defendants. She concludes that judges must be aware of their own prejudices, and must attempt to fit their decisions to articulated public health strategies developed to deal with the AIDS epidemic.

23. NATIONAL GAY RIGHTS ADVOCATES & NATIONAL LAWYERS GUILD AIDS NETWORK, *AIDS PRACTICE MANUAL: A LEGAL AND EDUCATIONAL GUIDE* (2d ed. 1988).

See *supra* number 52 Corrections for annotation.

24. Note, *AIDS Testing of Rape Suspects: Have the Rights of the Accused Met Their Match?*, U. ILL. L. REV. 347.

The author maintains that rape victims can be subject to a death sentence in the form of AIDS, and therefore mandatory HIV testing of accused sex offenders must be instituted. The note indicates that state statutes requiring such testing can be drafted to protect the victim while still upholding the rights of the accused.

25. Note, *Criminal Liability for Transmission of AIDS: Some Evidentiary Problems*, 10 CRIM. JUST. J. 69 (1987).

The author contends that the unique characteristics of the

AIDS disease which is transmitted through an exchange of bodily fluids including semen, blood and saliva create unique evidentiary problems in establishing criminal liability for the transmission of the disease. The author discusses a number of pending criminal actions to illustrate these problems.

26. Raburn, *Prisoners with AIDS: The Use of Electronic Processing*, 24 CRIM. L. BULL. 213 (1988).

See *supra* number 63 Corrections for annotation.

27. *Selective Prosecution: A Viable Defense Against a Charge of Transmitting AIDS*, 37 WASH. U.J. URB. & CONTEMP. L. 337 (1990).

The author describes statutes, both proposed and enacted, which criminalize activities that have a high likelihood of transmitting the HIV/AIDS virus. Also discussed are the kinds of facts that would need to be alleged by prosecutors to warrant prosecution under these statutes and the allegations that would need to be made by defendants to sustain a selective prosecution defense, both generally and on the basis of the defendant's homosexuality.

28. Rubinfeld, *Today's Plague, Tomorrow's Laws*, 14 HUM. RTS. Q. 16 (1987).

The author reviews potential responses by attorneys who encounter AIDS related issues in both the civil and criminal justice systems.

29. Schechter, *Aids: How the Disease Is Being Criminalized*, 3 CRIM. JUST. 6 (Fall 1988).

The author presents an overview of HIV/AIDS related criminal sanctions including the use of traditional statutes and the introduction of new legislation. Also discussed are the problems associated with processing criminal defendants afflicted with AIDS such as pre-trial preparation, motion practice and courtroom procedure.

30. *Selective Prosecution: A Viable Defense Against A Charge of Transmitting AIDS?*, 37 WASH. U.J. URB. & CONTEMP. L. 337 (1990).

The author discusses legislative trends to criminalize conduct that could result in transmitting the AIDS virus, and identifies selective prosecution as a possible defense to these criminal statutes. The author concludes that due to the possible danger of anti-homosexual conduct inherent in such statutes, legislators should add provisions limiting prosecutorial discretion when enforcing these criminal laws.

31. Sinkfield & Houser, *AIDS and the Criminal Justice System*, 10 J. LEGAL MED. 103 (1989).

See *supra* number 66 Corrections for annotation.

32. Skoler & Dargan, *AIDS in Prisons-Administrator Policies, Inmate Protests, and Reactions from the Federal Bench*, 54 FED. PROBATION 20 (1990).

See *supra* number 67 Corrections for annotation.

33. *Special Report: AIDS in America*, 14 HUM. RTS. Q. 16 (1987).

This issue of the Human Rights Journal is devoted primarily to the AIDS crisis in America. Of special interest is the article, "Can Judges Quarantine Courtrooms?" which discusses whether jurors should be told a defendant has AIDS and whether or not "AIDS panic" constitutes an acceptable criminal defense.

34. Stauter, *United States v. Moore: AIDS and the Criminal Law; The Witch Hunt Begins*, 22 AKRON L. REV. 503 (1989).

United States v. Moore, 846 F.2d 1163 (8th Cir. 1988) is one of the first cases to discuss AIDS and criminal responsibility. The author maintains that the opinions written in this case reveal a fundamental misunderstanding of the AIDS disease process, and he identifies the resulting inaccuracies and misconceptions in the decision. He concludes that lawyers and judges have a duty to learn about and understand the human immunodeficiency virus and AIDS.

35. P.A. WAGNER, *AIDS and the Criminal Justice System*, in AIDS AND THE LAW 177-193 (W.H.L. Dornett ed. 1987).

See *supra* number 73 Corrections.

36. Wells-Petry, *Anatomy of an AIDS Case: Deadly Disease as an Aspect of Deadly Crime*, 22 ARMY LAW. 17 (1988).

This report, prepared by the Army Trial Counsel Assistance Program, surveys issues focusing on AIDS and AIDS related litigation in a military context. Information is included on bringing AIDS related misconduct to trial by utilizing the Uniform Code Of Military Justice. AIDS as a deadly disease is treated as an aspect of deadly crime.

37. *Wiggins v. State: Receiving a Fair Trial Under the Specter of AIDS*, 23 AKRON L. REV. 309 (1989).

This article analyzes the *Wiggins v. State*, 544 A.2d 356 (Md. 1989) decision, focusing on proper treatment HIV/AIDS positive criminal defendants. The author concludes that HIV/AIDS positive criminal defendants should be treated in exactly the same manner that uninfected defendants are treated. Any deviation from this policy denies the HIV/AIDS positive criminal defendant the fair trial to which he is entitled.

CRIMINALIZATION-QUARANTINE

1. Abramovsky, *Criminal Law and Procedure: Issues Involving AIDS*, N.Y.L.J. December 2, 1985 & January 15, 1986.

This two part discussion of AIDS and the criminal justice system focuses first on whether or not state police powers should be used to prevent the transmission of AIDS, and second on the issues involved in sentencing and post conviction remedies for HIV/AIDS positive defendants.

2. C.C. ABT & K.M. HARDY, *AIDS AND THE COURTS* (1990).

See *supra* number 1 Corrections for annotation.

3. *AIDS AND THE LAW* (Dorente, W.H.L. ed. 1987).

See *supra* number 4 Corrections for annotation.

4. AIDS COORDINATING COMMITTEE, AMERICAN BAR ASSOCIATION, *AIDS: THE LEGAL ISSUES DISCUSSION DRAFT* (1988).

See *supra* number 5 Corrections for annotation.

5. Aiken, *AIDS - Pushing the Limits of Scientific and Legal Thought*, 27 JURIMETRICS J. 1 (1986).

The author briefly reviews the medical and legal issues relating to AIDS. She concludes that some legislative and regulative proposals based on a misunderstanding of the disease itself create a serious threat to civil liberties.

6. *American Bar Association Policy and Report on AIDS*, 21 U. TOL. L. REV. 21 (1989).

See *supra* number 6 Corrections for annotation.

7. Bergman, *AIDS, Prostitution, and the Use of Historical Stereotypes to Legislate Sexuality*, 21 J. MARSHALL L. REV. 777 (1988).

The author maintains that legislatures and courts in a "fruitless and irrational response" to the AIDS virus have attempted to blame individuals and groups engaging in abnormal sexual behavior for the origin of the AIDS virus.

8. Blumberg, *Transmission of the AIDS Virus Through Criminal Activity*, 25 CRIM. L. BULL. 454 (1989).

See *supra* number 9 Corrections for annotation.

9. Blumberg & Langston, *Mandatory HIV Testing in Criminal Justice Settings*, 37 CRIME & DELINQ. 5 (1991).

See *supra* number 12 Corrections for annotation.

10. Burns, *Murder by Transfusion*, 21 MD. B.J. 20 (1988).

The author presents a history of attempts to extend the criminal law to those who knowingly transmit disease to others. He concludes that the extension of the criminal law in such cases is without precedent and that the courts should not attempt to solve problems of this nature through use of the criminal law.

11. Clark, *AIDS Prevention: Legislative Options*, 16 AM J. OF L. & MED. 107 (1990).

The author reviews legislative options available to prevent the spread of AIDS in both the pre and post exposure stages of the disease. Part III of this article discusses preventive efforts in high risk settings including prisons. The author concludes that mandatory inmate testing would have little effect in controlling AIDS.

12. Closen, *Mandatory Disclosure of HIV Blood Test Results to the Individuals Tested: A Matter of Personal Choice Neglected*, 22 LOY. U. CHI. L.J. 445 (1991).

See *supra* number 17 Corrections for annotation.

13. Comment, *AIDS-A New Reason to Regulate Homosexuality?*, 11 J. CONTEMP. L. 315 (1984).

This comment focuses on the possibility of state action to criminalize homosexual conduct under the guise of preventing the spread of AIDS. The author discusses the origin and history of legislation prohibiting homosexual conduct and concludes that the "homosexual community alone should not be singled out by stringent regulation by the State." A public health approach to the AIDS epidemic grounded in research and epidemiological studies should be the appropriate response.

14. Comment, *Combating AID'S Acoustic Shadow: Illinois Addresses the Problems of Criminal Transfer of HIV*, 22 LOY. U. CHI. L.J. 497 (1991).

This comment details state criminal law responses to the HIV/AIDS crises and describes the recently enacted Illinois Criminal Code section which criminalizes the knowing exposure of another person to the HIV virus. The author concludes that the Illinois statute provides law enforcement officials with a "valuable tool in combatting the knowing and deliberate spread of HIV." The author maintains that this and similar statutes indicate that society will not tolerate those who knowingly spread the AIDS virus.

15. Comment, *Deadly and Dangerous Weapons and AIDS: The Moore Analysis is Likely to be Dangerous*, 74 IOWA L. REV. 951 (1989).

See *supra* number 11 Courts for annotation.

16. Comment, *Imposing Criminal Liability on Those Who Knowingly Transmit the AIDS Virus: A Recommendation for Legislative Action*, 13 U. DAYTON L. REV. 489 (1988).

This comment maintains that legislators must follow clearly defined, rational guidelines in drafting legislation to impose

criminal liability for those who knowingly transmit the AIDS virus to others. The author includes background information on the AIDS disease, a section describing existing remedies to deal with the AIDS epidemic, and concludes with recommendations for criminal statutes relating to AIDS transmission.

17. Decker, *Prostitution as Public Health Issue in AIDS AND THE LAW A GUIDE FOR THE PUBLIC*, (Dalton & Burris eds.) (1987).

Decker identifies prostitutes as a socially stigmatized group that may be targeted by criminal justice and/or public health officials for additional control measures to prevent the spread of AIDS. Decker maintains that additional criminal laws targeting prostitutes would be unsuccessful in controlling the transmission of the AIDS virus.

18. Deutschman, *Criminal Sanctions for Transmission of AIDS - An Analysis of New Illinois Legislation*, 4 CBA REC. 32 (1990).

The author reviews criminal case law relating to HIV and/or AIDS positive individuals. He also discusses prosecutorial problems in applying current criminal law and new HIV/AIDS criminal legislation. He discusses the new Illinois HIV/AIDS criminal legislation and recommends certain changes in this legislation.

19. R. Epstein, *The Permissible Police Power Regulation of AIDS, in AIDS: THE LEGAL COMPLEXITIES OF A NATIONAL CRISIS* 11 (1987).

See *supra* number 25 Corrections for annotation.

20. Field, *Testing for AIDS: Uses and Abuses*, 16 AM. J. L. MED. 33 (1990).

See *supra* number 26 Corrections for annotation.

21. Field & Sullivan, *AIDS and the Criminal Law*, 15 L. MED. & HEALTH CARE 46 (1987).

This article discusses whether and under what circumstances the transmission of AIDS should be treated as a crime. The authors consider the application of traditional criminal sanctions as well as the application of traditional public health offense laws to those who transmit the AIDS virus. The authors also consider the desirability of criminalizing conduct which results in the transmission of the AIDS virus, and conclude that the marginal deterrence that such laws might provide would not be worth the loss of sexual privacy that might result from such criminalization.

22. Field & Sullivan, *AIDS and the Coercive Power of the State*, 23 HAR. C.R.-C.L. L. REV. 139 (1988).

This article discusses the quarantine of AIDS carriers as well

as the possible criminalization of AIDS transmitting behavior. The authors indicate that the concentration of AIDS among stigmatized groups, including gays, addicts, prisoners, and prostitutes, could create a risk for harassment and abuse if such measures as quarantines and criminal laws were enacted to deal with the AIDS crisis.

23. Comment, *Quarantine: An Unreasonable Solution to the AIDS Dilemma*, 55 U. CIN. L. REV. 217 (1986).

This comment discusses the medical aspects of AIDS, reviews case law and statutory law dealing with quarantines, and concludes that education is a more effective tool to deal with the AIDS epidemic. The author maintains that the possible damage to individual rights, not to mention the costs related to quarantine measures, make quarantine inappropriate for AIDS carriers.

24. Gostin, *The Politics of AIDS: Compulsory State Powers, Public Health and Civil Liberties*, 49 OHIO ST. L.J. 1017 (1989).

The author discusses the growing public outcry for coercive state action against those who could or do engage in conduct that might spread the AIDS virus. The author concludes that such coercive state action is undesirable as it may only fuel the AIDS crisis. The author indicates that such action, will target traditionally unpopular groups and will divert attention from those activities, education, testing, and counseling that could actually diminish the AIDS crisis.

25. Grady, *AIDS Challenges the Criminal Justice System*, 126 N.J. LAW. 36 (1989).

The author discusses the impact of AIDS on the criminal justice system. Included in this discussion is information on what conduct is and should be controlled through criminalization and/or sanctions against incarcerated inmates. The author considers treatment of HIV/AIDS positive prison inmates, and indicates that inmate testing is the first step in identifying and controlling the AIDS crisis in prisons and jails.

26. Hermann, *Criminalizing Conduct Related to HIV Transmission*, 9 ST. LOUIS U. PUB. L. REV. 351 (1990).

The author discusses the arguments for and against the use of criminal sanctions to reduce the transmission of AIDS. The author concludes that traditional criminal laws are ineffective and inappropriate. He further indicates that new AIDS specific criminal statutes will be required if it is determined that the criminalization of HIV-AIDS transmitting conduct is appropriate.

27. Isaacman, *Are We Outlawing Motherhood for HIV-Infected Women?*, 22 LOY. U. CHI. L.J. 479 (1991).

Isaacman discusses Section 12-6.2 of the Illinois Criminal Code which criminalizes the knowing exposure of another person to the HIV virus. Isaacman focuses on the application of this statute to pregnant women and concludes that such criminalization is unconstitutional. Isaacman maintains that transforming a health problem into a criminal act will be ineffective in slowing or eliminating the spread of the AIDS virus. According to Isaacman we must treat the disease, not punish the diseased.

28. Janus, *AIDS and the Law: Setting and Evaluating Threshold Standards for Coercive Public Health Intervention*, 14 WM. MITCHELL L. REV. 513 (1988).

The author discusses the use of state police power to enact coercive public health measures to control the spread of AIDS. He indicates that such measures would have a far-reaching effect on citizens' liberty and privacy interest, and concludes that a coordinated public health/criminal sanctions approach to the AIDS crisis may be the most appropriate response.

29. Kleiman, *AIDS, Vice and Public Policy*, 51 LAW & CONTEMP. PROBS. 315 (1988).

See *supra* number 38 Corrections for annotation.

30. MacDonald, *AIDS, Rape, and the Fourth Amendment: Schemes for Mandatory AIDS Testing of Sex Offenders*, 43 VANDALIA L.REV. 1607 (1990).

See *supra* number 19 Courts for annotation.

31. McGuigan, *The AIDS Dilemma: Public Health v. Criminal Law*, 4 LAW & INEQUALITY 545 (1986).

This article presents an overview of the AIDS crisis in the United States, and focuses on the criminalization of sodomy and/or the enforcement of existing sodomy statutes as a method to prevent the spread of the disease. The author concludes that such an approach would only criminalize the victims of the disease. She maintains that research and intensive education are the only methods that can successfully prevent the spread of AIDS.

32. McMartin, *HIV Infection In The Prison Environment: Medical Treatment; Teeth as Weapons; And HIV Infection as a Cause for Leniency*, WESTLAW TP Database (August, 1990).

See *supra* number 45 Corrections for annotation.

33. Merritt, *Communicable Disease and Constitutional Law: Controlling AIDS*, 61 N.Y.U. L. REV. 739 (1986).

The author indicates that AIDS raises numerous constitu-

tional issues for legislators and public health officials as they attempt to stop the spread of the disease without restricting citizens' civil liberties. The author discusses three proposals for controlling the AIDS epidemic and concludes that current legal precedent and equal protection analysis are inadequate to deal with the AIDS crisis. She indicates that legislators must operate within present constitutional boundaries when confronting the AIDS crisis.

34. Note, *AIDS: Legal Issues in Search of a Cure*, 14 WM. MITCHELL L. REV. 575 (1988).

This note focuses on the constitutional issues involved in attempts to control the transmission of AIDS. The author maintains that personal liberty interests must be carefully balanced with the interests of society in developing any legal response to the AIDS crisis.

35. Note, *The Constitutional Rights of AIDS Carriers*, 99 HARV. L. REV. 1274 (1986).

The author presents an overview of legislative actions which attempt to control the AIDS virus. Such legislative action includes quarantines, restrictions on the association of gay men, mandatory testing and reporting requirements, employment discrimination, and discrimination within the schools. The author concludes that testing, education and research rather than state imposed restrictions will be the most effective, least restrictive way to control AIDS.

36. Note, *Criminal Liability for Transmission of AIDS: Some Evidentiary Problems*, 10 CRIM. JUST. J. 69 (1987).

See *supra* number 25 Courts for annotation.

37. Note, *Criminalizing HIV Transmission: New Jersey Assembly Bill 966*, 15 SETON HALL LEGIS. J. 193 (1991).

This note maintains a need for legislation imposing criminal penalties for the knowing transmission of HIV/AIDS infection. It reviews the proposed New Jersey Assembly Bill and identifies some of the bill's deficiencies including ambiguous definitions and its limited scope in addressing only sexual transmission of the HIV/AIDS virus. The author concludes that criminalizing HIV/AIDS transmitting conduct provides additional rights for individual victims and promotes the public health.

38. Note, *Preserving the Public Health: A Proposal to Quarantine Recalcitrant AIDS Carriers*, 68 B.U.L. REV. 441 (1988).

This note discusses the state quarantine power. The author compares criminal sanctions and quarantine remedies and concludes that AIDS should be added to the list of those diseases

subject to quarantine. The author maintains that the quarantine of AIDS carriers will survive judicial scrutiny.

39. Note, *The Real Fatal Attraction: Civil and Criminal Liability for the Sexual Transmission of AIDS*, 37 DRAKE L. REV. 657 (1987-88).

This note examines current Iowa criminal statutes that could be used to punish the HIV carrier for negligently or intentionally transmitting the virus to others. In light of the inadequacy of these statutes, the authors contend that new legislation should be adopted to specifically prohibit such negligent or intentional transmission of the HIV.

40. Parmet, *AIDS and Quarantine: The Revival of an Archaic Doctrine*, 14 HOFSTRA L. REV. 53 (1985).

The author discusses the history and application of quarantine laws to protect public health. She indicates that these laws have sometimes been used to control undesirable segments of society such as prostitutes in ways that exceed what even the criminal justice system could accomplish. She concludes that quarantine laws may be anachronistic in today's society, and if they are used there must be adequate consideration for individual rights and liberties, even for undesirable segments of the population.

41. *Recent Developments, Selective Prosecution: A Viable Defense Against a Charge of Transmitting AIDS*, 37 WASH. U.J. URBAN & CONTEMP. L. 337 (1990).

The author describes statutes, both proposed and enacted, which criminalize activities that have a high likelihood of transmitting the HIV/AIDS virus. Also discussed are the kinds of facts that would need to be alleged by prosecutors to warrant prosecution under these statutes and the allegations that would need to be made by defendants to sustain a selective prosecution defense, both generally and on the basis of the defendant's homosexuality.

42. Robinson, *AIDS and the Criminal Law: Traditional Approaches and a New Statutory Proposal*, 14 HOFSTRA L. REV. 91 (1985).

The author examines various statutes which have been invoked against HIV-positive individuals who have engaged in conduct likely to transmit the virus such as statutes prohibiting homicide, attempted murder, criminal assault, sodomy, prostitution, commercialized sex and taking illicit drugs by needle and concludes that they have been less than effective in stopping the epidemic. He offers a draft and critique of a new statute which

criminalizes the transfer of bodily fluids likely to contain the HIV.

43. Robinson, *Criminal Sanctions and Quarantine, in AIDS AND THE LAW* (Dornette ed.(1987)).

Robinson maintains that coercive intervention such as criminalizing HIV/AIDS transmission and the use of quarantine measures is necessary to control the spread of this disease. The author indicates that such measures, if carefully utilized, can affect the behavior of individuals who could otherwise cause "great and unnecessary suffering to others."

44. Rubinfeld, *Today's Plague, Tomorrow's Laws*, 14 HUM. RTS. 16 (1987).

See *supra* number 28 Courts for annotation.

45. Schechter, *AIDS: How the Disease Is Being Criminalized*, 3 CRIM. JUST. 6 (Fall, 1988).

See *supra* number 29 Courts for annotation.

46. Schultz, *AIDS: Public Health and the Criminal Law*, 7 ST. LOUIS U.L. REV. 56 (1988).

The author offers "an analysis of both the legal and policy issues surrounding the use of the criminal law to reduce the spread of the AIDS virus." He concludes that "the criminal law ought not to be used as a public health measure in the fight against AIDS because such use would be ineffective, even counterproductive, and would entail unacceptable social costs."

47. *Selective Prosecution: A Viable Defense Against A Charge of Transmitting AIDS?*, 37 WASH. U. URB. & CONTEMP. L. 337 (1990).

See *supra* number 30 Courts for annotation.

48. Shechter, *How the Disease is Being Criminalized*, 3 CRIM. JUST. 6 (1988).

The author examines the new statutes which require mandatory disclosure of HIV status, proscribe types of conduct which have been associated with HIV transmission and/or provide for greater penalties when conduct which is already illegal is engaged in by someone who is HIV-positive.

The author also examines traditional criminal statutes (e.g. manslaughter) which are being used to prosecute defendants who are HIV carriers. Consideration is also paid to defense tactics, pre-trial preparation and courtroom procedure.

49. I.J. SLOAN, *AIDS LAW: IMPLICATIONS FOR THE INDIVIDUAL AND SOCIETY* (Legal Almanac Series No. 89, 1988).

See *supra* number 59 Corrections for annotation.

50. Spiegel, *Privacy, Sodomy AIDS and the Schools: Case Studies in Equal Protection*, in ANNUAL SURVEY OF AMERICAN LAW (1986).

Part I of this article includes a detailed analysis of constitutional challenges to criminal sodomy statutes in the United States. In Part II of the article the author considers the possibility that criminal sodomy statutes may be used in an attempt to control AIDS. The author concludes that education is the most effective, least costly way to control AIDS.

51. Stauter, *United States v. Moore: AIDS and the Criminal Law; The Witch Hunt Begins*, 22 AKRON L. REV. 503 (1989).

See *supra* number 34 Courts for annotation.

52. Wells-Petry, *Anatomy of an AIDS Case: Deadly Disease as an Aspect of Deadly Crime*, 22 ARMY LAW. 17 (1988).

See *supra* number 36 Courts for annotation.

53. Werdel, *Mandatory AIDS Testing: The Legal, Ethical and Practical Issues*, 5 NOTRE DAME J. L. HEALTH & PUB. POL'Y 155 (1990).

The author focuses on practical, ethical and legal implications for mandatory AIDS testing of high risk populations including prisoners and prostitutes. The author concludes that testing should be mandatory for these identifiable high risk groups since the rights of these groups should not take precedence over the rights of society as a whole.

GENERAL INFORMATION

1. C.C. ABT & K.M. HARDY, AIDS AND THE COURTS (1990).
See *supra* number 1 Corrections for annotation.
2. *AIDS and the Criminal Justice System: A Preliminary Report and recommendations*, 42 REC. A. B. CITY N.Y. 901 (1987).
See *supra* number 3 Corrections for annotation.
3. AIDS AND THE LAW (Dorente, W.H.L. Ed. 1987).
See *supra* number 4 Corrections for annotation.
4. ABA, AIDS COORDINATING COMMITTEE, AIDS: THE LEGAL ISSUES DISCUSSION DRAFT (1988).
See *supra* number 5 Corrections for annotation.
5. *American Bar Association Policy and Report on AIDS*, 21 U. TOL. L. REV. 21 (1989).
See *supra* number 6 Corrections for annotation.
6. Barry, et al., *Screening for HIV Infection: Risks, Benefits, and Burden of Proof*, 14 L. MED. & HEALTH CARE 259 (1986).
See *supra* number 7 Corrections for annotation.

7. Cooper, *AIDS Law: The Impact of AIDS on American Schools and Prisons*, ANN. SURV. A.L. 117 (1987).
See *supra* number 21 Corrections for annotation.
8. H.L. DALTON, ET AL., AIDS LAW PROJECT, AIDS AND THE LAW A GUIDE FOR THE PUBLIC (1987).
See *supra* number 23 Corrections for annotation.
9. Dubler, et al., *Management of HIV Infection in New York State Prisons*, 21 COLUM. HUM. RTS. L. REV. 363 (1990).
See *supra* number 24 Corrections for annotation.
10. R. Epstein, *The Permissible Police Power Regulation of AIDS*, in AIDS: THE LEGAL COMPLEXITIES OF A NATIONAL CRISIS 11 (1987).
See *supra* number 25 Corrections for annotation.
11. HERMANN & SCHURGIN, LEGAL ASPECTS OF AIDS, (1991).
This treatise presents an overview of all AIDS related legal matters including HIV/AIDS testing, criminalizing AIDS related conduct, and processing HIV/AIDS positive individuals through the court system.
12. Jaffe, *What Doctors Want to Tell Judges About AIDS*, 29 JUDGES' J. 8 (1990).
See *supra* number 34 Corrections for annotation.
13. Joint Sub-Committee on AIDS in The Criminal Justice System, Committee on Corrections and Committee on Criminal Justice Operations and Budget, *AIDS and the Criminal Justice System: Executive Summary of the Final Report*, 44 REC. A. B. CITY N.Y. 601 (1989).
See *supra* number 35 Corrections for annotation.
14. Kiel, *AIDS*, 48 CORRECTIONS TODAY 68 (1986).
See *supra* number 37 Corrections for annotation.
15. Margolis, *The AIDS Epidemic: Reality Versus Myth*, 72 JUDICATURE 58 (1988).
See *supra* number 44 Corrections for annotation.
16. McGuigan, *The AIDS Dilemma: Public Health v. Criminal Law*, 4 L. & INEQUALITY 545 (1986).
See *supra* number 31 Criminalization/Quarantine for annotation.
17. McMartin, *HIV Infection in the Prison Environment: Mandatory HIV Antibody Testing*, WESTLAW TP Database (August, 1990).
See *supra* number 47 Corrections for annotation.
18. I.J. SLOAN, AIDS LAW: IMPLICATIONS FOR THE INDIVIDUAL AND SOCIETY (Legal Almanac Series No. 89, 1988).
See *supra* number 68 Corrections for annotation.

19. M. TANNER, *THE POLITICS OF HEALTH A STATE RESPONSE TO THE AIDS CRISIS* (1989).

See *supra* number 69 Corrections for annotation.

PROBATION AND PAROLE

1. Blumberg & Langston, *Mandatory HIV Testing in Criminal Justice Settings*, 37 CRIME & DELINQ. 5 (1991).

See *supra* number 12 Corrections for annotation.

2. Griffin, Lurigio & Johnson, *HIV Policy for Probation Departments*, 37 CRIM. & DELINQ. 36 (1991).

The authors present a sample HIV/AIDS policy for probation departments that addresses the issue regarding both clients and employees.

3. Hammett, et al., *Stemming the Spread of HIV Among IV Drug Users, Their Sexual Partners, and Children: Issues and Opportunities for Criminal Justice Agencies*, 37 CRIME & DELINQ. 101 (1991).

See *supra* number 31 Corrections for annotation.

4. D.E. HUNT, *AIDS IN PROBATION AND PAROLE* (1989).

This book is part of the Issues and Practices in Criminal Justice publication series, and focuses on the AIDS disease as it impacts on probation and parole. In addition to a review of medical information about AIDS, the author discusses confidentiality, legal and labor issues relating to the disease. Various state and federal correctional policies addressing AIDS issues are included in the appendix.

5. Lazlo & Smith, *Evaluating Criminal Justice Training Addressing AIDS Policy*, 37 CRIME & DELINQ. 19 (1991).

See *supra* number 40 Corrections for annotation.

6. Lurgio, *Practitioners' View on AIDS in Probation and Detention*, 53 FED. PROBATION 16 (1989).

The author reviews a study exploring contemporary issues affecting probation and court services. Illinois detention and probation workers participated in the survey by answering a questionnaire containing a series of AIDS related questions. The study revealed that concerns differed between detention personnel and probation personnel. The survey indicates that AIDS problems can best be met through education, case load management strategies, and a sensitive attitude toward AIDS victims.

7. Lurigio, Petraitis & Johnson, *HIV Education for Probation Officers: An Implementation and Evaluation Program*, 37 CRIME & DELINQ. 125 (1991).

The authors discuss the implementation and evaluation of

an HIV education seminar for adult probation officers in Cook County (Chicago) Illinois. The authors conclude that such programs are useful and appropriate and offer suggestions for future programs.

8. Quinlan & Moritsugu, *AIDS in Prison The Federal Experience*, 28 JUDGES' J. 26 (1990).

See *supra* number 62 Corrections for annotation.

9. Sinkfield & Houser, *AIDS and the Criminal Justice System*, 10 J. MED. 103 (1989).

See *supra* number 66 Corrections for annotation.

SENTENCING/POST-CONVICTION

1. Abramovsky, *Criminal Law and Procedure: Issues Involving AIDS*, N.Y.L. J. December 2, 1985 & January 15, 1986.

See *supra* number 1 Criminalization/Quarantine for annotation.

2. AIDS AND THE LAW (Dorentte, W.H.L. ed. 1987).

See *supra* number 4 Corrections for annotation.

3. Dubler, et al., *Management of HIV Infection in New York State Prisons*, 21 COLUM. HUM. RTS. L. REV. 363 (1990).

See *supra* number 24 Corrections for annotation.

4. Legal Aid Society of New York, *Inmates of New York State With HIV v. New York*, 5 NOTRE DAME J.L. ETHICS & PUB. POL'Y 89 (1990).

See *supra* number 41 Corrections for annotation.

5. McMartin, *HIV Infection In The Prison Environment: Medical Treatment; Teeth as Weapons; And HIV Infection as a Cause for Leniency*, WESTLAW TP Database (August, 1990).

See *supra* number 45 Corrections for annotation.

6. NATIONAL GAY RIGHTS ADVOCATES & NATIONAL LAWYERS GUILD AIDS NETWORK, AIDS PRACTICE MANUAL: A LEGAL AND EDUCATIONAL GUIDE (2d ed. 1988).

See *supra* number 52 Corrections for annotation.

7. Shechter, *How the Disease is Being Criminalized*, 3 CRIM. JUST. 6 (1988).

See *supra* number 48 Criminalization/Quarantine for annotation.

8. Sinkfield & Houser, *AIDS and the Criminal Justice System*, 10 J. MED. 103 (1989).

See *supra* number 66 Corrections for annotation.

PART II. DATABASES, CURRENT AWARENESS SERVICES AND BIBLIOGRAPHIES

DATABASES

On-line databases are available to provide the researcher with information about AIDS/HIV and the legal aspects of the disease. If a researcher does not subscribe to a database, he/she should contact a law, university or public library in his/her area to determine if that library searches the database(s) for the public — many do. Another route of access may be through the database producer itself — some routinely do searches for people who call or write in requests.

We have compiled lists of AIDS-related and general medical and newspaper databases that should prove to be good sources of current information. The AIDS and medical databases provide access to medical, epidemiological and legal sources of information about the disease. The general newspaper databases provide a means of tracking litigation and remaining current on important AIDS-related developments around the country and the world.

AIDS Databases:

1. AIDS ABSTRACTS FROM THE BUREAU OF HYGIENE AND TROPICAL DISEASES:⁷ Produced by the British Bureau of Hygiene and Tropical Diseases, coverage includes medical, public health and social aspects of the disease. It provides abstracts of literature published 1983 to date with monthly updating. The database is commercially available through BRS Information Technologies.⁸
2. AIDS KNOWLEDGE BASE FROM SAN FRANCISCO GENERAL HOSPITAL AND THE UNIVERSITY OF CALIFORNIA, SAN FRANCISCO:⁹ The AIDS Knowledge Base attempts to be a comprehensive information source for all aspects of AIDS. It provides access to the medical, psychological, sociological and legal literature in full text. Its coverage begins in 1986 and it is updated monthly. It is produced by the Massachusetts Medical Society and made available commercially through BRS.¹⁰

7. BRS DATABASE CATALOG 13 (1990).

8. For further information, contact: BRS Information Technologies, 8000 W. Park Dr., McLean, VA 22102; phone 800-955-0906.

9. BRS DATABASE CATALOG 13 (1990).

10. For further information, contact: BRS Information Technologies at address and phone number listed *supra* note 8.

3. AIDSLINE:¹¹ Created in 1988, the National Library of Medicine's AIDSLINE database contains references to scientific articles about AIDS from 1980 to the present. It includes references from other N.L.M. databases: MEDLINE (a general medical bibliographic database), the Health Planning and Administration file, and CANCERLIT. It can be searched through GRATEFUL MED microcomputer-based software that provides a user-friendly interface. The software is available through the National Library of Medicine.¹²
4. ABA DISABILITY LAW NETWORK, AIDS LEGAL RESEARCH DATABASE:¹³ The database contains information included in the MENTAL AND PHYSICAL DISABILITY LAW REPORTER from 1976 to date as well as abstracts of pleadings and briefs in groundbreaking court cases. Materials from the Reporter include citations to and descriptions of cases and statutes as well as original articles. It is produced by the American Bar Association Commission on the Mentally Disabled with assistance from the Mental Health Policy Resource Center and the National Institute of Mental Health. At present, the database is searched for the public by A.B.A. personnel.¹⁴
5. COMBINED HEALTH INFORMATION DATABASE, AIDS EDUCATION SUBFILE:¹⁵ Produced by BRS, this database provides full-text access to educational materials on AIDS of interest to health professionals and AIDS patients. Coverage includes both books and articles published from 1987 to date.¹⁶
6. COMPREHENSIVE CORE MEDICAL LIBRARY, AIDS SUBSET:¹⁷ Produced by BRS, this database provides full-text access to articles about the medical aspects of AIDS from more than seventy journals. The database is updated weekly.¹⁸

11. *Search Strategy*, 3 NAT'L. LIBR. OF MED. AIDS BIBLIOGRAPHY (July 1990).

12. For further information, contact: MEDLARS Service Desk, 8:30 a.m. to 5:00 p.m. E.S.T., Monday through Friday, (800)638-8480 or (301)496-6193, or write to: MEDLARS Management Section, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894.

13. 13 MENTAL & PHYSICAL DISABILITY L. REP. 10 (1989); Telephone Conversation with Chris Tiernan (Nov. 15, 1990).

14. For further information, contact: American Bar Association Commission on the Mentally Disabled, 1800 M Street, N.W., Washington, D.C. 20036; phone: (202)331-2240.

15. BRS DATABASE CATALOG 17 (1990); BRS AIDPAGE (February 1989).

16. For further information, contact: BRS Information Technologies at address and phone number listed *supra* note 8.

17. BRS DATABASE CATALOG 18 (1990).

18. For further information, contact: BRS Information Technologies at the

7. **COMPUTERIZED AIDS INFORMATION NETWORK (CAIN):**¹⁹ CAIN is produced by the Los Angeles Gay and Lesbian Community Service Center in partnership with Delphi, a full-service consumer information network. Its objective is to provide up-to-date information on all aspects of AIDS/HIV. It provides access to abstracts of over 6,000 articles from periodicals in all disciplines.²⁰
8. **MEDLINE REFERENCES ON AIDS:**²¹ Medline is the most wide-ranging resource available for accessing medical literature published in the United States or abroad. It covers all aspects of medicine. The database is produced by the National Library of Medicine and is commercially available through BRS. Medline References on AIDS is a subset of Medline. It covers clinical, research, epidemiologic and health policy aspects of the disease. It includes abstracts of literature published from 1983 to date and is updated on a semi-monthly basis.²²
9. **NATIONAL AIDS INFORMATION CLEARINGHOUSE:**²³ This database is produced by the U.S. Department of Health and Human Services and the Centers for Disease Control (CDC). It provides access to AIDS reference and educational materials that include U.S. Public Health Service brochures, statistical data, articles on AIDS from CDC publications such as *HIV/AIDS SURVEILLANCE* and the *MORBIDITY AND MORTALITY WEEKLY REPORT*, information on AIDS organizations and services, and unpublished information provided by hospitals and community organizations not usually available in libraries. The service is free. Searches are performed by Clearinghouse staff.²⁴

News and Medical Databases:

Databases that cover news events can be useful to attorneys and other AIDS researchers in that they enable tracking of law suit filings

18. For further information, contact: BRS Information Technologies at the address and phone number listed *supra* note 8.

19. CAIN: *TURNING WORDS INTO ACTION* (undated six-page brochure distributed by CAIN); Telephone Conversation with Roberta Wilson, Systems Manager, CAIN, (Nov. 15, 1990).

20. For further information, contact: Systems Manager, CAIN, 1213 N. Highland Ave., Los Angeles, CA 90038; phone (213)464-7400, ext. 450.

21. BRS DATABASE CATALOG 29 (1990).

22. For further information, contact: BRS Information Technologies at address and phone number listed *supra* note 8.

23. Telephone Conversation with National AIDS Information Clearinghouse Research Specialists, November and December 1990.

24. For further information, contact: National AIDS Information Clearinghouse, P.O. Box 6003, Rockville, MD 20850; phone: (800) 458-5231.

and identification of relevant background information. General medical databases can be used to supplement the information obtained from the AIDS-specific medical databases discussed above. Key news and medical databases include:

1. **COURIER PLUS:**²⁵ This database is available through DIALOG Information Services. It indexes and abstracts more than 300 periodicals and 25 regional, national and international newspapers. Updating is done on a weekly basis. Coverage begins January 1989.²⁶
2. **DATATIMES:**²⁷ This database offers full-text coverage of both national and local American newspapers as well as of more than half a dozen wire services. It is updated daily.²⁸
3. **MEDIS:**²⁹ Produced by Mead Data Central, the MEDIS Service offers full-text access to selected medical journals, texts and newsletters. In addition, MEDLINE, the comprehensive bibliographic medical database produced by the National Library of Medicine, is available as a MEDIS library. Search logic is the same as that used for LEXIS.³⁰
4. **NATIONAL NEWSPAPER INDEX:**³¹ This database is an index to five national newspapers. Produced by Information Access Company, it covers the following newspapers from 1970 to date: NEW YORK TIMES, WALL STREET JOURNAL and CHRISTIAN SCIENCE MONITOR; two other newspapers, the LOS ANGELES TIMES and the WASHINGTON POST, are indexed from 1982 to date. Updating is done on a monthly basis. It is available through both DIALOG and BRS.³²

25. Available as DIALOG file 484. DIALOG DATABASE CATALOG 35-36 (1991).

26. For further information, contact: DIALOG Information Services, Marketing Dept., 3460 Hillview Ave., Palo Alto, CA 94304; phone: (800) 334-2564.

27. DATATIMES: LIST OF DATABASES & SOURCES (August 1990).

28. For further information, contact: Datatimes, 14000 Quail Springs Parkway, suite 450, Oklahoma City, OK 73134; phone: (405) 751-6400.

29. LEXIS/NEXIS LIBRARY CONTENTS AND ALPHABETICAL LIST 85-89 (Summer 1990); For a fuller description of the databases offered through the MEDIS Service, see Kauffman, *Electronic Databases in Legal Research: Beyond LEXIS and WESTLAW*, 13 RUTGERS COMPUTER & TECH. L. J. 73, 77-78 (1987).

30. For further information, contact: Mead Data Central, 9443 Springboro Pike, P.O. Box 933, Dayton, OH 45401; phone: (800)543-6862.

31. DIALOG DATABASE CATALOG 61 (1991); BRS DATABASE CATALOG 31 (1990).

32. For further information, contact either DIALOG Information Services at

5. NEWSEARCH:³³ Daily indexing of more than 1,700 newspapers, magazines and periodicals is provided by this database. It is produced by Information Access Company and is available through DIALOG.³⁴
6. NEWSNET:³⁵ This database provides full-text access to the comprehensive AIDS WEEKLY (formerly CDC AIDS WEEKLY) and other newsletters that may offer information about medical and legal aspects of AIDS. Full-text access is also provided to more than a dozen world-wide newswires. NEWSNET also functions as a gateway to the VU/TEXT newspaper databases. (See *infra* notes 42-43 and accompanying text.).³⁶
7. NEXIS:³⁷ Produced by Mead Data Central, the databases of the NEXIS Service provide full-text access to major national newspapers such as the NEW YORK TIMES, WASHINGTON POST, CHRISTIAN SCIENCE MONITOR and LOS ANGELES TIMES as well as to national legal newspapers such as the NATIONAL LAW JOURNAL, AMERICAN LAWYER and LEGAL TIMES. Other newspaper files as well as wire service, news magazine and newsletter files are available. It uses the same search logic as LEXIS.³⁸
8. PAPERS:³⁹ This database currently provides daily full-text access from the mid-1980's to date for five of the newspapers available through DIALOG: the CHICAGO TRIBUNE, LOS ANGELES TIMES, PHILADELPHIA INQUIRER, SAN JOSE MERCURY NEWS and WASHINGTON POST. DIALOG plans to add other newspapers to produce what will eventually be a large newspaper database.⁴⁰

the address and phone number listed *supra* at note 26 or BRS Information Technologies at the address and phone listed *supra* at note 8. If searched through DIALOG, it can be accessed as file 111.

33. DIALOG DATABASE CATALOG 61 (1991).

34. The DIALOG file designation is 211. For further information, contact: DIALOG Information Services at the address and phone number listed *supra* at note 26.

35. NEWSNET: A PROFILE (1990); For a list of NEWSNET databases, see NEWSNET ACTION LETTER (November 1990).

36. For further information, contact: NEWSNET, 945 Haverford Road, Bryn Mawr, PA 19010; phone: (800)-345-1301 or (215)-527-8030.

37. LEXIS/NEXIS LIBRARY CONTENTS AND ALPHABETICAL LIST 90-124 (Summer 1990).

38. For further information, contact Mead Data Central at the same address and phone number listed *supra* at note 30.

39. DIALOG DATABASE CATALOG 69-70 (1991).

40. For further information, contact DIALOG Information Services at the same address and phone number listed *supra* at note 26.

9. VU/TEXT:⁴¹ Produced by Knight-Ridder, VU/TEXT provides full-text access to 69 national and local newspapers as well as to numerous wire services. It is updated daily. Since 1985, WESTLAW has provided gateway service to VU/TEXT to its subscribers.⁴²

CURRENT AWARENESS SERVICES

Current awareness services provide a convenient means of keeping up-to-date on significant developments in specialized subject areas. We have compiled lists of loose-leaf services, newspapers and periodicals that are of unique interest to those researching any aspect of HIV/AIDS. Our criterion for inclusion was that the service provide timely reporting of new developments on AIDS and the law, or that it provide updates on the medical, epidemiological or social aspects of AIDS that would be of interest to the legal researcher.

Loose-leaf Services:

1. AIDS LAW AND LITIGATION REPORTER: Published by University Publishing Group, this service collects topically arranged citations to AIDS-related state and federal legislation and court opinions under twenty-four subject headings. The beginning date of coverage is 1980. It is updated by quarterly inserts and a monthly newsletter.⁴³
2. THE AIDS CRISIS: Published by Social Issues Resources Series, Inc. This two volume set contains reprints of magazine and newspaper articles focusing on all aspects of AIDS. Volume 1 contains articles from 1983 to 1988. Volume 2 begins with articles published in 1989 and continues to date.

Newspapers:

General newspapers and legal newspapers are, of course, good sources of current information about AIDS and are well-known to most legal researchers.⁴⁴ Newspaper sources that are perhaps less familiar to researchers include the newspapers oriented toward the

41. VU/TEXT USER GUIDE (1986 & supps.).

42. For further information, contact: VU/TEXT Information Services, 325 Chestnut St., suite 1300, Philadelphia, PA 19106; phone: (800) 258-8080 or (215) 574-4421.

43. For further information, contact: University Publishing Group, 107 E. Church St., Frederick, MD 21701; phone: (800) 654-8188.

44. Legal newspapers that often include articles on important new AIDS legal developments include NATIONAL LAW JOURNAL, LEGAL TIMES, NEW YORK LAW JOURNAL, NEW JERSEY LAWYER, LOS ANGELES DAILY JOURNAL, and CHICAGO DAILY LAW BULLETIN.

Lesbian and Gay community, which often include articles on new AIDS litigation, legislation and other developments. We believe that the following national and regional "Gay" newspapers may be of particular interest to those tracking AIDS legal developments:

1. **THE ADVOCATE:** Of particular interest to the legal researcher are the "Newsbriefs" and "AIDS Crisis Update" columns. This national "Gay" newspaper is published on a bi-weekly basis.⁴⁵
2. **GAY COMMUNITY NEWS:** The "Newsnotes" column of this Boston-based weekly newspaper often includes material on AIDS and the law.⁴⁶
3. **NEW YORK NATIVE:** Of special interest in this bi-weekly paper is "The Law" column.⁴⁷
4. **WASHINGTON BLADE:** This District of Columbia-based weekly newspaper is particularly strong in providing coverage of federal legislative activity. It includes an "AIDS Digest" column.⁴⁸

Periodicals:

1. **AIDS & PUBLIC POLICY JOURNAL:** This quarterly publication includes substantive articles on new legislation and noteworthy cases. Each issue focuses on an important public health and policy issue at the intersection of law, medicine, business and ethics.⁴⁹
2. **AIDS LEGAL COUNCIL OF CHICAGO NEWSLETTER:** Practice-oriented feature articles and summaries of cases that Council members are involved in are included in this bi-monthly newsletter.⁵⁰
3. **AIDS LITERATURE & NEWS REVIEW:** This monthly newsletter abstracts articles about AIDS from 500 medical, legal, public policy and social science journals and newsletters. Its emphasis is on social science implications of the disease.⁵¹

45. For further information, contact the publisher: Liberation Publications, 6922 Hollywood Blvd., 10th fl., Hollywood, CA 90028; phone: (213)-871-1225.

46. Published by Bromfield Street Educational Foundation, 167 Tremont St., 5th fl. Boston, MA 02111; phone: (617)-426-4469.

47. Published by: That New Magazine, Inc., P.O. Box 1475, Church Street Station, New York, NY 10008; phone: (212)-925-8021.

48. Published by: Washington Blade, Inc., 930 F St., N.W., suite 315, Washington, D.C. 20004; (202)-347-2038.

49. Published by University Publishing Group. See *supra* note 43 for address and phone number.

50. Published by AIDS Legal Council of Chicago, 220 S. State St., suite 2030, Chicago, IL 60604; phone: (312) 427-8990.

51. Published by University Publishing Group. See *supra* note 43 for address and phone number.

4. AIDS LITIGATION REPORTER: Summaries of newly reported judicial decisions are offered by this semi-monthly newsletter.⁵²
5. AIDS POLICY & LAW: This biweekly newsletter summarizes newly passed legislation and newly reported decisions on a national basis.⁵³ It is also available in electronic format through LEXIS.⁵⁴
6. AIDS UPDATE: This newsletter summarizes recent legislation, cases and other legal news. It is published monthly by Lambda Legal Defense and Education Fund.⁵⁵
7. AIDS WEEKLY: Medical and therapy information as well as news, research and meetings reports and a review of significant periodical articles from all fields are provided by this weekly newsletter. Its emphasis is medical with some legal coverage. It is available on Newsnet as well as in hard copy. (Current title effective 1991; previous title: CDC AIDS Weekly).⁵⁶
8. THE EXCHANGE: Published by the National Lawyers Guild AIDS Network, this quarterly newsletter provides general legal information on AIDS. Each issue focuses on a different topic.⁵⁷
9. INTERGOVERNMENTAL AIDS REPORTS: This newsletter summarizes and analyzes trends in state legislation on AIDS. It is published monthly by the AIDS Policy Center of George Washington University. (Former title: STATE AIDS REPORTS.).⁵⁸
10. LESBIAN AND GAY LAW NOTES: Published by the Bar Association for Human Rights of Greater New York, this monthly newsletter summarizes important new legislation and case law of interest to the Gay community.⁵⁹

52. Published by Andrews Publications, P.O. Box 1000, Westtown, PA 19395; phone: (800) 345-1101.

53. Published by Buraff Publications, 1350 Connecticut Ave., N.W., suite 1000, Washington, D.C. 20036; phone: (202) 862-0990.

54. LEXIS/NEXIS LIBRARY CONTENTS AND ALPHABETICAL GUIDE 37 (Summer 1990).

55. For further information, contact Lambda Legal Defense and Education Fund, 666 Broadway, 12th fl., New York, NY 10012; phone: (212) 995-8585.

56. For further information, contact: AIDS Weekly, P.O. Box 5528, Atlanta, GA 30307; phone: (800) 633-4931.

57. For further information, contact: National Lawyers Guild AIDS Network, 558 Capp St., San Francisco, CA 94110; phone: (415) 824-8884.

58. For further information, contact: AIDS Policy Center, Inter-Governmental Health Policy Project, George Washington University, 2011 I St., N.W., suite 200, Washington, D.C. 20006; phone: (202) 872-1445.

59. For further information, contact the Bar Association for Human Rights of Greater New York, P.O. Box 1899, Grand Central Station, New York, NY 10163.

11. **MENTAL AND PHYSICAL DISABILITY LAW REPORTER:** This bi-monthly journal produced by the American Bar Association Commission on the Mentally Disabled summarizes important legislation and digests case law in all areas of disability law, including AIDS. It also includes original substantive articles.⁶⁰

BIBLIOGRAPHIES

Bibliographies may be extremely helpful in assisting the legal researcher to locate additional periodical articles and books of interest. We have compiled a selective list of recent legal, medical and general bibliographies that include materials that will be of interest to those researching any aspect of AIDS and the law or who wish to locate materials on the medical, scientific or social implications of the disease:

1. C.C. Abt, & K.M. Hardy, **AIDS AND THE COURTS** (1990).

This work on all aspects of AIDS and the law includes a comprehensive legal bibliography compiled by Arthur S. Leonard that includes articles and books published before January 1, 1990.

2. **AIDS 1986-AIDS 1989.**

A part of Oryx Press's AIDS Bibliography series, this publication attempts to collect and evaluate significant articles from all types of periodicals on the scientific, social and ethical aspects of AIDS. Volumes produced to date include AIDS 1986, AIDS 1987, AIDS 1988, parts 1-2, and AIDS 1989, pt. 1.

3. **AIDS AND PERSONS WITH DEVELOPMENTAL DISABILITIES: THE LEGAL PERSPECTIVE** (1989).

This work includes a 12-page selective unannotated bibliography on all aspects of AIDS and the law. (Published by the American Bar Association Commission on the Mentally Disabled and the Center on Children and the Law.).

4. **AIDS BIBLIOGRAPHY.** This publication provides subject access to the AIDS medical literature added to the National Library of Medicine's AIDSLINE, CATLINE and AVLINE databases. It is published monthly by the Reference Section of the National Library of Medicine from 1988 to date.

5. Jacobs, *Acquired Immune Deficiency Syndrome (AIDS): a Selective Bibliography of Legal, Social and Medical Aspects*, 42 REC. A. B. CITY N.Y. 260 (1987).

60. For further information, contact: Mental and Physical Disability Law Reporter, American Bar Association, 1800 M St., N.W., Washington, D.C. 20036; phone: (202) 331-2240.

This unannotated bibliography includes both books and articles.

6. Jacobs, *Acquired Immune Deficiency Syndrome (AIDS): a Selective Bibliography of Legal, Social and Medical Aspects (Updates 1 - 4)*, 43 REC. A. B. CITY N.Y. 94, 760 (1988), 44 REC. A. B. CITY N.Y. 559 (1989), 45 REC. A. B. CITY N.Y. 152 (1990).

7. Kirby & Harvell, *U.S. Government Information Policy and the AIDS Epidemic*, 16 GOV'T. PUBLICATIONS REV. 157 (1989).

An appendix to this article includes an eight-page unannotated list of U.S. Government Printing Office publications on AIDS through May 1988.

8. LEGAL BIBLIOGRAPHY INDEX. This index provides subject access to legal bibliographies either published separately or as parts of other works. AIDS is used as a subject heading. It has been published annually since 1978 and is available as cumulations for 1978-1982 and 1983-1987. (Currently published by Lance Dickson, 5277 Yorkton Way, San Jose, CA 95130.).

9. A.S. LEONARD, *AIDS LEGAL BIBLIOGRAPHY* (1989).

Number 33 in the University of Texas Tarlton Law Library Legal Bibliography Series, this comprehensive bibliography lists articles that have appeared in law reviews, bar journals, legal newspapers and some books from 1983 through May 16, 1989.

10. A.S. Leonard, *AIDS Legal Bibliography*, in *LEGAL ASPECTS OF AIDS* ch. 14 (D.H.J. Hermann & W.P. Schurgin, eds. 1991).

This chapter provides a comprehensive list of articles in law reviews, bar journals, legal newspapers and some books that have appeared from 1983 through May, 1990. Also included is a list of other AIDS legal Bibliographies.

11. ACLU, *THE NATIONAL PRISON PROJECT: 1990 AIDS IN PRISON BIBLIOGRAPHY* (1990).

The National Prison Project continues to update their *AIDS IN PRISON BIBLIOGRAPHY*. This bibliography includes information on state and federal correctional policies and a detailed description of AIDS litigation arising in the prison setting, arranged by subject. The bibliography also includes general non-prison AIDS cases of particular significance. It concludes with a list of relevant articles arranged by subject.

12. *SEXUAL ORIENTATION AND THE LAW: A SELECTIVE BIBLIOGRAPHY ON HOMOSEXUALITY AND THE LAW, 1969-1988* (1988).

This work includes a section on AIDS that lists general works and specialized materials dealing with privacy and constitutional rights, AIDS and the workplace, and tort liability.

(Published by the American Association of Law Libraries, Contemporary Social Problems Special Interest Section, Standing Committee on Lesbian and Gay Issues.).

