

Approved: 5-1-93
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 11:05 a.m. on March 10, 1993 in Room 254-E of the Capitol.

All members were present

Committee staff present: Emalene Correll, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
See attached list

Others attending: See attached list

Sen. Oleen announced the hearing for HB 2152, authorizing court ordered tests for certain infectious diseases and disclosure of certain information. The following appeared as proponents:

Rep. Kenny Wilk, (Attachment 1);
Gary Stotts, (Attachment 2);
Raymond Roberts (Attachment 3);
Darby White, (Attachment 4);
Tess Banion, (Attachment 5).

Sen. Parkinson questioned Rep. Wilk if an incident has occurred which would cause the need for this bill and expressed concern for mandatory testing, and Rep. Wilk replied that the testing can only take place if a criminal act has been committed and also pointed out an amendment on Page 4 made by the House Committee of the Whole. Sen. Praeger asked if there is any incidence of the transmission of AIDS, and Mr. Stotts replied there are none verified; that information is not available now. Sen. Oleen questioned if the bill would also cover counselors and persons making deliveries to the prison, etc., and Mr. Stotts replied that it would not - it would cover only Department of Correction employees. In answer to a staff question regarding testing for Hepatitis B, Mr. Stotts replied that all employees will be given an opportunity to be immunized for Hepatitis B as soon as the vaccine comes in. He believes it would be difficult to mandate that all employees take the vaccine. Sen. Walker stated State Hospital employees should be given the same protection as DOC employees, since they are at risk also, and Mr. Stotts answered that statistics show the inmate population has a higher risk for most infectious diseases. Sen. Hensley asked if DOC employees have the opportunity to take Tuberculous tests, and Mr. Stotts answered that TB testing was completed last week and they are awaiting the results. Sen. Oleen asked Mr. Roberts if medical records indicate the number of inmates having AIDS, and Mr. Roberts responded that the medical staff cannot divulge those records so the information is not available. Sen. Gooch asked Mr. Darby about the security of medical procedures if he knew he had been exposed, and Mr. White emphasized that it would give Correctional Officers and their families peace of mind if they knew inmates had been tested, and the test was negative.

The following appeared as opponents to HB 2152:

Ann Hebberger, (Attachment 6);
Gordon Risk, (Attachment 7).

Sen. Papay stated that we cannot control AIDS by hiding records and those who test HIV positive, and Ms. Hebberger answered that may be true, but if test results are known, the HIV positive person will be discriminated against. She stated that we must first change our attitude toward AIDS and not discriminate toward those people. Sen. Papay questioned why, if an inmate had been convicted for rape, why the victim would not have a right to know if that person is HIV positive. Sen. Oleen questioned Mr. Risk's statement regarding the unconstitutionality of provisions of the bill in other states where a similar law has been enacted, and Mr. Risk answered that he does not know if the constitutionality has been challenged.

Sen. Oleen announced the committee will continue by hearing brief testimony on HB 2125, authorizing the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:05 a.m. on March 10, 1993.

Secretary of Corrections to establish and operate prerelease centers. Gary Stotts appeared as a proponent (Attachment 8). Sen. Parkinson made a motion the committee recommend it favorably, and it was seconded by Sen. Papay; the motion passed.

Gary Stotts also appeared as a proponent for HB 2128, concerning benefit funds for persons in state institutions, (Attachment 9). Several questions were raised regarding how much money is involved and where the money would be used and how it would be allocated. Mr. Stotts explained incentive pay and expanding several programs, especially due to new sentencing guidelines. Since it was past adjournment time, Sen. Oleen announced holding HB 2128 for further discussion and possible action tomorrow.

Sen. Hensley introduced pages from his district who are assisting the committee today.

Meeting adjourned at 12:10.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: MARCH 10, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Betty Friauf	Clatho, KS	KS Choice Alliance
David McKune	Lansing, KS	Lansing Correct. Fac.
Brian Nuckin	Lawrence	Pat. Health Assoc.
Gammie Stephens	Topeka	KAPE
Ruthy Bunnell	Augusta	
Charles Bunnell	Augusta	
Tess Bunnell	Topeka	KAPE
DARBY WHITE	LANSING, KS	LANSING CORR FAC.
Betty Slater	Topeka	KCI
Peggy Rife	Topeka	KDOC
Ki Bahr	"	K. Hospital Assn
Gary Stots	Topeka	KDOC
Jimmy Wilk	Lansing	Lyn.
Andrew Pelletier	Topeka	KAPE
Chip Wheelen	Topeka	KS Med Soc
Gordon Risk		ACLU
Allison Peterson	Topeka	KMed Soc.
JERRY HATHAWAY	TOPEKA	FPOT
Angela Grant	Topeka	KHP
Ann Hebbiges	Ovland Park	U. C. S
Betsy Topper	Ovland Park	United Community ^{Service}
Tim Shalt	Topeka	Kansans for Life At Its Best
DAVID COMSTOCK	TOPEKA	Visitor

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

AGENDA

MARCH 10, 1993

HB 2152 - Proponents:

Rep. Kenny Wilk

Gary Stotts, Secretary, Department of Corrections

Ray Roberts, Deputy Secretary of Facilities Mgt., DOC

Darby White, Corrections Officer, Lansing Prison

Tess Banion, Kansas Assoc. of Public Employees

Opponents:

Ann Hebbenger

~~Betsy Topper~~, United Community Services of Johnson County

Gordon Risk, ACLU

HB 2125 - Proponent:

Gary Stotts, Secretary, Department of Corrections

HB 2128 - Proponent:

Gary Stotts, Secretary, Department of Corrections

KENNY A. WILK
REPRESENTATIVE, 42ND DISTRICT
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TOPEKA

House of Representatives

Testimony
HB2152 Infectious Disease

COMMITTEE ASSIGNMENTS
MEMBER: EDUCATION
FEDERAL & STATE AFFAIRS
JOINT COMMITTEE ON LEGISLATIVE
EDUCATIONAL PLANNING COMMITTEE

Madam Chairman and members of the committee, thank you for the opportunity to appear before you today in support HB2152. This bill would give our corrections employees in the state of Kansas an avenue to pursue for blood testing should they come in contact with the body fluids of an inmate through the course of normal duties. Currently, should a corrections employee be exposed to the body fluids of an inmate, unless the inmate volunteers for a blood test, the employee has no way of knowing if they have been exposed to an infectious disease. HB2152 allows for the Secretary of Corrections to make application to the District court for an order requiring an inmate to submit to an infectious disease test. Infectious disease for this bill is defined as AIDS or Hepatitis B. The Secretary of Corrections would only make this request on behalf of a corrections employee.

It's important to remember that the state employees we're talking about work with convicted criminals. This bill is modeled after KSA 22-2913, which is a statute that allows the victim of a crime the right to a blood test if bodily fluids are transmitted. KSA 22-2913 applies only to convicted criminals as does HB2152.

H.B 2152 bill has three sections, the first two sections are existing statues that have technical clean-up amendments. New section three addresses the issue of blood testing of an inmate. Please note that a judge can only issue a court order if the inmate refuses to volunteer for a test, and just cause has been found, with exigent circumstances being an exception.

Sen. F. & Sa.
3-10-93
Att 1

During the House testimony Dr. Donna Sweet from the Kansas University Medical Center, Wichita Branch gave a presentation on blood testing. She was ask the question, is this legislation medically sound? She responded that with some terminology corrections the bill would be medically sound. I would note for the record that we did amend her recommendations into the bill.

Included in those testifying today is a corrections officer. He represents all the corrections officers who put their lives on the line each day for our protection. We don't often hear from these quiet individuals, but today we have an opportunity to recognize them by repaying in some small measure their devotion, and their everyday courage to Kansas. We the legislative body can do this through the favorable passage of HB2152. This is a legitimate and responsible request.

It's difficult to mentally put ourselves in the place of a corrections officer. The physical boundary of their jobs is well defined, the walls of the prison. But the emotional aspect of their duties has no boundary. I believe it's an understatement to say they operate in a high risk environment. They work with people that society has rejected and convicted through a court of law. We can't change that, but we can let them know we appreciate their service and understand their need for HB2152.

On behalf of the 3300 plus employees of corrections I would ask that you consider HB2152 favorable for passage. Madam Chairman I would be happy to stand for questions.

STATE OF KANSAS



Attach. 2

DEPARTMENT OF CORRECTIONS

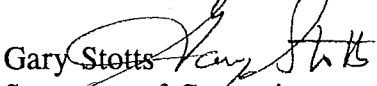
OFFICE OF THE SECRETARY

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Topeka, Kansas 66612-1284
(913) 296-3317

Joan Finney
Governor

Gary Stotts
Secretary

To: Senate Committee on Federal and State Affairs

From: Gary Stotts 
Secretary of Corrections

Date: March 10, 1993

Subject: House Bill 2152

HB 2152 is requested by the department to make available a means of providing information about offenders who have infectious diseases -- specifically HIV and Hepatitis B -- to those employees of the department who have been exposed during the course of their duties, to the body fluids of an offender. In providing this information it is the department's intent that it be done in a way that does not create an unacceptable breach of an offender's right to confidentiality and privacy.

Department employees are frequently placed in situations where they are exposed to an offender's bodily fluids. This exposure could result from such activities as an employee intervening in an altercation involving an inmate, in giving first aid to an inmate, and administering certain testing procedures. After an employee has been exposed to an offender's bodily fluids, the employee and his or her family naturally have apprehensions and concerns about the possibility of exposure to infectious diseases, including AIDS. Offenders as a class are considered a high risk group.

At the current time the Department of Corrections does not have the authority to cause a test to be administered, without the offender's consent, to determine if the offender has Hepatitis B, AIDS or is HIV positive. HB 2152 provides that whenever a corrections employee, while acting within the scope of his or her duties, comes into contact with or was exposed to the bodily fluids of another person, a court may, if requested by the secretary of corrections, order the person to submit to infectious disease testing. The results of the testing would then be disclosed to the employee and the person tested. Otherwise, the test results would be confidential.

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Senate Committee on Federal & State Affairs

Page 2

March 10, 1993

This bill also proposes amendments to K.S.A. 65-6004. This currently provides that in the event a physician knows an individual has AIDS or has had a positive reaction to an AIDS test, the physician may disclose that information to corrections officers, and others, who have been or will be placed in contact with bodily fluids of such individual. The amendment expands application to all KDOC employees (not just corrections officers), and to include Hepatitis B as well as AIDS.

The amendments made by the House to HB 2152 are viewed as improvements to the bill and do not alter the intended effect of the bill.

Your favorable action on HB 2152 is requested.

GS/CES:pa

TESTIMONY
of
Raymond N. Roberts
Deputy Secretary, Facility Management
House Bill # 2152

Employees of the Department of Corrections are placed at substantial risk of exposure to infectious diseases such as AIDS and Hepatitis B on a daily basis. According to a National Institute of Justice bulletin, "The incidence rate of AIDS for the entire U.S. population was 14.65 cases per 100,000 in 1989. The aggregate incidence rate for state and federal correctional systems was 202 cases per 100,000."¹ Based on this data, it would appear that the rate of infection among inmates by this particular disease is nearly 14 times that of the U.S. population in general.

A significant number of inmates in our population have a past history of I.V. drug abuse, and involvement in other high risk activity. While in prison, many of these same inmates engage in homosexual activities, and tattooing with unsanitary equipment. These high risk behaviors lend themselves well to the spread of contagious disease in the correctional environment.

Routine duties of correctional employees provide enhanced opportunities for exposure to infectious diseases. Correctional staff may be exposed to diseases as a result of a direct physical assault, as the result of rendering aid to a victim of such an assault, or as the result of rendering aid necessitated by other medical emergencies. Correctional staff are also required to perform forced cell moves with unruly inmates, and conduct frequent cell searches. If an employee becomes injured during these activities by sustaining a cut from a used razor blade or other personal items used by inmates, the potential for exposure to contaminated bodily fluids is great. Staff also live with the fear that some inmates, who already may have shown evidence of having little regard for human life by their offense and past criminal history, may intentionally attempt to spread the disease to officers through a bite or some other method.

During FY 1992, there were 177 inmate on inmate assaults, 63 inmate on staff assaults, and 433 incidents in which staff applied physical force to inmates in our correctional facilities.

Many of our employees, particularly those working on the front lines with daily inmate contact, report considerable dissatisfaction over not being provided AIDS testing results after exposure to body fluids. I have personally witnessed the anxiety and morale problems created for staff and their families when vital health information from the source of the exposure is withheld.

We recently conducted an informal survey of several states to assess the current status of mandatory infectious disease testing in other jurisdictions. The states included in this survey were Arkansas, Florida, Kentucky, Massachusetts, Missouri, Nebraska, and Oklahoma. In all of

¹ "National Institute of Justice AIDS Bulletin", U.S. Department of Justice, Office of Justice Programs, National Institute of Justice; September, 1990, pp. 4

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Att. 3

these states, there is some provision for seeking a court order for such testing, in the event the inmate refuses. Only one state, Massachusetts, reported any significant problems. These problems were reportedly caused by the refusal of the state to disseminate testing results to employees who have become exposed to bodily fluids. In Massachusetts, statutory testing requirements are so stringent that an inmate could not be forced to submit to such a test (even under court order) unless a "potentially life threatening situation" is shown to exist. Because of these restrictions, the Department of Corrections in that state has never attempted to obtain a court order for mandatory AIDS testing.

While the Department is sensitive to privacy issues associated with AIDS testing, we do not think that the inmate's interest in privacy should override the health and emotional interests of the employee who has become exposed to bodily fluids either by accident, or by outright misconduct of an inmate. It should be recognized that the bill does not eliminate the inmate's right to privacy; it simply allows those who have been exposed to bodily fluids the opportunity to know what, if any, infectious diseases to which they have been exposed. The recipient of such information is still obligated to maintain confidentiality.

I believe in and support House Bill 2152. This proposed legislation provides the Department of Corrections with the authority to provide employees with information vital to their personal health status, consistent with the inmate's right to privacy. Further, this bill is consistent with the statutes and policies and practices of other jurisdictions.

**Darby White
Corrections Officers I**

**Senate Federal and State Affairs
March 11, 1993**

Good afternoon Ladies and Gentlemen. My name is Darby White. I am a Correctional Officer from the Lansing Correctional Facility. I have been employed there for about six years, nearly 4 of which were spent on the Special Security Team.

I stand before you today representing the many concerned correctional employees of the State of Kansas to speak on the subject of required testing of inmates for HIV and Hepatitis B, if exposed to their bodily fluids.

This exposure I have mentioned is a day to day possibility, which all-too-frequently becomes a reality.

One of the primary roles of a Correctional Officer is to maintain security in the institution and it is while performing in this capacity that I have found it necessary to intervene in a host of circumstances.

As we can all imagine, prison life itself is not a very pleasant thought. Knowing this, it is understandable that pent-up feelings of anger, frustration and rage do sometimes lead to acts of violence by inmates upon inmates and fellow staff members.

*Sen. F. + S. A.
3-10-93
Act 4*

At LCF, there is a system in operation we call a panic button system. If a correctional employee sees or is involved in a physical confrontation with an inmate or inmates, assistance from correctional staff members is provided within minutes or even seconds at the press of a body alarm or by calling in the situation by radio or phone. (The alarm and location is announced by radio.) All available staff members respond to such alarms. One's mindset is usually limited to where you are going, getting there as fast as possible and reacting immediately to whatever the problem may be. One must quickly assess and react. Therefore, taking precautions, such as rubber gloves, masks or protective clothing is not always feasible. Although the potential for immediate flare-ups is constant, when possible, planned force and preventative measures are considered.

From time to time, change of custody or behavioral problems can dictate that an inmate must be moved to an area of greater security. For the most part, an inmate complies when an order is given for such a move. Every so often, we will run into an inmate who refuses to move. Unless such an inmate presents an immediate danger to himself or others, planned force and preventative measures are put into effect. However, one can not prepare for every situation. - In September 1991, I participated in 3 separate force cell moves on an inmate housed in our clinic. This inmate

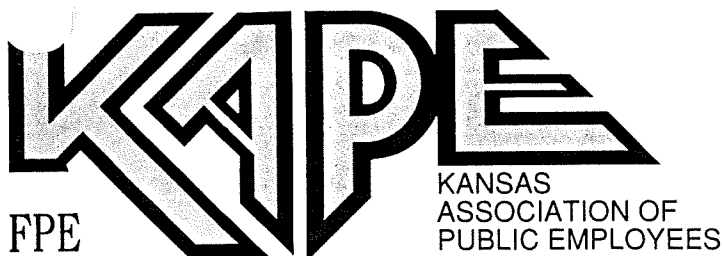
was segregated because of his violence towards staff members. At the time, I and several other officers prepared as best we could with rubber gloves and protective clothing prior to entering the inmate's cell, because it was suspected he may be HIV positive. However, during the move, almost all rubber gloves were torn away, clothing was torn, skin was scratched, faces spat on. Three officers, including myself, had some form of open wound as a result of the move. The inmate already had gaping and oozing wounds. The inmate fought and struggled with us the entire time in all three of these cell moves as well as resisting the Thorazine and Haldol shots that he received from medical staff while we held him down.

I really was not looking forward to explaining to my wife and kids the news of the day. Especially the part that I could not find out if the inmate had AIDS or any other diseases. The impact of the situation was very unsettling. Even though all available precautions were taken, the potential for a deadly transfer of bodily fluids was extremely great.

Knowing if this inmate was HIV or Hepatitis positive would have given me and my family about all the peace of mind we could ask for under the circumstances.

Being a professional, I will always be there to assist any staff member or inmate that needs help. And I expect the same in return. While precautionary measures may reduce the risks of being infected by disease, there are no guarantee against such. But it is not guarantees I am asking for. Rather, just a little peace of mind for myself and any fellow employee and their family who may be faced with a similar ordeal of their own.

Thank you very much for your time.



1300 South Topeka Avenue Topeka, Kansas 66612 913-235-0262 Fax 913-235-8788

**TESTIMONY OF TESS BANION
FOR THE KANSAS ASSOCIATION OF PUBLIC EMPLOYEES
ON HOUSE BILL 2152**

The Kansas Association of Public Employees as the largest representative for Department of Corrections officers, supports the general concept of House Bill 2152 as a means of providing necessary information to a broader range of public employees, who by virtue of their job, must come into contact with carriers of infectious viruses, specifically the HIV and Hepatitis B viruses.

KAPE has always fought for safe and healthy working conditions for public employees. By expanding the list of those employees covered by the state's "AIDS law" and further defining "infectious disease", the state will be taking necessary steps to minimize health risks to more of its public servants who must come into contact with the body fluids of "offenders."

As stated, we support the general concept of this bill with the following reservations:

First, state employees have property rights to their positions and are therefore entitled to due process with regard to alteration or termination of employment, however, the process by which a state employee can be terminated is not as time consuming or complicated as is the process proposed in this bill to test an offender for presence of an infectious disease.

Secondly, new section 3's procedure for testing an offender for the presence of an infectious disease is far more stringent than the requirement for testing an employee who is thought to be under the influence of illegal drugs or alcohol. It should



not be necessary to obtain court permission to test an offender for presence of an infectious disease since the test does not deal with the issue of guilt or innocence at the time.

We further recommend a provision requiring employees to be immediately informed when an offender tests positive for an infectious disease. We are aware of instances where inmates have had a positive test for tuberculosis, and shortly thereafter a number of state corrections officers have also tested positive for tuberculosis.

While a positive skin test does not mean the inmates or officers have active tuberculosis, the fact that state employees may have been exposed to the infection at their workplace, a corrections facility, certainly points to a need for testing of "offenders" or inmates.

As you know, tuberculosis is a highly infectious disease that is spread through airborne transmissions such as coughing and sneezing. A recent survey of 29 state health departments, by the Federation of Public Employees, found the rate of TB among inmates of correctional institutions to be more than three times higher than that for non-incarcerated adults. Since 1985, 11 known TB outbreaks have occurred in prisons in eight states.

We have attached supplementary information on tuberculosis outbreaks in correctional facilities to the written copies of this testimony for your information.

We encourage you to act favorably on House Bill 2152 and to seriously consider including a provision for testing offenders for tuberculosis.

FACT SHEET

Tuberculosis in Prisons - A Growing Threat to Corrections Personnel

Crowded conditions and high rates of HIV-infection among inmates may be contributing to a significant increase in the rate of tuberculosis in prisons. A survey of 29 state health departments found the rate of TB among inmates of correctional institutions was more than three times higher than that for non-incarcerated adults. Since 1985, 11 known TB outbreaks have occurred in prisons in eight states.

TB can spread quickly -- not only through the inmate population but to attending staff. The trend is dramatic as seen in:

- o New York State, where TB among inmates increased from an annual average of 15.4 cases per 100,000 in 1988 to 105.5 cases per 100,000 in 1990.
- o New Jersey, where the TB incidence for inmates was 109.0 per 100,000 - a rate 11 times that of the general population in New Jersey.
- o California, where the TB inmate incidence in 1987 was 80.3 per 100,000 -- nearly 6 times that for the general population.

Staff infection rates are increasing too, as demonstrated by a recent TB outbreak in California's Folsom prison. The California Occupational Safety and Health Administration (CAL/OSHA) recently investigated TB exposure among corrections officers and staff at the prison. They discovered that three employees tested positive for TB infection after exposure to 4 inmates with active, contagious disease. CAL/OSHA cited the prison for: 1) not having proper ventilation in the infirmary and prison (thus allowing the TB bacillus to circulate in the air); 2) not training employees and informing them about the hazards of TB exposure as outlined by the Centers for Disease Control; and 3) lack of engineering controls to prevent employee exposure to harmful substances.

Similar inspections should be made of all prison facilities.

BASIC TB FACTS

WHAT IS IT?

Pulmonary Tuberculosis (TB) is a bacterial disease that at its worst can cause severe lung damage and destruction leading to chronic disability or death. TB can lie dormant for several years and then resurface as an active destructive disease. Newly infected persons often have mild symptoms or none at all.



The transition from infection to mild or severe disease depends on many factors. For example, persons with diabetes have less resistance to active disease; the same is true for people who are undernourished, under a great deal of stress or receive steroid treatment for other diseases. Infants and young children are especially susceptible to the disease. Health care workers and corrections personnel are at greater risk of exposure than the general population.

HOW IS IT TRANSMITTED?

Inmates who have an active case of tuberculosis can carry the tubercle bacteria in their saliva, and sputum coughed up from their lungs. When they cough and sneeze, they release droplets containing the bacteria into the air. Workers and others who inhale these droplets can become infected. The bacteria can survive in moist or dried sputum for up to six weeks. Fortunately, sunlight will kill bacteria in the air in a few hours.

INCUBATION:

Newly infected persons will show evidence of exposure (on a skin test, see below) from 4-12 weeks after exposure. 5% to 10% of infected persons will develop the active disease within 1-2 years after infection.

SYMPTOMS:

The initial infection usually goes unnoticed. The disease may reappear. Early symptoms are fatigue, fever, and weight loss. Coughing up blood, chest pain, and hoarseness may appear in the later stages of the disease.

HOW IS TB INFECTION DETECTED?

We can now screen for TB exposure or infection by means of a skin test called the tuberculin test. In this test, a tiny amount of tuberculin (purified protein derivative) is injected under the skin. Persons who are infected will develop a positive reaction of a small raised, swollen area around the injection point. Persons who test positively do not necessarily have an active case of the disease.

In prison settings, CDC recommends the following guidelines. A skin reaction is considered positive if it measures:

- o 10 millimeters (mm) in diameter.
- o 5 mm or greater in persons who have had recent contact with an infected person.

- o 5 mm or more for persons infected with the human immunodeficiency virus.

WHY DOES TB SPREAD RAPIDLY THROUGH PRISONS?

Bloodborne diseases such as the human immunodeficiency virus and hepatitis B are spread through sexual contact or exposure to the blood of an infected person through an open wound or cut. Unlike these diseases, TB is spread through airborne transmission. Four factors appear to contribute to the rapid spread of TB through prisons.

1. Inmates with active cases of TB are not identified in a timely manner.
2. Crowded conditions.
3. HIV infection in the inmate population. Persons who are HIV-positive are more susceptible to TB and other diseases.
4. Poor general ventilation throughout many prison facilities.

The Centers for Disease Control guidelines for prisons address all of these problems.

CENTERS FOR DISEASE CONTROL GUIDELINES

According to CDC, every prison should have a TB prevention and control program. There should be a qualified official and unit to oversee TB control throughout every prison system in the country. The program should include:

- o **surveillance** - a comprehensive program to screen and identify all TB cases (those infected with a positive skin test). Surveillance goes hand in hand with good diagnostic, treatment and prevention services. Persons with positive skin reactions and all persons with symptoms suggesting TB (e.g., cough, loss of appetite, weight loss, fever, etc.) should receive a chest X-ray within 72 hours and sputum tests. Persons who test positive are usually put on preventive therapy.

A good surveillance and treatment program will monitor persons with active cases for compliance with the drug treatment. In Folsom prison, investigators found an inmate with multiple-drug-resistant TB; the drug resistance occurred because he did not finish medication as prescribed. Current drugs may not rid the inmate of the infection and he may continue to pose a risk to inmates and CO's.

o **containment** - environmental control of the spread of airborne TB is imperative. Poor ventilation in prisons must be corrected. Persons with suspected or confirmed TB should be in respiratory isolation, (i.e., housed in areas with separate ventilation to the outside and with negative pressure in relation to adjacent areas.) Ventilation should be at least 4-6 room air exchanges per hour. Isolation should continue until the patient is on therapy and sputum smears are negative for three consecutive days.

Most important, there must be improvements in crowding and housing conditions of the general prison population. To help reduce airborne TB, prisons should install U.V. lights and improve general ventilation throughout each facility.

o **contact investigation** - Because TB is transmitted by the airborne route, persons at highest risk for acquiring infection are "close contacts" (i.e., shares common air space or ventilation system) of a person with an active case of tuberculosis.

When an active case is discovered, all close contacts should be skin-tested. Close contacts with positive skin reactions (but without TB) should get at least 6 months preventive therapy. Those without a positive skin reaction and who are asymptomatic should receive a repeat tuberculin test 10-12 weeks after contact.

o **training of all prison staff** - staff should be given information and training on recognition and control of TB and the proper infection control measures that should be taken.

Get the Facts:

Your union or association can help you get a copy of the prison policy on TB. Read it and make sure that the prison policy meets the CDC guidelines and that the prison complies with its own policy.

Form a health and safety committee for your facility and get involved with improving conditions for the members.

For more information on TB and a copy of the official CDC policy, call KAPE at 913-235-0262.



United Community Services
of Johnson County, Inc.

Attach. 6

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Executive Director

Wilma J. Dickey

TESTIMONY
before the
Senate Federal and State Affairs Committee

March 10, 1993

Re: House Bill 2152

Good morning. My name is Ann Hebbberger. I am a member of the board of United Community Services of Johnson County. UCS is a private, nonprofit, research-based agency engaged in planning for health and human services in Johnson County, Kansas.

One issue area in which we have been particularly active throughout 1992 and into 1993 is HIV/AIDS.

I am here this morning to share with you our concerns and questions about House Bill 2152.

We appreciate the sense of risk that corrections personnel feel, given the prevalence of risk factors in the populations with whom they work. We question the notion that involuntary testing of offenders is the answer.

As planners, we recognize the importance and the difficulty of maintaining a strong problem focus while searching for, designing and implementing solutions to that problem. As we understand it, the problem House Bill 2152 seeks to solve, or at least address, is that corrections personnel are at risk for Hepatitis B and HIV infection. We wonder, given that an effective vaccine exists for Hepatitis B, and given that most other employers of persons at greatest risk for exposure vaccinate their employees, why the Department of Corrections would not offer the same protection to its employees. This strategy would reduce immediately the risk for one of the two diseases.

Sen. F. & S. Q.
3-10-93
Att 6

The Department of Corrections cites three instances when transmission of Hepatitis B or HIV is likely. Two of the three -- giving first aid to an offender and rendering emergency medical services -- involve situations that fall directly within OSHA guidelines regarding handling of and exposure to blood-borne pathogens. It is our understanding that the Department of Corrections is not yet in full compliance with OSHA regulations, but is actively working toward compliance. We would suggest that adherence to OSHA regulations would significantly reduce the risk factor in situations of giving first aid or emergency medical services.

A third instance cited is a physical altercation with an offender. We would suggest that you hear from an infectious disease specialist or an epidemiologist to determine, for yourselves, the extent of risk during such events.

The theme throughout my testimony is prevention. As planners, we strongly support preventive action, where possible, as being more efficient and more cost-effective, both in monetary and in human terms.

Finally, I would like to leave you with two questions:

If House Bill 2152 were signed into law...

How would you ensure that offenders who test positive for Hepatitis B or for HIV would not receive discriminatory treatment?

Conversely, given that persons in the corrections system would know that certain offenders test positive for HIV or Hepatitis B, how could corrections employees not use that knowledge to protect others from infection?

We question whether the ethical dilemmas justify involuntary testing, especially given the available preventive measures.

We appreciate the opportunity to testify. Thank you.

Attach. 7

To: Senator Lana Oleen, Chairman,
Senate Committee on Federal and State Affairs
From: Gordon Risk, M.D., Americal Civil Liberties
Union of Kansas
Date: March 10, 1993
Subject: House Bill #2152

This bill is an artifact of the AIDS hysteria that swept this country a few years ago. Although the bill has been somewhat refined over the years, it remains basically flawed. It would in the first place violate the constitutional rights of citizens to privacy and to be secure in their persons against unreasonable searches and seizures. Searches and seizures are usually undertaken to secure evidence of crimes against society. Indeed, the constitutional balancing practiced by the U.S. Supreme Court measures "the nature and quality of the intrusion on Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion." (1) This bill would strike a different balance; the constitutional rights and privacy of one individual would be sacrificed to the fears of another. This is fundamentally different than the limited drug testing of transportation workers authorized by some recent Supreme Court decisions for public safety reasons. This bill by contrast will not benefit society at all.

This bill is furthermore worthless as a public health measure. You don't find out your HIV or hepatitis B status by testing someone else, or even by testing them repeatedly. If you want to find out if you are infected, you have to test yourself. The bill is based on medical ignorance, and, as such, represents bad public health policy. Hepatitis B vaccinations at public expense for department of correction employees at some risk of contracting the virus would in contrast be good public health policy.

The bill also, I think, opens a Pandora's box. If corrections department employees can obtain court ordered, involuntary, HIV testing of others, why not every first responder in Kansas, who fears he may have been infected by the individual he helped to resuscitate? Why not all hospital emergency room personnel, who fear they may have been infected with HIV and who may have a more reasonable basis for their fears than corrections department employees? We don't allow such involuntary testing because it is a violation of constitutional rights.

(1) O'Connor v. Ortega 480 U.S. 709, at 719 (1987)

Sen. F. & S.C.
3-10-92
Att 7

Attach. 1



DEPARTMENT OF CORRECTIONS

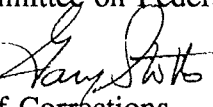
OFFICE OF THE SECRETARY

Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Joan Finney
Governor

Gary Stotts
Secretary

To: Senate Committee on Federal and State Affairs

From: Gary Stotts 
Secretary of Corrections

Date: March 10, 1993

Subject: House Bill 2125

HB 2125, which is requested by the department, would repeal KSA 75-52,117. This statute was enacted in 1984 when prerelease centers were established at Winfield and Topeka. However, subsequent changes in the makeup of the inmate population and programs offered at various correctional facilities have rendered the exclusive use of any facility for prerelease purposes impractical. The statute no longer reflects the current structure of the Department regarding delivery of prerelease programs and with respect to the purposes of the Winfield and Topeka facilities.

Repeal of this statute will not mean that prerelease programs will be discontinued. KSA 75-5210 authorizes prerelease programs.

GS:CES/pa

Sen. F. & S. Q.
2-10-93
cell 8

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

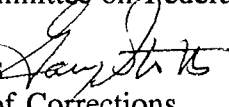
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Joan Finney
Governor

Gary Stotts
Secretary

TO: Senate Committee on Federal and State Affairs

FROM: Gary Stotts 
Secretary of Corrections

DATE: March 10, 1993

SUBJECT: House Bill 2128

This bill, which is requested by the department, would amend KSA 1992 Supp. 75-3728e regarding benefit funds for persons in state institutions. This statute now provides that benefit fund moneys are to be used to provide property, services, or entertainment to persons in a state institution. The amendments would expand the authorized uses of the fund to give greater flexibility to the secretary regarding use of the funds, including using benefit fund moneys for the entire offender population in the custody of the secretary of corrections, not just those incarcerated in a correctional facility.

Benefit fund moneys come primarily from canteen sales and receipts from inmate telephone usage. In the past the funds have mostly been used to provide recreation and entertainment programs for inmates. I believe that by using the benefit funds for other purposes, such as providing incentives to offenders, more effective use of those funds can be achieved. In addition, I do not believe that use of benefit funds should be limited to only those individuals who are incarcerated. Programs, services, and other needs of offenders who remain in the legal custody of the secretary of corrections after having been paroled or released on conditional release status can be met through use of the benefit funds.

I believe that by looking for ways to use benefit fund moneys that are innovative and not just for the traditional recreation and entertainment programs for inmates, we can develop more effective tools to assist in the management of the offender population, which includes both inmates and those offenders who have been released from incarceration. Enactment of HB 2128 will provide the flexibility to develop other uses for benefit fund moneys.

GS:CES/pa

Sen. F. & S.A.
3-10-93
Oct 9