

The Sun, Baltimore, Maryland  
The Evening Sun, Baltimore, Maryland  
The Sunday Sun, Baltimore, Maryland

**State prisons' effort on AIDS ruled adequate  
Judge rejects inmates' bid to mandate tests, segregation**

by Norris P. West  
THE BALTIMORE SUN

February 1, 1992 Page(s): 1B

Edition: FINAL

Section: METRO

Length: 613 words  
Record Number: BSUN124030

---

Maryland's prison system will not have to separate inmates infected with the AIDS virus from the rest of the population, a federal judge has ruled.

U.S. District Judge J. Frederick Motz said the state Division of Correction has taken enough steps to reduce the spread of human immunodeficiency virus in its prisons without having to segregate infected inmates.

The judge's opinion Thursday came in a case filed in 1988 by inmates of the Maryland Correctional Training Center in Hagerstown. They asked the court to impose mandatory HIV testing on prisoners and to separate those infected with the virus that causes acquired immune deficiency syndrome.

They argued that otherwise their Eighth Amendment rights against cruel and unusual punishment were being violated.

However, Judge Motz said that since the complaint was filed, prison officials have increasingly provided AIDS education, voluntary HIV testing and mandatory testing for inmates who are guilty of behavior that could expose others to HIV.

He agreed that the risk of HIV infection still existed, citing statistics showing that uninfected inmates have a 1-in-200 chance of contracting the virus for each year of a prison stay.

"Despite the fact that DOC officials make efforts to enforce institutional regulations prohibiting such high-risk activities as drug usage, consensual sex, rape and tattooing, according to the defendants' own expert, 60 to 70 inmates annually become infected with HIV," Judge Motz said.

But he said the standards established by state prison officials were comparable to those in other state prison systems.

"DOC made a reasoned choice between alternative approaches to a problem of extreme complexity," the judge said.

Attorneys for both sides credited the judge with bringing the two sides together and encouraging improvements in the state prison system's AIDS program.

Joseph H. Young of the Washington law firm Hogan & Hartson, which represented inmates infected with HIV, also hailed the opinion. "It's pretty clear that the steps the plaintiffs wanted, separating the inmates, was not warranted," Mr. Young said. "The opinion safeguards the privacy interests of the inmates."

Susan K. Gauvey, a lawyer with Venable Baetjer & Howard who represented uninfected inmates seeking separate living areas, did not view the ruling as a defeat. She said improvements in HIV education and treatment were prompted by the lawsuit and by the judge's decision to appoint lawyers to represent the inmates.

"I think that's the beauty of our society," Ms. Gauvey remarked. "You put a spotlight on a problem and society will respond."

She said the prison moved from a primitive way of dealing with HIV in 1988, when infected inmates at the Maryland Penitentiary were isolated in a small area, to "a coherent policy for detection, screening and treatment for HIV-positive."

However, Ms. Gauvey said, the risk of HIV infection still exists. She said HIV-positive inmates who demonstrate "aberrant behavior" that could spread the virus should be separated.

Maureen M. Dove, an assistant attorney general who represented the state, said such protection already is in place. "It doesn't matter whether an inmate is HIV-positive or not," she said. "If he's violent, if he's sexually aggressive, he's separated."