

Testimony on HB 81
By Major Kirk E. Keller
Greene County Jail Administrator
and member of the Ohio Jail Advisory Board
On behalf of correctional officers and detention facility personnel
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Thank you for the opportunity to testify on behalf of House Bill 81.

My name is Kirk Keller and I am the Jail Administrator for Sheriff Gene Fischer in Greene County. I also serve on the State Jail Advisory Board. Over half of my twenty-nine years of service with the Greene County Sheriff's Office has been working in the Corrections Division as a corrections officer, sergeant, lieutenant, captain, and currently the major overseeing the personnel and operations of the division.

I appreciate the opportunity to share how the current language of Ohio Revised Code 4123.026 impacts the corrections officers and detention personnel tasked with managing inmate populations.

As you are aware, the current language covers peace officers, firefighters, and emergency medical workers when post-exposure medical diagnoses are required after an incident has taken place. However, because corrections officers and detention personnel are not covered, they suffer not only from the experience of being spat upon, or having excrement thrown on them, but they suffer additionally from having the costs of their diagnostic testing denied after an incident of exposure to potential disease.

Workers comp is designed to protect both the Employee and the Employer - the employer from potential liability for on-the-job injuries and the employee from medical expenses and wage loss from a work-related accident. One type of claim routinely denied by the BWC, providing no protection for neither the Employee nor the Employer, is exposure claims to a Corrections Officer.

As you have heard, exposure claims occur when potentially infectious bodily fluids contact the eyes, mouth, or open skin of another individual. In 2003 Ohio Revised Code Section 4123.026 instructed the BWC administrator or self-insuring public employer to cover certain defined exposure claims for certain defined employees. Soon after, the BWC adopted related claims management guidelines. For those employees specifically listed, the BWC will cover the complete battery of post-exposure medical diagnostic testing for various communicable diseases such as HIV and Hepatitis as recommended by basic medical protocol. But because Corrections Officers are not included in the covered employee definition, the same exposure that would be a covered claim for another, for them is denied.

At Greene County we have made special provisions to ensure our Corrections Officers are not burdened with bills related to that baseline testing. We appeal the BWC denial, we appear at the hearing to support the claim and after the second level denial, we submit the claim through the

County's employee group health plan. But because group health plans have a standard exclusion against paying occupational expenses that should be covered by the BWC, we must also prove the denial to United HealthCare before they will process the claims. Lastly, we actually pay the employee's health plan co-pays to the hospital and lab. The complexity involved is completely unreasonable. These expenses should not have to be paid by the employee, by the employer, or by our self-funded employee health plan. They were incurred for medically recommended testing from a solely occupational incident. The only appropriate payor is the bureau of workers compensation.

Corrections officers fill the front-line positions in jails and facilities across our State. They perform extremely challenging and important work. Yet we have had COs suffer the indignity of having a taunting inmate spit in their face or throw urine and feces on them and we have had a CO be covered with various fluids while cutting down an inmate who was attempting suicide by hanging – only to be told by the BWC their very minimal claim for basic baseline lab tests is denied. What is ironic is if they had also sustained a physical injury in the incident (back, arm, knee, neck, etc.) the BWC would not only cover treatment for that injury but also the baseline testing from the bodily fluid exposure. The difference is the additional physical injury. The BWC's denial of exposure claims without a physical injury is why 4123.026 was needed and enacted back in 2003. Exposure-only claims should be covered for these employees. We believe House Bill 81 provides crucial additions to extend that equal protection.

We have had incidents this year in which a police officer and a correctional officer were dealing with an inmate who spat in their faces. Both officers received the post-exposure diagnostic testing according to medical protocol. The police officer's claim was approved by the BWC, but the corrections officer's claim was denied.

The first responders, including the police officers, fire fighters and emergency medical personnel face potential harms from exposure as they deal momentarily with an incident in the line of duty, But, the corrections officers and detention personnel manage inmate populations twenty-four hours a day, 365 days a year. The potential for exposure for these public servants is greatly increased because of their daily contact with the populations for which they provide care. And yet, when a corrections officer comes in contact with an inmate's blood, urine, feces, or spit, they are denied the same level of care given to the first responders because they personally have had to pay for their diagnostic tests.

On behalf of the brave corrections officers and detention personnel who have to incur the costs for these diagnostic tests, I would ask that you please consider House Bill 81 and provide equal support for their protection as they perform a difficult job.

Thank you again for the opportunity to share with you today. If you have any questions for me, I will do my best to answer them for you.