

Statement of United States Senator John F. Kerry
Department of Health and Human Services
Advisory Committee on Blood Safety and Availability
June 11, 2010

Chair Bracey and Members of the Advisory Committee, I thank you for convening this meeting to review the outdated policy that prohibits any man who has had sex with another man, even once, since 1977 from ever donating blood. With the American Red Cross, the American Medical Association, America's Blood Centers, and AABB, among others, calling for this policy to be reformed, it is certainly past time to examine scientifically and medically sound alternative screening procedures to ensure the highest level of safety possible for the nation's blood supply.

The discussion must focus on one question: is this blanket lifetime deferral for all MSM the best way to protect the blood supply, or are there alternatives that would maintain or even improve the safety of our nation's blood supply that targets real high risk behavior as opposed to simply a broad group of people?

I realize that this is a discussion that has been ongoing for a number of years. The three largest blood banking organizations in the country have been calling this policy "medically and scientifically unwarranted" since at least as far back as 2006, and some medical experts called into question the medical justifications for this policy long before that.

This is a discussion with real social significance for gay men. They are clearly the target of this policy, which was initiated in the early 80's when little was known about HIV / AIDS except that gay men seemed to be contracting it almost exclusively. Today, this lingering policy carries with it a social stigma for this population that is still engaged in battles for civil rights on a whole array of fronts.

But, as much significance as this carries for gay men, I absolutely believe that this discussion must begin and end with the integrity of the blood supply and the safety of the recipients of blood transfusion. They deserve the strongest protections the United States of America can muster from diseases like HIV spreading through the blood supply.

However, if this policy is not declared a necessity by the science of blood supply safety, then their safety will not be compromised were the policy appropriately modified, and the only leg the current policy would have left to stand on is unjustifiable discrimination. Today, I join with medical experts at the American Red Cross, the American Medical Association, and many others in asserting that this policy is simply not called for by the science. In order to ensure the safety of the American people, there are better alternatives.

To understand today's alternatives, I found it helpful to consider the origins of the ban. As you know, this policy dates back to 1983.

Since that time, our knowledge of the causes of HIV and our ability to prevent and detect HIV has grown exponentially. In fact, I came across a couple of New York Times articles from 1983 that highlight just how far we have come. One article dated May 13 of that year called *Prison's Food Shunned after AIDS Victim's Death*, speculated that AIDS could be transmitted through prison food and utensils after an inmate was killed by the disease in Auburn, New York. In reference to AIDS, this Times article stated bluntly, "Its cause is not known..."

Another Times article from October 11, 1983, entitled *In Pursuit of the Cause of AIDS*, begins, "What if the cause of acquired immune deficiency syndrome (AIDS) were discovered tomorrow and a reliable diagnostic test developed?" These articles combined with my memories of simply living through that time are reminders that the only thing that was certain all those years ago was that homosexuals and intravenous drug users were contracting the tragically deadly disease and no one quite understood how or why.

This was the environment out of which the lifetime ban on MSM from donating blood was born. It was a time when HIV / AIDS was still believed by many to be a gay disease, when the science of contraction was not fully understood, and before highly accurate and duplicative tests were conducted on all of the donated blood across the nation. It was in fact a time when highly accurate detection tests were yet to even exist.

It is crystal clear that we have come a long, long way over the last three decades in our understanding of HIV / AIDS. The science regarding contraction of this disease has advanced dramatically, the detection methods have become more and more perfected, and our understanding of what constitutes high risk behavior has grown far beyond the ignorant idea that sexual orientation is an indicator in itself.

Condoms have become standard use for millions of Americans of all sexual orientations, and healthy gay men can today consummate a union with lifelong, monogamous partners in marriage in my home state of Massachusetts and in several others. Does anyone believe that these men are at high risk of contracting HIV?

And yet, with all of this change, this policy lingers on and is today responsible for turning away thousands of healthy donors from blood clinics across the country, not because they have engaged in highly risky behavior, but because they are gay. This is blood that could save lives.

As you know, all blood that enters the nation's blood supply is tested for HIV by two separate, highly accurate tests. I understand there is a window period of up to three weeks following a person's initial exposure to HIV during which the infection may be missed by these tests, and it is this window period that rightfully serves as the scientific basis for a deferral period for prospective donors who have engaged in high risk behavior. It is very clear that a lifetime deferral for all MSM does not correspond in any way with this window period, nor does it match

the deferral periods imposed on heterosexuals who have engaged in behavior of similar or even greater risk.

In a March letter that I and 17 of my colleagues sent to Secretary Hamburg, and in subsequent letters, including one I sent to this Committee this week along with 41 other Members of Congress, I highlighted a number of the potential oversights and medically unjustified double standards.

People who pay heterosexual prostitutes for sex are deferred from donor pools for one year following the incident. Yet a gay man is deferred for life for even a single sexual encounter dating as far back as 1977, as if he may not yet be aware that he carries this disease 33 years later.

Men and women who routinely engage in unprotected sex with many partners are not deferred for even a second, while MSM who engage in protected, monogamous sex face a lifetime ban.

And perhaps the most glaring example of all of the double standards that exist as a result of this policy is that a woman who has had sexual relations with a male she knows to be HIV positive is deferred for one year while a gay man who has had sexual relations with a healthy, monogamous male partner is deferred for life.

Let me conclude my remarks by saying that I am optimistic that real change can come out of this meeting that will serve to strengthen both the safety and integrity of the blood supply. As you continue your review of blood donor screening policies and of the mechanics of the blood donation process, including the unacceptable potential for quarantine release errors, I encourage you again to consider all of the relevant up-to-date scientific and medical data at your disposal.

I also urge you to keep in mind that the scientific and medical data that led to the creation of this policy three decades ago was scarce. 1983 was a long time ago - President Reagan was in the middle of his first term in the White House. Michael Jackson had just unveiled the Moonwalk. And the Redskins won the Superbowl. How times have changed. Had we known then what we know today, with medical experts at the American Red Cross, the American Medical Association, and many others opposing this policy, I don't believe we would reach the same conclusion that a lifetime ban on all MSM from donating blood is appropriate or justified by the science.

I trust that, as you move forward in this review process, you will keep on the table all of the alternatives to this policy that could help to make our blood supply even safer for all who depend on it.