



Witness Name: **Kelly Duda**

Statement No: **WITN0838001**

Exhibits: **WITN0838002 - WITN0838041**

Dated: 4/19/2020

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF KELLY DUDA

I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 28 May 2019.

I, Kelly Duda, will say as follows: -

Section 1. Introduction

1. My name is Kelly Duda. My date of birth is GRO-C 1966 and my address is known to the Inquiry. I am a US Citizen and reside in the US. I am a reporter, podcast host, producer & filmmaker. I have a bachelor's degree in filmmaking.
2. I intend to speak about my experience investigating, researching, directing and producing the documentary, '**Factor 8: The Arkansas Prison Blood Scandal**'. I will also speak about the impact of the film, including campaigns around the world, and the impact it has had on my personal life.
3. I am not legally represented in respect of the production of this statement, and the Inquiry has assisted in writing my statement. The Inquiry team has

explained that I may opt for anonymity. I have opted not to keep any information private.

Section 2. 'Factor 8: The Arkansas Prison Blood Scandal' ("the film/ documentary")

Background

4. 'Factor 8: The Arkansas Prison Blood Scandal' ("the film/ documentary") is a film that I produced, directed and feature in. The film focuses on the Arkansas Department of Correction ("ADC"), specifically the Cummins Unit ("Cummins/ the prison") plasma program. At different times, there were also plasma collection facilities at the Pine Bluff Diagnostic Unit and the Wrightsville Unit.
5. The film explores the state of the prison system, the development and running of the plasma program, and its eventual shutdown. The film follows the investigation and uncovering of information connecting blood taken from prisoners for use around the world, the political atmosphere at the time, and the impact of this blood.
6. The film is not currently available for purchase online, GRO-D
GRO-D Bonus footage related to the film, including footage from 2007, can be found on YouTube:
<https://www.youtube.com/watch?v=77sEzYPxI18>
https://www.youtube.com/watch?v=fGyQw2_CbKg&=&t=383s
<https://www.youtube.com/watch?v=d1Mu-e0dHzc&feature=youtu.be>
<https://www.youtube.com/watch?v=EM8i9kpblqA>
<https://www.youtube.com/watch?v=XupuDdVadzw>
<https://www.youtube.com/watch?v=0KWVdLSWE7c>
7. I started researching the subject matter for the film in 1997, with filming beginning in 1998. I speak about why I came to make this film below, beginning at paragraph 12. This was my first full length documentary. Quite often, the making of the film was a two-man operation with myself and a

cameraman. At times it was just me with a camera. I took around 100 hours of footage over a period of four years between 1998 and 2001.

8. The documentary was completely self-financed. I did not receive grants or funding from organisations or groups. The film was produced by Concrete Films which was my production company. Throughout production I did receive some donations from friends and family who believed in the project and its mission and wanted to see it finished.
9. An early version of the documentary was completed in 2004. The final version of the film premiered at the American Film Institute ("AFI") Film Festival at the ArcLight Theatre in November 2005 in Los Angeles.
10. At the time, broadcasters were unsure of how to approach the film because the Clinton aspect was an "elephant in the room". I was told by people to take it out, but it is part of the story so I left it in.
11. I have recently aligned myself with a BAFTA award-winning filmmaker and am in the process of developing a sequel to the original documentary.

Catalyst for making the film

12. I grew up in GRO-C Arkansas. I had been living in California, and in 1995 I returned to GRO-C to visit family, intending to stay for only a few months.
13. There was a lot of media focus on Arkansas at the time: the Independent Counsel office was continuing its Whitewater Investigation, as well as numerous media reports uncovering various scandals in connection with President Clinton.
14. I discovered upon my return to GRO-C a place full of secrets. There was a paranoia generated by the new focus on Arkansas and I was seeing a dark underbelly of my hometown. It was in this environment that I began

questioning all that I thought I knew about where I came from. I saw Arkansas from a different vantage point and began to take notice of rumours.

15. Randomly one day I was having a conversation with a friend of a friend who had worked in the prison system. He told me that there was a rumour that tainted blood collected from inmates at Cummins had infected and even killed people. He said that the prison system “bled” inmates, with the blood being sold, but he didn’t know where the blood went.
16. Shocked by this allegation, I began looking into it, and the more I looked into it, the more I found. The rumour’s implications struck me as bizarre and dangerous. Hearing about the “good ole boy” system in the South, and knowing about the brutal and corrupt history of the state’s penitentiary system, I thought that if this allegation was founded, there would be no telling how much bad blood was released into the world, and how many officials or politicians might be making money from it. It alarmed me, and I was curious to go one step further.
17. At the time I was working at Baptist Hospital as an operating room technician. Ironically, this exposed me to working with blood and I befriended a person who worked in the decontamination area. Part of his job was to decontaminate operation instruments of blood that sometimes were contaminated with viral hepatitis and HIV.

Start of my investigation

18. I started doing more digging and I thought it made sense to document the interviews and my investigations on camera. As stated above, I have a bachelor’s degree in filmmaking, but I had no formal background in journalism.
19. The techniques I used to uncover information initially came from gut instinct. I used simple deductive reasoning, basic reporting methods, and good

detective work. I did a lot of research, developed sources, investigated leads, and interviewed subjects.

20. I essentially went to "journalism school" in the process of creating the film. I was assisted by established journalists, including Arkansas reporters Mara Leveritt and Jim Lovel, *Philadelphia Inquirer* reporter Donna Shaw, and Canadian reporter Mark Kennedy, whom I could ask about journalistic ethics and sourcing material.
21. I had known GRO-A, who was a former inmate of Cummins for several years in the 1970s. I also knew he had Hepatitis C ("HCV") so I asked him about the tainted blood rumours. He shared with me how he had witnessed the unsanitary conditions of the plasma program as a blood plasma donor and how safety regulations weren't always followed. He also told me about how other prisoners worked in the program. I remember us coming together and discussing his experience. He even stated that he believed that he may have been infected with Hepatitis C from participating in the blood plasma program. This added a personal connection to someone who was in Cummins during some of its darkest days.
22. I then put an advertisement in various local newspapers asking for anyone with knowledge about the ADC plasma program to call a toll free number I had set up or write to a postal address provided to share information about experience with the blood donation process. A copy of the advert is attached as **Exhibit WITN0838002**.
23. I asked an African American friend of mine, who didn't have an Arkansas accent, to record the outgoing telephone message. I wanted to give the impression that the advert had been posted by African American lawyers looking into it in order to throw off the scent. Because I didn't know what I was getting myself into, or where it would lead, I wanted to create the impression that there was a legal team of people looking into this matter.

24. No one knew why I was doing what I was doing. Some people thought I was a federal agent masking as a journalist, which I found odd. At the time I was just a concerned citizen who was intrigued by what might have happened.
25. I received a fair number of responses to the advert from prison guards, inmates, former inmates, plasma center staff, relatives of staff and inmates, state investigators, and various other people who worked in the Arkansas Department of Correction.
26. I pre-interviewed all potential documentary interviewees, meaning I asked a lot of questions. There would be a process of establishing trust. All the people I interviewed had to have a reason for why they wanted to talk, be it guilt or genuine concern. I ended up interviewing a cast of approximately 100 to 150 people. I wanted to ensure that I couldn't be accused of relying on limited sources.
27. This was all done in the time before social media and online streaming. If I had someone coming out with a story that was particularly outlandish, I ensured I checked it against other sources.
28. As I continued with my investigations and interviews, my name got around and I began receiving various referrals and leads as well as receiving direct correspondence from Arkansas prisoners. Once I became better known in these circles, people with knowledge and information started to open up to me and my investigation gained momentum.
29. In retrospect, at the time I was naive as to how things worked in Arkansas and probably had some hubris too, and this ultimately put a mark on my back (which is detailed in paragraph 185-202). I felt if bad things were happening in my home state, I had a moral obligation to look into it. I didn't know where any of my exploring was going to go but I kept digging.

30. I genuinely expected others (i.e. journalists or newspapers) to come along and take over the investigation from me, but that never happened. I never imagined that 20 years later I would still be talking about this topic.
31. Later on, I also relied on information provided to me by a confidential source. This person was a confirmed [GRO-C] Health Management Associates ("HMA") employee who worked in the plasma program in the prison system. They had personal, first-hand knowledge of the facts and circumstances leading to the shutdown and also had information about a cover-up.

Documentation uncovered during my investigation

32. There had been previous stories in the media exposing problems with taking blood from US prisoners, beginning with a 1969 *New York Times* article. The article exposed issues with three prison plasma programs in Oklahoma, Arkansas and Alabama and highlighted the medical testing that was going on in the prisons and the lack of sufficient controls; this is discussed further at paragraph 69. TV broadcasters including ABC and CBS also had nationally televised stories on the subject in the late 1960s. Despite this, I am unsure of the impact these stories had at the time.
33. At some point early on in my investigation I remember being told about Health Management Associates, the third-party health care provider contracted to the ADC. I was able to find newspaper articles related to the company's involvement at the ADC and the subsequent health issues and regulatory problems HMA faced. Please see exhibits listed at paragraph 38.
34. During my investigation I submitted a Freedom of Information Act ("FOIA") request to the Health Department of Arkansas. It was a fairly innocuous request regarding ADC's plasma program. I didn't receive a response to my FOIA request. Every time I tried to contact the department I was ignored. I submitted written requests and phoned but felt like I was being stonewalled.

35. I decided to attend their office in person. There is footage in the film of me speaking to George Harper, Ark. Dept. of Health Director, who assured me that he would assist with my request. This exchange was caught on camera by chance. Despite the head of department assuring me that I would receive what I had requested, and the agency being in violation of FOIA law, it was only after I filed a lawsuit against the state agency before I got any sort of response from the department.
36. Unfortunately, in that response, I didn't receive anything of significance, or any of the records I was hoping to find. I was hoping to obtain documents in relation to the rates of infection of contagious viruses, like Tuberculosis and Hepatitis in the prison system. The few insignificant documents I did receive from my request/lawsuit, I no longer have as they didn't yield anything relevant to my investigation.
37. From what I received, it appeared that the Arkansas State Health Department had little to no oversight over the plasma program. This struck me as problematic given that the Institute of Law and Policy Planning ("ILPP") had, in its 1986 report on HMA and medical care at the prisons urged the health department to have a greater role in overseeing the plasma program operations. I exhibit a copy of the ILPP report as **Exhibit WITN0838003**. It became clear that the state's health department practiced no oversight nor had any interest in the state's harvesting and selling of prisoner's blood, even after problems were known to have occurred.
38. Among the documents I collected during my investigation are:
- a. articles dating back decades from national wire services and various Arkansas newspapers;
 - 1. *'Prison blood plasma centre operations are suspended,'*
Pine Bluff Commercial dated 11 August 1983
(**Exhibit WITN0838004**);
 - 2. *'Prison officials complete review of inmates' blood donations'* dated 16 August 1983
(**Exhibit WITN0838005**);

3. Article from the Arkansas Democrat Gazette dated 24 February 1984, '*Prison board gives up licence for blood centre*' (**Exhibit WITN0838006**);
 4. Article reported in LexisNexis dated 15 July 1984 '*Kurjiaka proposes prison commission*' by Sandra Kurjiaka, head of American Civil liberties, Arkansas (**Exhibit WITN0838007**);
 5. The Miami Herald article dated 26 May 1995, '*Plasma supplier named in lawsuit: hemophiliacs sue over tainted blood*' (**Exhibit WITN0838008**);
- b. Arkansas Board of Correction (prison board) records re: the ADC's plasma program (**Exhibit WITN0838009**);
 - c. the federal Food and Drug Administration ("FDA") inspection records of the ADC's plasma program:
 1. FDA inspection record dated 11 February 1983 (**Exhibit WITN0838010**);
 2. Letter from Department of Health and Human Services dated 5 August 1983 (**Exhibit WITN0838011**);
 3. FDA 'pink sheet' dated 17 August 1983 (**Exhibit WITN0838012**);
 4. FDA inspection record dated 5 July 1984 (**Exhibit WITN0838013**).
 - d. as well as reports from the Center for Disease Control and Prevention ("CDC") (**Exhibit WITN0838014**).
39. I was able to uncover files from the Arkansas State Police ("ASP") investigations of the ADC and HMA (**Exhibit WITN0838015** and **Exhibit WITN0838037**). In 1986, upon request of state Representative Bobby Glover and under pressure from local media coverage, Governor Bill Clinton asked for the ASP investigation. Although this investigation focused on HMA's medical care contract with the state, and not on the plasma program, it was

mentioned in different places. Although I no longer possess it, the full report that I obtained was hundreds of pages in length. The report noted that the FDA pulled HMA's license to sell blood "for falsifying records and shipping hot blood." And goes on to say that "the suspension was for collecting and shipping plasma which had been collected from donors with a history of positive tests for [Hepatitis B]...the violations were directly related to using inmate labor in the record and donor reject list."

40. I was also able to dig up various drug companies' and blood brokers' memos regarding the use of US and Arkansas prison plasma:
 - a. Two Connaught interoffice memoranda dated 12 September 1983 and 26 September 1983 regarding not using plasma product from US penitentiaries (**Exhibit WITN0838016**).
41. An **Index of Exhibits** is attached at the end of this statement.
42. I sadly threw away a lot of my papers connected with the making of the documentary. Rewatching the film invoked a strange response. Given that so much time has passed, it was almost like I was watching ghosts before my eyes. Many of the people I interviewed are now deceased.

Visiting the prison and accessing witnesses

43. In my film there is footage of interviews with inmates and prison officials. In terms of gaining access to Cummins, I basically just asked and was permitted access. I had done my homework and had the necessary documentation. At the time, I believe the ADC was aware of concerns emerging in Canada, following the reporting of the Krever Report, and I believe they wanted to get ahead of the story. I was friendly and I was the primary guy on the ground who kept showing up and who they couldn't get rid of. I think as soon as I got a toe in, I managed to continue to go further. I had "one leg in and one leg out" so to speak. I was one of them (meaning a native Arkansan) but I was seen as a Californian so I didn't quite fit and they also didn't know who I worked for.

44. I waited until 1999 before I started interviewing inmates in Cummins. Inmates started to come to me through word of mouth. They would approach me and tell me what they knew and then I would cross-reference their claims. When it came to the prisoners, I vetted them very carefully. I knew the State would be critical of the information gathered from current and ex-inmates. It was obvious that I could not blindly trust what prisoners would say. I knew that their reputation as 'law breakers' meant that people would not assume that they were always honest and straightforward. I developed my own vetting system. When I agreed to interview them I let them know if they were caught in a single lie, I would discard all of their evidence.

Prison Spokesperson

45. Dina Tyler was the prison spokesperson and public information officer for the ADC. Ms Tyler had a background in local TV reporting and journalism. I felt part of the reason I was allowed access to the prison and the inmates was that she was new in her position, respected reporting, and wanted to legitimize herself to me.
46. Ms Tyler sat in on all interviews I conducted with inmates. The consequence of this is that inmates did not say as much in front of her as they had initially written to me about. On one occasion, at the Tucker Maximum Security Prison, because a prisoner I was interviewing was intimidated by Ms Tyler being in the room, I asked if she would mind leaving. Ms Tyler told me that it was because of her that I was there, and that she didn't have to approve any of my interview requests. As a consequence, this inmate basically clammed up and I didn't include his interview in my documentary. I don't think any of the inmates knew what speaking to me would lead to, and the fact that what they were speaking about was quite historic gave some of us a false sense of security I believe.
47. I did find that the inmates were fairly brave to speak with me as they would have to deal with the consequences once I left. The last thing I wanted to do was cause waves for the inmates while they were inside. The same goes for

the ex-convicts. The last thing they needed was harrassment from "the man" for speaking out.

48. Ultimately, I believe Ms Tyler was left in an awkward position and I think she regrets allowing me access to the inmates. My reporting ultimately led to damaging information being revealed about the Department of Correction.

Inmates

49. During my interview with [GRO-C], an inmate of Cummins, he only opened up and started mentioning names once Ms Tyler left the room.
50. [GRO-C], another inmate whom I interviewed, was limited in his responses during the interview in comparison to what he had written about. [GRO-C] had been an Infirmary Clerk at the Cummins Unit. I asked him directly whether he falsified records. In the film, he is reluctant to answer essentially because he did not want to receive punishment from the prison administration. In his letter to me, however, he states that he accepted bribes in exchange for falsifying prison medical records so inmates could donate. I exhibit a copy of this letter dated 1 June 1999 as **Exhibit WITN0838017**, which states, "*January 1975 I entered the Arkansas Prison system ... I participated in the plasma center donation program ... I worked as an infirmary clerk in 1978. I also had and have Hepatitis B and C ... More importantly I accepted payment to falsify medical records so inmates could donate plasma.*"
51. As shown at the end of the film, [GRO-C] another inmate, did face repercussions for speaking out. There is footage that shows Dina Tyler present, and after my interview with [gro-c] she confronts him while she believed the camera was off. [gro-c] was moved to a prison in Utah shortly after having spoken to me, and it was confirmed to me by an Arkansas assistant attorney general that his move was done in response to his interviews.

52. After establishing myself and working with the ADC's communication and public information offices, I contacted prison officials, including John Byus for an on-site interview. I also tracked down Dr Francis Henderson from HMA.

John Byus, Medical Director

53. John Byus was the Medical Director at the ADC. As mentioned in paragraph 43, at the time I interviewed Mr Byus, information was coming out of Canada and I understand that he wanted to spin the narrative in the ADC's favour. My interview with John Byus lasted more than 5 hours. I felt that as the director of medical care he was, 'on the hook,' meaning his office was responsible for overseeing the prison plasma program. He dug his heels in early on, defending the program and its operations, and maintained that no bad blood was ever shipped. At times it was a very emotional interview for him. At one point Mr Byus was slamming his fists in anger and at other times he wept. I couldn't help but think that in these instances he was performing for the camera.
54. The way Mr Byus described himself contradicted how many inmates described him. On camera Mr Byus attempted to come across as caring and empathetic towards the wellbeing of inmates. However, inmates I spoke to, as well as some relatives of inmates, described him as cold and uncaring. Mr Byus' initial medical training was as a nurse. I would later discover in legal documents that Mr Byus had also participated in administering lethal injections to Death Row inmates, as the prison's executioner.

Dr Francis Henderson, Founder/Owner and Medical Director at HMA

55. I do not recall any difficulties in interviewing Dr Francis 'Bud' Henderson, he was acting quite 'grandfatherly'. The dynamic was friendly and I acted as if I was simply there to follow up and wanted to know his side of the story, which was all true; however, unbeknownst to him, I also had some unflattering information about his operation that I wanted to discuss with him. He was therefore very open with me.

Vic Snyder, Congressman and former HMA doctor

56. Vic Snyder was a US Congressman who had been a medical doctor working for HMA in the ADC in the 1980s. He was hesitant to talk to me, and only did so after I confronted him a couple times in public, once politely while he was having dinner, and another time, on camera at a public event. Afterwards, he agreed to sit down with me for a formal interview. He was nice, but I could tell he was not happy to be interviewed by me.
57. Congressman Snyder tried to distance himself from the plasma operation by stating to me that he had little interaction with the center. It is apparent from the footage of the interview that he is uncomfortable. I think this is in part because he was trying to determine in his own mind if the program was operating when it shouldn't have been, and if he had any involvement with the program during this period of time when the operations had been suspended by federal regulators due to FDA violations.
58. After the initial interview, I tried to follow up with Congressman Snyder on his offer to share with me some documents he said he might have regarding his employment promotion offer with HMA. Snyder told me that Dr Henderson had offered him the medical director's position over healthcare at the ADC, although he ended up not accepting it. However, when I contacted him he told me that he wasn't able to locate the documents.

HMA phlebotomists

59. The two prison phlebotomists in the film, Howard Durrett and 'David', reached out to me. They expressed concerns about how the program was run and their involvement in it.
60. In the film, 'David', using an alias, expressed that he feared for his life. When David began asking questions about how the program was being run and started to question the type of inmates they were drawing blood from, he was basically told to shut up and just do his job by a senior HMA employee at the

center. There was no standard operating procedure ('SOP'). Staff just did what they were told. There were no sinks in the area, no gloves were required and there were no scrubs or uniforms that they had to wear. 'David' wasn't even required to fill out a job application form to get the job.

61. Despite my previous access to Cummins, I have tried to visit again recently and wasn't allowed on the property. In June 2018 and January 2019 I tried to film the exterior of the prison to no avail. After working with the ADC's current public information officer who at the last minute turned down my request, I thought it might be worth turning up to see what I could achieve so I pulled out my camera and was confronted immediately by personnel and told that I had to stay on the highway, which is two miles away. From there, one cannot see the prison. Even when I stuck to the highway two miles away taking "B-roll" video footage (i.e. pick-up shots) of the ADC sign, etc., I was confronted twice by racing ADC vehicles with blue lights and subjected to questioning by prison guards.

Background to prison system and establishment of blood programs

62. To an extent, the film explains the background to the plasma program and the prison system in general. I believe in order to really understand why things were the way they were, it's important to understand more about the history of the Arkansas prison system and its reputation. The plasma program operated in a system that had a history of brutality and corruption.
63. In the US, it has always been normal to pay people to donate blood plasma. There were some volunteer donors, but giving plasma was always a paid process. In the film, inmate GRO-C states that after the Korean War, 'people quit bleeding'. These are GRO-C's words but I understand that during war time there was a huge drive for people to give blood. After World War II ended, there was a drop in blood donations and the military had a problem with hepatitis infections from blood transfusions with troops. In the 1950s and 1960s, pharmaceutical companies began looking at taking blood from sources alternate to the general public.

64. Dr Austin R. Stough, of Stough-Wisdor Research Co., was a doctor working for Cutter Laboratories who started a plasma program at the Oklahoma State Penitentiary at McAlester in 1962. He subsequently moved to the Arkansas Penitentiary System at the Cummins Prison Farm, then to the Alabama State Prison System at Kirby. It's worth noting that plasmapheresis for fractionation started in these three US prisons. As a result, the blood products industry was born. In the film, John Byus states that the ADC's plasma program began in 1967, but newspaper articles I found prove it actually began four years earlier in 1963. While it's possible that Byus simply got his facts wrong, I also received an official written response from prison spokesperson Dina Tyler's office stating the same thing. It's my opinion that the administration wished to omit the real dates when the plasma program began under Dr Stough to avoid further scrutiny.
65. Acknowledging Dr Stough's operation would have exposed the prison administration to previous problems with the plasma program, and this would simply have added "fuel to the fire" as it were regarding more (later) allegations. It would have revealed a precedent for wrongdoing and corruption. I annex a newspaper article dated 29 March 1967 titled '*Blood buyer at prison farm defends setup*' as **Exhibit WITN0838018** that discusses the establishment of the program at Cummins in December 1963 and the profits that it raised.
66. I also annex an article dated 26 September 1963 '*Blood program to supply 'pen money' for prisoners*' that discusses the blood program starting in Arkansas and how it will provide inmates with an income as **Exhibit WITN0838019**.
67. I also annex a further newspaper article dated 10 August 1969, '*Potentially fatal drugs tested on prisoners*' as **Exhibit WITN0838020** that also documents what was happening in Dr Stough's operations.
68. Meanwhile, GRO-C, who I interviewed in "Factor 8," was a prison plasma donor in 1963 at Cummins. He and his doctors believed that he received his

HCV infection from the use of dirty needles or contaminated hardware used in the program. [GRO-C] states that he witnessed the re-use of needles that were not autoclaved. He died from cirrhosis of the liver three months after I interviewed him for my film. Dr. Ed Barron also spoke to me about the practice of reusing tubing in the plasma operation at this time and how this could be a means of transmitting viral hepatitis and other blood-borne diseases.

69. As mentioned above at paragraph 32, Walter Rugebar's 1969 *New York Times* front-page article on Dr Stough's prison operations called '*Prison Drug and Plasma Projects Leave Fatal Trail; Trail of Injury and Death in Prisons Follows Doctor's Drug and Plasma Programs*' delves into the issues with Dr Stough's program, and the abuse of inmates, even raising breaches of the Nuremberg Code (**Exhibit WITN0838021**). The article is available online behind a paywall. <https://www.nytimes.com/1969/07/29/archives/prison-drug-and-plasma-projects-leave-fatal-trail-trail-of-injury.html>.
70. When the plasma program was started by Dr Stough in the early 1960s, they were taking whole blood and plasma donations, and inmates were allowed to bleed only once per week. Later when it came to plasma donations, it became twice a week, which was deemed okay by common practice. The body rejuvenates plasma more frequently than whole blood. But then I was told that there were instances of inmates bleeding three times per week.
71. The *New York Times* feature article details how Dr Stough was also responsible for testing for "big pharma" and may have conducted at one time as much as one half of the country's medical testing. I'm not aware of what tests were being carried out, but it is unclear what, if any, controls they had for people being tested. I am aware of allegations that prisoners would spit out the drugs that they were supposed to be testing. This raised questions for big pharma regarding the reliability of the testing and the safety of the drugs being used by the public at large.

72. The *New York Times* article also brings up the case involving [GRO-C]. I found the matter was further reported in the *New England Journal of Medicine* on 17 March 1966, a copy of which is attached as **Exhibit WITN0838022**. This journal article is also available to be accessed online, behind a paywall. <https://www.nejm.org/doi/full/10.1056/NEJM196603172741107>. [GRO-C] was a Cummins inmate who died of a hyper-immune reaction to repeated vaccines for whooping cough. He essentially had a complete vascular collapse. [GRO-C]'s death was connected to Dr Stough's experimentation on immunisation on behalf of drug companies in a prison system that at the time was not in compliance with constitutional standards. The *New York Times* article goes on to state that Dr Stough was forced out of Arkansas in 1967. However, it turns out that the reason for his expulsion actually had to do with the enormous profits he was making off the program.
73. Arkansas was a poor state with a history of slave labour in the 1800s, and at the relevant time, human rights and prisoner rights looked completely different than they do now. There was no tax money injected into prisons. In fact, prisons were run at a profit. The State saved money by not paying prisoners, then made money through raising cattle and farm produce by 'inmates working the fields' and blood donations. Because prisoners were not paid for their labour, the only way an inmate could make money legally was to give his blood.
74. Additionally, the ADC, then referred to as the Arkansas Penitentiary System, essentially did not pay for employees either. The prisons used inmates as guards with the idea that inmates could provide disciplinary measures on other inmates. There were only a handful of "free world" employed guards.
75. This 'trustee system' as it was known was also used in other prisons throughout the South (Alabama, Louisiana, Mississippi and Texas). Basically, the trustee system had designated inmates used by staff to control and administer physical punishment to other inmates according to a strict, prison-determined, inmate hierarchy of power. Former inmate [GRO-C] spoke to me on camera about armed inmates in the guard towers at Cummins as did

the prison system's spokesperson, Dina Tyler. Inmate GRO-C stated in my interview with him that when he entered Cummins Prison in 1981, inmates still possessed the keys to the prison barracks (where inmates were housed), and controlled this aspect of security and the entering/exiting of prisoners from one barracks to another.

Unconstitutional system

76. In the film, inmate GRO-C speaks of the prison system in Arkansas being deemed unconstitutional and refers to the federal case of *Holt v Sarver*. In 1969, federal Judge J. Smith Henley declared parts of the Arkansas penitentiary system unconstitutional. The case also referred to the existing plasma program. Then a year later, with *Holt v Sarver II*, Henley declared the entire prison system unconstitutional – the first time this had ever happened in the USA. Calling Cummins “a cold and evil world”, Judge Henley decided that conditions in the Arkansas prison system amounted to a violation of prisoners' constitutional rights by inflicting “cruel and unusual punishment.” These cases significantly altered the American prison system, specifically with regard to prisoners' rights under the Eighth Amendment.
77. Justice Henley's decisions also mentioned methods of torture inflicted on prisoners at the time, including the use of the strap and the ‘Tucker Telephone.’ These methods have been acknowledged by both the prison and the state and have been written about in many books and periodicals. These torture devices were also written about in former Cummins warden Thomas Murton's book, *‘Accomplices to the Crime: The Arkansas Prison Scandal’* (1970) as well as being depicted in the movie, *‘Brubaker’* (1980) starring Robert Redford.
78. In 1969, Thomas Murton made international news when he unearthed unmarked graves of allegedly murdered inmates at Cummins, exposing the world to the horrible conditions in the Arkansas prison system. Thomas Murton was fired and the state did not conduct any further investigation.

79. As featured in my film, I interviewed Dr Edwin Barron Jr., a Medical Administrator brought into Cummins in 1968 by Governor Rockefeller. Dr Barron only lasted 9 months at the prison, during which time he discovered a cache of death certificates in the bottom of a dental chair in an abandoned block. All of the death certificates were those of young men, with cause of death listed as a heart attack. This confirmed that medical testing had gone on prior to his time at Cummins and disputed the claim that the inmates had been murdered by other inmates. This is Dr Barron's assessment based on what other prisoners told him at the time. To my knowledge this particular incident involving 154 death certificates had never been publicly revealed before my film. I have no more details on this.
80. *Hotto v Finney* was a continuation of the *Holt v Sarver* lawsuits and was argued in 1978. This matter cited the failings of Cummins as had been mentioned in the previous lawsuits. Cummins was described as a 'dark and alien world', where 'administrators tried to operate the prison with profit', inmates worked '10 hours in fields 6 days a week' and 'creepers stalked other inmates'. Also mentioned was 'homosexual rape', inmates being 'lashed with wooden handle, and 'whipped for minor offence', and the use of the "Tucker Telephone".
81. The "Tucker Telephone" was a torture device invented in Arkansas and used regularly on inmates at Tucker Prison in Jefferson County up until the 1970s. It consisted of an old-fashioned crank telephone wired in sequence with two batteries. Electrodes coming from it were attached to a prisoner's big toe and genitals. The electrical components of the phone were modified so that cranking the telephone sent an electric shock through the prisoner's body. Furthermore, the 'inmates issued guns', 'Cummins only employed 8 non-convict guards', there were 'accidental shootings', and inmates in 'isolation received less than 1000 calories a day'.
82. Essentially, the court ruled that the ADC had to improve their treatment of prisoners otherwise they would be forced to close. This sent shockwaves through other prison systems as there was a threat that they could be next.

Improving the state of Arkansas' penitentiary system involved a process of gradual reforms and it would not fully comply with federal constitutional standards until 1983. Unfortunately, the process of coming out of the existing diabolical situation created and exacerbated other issues.

83. The ADC faced making its way out of an unconstitutional system. One way of coming into compliance was to bring in a third party to provide medical care for inmates. I attach an article dated 4 September 1981 titled, '*To treat inmates as normal clients, doctor testifies*' as **Exhibit WITN0838023**. Dr Henderson, HMA, testified before the federal court stating that medical services would be improved for prisoners. After 13 years of litigation, Federal Judge G. Thomas Eisele ruled the Arkansas prison system constitutional on 9 July 1982.

Condition of prisoners giving blood and the blood program

84. As mentioned above, the state of Arkansas did not pay inmates for their labour, so the only way a prisoner could legally make money on the inside was to give blood. This way the state saved money by not having to pay inmates for their labour, and made money from receiving a cut of inmates' blood sold to pharmaceutical companies.
85. Prisoners were not paid with green money, which was considered contraband, but with scrip (substitute paper money) or brozine coin tokens. This was prison money that one could use to buy products at the prison commissary. Prisoners would be required to purchase basic essentials including toilet paper, toothpaste and deodorant. They could also purchase other items such as cigarettes and Coca-Cola, all at a marked-up price. If a prisoner was not receiving any financial assistance from the outside then in order to make money they would have to bleed.
86. The program paid \$5 USD in scrip to inmates to donate blood. This amount would have fluctuated over time. I understand \$1 USD went into an ill-defined inmate welfare fund that was supposed to benefit the prison population in general. Another dollar often went into another inmate worker's pocket in the

form of a bribe. In total a prisoner would receive around \$3-4 USD for each blood donation made.

87. There were always different scams associated with the blood program. In the 1960s, donors reported having to 'kickback' money to bleed. This was depicted in a scene in the movie *Brubaker*. Inmates also had to pay for medical attention. If you wanted to move up in the line and be one of the first people to donate there was a fee. And if you were unable to donate because you didn't qualify, you could pay a fee to bleed.
88. GRO-A, a Cummins inmate from the early 1980s who was HCV positive, and participated in the plasma program, mentioned in the film that you would want to arrive at the centre early as the program was always crowded and there were long lines and delays.
89. As the plasma program was the only means of income, there were always people attending to donate blood who would do anything they could to bleed. In the film, inmate GRO-C talks about the 'red light district' operating as a result of the plasma program. Pimps would send prostitutes to bleed. The 'blood bank' was responsible for the economy of the prison. A pimp had every reason to get one of his prostitutes down to the 'blood bank' to pick up 'Johns' who just got paid to donate blood. It was the same thing for drug dealers and loan sharks.
90. There were many ways to get around the system in order to make money. Over-bleeding was also an issue in the prison. There was a lever that was supposed to shut off after a certain point when a donor bag was filled with plasma, but this wasn't always implemented. Often inmates ran the centrifuge, and sometimes did the "bleeding," meaning stuck the needle in others prisoner's arms. Even when the 'free world' staff were in charge, they would be assisted by inmate workers. Even after the plasma program was shut down in 1983, and the FDA explicitly ordered that no prison workers be used at the center, the practice never stopped.

91. When an inmate came in to bleed, they were supposed to sign a questionnaire with physical records on the person checked, and have their haemoglobin levels checked before they had donated. [GRO-C], an inmate who worked in the plasma program, spoke of a questionnaire that was 'lied in'. He is referring to a questionnaire that was supposed to be given to each potential donor as a screening measure. It was clear that inmates could not be trusted or relied upon in terms of what they said about their medical history. In the film, [GRO-C], a former Cummins prisoner who worked in the plasma center, spoke of prisoners being able to bribe an inmate worker to allow donating.
92. The blood of every prisoner was supposed to be tested. There were ways to say you were someone else, and the test results came back to the prison before the product was shipped out. I was shown how labels were switched by being peeled off with a cigarette lighter, and I was informed about name plates being switched and donor numbers being changed. In the film, inmate [GRO-C] referred to inmates swapping names and records in order for an unqualified prisoner to be able to donate plasma.
93. Accidents also occurred in the program, which could have been deadly. There have also been instances reported in newspaper articles where the wrong blood was re-infused into the wrong donor. In the film there is also mention of inmates recalling that despite the prison freezers shutting down, thawed blood was still sold. "David," the former HMA phlebotomist at the ADC, also spoke about this occurring. Frozen plasma at the bottom of the freezers was also spotted by FDA inspectors.
94. Obviously, different people within the prison system had different experiences. In the film, inmate [GRO-C], who worked in the plasma center, talks about sanding down needles to re-use them after he was ordered to do so by other plasma center staff. This is not a claim that re-used needles were used all the time, but there are certainly records kept and testimony that it happened.

95. I am aware that tubing was also re-used. This could also cause contamination. Cross contamination of hardware was also of concern in the 1970 CDC report on the Cummins plasma program under Dr. Stough's operation. This was cited as a cause for viral hepatitis within the prison. See **Exhibit WITN0838014 and Exhibit WITN0838038**. The *New York Times* article on Dr. Stough also looked at the link between inmates participating in the plasma program and hepatitis infection. At the Kilby, Alabama prison operation, 28% of the men who participated in the program came down with the disease. For those who did not take part, the rate was only 1%. Even officials with Cutter were alarmed. Mr Emery of Cutter visited the same facility and was "'appalled at the situation' he found. He said the plasmapheresis rooms were 'sloppy' and that gross contamination of the rooms with donors' plasma was evident."

In '*Accomplices to the Crime*', former warden Thomas Murton mentioned Dr. Stough's "blood-sucking program" and stated that even after Stough was kicked out of Arkansas, that "inmates were reluctant to go through the plasma program because outbreaks of hepatitis were blamed on it, and they believed there were inherent dangers in this blood plasma program." (p.110.)

96. The plasma program was also a means for transporting contraband. Drugs and other contraband would be trafficked into Cummins through the program from the outside into the rest of the prison population. This could, and did, involve guards, plasma workers, and inmates. Inmates were bussed in from other prisons to participate in the plasma program. At one point in the 1980s, there were three different plasma centers operating within three different prison units: Cummins, Wrightsville and the Pine Bluff Diagnostic Unit.

97. It is a known fact that US prisoners have a higher burden of blood-borne diseases than the general population. In addition to generally being an underprivileged and underserved economic class, the lifestyles and habits of those who are incarcerated, as well as the environment of prison life increases this risk.

98. In prison, prisoners may engage in intravenous drug use, unsanitary tattooing, and/or unsafe sex (including prostitution and rape). The medical and scientific community were well aware that prisoners were a high-risk population from which to collect blood. I annex as **Exhibit WITN0838014** a memorandum dated 31 May 1968 from the National Communicable Disease Centre which reported approximately 150 cases of viral hepatitis at Cummins.
99. Inmate GRO-C asserts that the premise for having the plasma program was to help the prisoners. In his view, this was false. It was not really instituted to help the inmates but rather to exploit them. The program was instituted when the ADC really was a living hell hole. If the powers that be did not care about the inhumane conditions at the prison, why would they then institute a program for the prisoners' well-being? It does not make sense.
100. In my film, I mention that I discovered a law at state level (§19-4-801) passed by legislators that exempted the ADC from having to record the amount of money it earned from the plasma program. In my view, this adds to the claims that pockets were being filled with no oversight.
101. In 1992, the ASP looked into misuse of state funds allegations against ADC Director A.L. "Art" Lockhart who was director from 1981-1992. The State Police also examined the director's personal involvement in the plasma program with Pine Bluff Biological Products (PBBP), the third party company that took over the plasma contract in the mid-80s after HMA. PBBP sold ADC plasma to Alpha Therapeutics, and then later, CTM Enterprises in New York. It was determined that Art Lockhart's son, Scott Lockhart, was given a job as manager of the Pine Bluff Diagnostic Unit Plasma Program for the ADC and PBBP after Lockhart asked Jim Lord (PBBP) to hire his son. Coincidentally, I interviewed the manager (not on camera) at the Diagnostic Unit who trained Scott. She claimed she was fired without cause so that Lockhart's son could take over her position. That night, she said, all the employees walked out in protest. (See paragraph 197.) The ASP report cites how Scott Lockhart's employment in the center was against ethics violations for nepotism. It was also determined that Director Lockhart showed an inordinate amount of

concern for the success of the plasma program in that he would have guards recruit inmates to give blood. Investigators also discovered \$200,000 (\$378,000 adjusted to inflation in 2020) in Lockhart's possession that was unaccounted for (**Exhibit WITN0838040**).

Looking into the 'blood business'

102. When I started looking into the blood business, I discovered it was a dirty business. Those in power were trading a life saving, precious product like widgets. Those in the industry referred to blood as 'red gold' as blood in volume was more valuable than gold. Fractionated blood was more valuable than oil. A 'wild west' existed for decades in the blood business.

103. The blood brokers, including North American Biologics Inc. (the largest blood broker in the world) would collect plasma from prisons including in Florida and Louisiana, then resell it to a fractionator. Blood brokers and pharmaceutical companies also did not conduct any further checks on the blood they received from prisons; if it said 'negative' on the box, they would use it. The plasma centers were responsible for the paperwork and testing of the blood plasma. This was common industry practice.

104. Thomas Hecht, a blood broker, i.e. middle-man, who owned and operated Continental Pharma, out of Montreal, re-sold blood all over the world, along with nothing preventing him from reselling blood products to the US – including those made from US prisoners after the FDA came out against the practice. Continental Pharma ended up purchasing North American Biologics Inc. For several years, Continental bought and sold prison blood from HMA and the ADC.

105. Connaught was the Canadian fractionator of factor concentrate. Connaught was 47% owned by the Canadian Government and had a contract to buy plasma from Continental Pharma, also known as 'Cryosan'. The second contract Connaught had was with the Canadian Red Cross. The contract required US plasma to come from an FDA licenced body. The FDA licence

was about distribution. Each centre that was a potential supplier was required to have a valid licence from the FDA.

106. The Bureau of Biologics in Canada didn't require Connaught to inspect the centres it was buying plasma from and it was deemed impractical for Connaught to inspect centres for one-time spot checks. At least once per year a list was sent by Connaught recording which plasma centres could be used. It was discovered after the FDA had issued an international recall of reported tainted blood collected by HMA and the ADC, and in conjunction with the Bureau of Biologics in Canada, that there was only one plasma centre that was used by Connaught which was located in Grady, Arkansas.

107. After the recall (see paragraphs 109-119 below), Connaught claimed that it did not know it was getting blood from US prisons. Connaught apparently stated it didn't know 'ADC' meant 'Arkansas Department of Correction'. Connaught was then supposed to put in measures to make sure they were not getting American prison blood.

108. When I interviewed Dr Henderson, he had said that HMA had contracted exclusively with Continental Pharma. On 20 October 1983 HMA entered into a contract with Alpha for 48,000 litres of plasma. HMA also had street centres who traded with Continental Pharma and Alpha at different times. I attach correspondence dated 17 February 1984 from HMA concerning selling plasma to Alpha, and a letter from Alpha to Pine Bluff Biologicals dated 4 August 1986 who would take over the prison plasma program after HMA as **Exhibit WITN0838024**. After the AIDS crisis hit, prison plasma was being purchased for a lesser amount per unit. HMA employed truck drivers who picked up plasma from Cummins, often loaded it with plasma from other HMA "street center" facilities. I was concerned about how easily it would be to mislabel the prison plasma as coming from street centers and sold to other manufacturers, disguising its origin.

International recalls/ FDA licence suspension

109. On 9 July 1983 ADC's plasma centre closed to "conduct a review of donors' records and prepare for an expansion of operations". The *Pine Bluff Commercial* reported this on 11 August 1983; a copy of the relevant article is attached as **Exhibit WITN0838004**.

110. On 5 August 1983, the FDA suspended ADC's licence to distribute plasma. See **Exhibit WITN0838011** for the letter from the Department of Health & Human Services dated 5 August 1983.

111. On 17 August 1983 the FDA issued an international recall of plasma from ADC. The 'Pink Sheet' which lists alerts on FDA recalls is attached as **Exhibit WITN0838012**. The Pink Sheet is the biopharma industry's go-to publication/source for business-critical insights and policy and regulatory intelligence. For many years, it compiled a list of recalls and broke them down by drug type. The 17 August 1983 Pink Sheet notice refers to an FDA recall of 38 units of plasma taken from four inmates at the ADC that should not have been collected due to their Hepatitis B ("HCB") infection. Canada, Spain, Japan, Florida were mentioned in the recall as having received infected product. At the time, testing positive for hepatitis B infection was an indicator of possible hepatitis C (HCV) and HIV infection as well, as HIV and viral hepatitis traveled in the same circles, and there was no HCV or HIV test available. In the Krever Report, Italy and Switzerland (p. 392) were also mentioned as countries subject to the FDA recall.

112. The ADC is on record stating that it notified the FDA of the discovery of the breach. Dan White, the spokesperson for the prison system at the time said in the press that they blew the whistle on themselves (see **Exhibit WITN0838004**). However, Dr Henderson later maintained to me in our interview that the FDA contacted him. Dr Henderson says that HMA was approached by the FDA who had the unit numbers. In the film Dr Henderson talks about looking for the records that the FDA claimed showed ineligible inmates donated, but then when he looked for these records they did not show

what the FDA were claiming. The FDA asked for HMA to initiate a voluntary recall, but HMA did not want to do it.

113. This point is further reiterated in a letter from Dr Henderson's to Leonard Dunn.

Dunn became HMA's president, and was brought on circa 1983 after the company got into regulatory trouble. In 1998, at the time when I attempted to interview him on camera, Dunn was Chief of Staff for Lt. Governor Winthrop Paul Rockefeller (son of former Governor Winthrop Rockefeller). At the time of Henderson's letter addressed to Dunn, dated 18 September 1998, Dunn was being pressured with questions from me and a few other Canadian reporters about the recalls. (**Exhibit WITN0838025**)

114. When I told my confidential source that HMA had stated on the record that only four disqualified donors (e.g. donors who had become infected with diseases transmissible via blood) were reported, he was stunned as he told me that the number of unqualified inmates who had been allowed to donate was discovered to be much higher. My confidential source discovered an inmate clerk in the plasma program who had kept separate log books, essentially logging the sales concerning the right to bleed. He told me that upon this discovery the staff started to count the number of infected inmates/disqualified donors listed in the log-books who had donated plasma, but when they got to 38 disqualified inmates they were ordered to stop counting. These records were then handed over to Dr Henderson.

115. Upon realizing that only four of these unqualified donors were reported, my source implied that there was a cover up in HMA and at the ADC and that they did not want to reveal the full extent of the situation and contamination. The plasma program was a clandestine operation in a sleepy town. It was an open secret, but surprisingly very few people knew about it. I can only speculate that HMA's thinking at the time was focused on damage control. It is apparent that someone within HMA had contacted the FDA and revealed some level of knowledge, and acknowledging that four inmates had bled was damage limitation as "the cat was already out of the bag". Subsequent to these

discoveries, my confidential source told me they fled the state GRO-C

GRO-C

116. I did try to look into HMA finances but could not come up with much. I was hoping to derive amounts by looking at the number of prisoners, percentage of prisoners and standard market value of plasma. The prison always downplayed numbers. Realistically, it appears that 60% of the prison population bled routinely. I am not certain of the number of inmates in the prison at the time, but it may have been approximately 4000 to 5000. I provided figures in the film of the potential reach of infection to play out the possibility of how much plasma these infected inmates could likely have contaminated. If, say, 38 inmates were bleeding twice a week, that equalled 76 infected units of plasma a week. If pooled, a minimum of 20,000 units of infected plasma per two weeks, that equals 500,000 plus units per year.

117. On 21 February 1984, the FDA proposed the revocation of the ADC's licence. On 22 February 1984 United Press International ("UPI") reported on this, and the other measures that were being put in place; the FDA stated that ADC's records were a mess. I attach a copy of the FDA's notice dated 22 February 1984 as **Exhibit WITN0838026**.

118. In March of 1984 the ADC 'voluntarily' gave up its plasma centre licence to distribute plasma. The official deadline for the State of Arkansas to request a hearing with the US FDA to challenge this regulatory action was 23 March 1984, which is the same day that 'ABC' Plasma was granted a licence for a street plasma centre (please see paragraph 120 below).

119. Pages 390 to 395 of the Krever Report provides more information about the voluntary recall, mentioning that the vast majority of the products recalled had already been used by patients.

FDA revoke ADC's licence

120. On 17 May 1984 ADC's licence was revoked. The next day, on 18 May 1984, Connaught issued a memo listing 'Arkansas Blood Components' or 'ABC' as a plasma centre that could supply plasma. I attach a copy of this memorandum as **Exhibit WITN0838027**.

121. After the FDA revoked the ADC's plasma center license, the State of Arkansas did everything it could to get it back up and running again. The State appealed the FDA's decision to revoke the licence, with the prison Board of Corrections voting in favour. This was a system where the Board of Corrections acted as a buffer between the governor's office and the prison system. The Board was appointed on patronage appointments, whereby they did not get paid very much, but if the Governor told them what to do, they would do it. Four out of the five board members were Clinton appointees, including the chairman, Woodson Walker. Once the plasma program got into severe regulatory problems, there was clearly a decision made to just go with the same people. ADC plasma became ABC plasma and subsequently I do not think much changed.

122. In the midst of the AIDS hysteria, the ADC plasma program re-opened (under a new licence) as a satellite center of HMA's ABC street centre licence/operation, and it was business as usual. HMA also had an operation called 'Health Care Plus' in Pine Bluff, Arkansas, which provided medical care to the public, but also took blood donations. HMA also owned other blood centres in the US, including in Oklahoma, Texas, and Florida.

123. Revocation of the centre's licence was a long drawn-out process, but it is clear that HMA was using the time to get ready to use ABC to replace ADC. On 24 May 1984, the plasma program was operational again. The prison administration maintained that contracts were solicited nation-wide by the prison board, but only one was received – from HMA. This new contract also included an increase in plasma donations. On 24 July 1984, ABC Plasma was fully operational in the prison.

124. At the time of the two failed international recalls by the FDA of Arkansas prison plasma in 1983 (both are detailed in the Krever Report) and subsequent regulatory actions by the FDA in 1984 (including suspension of the ADC's blood collection operation and center closure and licence revocation at the prison), officials at ADC stated in private communications to various state and federal officials, and publicly to the media, that no 'bad blood' had gotten out, and that despite mistakes and errors with the operation, the plasma program was still safe.

125. This position was reiterated to other media in the late 1990s when the issue resurfaced and has been maintained ever since. ADC Medical Director John Byus even stated to me on camera that he believed that prison plasma was actually a safer product than 'free world' plasma, due to the records he claimed the prison kept on its inmates.

126. Of course, this ignores the fact that inmates continued to work in the infirmary and in the blood program and that there were always people who got around barriers to donating. If we assume that HMA was trying to do the right thing and provide a service, there were inevitably people trying to circumvent that for personal gain. It appears that when you get loose with processes and checks, there are a lot of ways to compromise the system. When the FDA revoked the state centre licence, the federal agency mandated that prisoners were not to be allowed to continue to work in the program. Dr Henderson even said to me that looking back it was never safe to collect blood from prisons.

127. The obvious first line of defence to prevent infected product from entering into the pool was the honesty of donors. GRO-C, Cummins inmate, told me that as long as you said you didn't have hepatitis you were allowed to bleed. However, from the recall and witness evidence, it is clear that inmates with hepatitis did bleed, and many severe FDA violations occurred.

128. FDA Inspections were supposed to be a surprise but I was told by former employees that they would know ahead of time when an inspection would

occur. I was even told about occasions when prison officials and HMA employees would have drinks with federal regulators. If pictures were taken during inspections, then staff and inmates would wear everything they were supposed to, which was not the status quo. This meant that the regulators were not seeing the reality of the program.

129. When my confidential source subsequently found out that the program had restarted, they were horrified.

130. During this period, the public was being informed about the reality of the safety issues within the plasma program because newspapers reported on the ADC's search for markets, the FDA violations, and the license revocation.

HIV, testing and prevention

131. When HIV came on the scene, the CDC was begging the FDA to do something. The tension between the CDC and FDA brought the big four pharmaceutical companies (Armour, Alpha, Bayer, and Baxter) together. The FDA asked the pharmaceutical companies to stop using blood from high risk people, including prisoners, but it was up to the companies to decide whether to keep going or stop voluntarily. There was no law but instead there was a 'gentleman's agreement' in place. It was a free market in which they were allowed to regulate themselves. The FDA inspectors were supposed to inspect plasma centres yearly, but then after HIV came on the scene inspections of US centers were reduced to every two years. I don't know what the official reasoning was behind this.

132. There was also a revolving door between the FDA, Big Pharma and the blood industry, so when people would retire from the FDA, they often would go to work in the pharmaceutical industry.

133. Even though pharmaceutical companies in the US said they stopped using prison plasma in blood products for domestic use, the reality was that they did not stop until much later. Although it was frowned upon to use prison blood in

products domestically, the FDA saw no problem with US product being exported across the border or shipped overseas. Other countries, such as the UK, had a great need for the product and could not meet their own demand, so the sale of prison plasma overseas continued to be standard practice.

134. There was a toxic mentality in pharma companies at the corporate level when it came to plasma products. The blood industry stalled when it should have been acting to make blood products cleaner and safer. They were weighing up risk versus profit margin even to the point when it came to the haemophilia community who were serving as the “canaries in the coal mine.”

135. Pharmaceutical companies wrote off haemophiliacs as already having HBV. Thomas Drees, the former president of Alpha Therapeutics, told me it was assumed that at some point they had become immune to it. Pharmaceutical companies were aware of infectious diseases in the blood supply including non-A non-B hepatitis but chose to do very little about it for a long time. Drees also admitted that the blood industry could have pursued a heat treatment of blood concentrate prior to HIV but elected not to because “you lost 40 to 60 percent of the yield.”

136. Dr Edward Shanbron was the co-inventor of the fractionation process at Baxter. The plasma was being supplied by inmates at Angola Prison, Louisiana. Dr Shanbron set up a liver test for viral hepatitis and found elevated enzyme levels. Upon his discovery of this, he asked Baxter to stop bleeding inmates and concluded that the centre should be closed. Dr Shanbron was subsequently fired and then he moved over to Cutter. Dr Shanbron also testified in litigation in the mid-1990s in support for haemophiliacs. He also came up with a detergent cleaning process for blood prior to the availability of heat treatment of blood. To my knowledge, none of the “Big Four” pharmaceutical companies in the US who made anticoagulation products for hemophiliacs, Alpha, Armour, Bayer-Cutter, or Baxter-Hyland, ever adopted this detergent process.

137. The industry was essentially caught red-handed with HIV. The industry had previously stalled with viral hepatitis, but there was a new disease killing people and it was clear that they had been slow to act.
138. To make matters potentially more damning, it appears that US blood product manufacturers may have routinely and systematically exported untreated concentrate to the UK and Europe even after they had started to make heat treated products as this product was cheaper to produce.
139. Cutter Biological started a new product code for its non-heated factor concentrate for export even after it introduced a safe factor concentrate. Over 100,000 vials of this non-heated factor was produced specifically for export. How much of this was exported to the UK after February 1984 is not known. Since many haemophiliacs in the UK were not infected with HIV and/or HCV until 1984 or later, use of this non-heated factor could have been a major factor in their infections. The seroconversion for illness occurred much later than in the US. This is statistically unusual and makes me wonder why this is the case.
140. Basically, by 1983, the US haemophilia population had already been infected with HIV. However, in the UK, seroconversions of people from HIV-negative to HIV-positive were still happening after heated treated products were on the market. It raises the question of why were these overseas infections happening later?
141. Although the manufacture of non-heat treated factor product was banned in 1985, it is possible that haemophiliacs in the UK continued to use up old vials of non-heat treated product. In May 1985, blood product manufacturers notified their US customers to return all non-heated product they still had on hand because it was at high risk of HIV contamination. However, it is possible that these companies did not notify patients and doctors in the UK. Factor concentrate had a two-year shelf life so if manufacturers did not recall non-heated concentrate from the UK, haemophiliacs may have continued to inject

the tainted product through 1986. It is, at the very least, feasible that the UK became a dumping ground for non-heat treated blood products.

142. The 2003 *New York Times* article, "2 Paths of Bayer Drug in 80's: Riskier One Steered Overseas" that I helped research with reporter Eric Koli, showed records that drug companies including Bayer were still selling non-heat treated blood products beyond when they should have. I attach a copy of this article as **Exhibit WITN0838028**.

Where did people think the blood went?

143. In my interviews, I would ask where they thought the blood was going. John Byus, medical administrator at the ADC, stated rather defensively to me that it was not in his mandate to know where the blood was going. When interviewing inmates, I got the impression that they now feel guilt when they think back on their participation in the plasma program, but at the time they were just trying to make money. I attach a copy of ADC's leaflet from the mid-80s about the inmate plasma program as **Exhibit WITN0838029**.

144. 'David' the prison phlebotomist employed by HMA said that he knew the blood was going to Canada but was told after he expressed concerns that it was going into makeup. David didn't tell me which employee relayed this information to him.

145. In his interview featured in the film, then US Congressman Vic Snyder makes a number of statements about what he knew of the blood that was being collected in the plasma program. At the time he was a young medical doctor employed by HMA in the prison system. He claimed to know little about the program, but offered that he knew the plasma collected was going to a lab in Canada for testing, which I think he means Connaught Laboratory. How or why he was under the impression that this was going for 'testing' only, I have no idea. Mr Snyder also stated that he knew prison plasma could not be sold in the US and that the FDA had shut down the program due to violations, but he did not list the violations.

146. Mr Snyder stated that unwell inmates declined being prescribed antibiotics so they could continue to donate plasma. He also claims to have had a discussion with Dr Henderson after the restart of the plasma program about prisoners lying about their medical history. Mr Snyder did not provide any further information regarding this conversation other than to say in general that inmates were not trustworthy and there was a financial incentive for them to lie.

147. Mr Snyder also told me that Dr Henderson wanted him to become the medical director for HMA at the prison and that he had considered it. Mr Snyder had stipulated that if he did take the job, he wanted HMA to provide him with personal liability insurance. I think this infers that he was aware of the problems that HMA was having on its medical care side.

The end of the plasma program/ Investigations

148. The Arkansas State Police (ASP) did conduct a criminal investigation into what was going on at the ADC. This included investigations of HMA in 1984 and 1986. The later one was ordered by Governor Bill Clinton. While I would have thought that the State Police agency would be a reliable authority to look into a lot of the wrongdoing that was going on at the prison, the ASP did not discover much and surprisingly gave HMA a passing grade. The 1986 State Police Report into HMA runs several hundreds of pages. It did not specifically look at the prison plasma operation, and I believe this omission was because there were plenty of powerful people in state government and inside the prison system who were invested in the plasma program and did not want it to be closed. In 1992, ADC Director Art Lockhart would resign after a misuse of state funds scandal involving him, the ADC and Lloyd George, a powerful state representative. In 1997, Rep. George resigned after pleading guilty to this scheme to defraud the prison system. Later, Clinton, as President, would pardon George.

149. In 1986, another inquiry was conducted by an outside organization, a nonprofit policy and research organization located in Berkeley, California, called the Institute for Law and Policy Planning (ILPP), into ADC's contract with HMA for medical care in the prison system. The report states that members of the prison board had asked for an external monitor. ILPP did not have a mandate to look at the prison plasma program, but did so anyway. The institute discovered instances in which HMA had violated its state contract in forty areas, including poor health assessment and recordkeeping and the hiring of unlicensed, uncertified, and unqualified staff. Their report came after the Arkansas State Police had investigated, and the ILPP's report led to HMA losing its medical care contract.

150. The ILPP, in its report to Gov. Clinton, urged that the plasma program be reviewed for abuses and that the state health department should take an active role in overseeing the prison plasma operation. The differences in the reports prepared by the police and ILPP were 'like night and day'. The ILPP report is attached as **Exhibit WITN0838003**.

151. At some point, 'Correctional Medical Services' (CMS) took over the medical care program in Arkansas prisons and also ran systems in other prisons in the US. CMS was in the Arkansas prison system at the time that I interviewed inmates when making my documentary. I was told that CMS had a virtual monopoly on providing healthcare to inmates in several states. In 2000, CMS provided correctional health care services to 27 states. A 2003 investigation by the DOJ determined that conditions at the McPherson and Grimes Correctional Units in Newport, Arkansas were unconstitutional. In the DOJ report, medical care at the prisons, which was provided by CMS, was found to be seriously deficient. Hepatitis C treatment was not provided at either prison and one HIV positive prisoner with chest pains and shortness of breath waited two days to see a nurse, only to be sent back to her dorm. She was hospitalized 12 hours later and found to have a potentially fatal HIV-related infection.

152. Inmates explained to me that HMA and CMS did not want to know if prisoners were diseased with HIV or Hepatitis C because then there would be an obligation to treat them, and that would cost more money. It was easier to parole these inmates out to the street for the public to then deal with them, meaning the responsibilities and cost to treat the person would pass on to the public at large. As an example, I asked GRO-A, inmate, if he had been tested for HIV/AIDS. He told me that you are only tested if you request it. He told me that he requested it two years ago and was still waiting. Testing wasn't mandatory nor was it a priority for the ADC. There was no urgency on the prison administration's part to find out who was infected with these blood-borne diseases – creating a situation where parts of the population could be sick and contagious and not know it.

153. Many prisons had plasma programs but most closed down when HIV came into the picture. Arkansas chose to continue with its plasma program, eventually closing down permanently in 1994 when it could no longer find a buyer. It was the last remaining prison plasma centre operating. See a letter dated 23 March 1994 from the ADC regarding the closure of the Blood Plasma Program attached as **Exhibit WITN0838030**. In 1995, one year after the ADC plasma center closed for good, the FDA issued new blood donor criteria. Please see 'FDA Talk Paper' at **Exhibit WITN0838031**.

Political aspect

154. In my film, there is footage of Michael McCarthy, a Canadian tainted blood victim, stating that he wished there was no political angle to the story and a no-name Governor was involved. In the film we also see Mara Leveritt, a reporter from the *Arkansas Times* saying that it was difficult to obtain papers from the period that Clinton was Governor. Clinton was very knowledgeable about the conditions at the ADC, starting from when he was the state's Attorney General. Clinton had to address the federal court about the conditions of the Arkansas prison system, so he would have had to be knowledgeable about this.

155. After the 1982-83 recalls, a new man arrived on the scene as HMA's president. He was a Clinton confidant named Leonard Dunn. Seen as the company's political arm, Mr Dunn would later serve as the finance chair of Clinton's 1990 gubernatorial campaign and receive a patronage appointment. While Clinton generally did not attend prison board meetings, his cabinet members did, including his chief of staff, Betsey Wright, and Bobby Roberts, the governor's liaison for public safety, who attended several meetings about troubles with the plasma program, and would be later appointed to the prison board by Clinton. Four out of five members of the Board of Corrections were Clinton appointees including HMA's attorney Don Smith. This was GRO-D GRO-D and Smith represented HMA during its dealings with the FDA re: plasma program violations and the eventual revocation of the prison licence **(Exhibit WITN0838039)**

156. Later, when HMA's contract to provide health care at the ADC was also in jeopardy due to serious medical neglect and mismanagement, it was Dunn who met with Clinton to smooth things over. The Governor's answer was for HMA to hire another Clinton confidant, lawyer Richard Mays, as an 'ombudsman'. This was an ill-defined position, with a salary of \$25,000 USD (equivalent to \$60,000 adjusted to inflation in 2020). Former ADC Deputy Director, Randall Morgan told me it would be impossible for him to believe that Clinton did not know about the issues with the plasma program. He also said that the ombudsman position deal looked suspicious. When ASP investigators asked for a contract between HMA and Mays, neither party could produce it.

157. As referred to above at paragraphs 148-150, the Arkansas State Police report on the ADC came back as a white wash. Senator Knox Nelson, one of the state's most powerful law makers, put pressure on Gov. Clinton to stop the investigation, which he did. Several lawmakers' names, including Nelson's, had come up in the investigation in connection with wrongdoing at the ADC.

Lot Numbers

158. The lot numbers are the key to finding out what blood product was shipped to the UK and injected into the arms of people with haemophilia in the UK. Each lot contained 4000 to 6000 vials of factor concentrate and was made from pooled plasma of up to 20,000 donors.

159. It is my opinion that it may be plausible for the Infected Blood Inquiry to conduct a simple survey of all HIV and HCV-infected haemophiliacs in the UK to identify the lot numbers of factor concentrate that were shipped to the UK in the 1970s and 1980s. The lot numbers could be obtained from medical records since every time a hemophiliac injected himself with factor concentrate, the lot number should have been noted. With the lot number, you can potentially determine just how contaminated the factor concentrate was that US companies sent the UK. It would also be possible to find out how many of the donations were from prisoners, how many later tested positive for HIV and HCV, and whether the factor concentrate was heat treated to kill these diseases.

160. Although a survey of lot numbers could reveal how many blood products tainted with US prison plasma reached the UK, it must be done with the understanding that such data might be undermined by intentional under-reporting. For example, in Arkansas, I was told that the prison system did not want to know the rates of infection of its inmate population because once known then there would be an obligation to treat, and that would cost more money.

161. Years ago, I was able to tie one infected UK haemophilic campaigner's blood product to Arkansas prisoners. In May 1980, Peter Longstaff infused several vials of Cutter factor concentrate to stop a bleeding episode. He used vials from lot number 'NC 8196', which was made with the plasma of 297 inmates from Arkansas. To underscore what was going on at the time, GRO-A a former Arkansas inmate infected with HCV who sold his blood regularly in the same era that Cutter purchased plasma from Arkansas prisons stated about

the prison blood collection process, “They didn’t care. If you could crawl to get there you were able to give blood.”

162. In 2001, Yvette Cooper, the Parliamentary Under-Secretary at the Department of Health, in a meeting with other MPs and campaigners promised tainted blood victim Peter Longstaff and his wife, campaigner Carol Grayson, that if Mr Longstaff could show/trace his batch numbers of Peter’s blood products back to Arkansas prisoners’ blood, then Ms Cooper would ask for an investigation into the Arkansas prison connection. With my help, Peter and Carol did just that.

163. Ms Cooper did not follow through on her promise and took no further action. It was discovered later that Ms. Cooper spent time working in Arkansas for then-Governor Bill Clinton’s presidential campaign, in 1992. At this time the plasma program would still have been in operation. In November 2003 I sent a letter to Stephen Grime QC regarding Peter Longstaff and the connection we found with US prison blood. Please find this letter attached as **Exhibit WITN0838032**. In 2005, Peter died a painful death from complications of his HCV and HIV infections.

164. Michael Baum, lawyer, managing partner and president of Baum, Hedlund, Aristei & Goldman, a law firm based in LA, and friend of mine, represented several haemophiliacs in law suits against drug companies in the late 1990s and early 2000s. Baum retained a repository for the documents that he sourced in the course of litigation and this included lists of lot numbers of blood clotting products manufactured by Alpha-GreenCross, Armour, Bayer-Cutter and Baxter-Hyland.

165. Other law firms in the US brought litigation against the big four pharmaceutical companies on behalf of haemophiliacs in the US in the mid-1990s. Importantly, this was before it was really known that prison blood was being used to make blood products. There was also an emphasis on settlement so that the law firms could get their cut without worrying about a jury trial. In particular, there was a giant class-action lawsuit settled in 1996 in Chicago

before U.S. District Court Judge Grady. This resulted in many people being disappointed with the sum that was awarded.

166. The 'Ricky Ray' Relief Act was passed by the United States Congress in 1998 that led to haemophiliacs in the US receiving payments of \$100,000 USD. The Act established the Ricky Ray Hemophilia Relief Fund Program designed to provide compassionate payments to certain individuals with blood-clotting disorders, such as haemophilia, who contracted HIV through the use of antihemophilic factor administered between 1982 and 1998. The Act also provided for payments to certain persons who contracted HIV from the foregoing individuals.

167. The Act was named in honour of Ricky Ray, a boy who had passed away after having been infected by tainted blood. He was the eldest of three hemophiliac brothers barred from school because they were infected with HIV by contaminated blood products.

International impact

168. When I started looking into the tainted blood scandal, I did not realise that Canada was also investigating the matter with the Krever Inquiry having recently concluded.

169. The news about the Arkansas prison blood scandal broke in Canada with the reporting in the *Ottawa Citizen*, the *Canadian Press* and others, using various documents that I uncovered. Later, in Washington D.C. when Canadian tainted blood victims held a press conference and announced lawsuits in Canada and the US, Canadian politicians as well as lawyers, promised answers to the victims' questions in relation to what happened and why.

170. Even The Royal Canadian Mounted Police had a blood task force looking into the Arkansas connection. However, all of this proved to be little more than political 'window dressing'.

171. The following related documents are exhibited to this statement:

- a. *'Prison blood from US kept flowing into Canada'* by Dennis Bueckert, The Canadian Press dated 21 Nov 2003 (**Exhibit WITN0838033**);
- b. *'RCMP tracks HIV-tainted prison blood'*, Ottawa Citizen, (undated circa 1998) (**Exhibit WITN0838034**);
- c. Ottawa Citizen article, *'Convicts infected Canadians' blood'* (undated circa 1998) (**Exhibit WITN0838035**);
- d. press statement concerning Michael McCarthy's lawsuit (**Exhibit WITN0838036**).

172. HMA was implicated in legal issues in Europe and the impact was international. Although it was very difficult to sort through numbers and records, it was possible to connect HMA to blood products used in Italy and Spain. Dr Henderson's letter to Leonard Dunn, exhibited as **Exhibit WITN0838025**, refers to a \$250,000 USD settlement as part of the fallout from the recall.

173. In Japan, Satoru Ienishi is an Upper House member who campaigned for drug safety [GRO-A]

[GRO-A] In 2003, with my assistance, he spoke to the US Justice Department. He specifically spoke to Noel Hillman, the head of the Public Integrity section, about possibly assisting in a US Department of Justice investigation of the Arkansas prison plasma operation. However, he also expressed concern about the possible political effects such an investigation might have on Japanese-American relations and even mentioned Mrs Clinton's possible run for the presidency in this regard. I am aware of this conversation because I set it up and was on the conference call.

Connection with UK

174. My documentary has been viewed by infected haemophiliacs around the globe from the US to Japan. But nowhere has the film engendered more anger and outrage than in the UK where, after seeing the film, British haemophiliacs

demonstrated against former President and former Governor of Arkansas, Bill Clinton on his visits to Glasgow and Manchester.

175. I had been in communication with victims and campaigners who were aware of what was going on in Canada. In 2006, I travelled to the UK to conduct a private screening of "Factor 8" in Soho for The Haemophilia Society. The film was then entered into the Rain Dance Film Festival. This resulted in word getting out through an increased level of publicity.

176. While I was in the UK in 2007, I was invited to an interview on Radio 4. I was asked about the film and they played excerpts from my film, and I was also asked about my testimony at the Archer Inquiry. A copy of the interview can be found here: https://www.youtube.com/watch?v=fGyQw2_CbKg. Along with this radio interview, I was also interviewed a couple of times for BBC1 television although I cannot remember the specific dates. Additionally, "Factor 8" and the Arkansas prison blood scandal has been covered by BBC1, BBC World, BBC "Newsnight," BBC Scotland, BBC Radio 4, *The Sun*, *The Guardian*, *the New Statesman*, *The Sunday Herald*, *The Scotsman*, *The Daily Express* and others.

177. Tainted blood victims in the UK have not only suffered personally in what has been called, 'the worst public health disaster in NHS history'. They have also been frustrated in their attempts to find answers as to why and how they became infected with HIV and HCV from contaminated blood products. Many are tortured by suspicions that they are dying due to negligence and even corruption and greed. In short, from criminal actions. Without identifying the truth behind their suffering, these victims can find no peace.

178. Sadly, their suspicions are well founded. It is indeed possible that US blood companies purposely exported unsafe blood products, products they knew were more likely to be contaminated with HIV/AIDS and HCV, misleading UK doctors and patients about its potential dangers, and that they failed to provide the same warnings to British users that they did in their own country.

Archer Inquiry

179. To address this, in 2007 I proposed to the Archer Inquiry on Contaminated Blood in my testimony before Lord Archer, that the Inquiry conduct a survey on factor concentrate lot numbers. Now, twelve years later, I repeat this request to the Infected Blood Inquiry. Whereas the Archer Inquiry, as a privately funded independent Inquiry, was limited in terms of what it could investigate, today's full public inquiry could readily take on this important task (please see paragraphs regarding the survey at 158-163).

180. A solicitor working with Lord Archer, Vijay Mehan, had asked me some questions via email and asked whether I would be open to testifying. I arranged to testify in July 2007.

181. I testified before Lord Archer in a room within Westminster Palace. Vijay Mehan asked if I could brief them on matters that required to be considered. I was asked many questions about the Arkansas prison plasma operation, the history of ADC, the FDA, regulatory practices in the blood industry in the US, HMA, etc. I gave no written statement and Lord Archer had not at the time seen my film, although some members of his team had. A transcript of my testimony is annexed as **Exhibit WITN0838041**. I was interviewed by the BBC1 and BBC4 radio and the *New Statesman* about my testimony at the Archer Inquiry.

182. After testifying before Lord Archer I was told that this Inquiry was limited in its scope as it was a private effort and was more informational. I wish more could have come out of this Inquiry as the victims were relying heavily on it. From my perspective, I wasn't expecting very much to come out of it but I also knew that it was a step forward for victims and campaigners to have their stories heard.

183. Following the conclusion of the Archer Inquiry, the victims and campaigners put their faith in the Penrose Inquiry. Penrose could mandate people to testify but the Inquiry was limited by Scottish legislation. I am not sure whether the

Penrose Inquiry received any of the testimony and documents I provided to Archer. My contacts in the UK told me that I should expect to hear from the Penrose Inquiry, but I never did. I do know that "Factor 8" was recognized in the Scottish Parliament by SMP Carolyn Leckie in 2005 in reference to the need for a Scottish inquiry. And Dorothy-Grace Elder, who served on the Scottish Parliament's health committee, wrote about how she thought that Bill Clinton should have testified before the inquiry, but that never happened.

184. I did not have any direct contact with the Penrose Inquiry. I was told that some of my evidence made its way to Penrose but I would have no way of knowing for sure.

Section 3. Personal impact

185. I have experienced trauma associated with my involvement in this matter. I was just a young man looking into allegations that became apparent to me. I expected to be the last person in line to uncover this story as I was convinced a larger news source would get in first. I was definitely not prepared to deal with the lasting impact and repercussions.

186. When I created my advert at the start of my investigation, I had a second phone line created. I used an unlisted residential number so I could not be traced but in addition to receiving strange phone calls, I would hear clicking and hang-up calls constantly. I would man the phones to take calls but when I was away and messages were left on a message machine, on playbacks on a few occasions I would hear strange high-pitched screeches on the recorder. Sometimes all the messages recorded would also be wiped. I was able to determine that my recorder was not malfunctioning. My friends were convinced my phones were tapped, but I was not convinced.

187. I was talking to my father on one occasion when he told me that his stockbroker had been in the hospital for a procedure and when recouping, he happened to see my advert in the *Arkansas Democrat-Gazette* newspaper. It was reported back to me that when seeing the advert, he panicked and feared

that he might be being treated with prison blood. My father knew of my involvement, but no one else knew, including his stockbroker. The stockbroker had friends in the Governor's office, who then alerted Governor Mike Huckabee, who asked the Attorney General, Winston Bryant, to look into the advert. Although I was never contacted by the AG's office, my knowledge of these steps concerned me.

188. I had begun my research prior to the breaking of the Bill Clinton-Monica Lewinsky scandal in January 1998. After that, my investigation became an even bigger circus. I received strange emails with unidentified veiled threats.

189. In late 1998, as I was just forging ahead with my investigation, and odd things were starting to occur, I happened to watch a documentary on cable TV about an American union labor activist and whistleblower named Karen Silkwood. In 1974, Silkwood worked as chemical technician at the Kerr-McGee nuclear power facility in Oklahoma, and reported health and safety problems with reactors and then strange things started happening to her. After testifying to the Atomic Energy Commission, Silkwood was found to be contaminated by plutonium radiation from the plant on her person and in her home under very suspicious circumstances. A *New York Times* reporter had been in contact with her and arranged an interview to hear her story in Oklahoma City. She had decided to go public with her evidence. However, on her way to the interview, she was killed in a mysterious car crash at night in which she had run off the road. This story struck a nerve with me at the time.

190. On one occasion, my tires were slashed. On another, my windshield was smashed out.

191. In September 1998, I ended up moving out of [GRO-C] as a direct result of all the things that kept happening. My family and I moved to [GRO-C], 50 miles southwest of [GRO-C]. I had been travelling on my own with a U-Haul trailer on my journey to my new house when I had a tire blow out. My wife and daughter were travelling up separately later. The road was a winding highway through a mountainous area with only one way out. This was before cell

phones were common, and I did not have one at the time. I left the car and walked off to find a tow truck. As I was walking, I saw a car's headlights from behind. A white corvette approached me and slowed down with its engine revving. It then drove off up the road into an old cinder block building. It then turned around and drove up next to me and paused again with the engine revving, and then drove off. I managed to get my car towed and made it home. When I arrived at my new home the house door was unlocked, and the caller ID device (at that time caller ID was not available on actual phones) showed an odd number, a missed call from Alpha Therapeutics, of all places.

192. Around this time I felt an increased level of anxiety. At home, I always kept a light on downstairs when I went to bed. People would also ask if I owned a gun, but despite the curious things going on, I was naive and would roll my eyes in response. I also heard more weird sounds and clicking noises on my telephone line in GRO-C when I talked to people. This had some people questioning again whether my phone was being taped. I still wasn't convinced of this.

193. In August, 2003 when I was getting ready to meet lawyers from Japan in Washington DC, who were working pro bono on lawsuits on behalf of Japanese tainted blood victims, I had taken my 55-page timeline to be printed at a Kinkos copying/printing store. This was my work product, a one-of-a-kind document detailing more than 30 years of facts and details about the ADC, HMA, the Arkansas prison plasma program, the FDA, CDC, Canadian Bureau of Biologics (BoB), the actions and non-actions of Big Pharma regarding viral hepatitis, and HIV, etc. 10 pages of this document specifically dealt with information relevant to Japan and the Arkansas prison plasma program, as well as Alpha Therapeutics and the Green Cross Corp. I was meeting with the lawyers to provide them with documents in relation to my investigation. I had not yet told them about my timeline.

194. Upon my return to Arkansas, and a day after my presentation to the lawyers in DC, a friend of mine, Bill Horn, a researcher at UC Davis, informed me that he thought there was some of my material on the Internet. It turns out, My 55-

page outline was on a “splash” page on the Internet and had the inclusion of my reporter’s notes at the bottom. My first thought was that the digital file could have potentially been illegally copied at the Kinko’s photocopy place without my knowledge. My other thought was that my home internet was hacked. But back then, the Internet was dial-up which I understand to be much more difficult to hack than broadband is now. I remember being really alarmed about it. By this time, I had already had multiple conversations with Noel Hillman, the Head of the Public Integrity Section of the Department of Justice about the possibility of a DOJ investigation of the ADC involving the FBI; so, the last thing I needed was my confidential information on the web that could be found through search engines. Later I was able to determine that the version posted online was not the version I had in DC nor was it one that I had anymore; it technically didn’t exist because it was an old 1999 version that I no longer possessed. This meant that someone had somehow stolen it off my computer five years earlier when I lived in [GRO-C], either by hacking into my system or illegally entering my home. How that happened I don’t know, and why my stolen work product suddenly appeared anonymously on the world wide web after I had been talking to the RCMP in Canada, and the DOJ about a possible RICO (Racketeer Influenced and Corrupt Organizations) investigation into the Arkansas Department of Correction, disturbed me. Was someone trying to let me know that they already knew what I had?

195. During one interview, I had a gun pointed at the back of my head. I was meeting a source who had been a nurse for HMA and had worked in the plasma program. He had wanted to give information and be interviewed on camera. I had met with him previously to establish his credibility when he told me of his experiences. Before our interview he got paranoid. As stated earlier, I met people in order to assess their credibility, and they also need to determine whether they can trust you. He told me that he had tapes that he could provide. When I met him, I brought my friend, former inmate [GRO-C] [GRO-C] with me. Because he informed me that he’d be coming armed the cameraman I had arranged to do the filming backed out.

196. After driving an hour away to a neutral location that I had preplanned, I was in a room, setting up the camera for the interview when I heard a click at the back of my head. Recognizing that sound, I immediately raised my hands over my head. The source said to me, "I told ya we'd come armed." After a pregnant pause, I turned around facing him and the gun, and told him that we had come armed, too. From there, I managed to convince him that we were on the same side and I was able to ease his anxiety. However, things continued to grow tense, and because I didn't know what I was dealing with, I wanted to pull the plug on the interview, but another person in my party convinced me to continue. So, I conducted the whole interview in a room with four armed men prepared to shoot each other. This was not what I was looking to get myself into! Despite this insane effort, I didn't end up using this source in my film.

197. I also met with a former prison guard and plasma center manager who claimed to have incriminating information (see paragraph 101). When I met her in person to interview her on camera, she suddenly got scared and backed out, stating that she had two children and did not want her house burnt down. She freaked out and wanted to know who I was working for. She even asked me if I was connected with the prison system. There was paranoia about speaking out. In the beginning I dismissed some of these concerns as being unfounded or even outlandish. Although, I would grow to appreciate many of these people's concerns and apprehensions.

198. After I completed "Factor 8," I tried to reach out to GRO-C who had worked in the plasma program while incarcerated at Cummins Prison, and whom I had interviewed in my film; but sadly, I found out that he had died in mysterious circumstances. Years later, in 2014, his family reached out to journalist Mara Leveritt in an effort to find me, but after I met with the family, they became spooked. They had not been aware of his involvement in exposing the blood scandal until they had searched his name on the Internet and came across information about his participation in "Factor 8." I understand that GRO-C had documents relating to prison corruption, but before these could

be handed over, he was found dead in his home, after he'd expressed concern for his safety, and the documents were missing from his apartment.

199. Although GRO-C is the state's capital, it's not a very big city (population of about 175,000 in 1999), and everyone knows everyone else. If you go along with the status quo then you can benefit, but if you challenge the system the way I did by looking into corruption and asking for accountability you will be ostracized like I was. The problem with being in a small community is a provincial mindset can have people feeding off each other, and at times when you're trying to track down a controversial story like this one you don't know what is true, rumour or myth. I considered it my job to find out what was fact.

200. I originally had the initial screening of my film booked for the 2004 Slamdance Film Festival, an international film festival held in Park City, Utah. Before it took place, I was barred from the screening because of an injunction that was put in place. Prior to screening my film, I was sued by a former contributor who alleged copyright violation. I faced a 15-month federal court battle, but eventually the other party withdrew and I retained control over my film and archives. Once I won the lawsuit, the film was accepted once again by Slamdance as well as other festivals including the American Film Institute Film Festival (AFI Fest) and the Rain Dance Film Festival in London. Unfortunately the injunction issues added to the local scuttlebutt and gossip against me.

201. GRO-D was the press secretary for democratic Governor GRO-D from 2006 to 2014 and I found out that GRO-D was deliberately spreading false rumours about me in relation to my work. This stunned me. I could not figure out the incentive, but it was obvious that the powers that be had marked me as a 'bad guy'.

202. This mark on my reputation never left me. It was part of the reason I decided to leave Arkansas. In any event, I figured that I would leave the state eventually, and fortunately I had relationships and contracts to sustain me for a period. After that, I experienced atrophy and contracts were not being renewed. I felt I was being black-balled and ostracized in my own community.

I stayed in Arkansas until family obligations were met and then left. Fortunately, this stigma has not followed me beyond Arkansas.

Section 4. Other Issues

203. This scandal impacted two very vulnerable populations in society who do not have the voice to speak out and should have been protected and therefore not exploited: prisoners and hemophiliacs.

204. Ultimately, I wish when it came to the Arkansas prison system that the State of Arkansas had paid inmates for their farm labour instead of their blood because then the prison wouldn't have become the source of tainted blood infections worldwide. It would have prevented exploitation from the outside. The exploitation meant that prisoners who had broken the law and been incarcerated were more or less forced to bleed to pay for toothpaste and other items.

205. I do appreciate that the international blood supply had various sources of contamination. Arkansas certainly was not the only source for this. However US prisons were a known high-risk source for blood-borne diseases, such as viral hepatitis, beginning in the early 1960s. Meanwhile, when the only way a prisoner in Arkansas could make a legal buck on the inside was to give his blood, and prisoners worked in the plasma program as well as other parts of the prison, whatever rules you supposedly had in place to stop diseased people from donating went out the window with "the foxes are watching the chicken coup." Long before HIV arrived on the scene, prisons as a blood source should have been cut off. However, prisoners' blood was cheap and plentiful. And as long as the State of Arkansas could continue to find a buyer somewhere in the world for its blood, it was going to keep selling it. In 1994, the program shut down for good, the only one left in the country.

Exhibits Table

File name	Location	Description
WITN0838002	22	Kelly Duda's advert for information (26/8/1998)
WITN0838003	37 150	ILPP report into HMA's contract with ADC (27/6/1986)
WITN0838004	38 a) 1) 109 112	'Prison blood plasma centre operations are suspended'; Pine Bluff Commercial (11/8/1983)
WITN0838005	38 a) 2)	'Prison officials complete review of inmates' blood donations'; Pine Bluff Commercial (16/8/1983)
WITN0838006	38 a) 3)	'Prison board gives up licence for blood centre'; Arkansas Democrat Gazette (24/2/1984)
WITN0838007	38 a) 4)	'Kurjiaka proposes prison commission'; LexisNexis (15/7/1984)
WITN0838008	38 a) 5)	'Plasma supplier named in lawsuit: hemophiliacs sue over tainted blood'; The Miami Herald (26/5/1995)
WITN0838009	38 b)	Memorandum: from John Byus to Board of Correction (9/8/1983)
WITN0838010	38 c) 1)	FDA inspection report (11-28/2/1983)
WITN0838011	38 c) 2) 110	Letter from Department Health and Human Services to Dr. Henderson, head of ADC Plasma Center (5/8/1983)
WITN0838012	38 c) 3) 111	FDA Pink Sheet (17/8/1983)
WITN0838013	38 c) 4)	FDA inspection record (5/7/1984)
WITN0838014	38 d) 95 98	Report from CDC (31/5/1968)
WITN0838015	39	1. Letter from Clinton to Board of Correction, requesting investigation into TB deaths (23/4/1986)

		<ol style="list-style-type: none"> Letter from ADC to BOC in response to Clinton's concerns, denying TB (16/5/1986) Letter to HMA from ADC complaining about missed meetings (18/6/1984)
WITN0838016	40 a)	Connaught memos (12/9/1983, & 26/9/1983) re: not using US prison plasma.
WITN0838017	50	Letter from [GRO-C] to Kelly Duda, confessing to falsifying medical records (1/6/1999).
WITN0838018	65	'Blood buyer at prison farm defends setup'; Unnamed newspaper (29/3/1967)
WITN0838019	66	'Blood program to supply 'pen money' for prisoners'; Unnamed newspaper (26/9/1963)
WITN0838020	67	'Potentially fatal drugs tested on prisoners'; Daily Press, Newport News (10/8/1969)
WITN0838021	69	'Prison Drug and Plasma Projects Leave Fatal Trail; Trail of Injury and Death in Prisons Follows Doctor's Drug and Plasma Programs'; New York Times (28/7/1969)
WITN0838022	72	'Diffuse Vasculitis and Death after Hyperimmunisation with Pertussis Vaccine'; New England Journal of Medicine (17/3/1966) – describes a medical experiment at Cummins
WITN0838023	83	'To treat inmates as normal clients, doctor testifies'; Arkansas Gazette (4/9/1981)
WITN0838024	107	<ol style="list-style-type: none"> Letter from HMA to Alpha Therapeutic re: sale of blood products (17/2/1984) Letter from Alpha Therapeutic to Pine Bluff Biological Products re: sale of blood products (4/8/1986)
WITN0838025	113 172	Letter from Dr. Henderson to Leonard Dunn re: FDA recall (18/9/1998).
WITN0838026	117	FDA notice proposing revoking ADC's licence (22/2/1984).
WITN0838027	120	Connaught memo listing ABC (Arkansas Blood Components) as a licenced supplier of plasma (18/5/1984).
WITN0838028	142	'2 Paths of Bayer Drug in 80's: Riskier One Steered Overseas'; New York Times (22/5/2003).
WITN0838029	143	ADC plasma programme leaflet (est. mid-1980s).
WITN0838030	153	Letter from ADC to Varner Plasma re: closure of plasma programme (23/3/1994)
WITN0838031	153	FDA 'Talk Paper' – guidelines on blood donor criteria (9/6/1995).

WITN0838032	163	Letter from Kelly Duda to Stephen Grime QC (12/11/2003).
WITN0838033	171 a)	'Prison blood from US kept flowing into Canada'; The Canadian Press (21/11/2003).
WITN0838034	171 b)	'RCMP tracks HIV-tainted prison blood'; Ottawa Citizen (c.1998).
WITN0838035	171 c)	'Convicts infected Canadian's blood'; Ottawa Citizen (c. 1998).
WITN0838036	171 d)	Press Statement re: class action lawsuit in Canada, led by Michael McCathy (28/1/1999).
WITN0838037	39	Record of witness interview with Dr Henderson, Medical Director HMA (12/8/1986).
WITN0838038	95	Report from CDC (31/7/1970).
WITN0838039	155	ADC and FDA litigation note (25/10/1983).
WITN0838040	101	Papers from ASP Investigation of Art Lockhart (1/7/1992).
WITN0838041	181	Transcript of Kelly Duda's Archer Inquiry testimony (11/7/2007).

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed GRO-C_____

Dated 4/19/2020_____