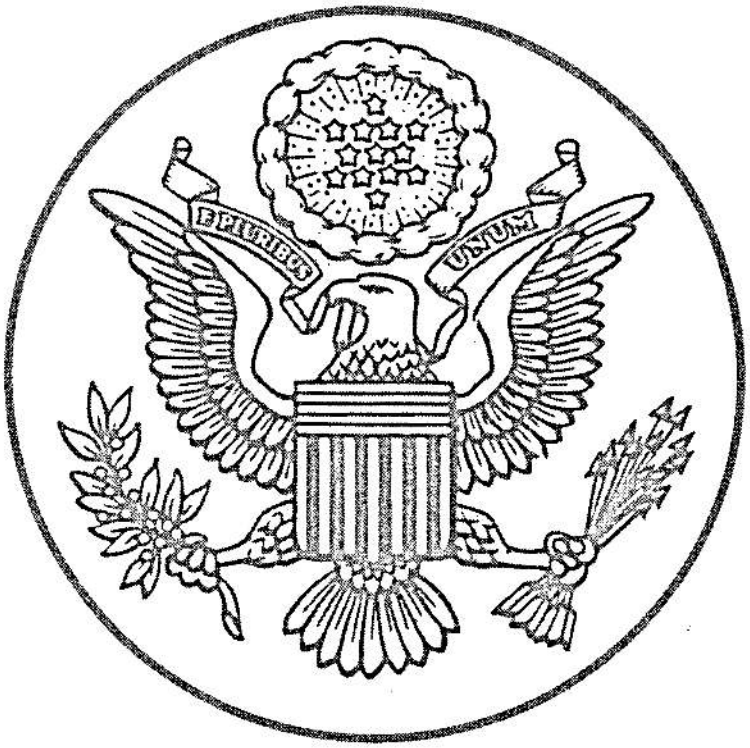
HIV/AIDS: A Challenge for the Workplace



National Commission on AIDS

WASHINGTON, DC • UNITED STATES OF AMERICA

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The National Commission on Acquired Immune Deficiency Syndrome (AIDS) was established by Public Law 100-607 "for the purpose of promoting the development of a national consensus on policy concerning AIDS and of studying and making recommendations for a consistent national policy" concerning the HIV epidemic. The Commission is a bipartisan body whose members were appointed by the President, the United States Senate, and the United States House of Representatives.

Further information on the work of the Commission is provided at the end of this document or can be obtained from Roy Widdus, Ph.D., Executive Director, National Commission on AIDS, 1730 K Street, N.W., Suite 815, Washington, D.C. 20006.

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PREFACE

Over the past four years the National Commission on AIDS has become increasingly impressed with the need to expand attention to HIV disease—and its prevention—in the workplace. Accordingly, the Commission convened a hearing in Austin, Texas, on March 10, 1993, entitled "Prevention Strategies in the Schools and Workplace: Current Challenges." This report represents a synthesis of the testimony the Commission heard and presents the conclusions we drew with respect to issues in the workplace.

Millions could be reached through workplace educational programs and these—in the long run—could contribute much to stemming the spread of HIV. Employees believe and trust information they receive at work. When education is done well they take it back to their families and communities, reinforcing other educational channels.

Persons living with HIV/AIDS can and should be helped to remain productively employed. They need adequate support and, as necessary, appropriate accommodation in the workplace, as do other persons with disabilities.

Managers must balance the needs of HIV-infected employees with the need to ensure a productive and safe workplace—in compliance with pertinent laws such as the Americans with Disabilities Act, and regulations of the Occupational Safety and Health Administration. HIV disease presents corporate executives and labor leaders opportunities for leadership that is in their interests to grasp, but for small businesses the challenge is particularly difficult.

Collaborations are needed at all levels–national and local. AIDS service organizations and other community-based resources can play an important role in helping employers address AIDS workplace issues and education, but to do this they need support.

Much useful work has been done, including the launch of the Centers for Disease Control and Prevention's Business Responds to AIDS program, which is a pioneering undertaking that has established links between the public health and business worlds. However, at too many work sites managers and employees are in states of denial, complacency, or ignorance—all of which can have adverse consequences for individuals and organizations.

In this report we make recommendations to use the workplace more appropriately in the national response to HIV disease.

June E. Osborn, M.D.
Chairman

David E. Rogers, M.D.
Vice Chairman

ACKNOWLEDGMENTS

The Commission is grateful to the witnesses who testified specifically on HIV/AIDS as a workplace issue at the hearing in Austin, Texas on March 10, 1993 (see Appendix A), and those who addressed this topic as part of broader testimony at other hearings.

We are particularly appreciative of the assistance provided by Mr. B. J. Stiles, President, and the staff of the National Leadership Coalition on AIDS during the preparation of the Austin hearing and this report.

Mr. Ted Karpf and members of the staff of the CDC National AIDS Clearinghouse are due the Commission's gratitude for the work they did in preparing a resource guide for this report (see Appendix B).

A number of individuals gave of their time to review various drafts of this report. The Commission also thanks them for their valuable assistance.

AIDS as a Workplace Concern

The impact of AIDS on U.S. workplaces is being felt by an increasing number of employers and employees. The disease continues to grow as a principal cause of death for Americans between 25 and 44 years of age, an age bracket that spans some of the most productive years of the work force. The epidemic continues to spread as prevention strategies fail to stem the tide of new infections. Disease resulting from infection with the human immunodeficiency virus (HIV), the causative agent of AIDS, already has had an impact on a high proportion of our nation's businesses. The term "HIV disease" encompasses earlier stages of infection when less severe disease symptoms do not meet the criteria for diagnosis of AIDS. The Centers for Disease Control and Prevention (CDC) estimates that more than two-thirds of companies with 2,500 or more employees, and nearly 1 in 12 small businesses (those with less than 500 employees) have encountered an employee with HIV infection or AIDS (Curran, 1993).

A steadily growing number of employers have taken positive steps to address HIV disease in their workplaces. These steps include developing AIDS-related policies, conducting employee education, training managers, and integrating AIDS-related concerns into the ongoing programs administered by their medical departments, employee assistance programs, and human resources functions. A far larger number of employers, however, ignore the need and resist integrating AIDS workplace interventions into their overall management strategies. Yet several characteristics of the epidemic create complex challenges for these employers.

The majority of the estimated 1 million HIV-infected individuals are between 25 and 45 years of age, so about one in every one hundred adults is infected. They are most likely to be employed and in their prime working years. Sixty percent of the nation's work force falls within this age range. People in this age range also are among the most sexually active and, therefore, at increased risk of contracting HIV (Hammock, 1993).

More women and youth are becoming infected. Ethnic and racial minorities are affected by the disease in numbers that are double their percentage of the population. The proportionate increase in the number of new AIDS cases is now greatest among women. Youth continue to become infected despite prevention efforts targeting this cohort. Since minorities, women, and youth are steadily increasing in the nation's labor force, employers will more routinely confront HIV disease as a fact of life for many new hires.

AIDS has shifted from being an acute illness leading rapidly to death to a longer-term chronic disease in which individuals experience long periods of health marked by intermittent episodes of illness. This poses new longer-term demands for patients and their families and new management challenges for employers. As people with HIV disease remain at work longer, employers must be able to manage HIV-related workplace concerns on a day-to-day basis. This means, among other things, staying abreast of health care options, legal and regulatory requirements, coworker concerns, and maintaining a productive working relationship with affected individuals.

AIDS also has a financial impact on business. While the most commonly cited costs are associated with health, life, and disability insurance and pension plan payouts, other less frequently recognized costs involve those associated with employee replacement and retraining, workplace disruptions, legal actions, and productivity losses from employees with AIDS as well as employees caring for HIV-infected family members and loved ones.

The Commission is distressed that, over a decade into the epidemic, there is still frequent discrimination against persons with HIV/AIDS in the workplace and elsewhere. This comes from both fellow employees and management. Trends in the extent of this phenomenon are difficult to quantify, in terms of number of instances, impact, and causes, but the Commission is in no doubt from testimony and anecdotal reports (Fassbinder, 1991) that the extent of this is totally unacceptable. This situation points out two needs: to expand educational efforts to employees and managers and to promote awareness of the actions required, and rights protected, under relevant laws.

The workplace—where most adults, including young adults, spend time everyday—is a very logical point of access for prevention education to a significant proportion of the U.S. population. The workplace in the United States is increasingly diverse, with more women, people of color, migrants, and immigrants joining the labor force. For example, Hispanic men have the highest labor force participation rate among male population groups (National Council of La Raza, 1992). This access poses both challenges and opportunities. Many people can be reached, but the communication must be effective; this includes culturally sensitive materials and discussions in appropriate languages, where necessary.

No single one of these characteristics stands alone. Together, they present significant management challenges. Government officials, business executives, and union leaders face complex responsibilities for controlling costs, providing reasonable accommodation, and protecting confidentiality, all while ensuring that HIV-infected employees and their coworkers are treated equitably and fairly and new infections are avoided.

Major Issues, New Concerns

During the first decade of the epidemic, most employers took a "wait and see" attitude. Managers who came face-to-face with an employee with AIDS often took a case-by-case approach. Most tried to respond positively, often quickly and informally, while hoping that the problem would go away. But time and experience suggested that the epidemic was affecting an ever expanding number of people, and that AIDS would be a problem for years to come. To respond informally was not a sound business practice. So several employers began experimenting with systematic, long-term strategies for addressing the workplace concerns generated by AIDS during the 1980s.

Now, in the second decade of the epidemic, it is clear that several cutting edge issues create new HIV-related concerns for, and place new demands on, public and private sector employers. First, the Americans with Disabilities Act of 1990 (ADA) took effect in July 1992. Companies with more than 25 employees are now liable if they discriminate against employees with HIV or AIDS, or if they fire, refuse to hire, or fail to make reasonable accommodation for those individuals based solely on their disease. The ADA also covers people "perceived or regarded as having HIV" because of their status in a group perceived as being at high risk (for example, gay men, people of color in urban areas). Also covered are relatives and associates of people with HIV insofar as their association with the

infected individual is the reason they are discriminated against. This is an important inclusion, since these employees often are caregivers for family members and loved ones.

Second, the epidemic has spread well beyond the largest metropolitan areas and is surfacing in the nation's smaller towns and rural communities. As a result, HIV and AIDS are becoming a reality for small business. Because the ADA covers employers with 25 or more employees, thousands of small business owners must come to terms with HIV infection as a defined and protected disability. Moreover, in 1994, the ADA will be extended to businesses with 15 or more employees. By then, thousands more small businesses will confront this requirement as well.

Third, the recent resurgence of tuberculosis (TB) adds to the importance of understanding TB and its relationship to HIV and managing each as a workplace concern. The risk of TB infection is greatest for those working in close confines with individuals with active TB—such as correctional and health care settings, shelters for the homeless, and other facilities for the socially disadvantaged (National Leadership Coalition on AIDS, 1992). But many employers and employees in the general workplace are also concerned about the risk of TB infection, including new TB infections among employees with HIV, and how to reduce the risk.

Fourth, HIV disease has already disproportionately depleted the work force in some industries. Neglecting actions that could prevent further inroads by HIV into the younger adult pool could create selected or even general shortages of qualified individuals and eventually increase elderly-to-worker ratios on which some retirement systems and social security are founded.

Finally, the Occupational Safety and Health Administration's Final Bloodborne Pathogens Standard took effect in March 1992. This standard is designed to protect an estimated 5.6 million employees who work in occupational settings where there is a risk of HIV or hepatitis B (HBV) infection because of exposure to blood and other bodily fluids. The standard mandates engineering controls, work practices, and personal protective equipment that, combined with employee training, will reduce on-the-job exposure risks. Significantly, the standard also applies not only to health care workers but also to "downstream" employees such as housekeeping staff, janitors, and others.

These and other developments create a range of day-to-day management challenges related to HIV disease—job accommodation and disability requirements, concerns about confidentiality and privacy, discrimination issues, employee fears, harassment of infected workers, health insurance and health care costs, customer concerns, work disruptions, lawsuits, and declines in worker productivity and morale, to name the more common. Infected employees often hesitate to reveal their medical condition for fear of being shunned by coworkers or losing their jobs and, by extension, their health insurance. Managers, on the other hand, must balance the needs and concerns of HIV-infected employees with the need to ensure a safe, productive, and profitable work environment.

No One Asks, So No One Takes Action—A Pernicious Cycle

Despite these increasingly common challenges, only about one-fourth of America's largest private-sector employers have policies and programs to guide their response to HIV disease. The number of smaller businesses that are prepared to deal with an HIV-infected employee is unknown, but it is probably too small to register on any scale (Stiles, 1993).

The AIDS Action Committee (AAC) of Massachusetts reports, for example, that while AIDS affects 40 percent of New England's workplaces, only 15 percent of New England's employers have developed policies or offered employee education programs. The AAC estimates that in Massachusetts alone, 1 percent of the work force is HIV infected, 3 percent of employees are acting as caregivers for people with HIV, and over 25 percent are fearful of and badly misinformed about AIDS. A recent American Journal of Public Health survey of corporate and public service employees found that 17 percent believe HIV can be transmitted through coughing or sneezing, while 23 percent fear casual contagion from an HIV-infected coworker. One-third of these employees believe employers should not hire people with HIV, and one-third say they would be uncomfortable eating lunch with an infected coworker (Camlin, 1993).

The failure of employers to see HIV as a workplace concern means that large numbers of Americans continue to hold negative and potentially discriminatory attitudes toward their HIV-infected coworkers, as well as those perceived to have HIV and those caring for people with HIV. A 1993 national survey of employee attitudes about AIDS by the National Leadership Coalition on AIDS documents this problem. Fully one-half of the workers surveyed identified AIDS as their primary health concern. Sixty-seven percent said their colleagues would be afraid to work with someone who is HIV infected. Seventy-five percent believe their employers should provide AIDS education. But only 28 percent reported receiving AIDS education at work (National Leadership Coalition on AIDS, 1993).

Why this failure on the part of employers to address AIDS in the workplace? Some employers, especially small business owners, resist including HIV disease on their list of workplace concerns out of fear, denial, and prejudice. Many claim either that they have no known cases of HIV or that they will never have a case since "they don't hire that kind of person." They do not see AIDS as a problem, and think that their employees are not concerned. Moreover, none of their employees have, as yet, requested information about or policy clarification on HIV-related issues.

This sets a pernicious cycle in motion. No one asks, so no one takes action. No one takes action, so no one asks.

HIV Disease: A Perplexing Challenge for Small Businesses

Small businesses are at particular risk of experiencing the many problems generated by HIV disease in the workplace, although a significant majority of small business owners are unaware of their vulnerability. Three factors underscore the relevance of AIDS to the small business community. First, small businesses employ well over half of the nation's work force. Second, small businesses now reflect the new and growing diversity of the nation's work force. Third, small businesses lack the resources and infrastructures available to large companies for dealing with HIV as a workplace concern.

Of the 6.2 million businesses with employees in this country, 99.7 percent are small businesses with fewer than 500 employees. These small businesses employ 54.5 million people, almost 60 percent of the nation's private-sector work force. They provide two out of every three initial job opportunities and, it is estimated, will provide 61 percent of overall new job growth during this decade (Singer, 1993).

The demographic profile of both the small business owner and the workplace has changed since HIV first emerged in this country. From 1982 to 1987, for example, the number of businesses owned by African Americans increased 38 percent, while the

number of Hispanic-owned businesses increased 81 percent. The number of businesses owned by women, meanwhile, increased 58 percent. More than half of the work force is now composed of women and minorities (Singer, 1993). Also, today's work force mirrors the diversity of our nation. Workplaces are now multigenerational, multiethnic, and multifaceted, as is the expanding epidemic.

Small businesses are not the same as their larger counterparts. They do not have the same resources available to them, and they lack the infrastructures to meet the challenges of HIV in the same way that larger businesses do. The typical small business, for example, has no human resources manager, legal counsel, or medically trained personnel on staff. At the same time, most technical resources available to help businesses manage AIDS on a day-to-day basis were designed to accommodate the culture and resources of very large companies. While some materials specifically designed for small businesses are now available, there is a pressing need for assistance and resources designed to meet their needs. As described below, collaboration with local AIDS service organizations, or other organizations able to offer support in policy and education efforts, can play a critical role in helping small businesses respond to HIV disease as a workplace issue.

Managing AIDS in the Workplace

While the day-to-day workplace challenges of HIV must often be managed in the context of scarce resources, fear, and ignorance, there are proven models and a growing body of knowledge readily available to help employers effectively address HIV as a workplace concern.

Experiences gained over the past ten years demonstrate that well thought out AIDS policies, ongoing employee education, workplace standards and practices, training, and collaboration are effective tools for addressing these challenges. AIDS programs in the workplace that are well thought out and well executed include: comprehensive coverage of the subject matter, explicit and direct communication, training from the top down mandated for all employees, and regular reinforcement (Camlin, 1993).

Employers say that implementing AIDS policies and employee education programs before a case of HIV arises helps reduce workplace disruptions and avoid costly legal battles. The tools needed to manage the multiple and complex day-to-day issues associated with the disease are accessible and inexpensive. Employees say that these policies and education programs create a supportive environment for people with HIV and AIDS as well as for employees acting as caregivers, since AIDS policies and programs foster an environment in which disclosure is easier. Infected employees are more likely to feel safe enough to disclose their medical condition and seek support from their colleagues as well as from the employer-sponsored health and social support programs for which they are eligible. Both employers and employees cite education's crucial role in replacing fear and anxiety with understanding and acceptance. When this is accomplished, HIV-infected employees can experience the same responsiveness and compassion afforded other employees with life-threatening illnesses.

Surveys show that employees want their employers to offer AIDS education (National Leadership Coalition on AIDS, 1993). Studies also show that the workplace is an efficient and very cost-effective venue for reaching working adults. Workplace education is a valuable source of information for employees. Employees believe and trust the information they receive at work (National Leadership Coalition on AIDS, 1993). They are especially interested in workplace education if they think they will be better able to help their

children and families. When AIDS education is done well, employees take that information to heart. They also take it back to their families, reinforcing what their children learn in schools about HIV. And they take it into their communities (Curran, 1993).

A handful of model partnerships linking government with the private sector also demonstrate the effectiveness of collaboration in aggregating resources to help employers meet their HIV-related workplace needs. These include the National Partners Program (18 national organizations) and the Business Responds to AIDS campaign, two initiatives sponsored by the Centers for Disease Control and Prevention that ally government with corporate executives, labor leaders and voluntary organizations. One of the national partners—the National Leadership Coalition on AIDS—has forged successful working partnerships with several trade associations to help focus their resources on member needs. Locally, similar ongoing partnerships with businesses have been created by AIDS service organizations, Red Cross chapters, Rotary Clubs, chambers of commerce, interfaith organizations, and many other voluntary groups.

While the types of partnerships outlined above are very important, many businesses, particularly small ones, find it more convenient to turn periodically to stable outside entities or chapters of the American Red Cross to assist in addressing HIV disease, particularly prevention education, in the workplace. Often businesses turn to local AIDS service organizations. For many businesses this approach is the most appropriate. Obviously, it is desirable that resources be identified by Business Responds to AIDS (BRTA) that would ensure the continued availability to the business community of this reservoir of experience and expertise.

HIV Disease: A Leadership Challenge

AIDS clearly presents the President and his Administration—as well as corporate executives and labor leaders—with an opportunity for leadership and collaboration. The President and other public- and private-sector leaders have a pivotal role to play. They have power, access, and resources. All are critical ingredients to be deployed in the fight against AIDS. But while federal agencies and programs have valuable financial and human resources to contribute, the most valuable and needed resource is leadership. The federal government is one of the nation's largest employers. In this respect, the President is like the CEO of a vast and powerful corporation. By openly discussing AIDS as a workplace concern, mandating AIDS policies and programs for all federal agencies, and encouraging cabinet leaders to take the lead on AIDS in their respective agencies, the President could set an example for public officials, government managers, business executives, and labor leaders to follow. By setting a standard, the President also will be demonstrating clear and persistent leadership on AIDS, a critical element largely missing from the epidemic since it first emerged as a public health crisis.

What is Being Done

During the early to mid-1980s, several benchmark steps were taken by both the government and the private sector to address HIV workplace concerns. By 1983, a few innovative corporate leaders recognized the value of a methodical approach based on a clearly thought out policy covering management issues and employee education. The first

coordinated business response was launched in 1985 in Northern California, when the Business Leadership Task Force, a coalition of 14 presidents and CEOs of major corporations headquartered in San Francisco, added AIDS to the corporate agenda. This resulted in the first "AIDS in the Workplace" conference for business managers, in which 250 business and labor leaders participated.

In 1986, the Surgeon General released the government's first report on AIDS, calling for education at the work site and the establishment of corporate policies. In 1987, the National Leadership Coalition on AIDS was founded to work primarily with business and labor in managing day-to-day HIV-related workplace issues, and to stimulate leadership and promote collaboration among key private sector groups. Also in 1987, the Presidential Commission on AIDS conducted hearings on workplace responses and formulated recommendations for business and labor involvement. The Citizens Commission on AIDS for the New York/New Jersey region created "Ten Principles for the Workplace" to serve as a guide for AIDS policies in the business sector in that region. The New England Corporate Consortium and the AIDS Action Committee of Massachusetts launched the "New England Workplace Response to AIDS" in 1988 to promote these ten principles among businesses in New England. Also, in the mid-1980s, other organizations, such as the American Foundation for AIDS Research, held discussions with industry leaders in an attempt to expand corporate involvement in the response to the epidemic. The value of policy/mediation/education approaches to resolve or avoid the situations that arose around HIV disease was increasingly recognized (Stein, 1989).

Several federal agencies have also undertaken bold, innovative initiatives.

- In 1985, the Department of Defense provided written guidelines on HIV education and prevention for beneficiaries of the Military Health Services System (which includes active-duty personnel, retirees, and dependents).
- In 1987, the Government Accounting Office became the first federal agency to publish guidelines for managing HIV in its workplace.
- In March 1988, the Office of Personnel Management (OPM) issued comprehensive guidelines outlining employment policies for HIV-infected federal workers (since OPM has no compliance enforcement authority, individual federal agencies determine the extent to which they implement the guidelines).
- In 1989, the CDC created the National Partners Program, which brought 18 national organizations together in an informal mechanism to share information, increase collaboration, and reduce duplication.
- In 1989, the Small Business Administration collaborated with the National Leadership Coalition to create the coalition's brochure on small business and AIDS.
- In March, 1990, President Bush addressed a large national conference of corporate leaders on the need for empathy and compassion for people with AIDS.
- In 1990, the Federal Bureau of Investigation, with assistance from the National Leadership Coalition on AIDS, planned and began conducting an AIDS in the workplace program.
- In 1990, the CDC commissioned a health economist to undertake the first study of the costs of HIV disease to businesses.

- In 1991, the Public Health Service, through the Federal Coordinating Committee on AIDS, led an interdepartmental effort to raise the awareness of its employees on World AIDS Day. This was repeated in 1992.
- In December 1992, with its National Partners, the CDC launched the Business Responds to AIDS campaign, a national initiative designed to increase employer awareness of the need to address HIV-related workplace concerns.

During the past five to six years, many large corporations, labor unions, professional and trade associations, and some small businesses have developed comprehensive policies and programs, and have become local, regional, and sometimes national leaders for workplace initiatives. In some areas, these employers have joined together and worked with labor and other local or industry organizations to prepare consistent, multi-organization approaches to AIDS policies and education. Often, these collaborating groups have used their combined influence within their local communities to encourage rational public policies.

It is worth noting that many companies that have taken the lead in addressing AIDS continue their commitments amid a time of economic recession and intense financial pressures, and despite a flurry of corporate restructurings and downsizings. These companies have not backed away from their commitment to AIDS, something that could have been done as a cost-cutting measure.

AIDS service organizations in many states developed workplace AIDS education and policy/mediation programs to help businesses establish policies and education efforts on site and worked to keep the issue of AIDS visible within corporate communities. Often these efforts were only appreciated when controversies ignited. In some communities the AIDS service organizations continue to be a major resource for the workplace response. For example, in Washington, D.C., the Whitman Walker Clinic is the source of the majority of AIDS education programs implemented by governmental agencies.

The American Red Cross originally became involved in the epidemic in 1983 because of blood collection issues. In 1985, the Red Cross broadened its involvement when it began offering AIDS education. Eventually, this was extended to workplaces, where the Red Cross brought and continues to bring significant resources to work sites across the nation. This effort now includes a cadre of trained workplace HIV educators and materials on workplace HIV/AIDS issues.

By 1987, the National Leadership Coalition on AIDS was working with businesses and labor unions and had begun producing valuable technical resources for businesses to use in addressing the day-to-day management issues associated with HIV disease. Among these are guidelines for small businesses; a generic brochure about AIDS for employees; a publication on the ADA and HIV; a packet of 10 model AIDS policies; a brochure identifying 12 similarities and common features of effective AIDS workplace policies; and, most recently, guidelines for managing TB and HIV/AIDS in the general workplace.

Several innovative partnerships also were forged between government and the private sector to aggregate and share resources. Perhaps the most successful of these is the CDC's Business Responds to AIDS program, noted above. In planning for the program, the CDC first asked business and labor leaders to share their insights about what does and does not work in addressing AIDS in the workplace. Then, through its public- and private-sector partners, the CDC designed the campaign as a long-term initiative that would solidify many of the single-focused efforts previously undertaken by individual employers. The

CDC's goal was to attract wider support in the business sector for HIV prevention efforts, and institutionalize HIV prevention in the community through leadership as well as provision of financial and human resources. The business and labor partners created the BRTA program's "Manager's Kit" and a special business resource service and referral network at the CDC National AIDS Information Clearinghouse. The Business Responds to AIDS program is a pioneering undertaking, and has established a valuable two-way bridge between the public health community and the business sector.

Other unique and successful partnerships involve trade associations that, through their day-to-day services and communications with dues-paying members, provide the opportunities and incentive for actions and practices among their membership. As the result of one such partnership, between the National Association of Manufacturers (NAM) and the National Leadership Coalition on AIDS, NAM placed AIDS on the agenda at several national workshops, has distributed the Leadership Coalition's brochure on HIV/AIDS for employees to all NAM members, and is taking a leadership role in encouraging NAM members to address HIV in the workplace. Another partnership, between the National Leadership Coalition and the National Funeral Directors Association, has resulted in guidelines and standards of response between providers and clients, a consumer brochure, and articles on HIV-related workplace issues in the association's publication.

As these examples demonstrate, trade associations can be powerful partners in forming an effective national prevention campaign. They are a strategic resource for many businesses that, lacking the financial and human resources needed to design a customized AIDS program, turn to their associations for guidance and help.

Since the mid-1980s, several unions have mounted training and educational programs, focusing both on occupational health concerns stemming from HIV/AIDS and the general workplace. Among those responding specifically to AIDS are the AFL-CIO, American Federation of State, County, and Municipal Employees (AFSCME), the Service Employees International Union (SEIU), the Seafarer's International Union, and United Auto Worker's collaborative program with General Motors.

Planning New Courses of Action

Despite the availability of models for AIDS policies, management responses, and employee education programs, as well as easy access to guidance in responding to complex HIV-related management issues, many employers continue to ignore the critical, newly evolving issues generated by HIV in the workplace, many of which require new approaches and new courses of action. Among these issues:

- Employees caring for family members and loved ones with HIV shoulder tremendous burdens. They often face untenable conflicts between their caregiving and work responsibilities. Also, they often feel discriminated against by their employers and, in some cases, by coworkers. These caregivers provide significant employer savings in health care by minimizing hospital and other costs. Yet few if any employers are addressing this issue.
- In some situations, special efforts may be needed to ensure that appropriate policies are in place, that workers are informed of their rights and are exposed to appropriate educational efforts on a sustained basis. Workplaces where the usual language of communication is a language other than English, or where there are migrant or undocumented workers, will need programs that are carefully designed

to take their special circumstances into account. Wherever work forces are diverse, culturally or linguistically, consideration should be given to ensuring that educational and other efforts are provided in the most appropriate manner.

- Many employers are unaware of the provisions in the ADA, especially those pertaining to reasonable accommodation. Some are unaware that the ADA covers not just people with HIV but also those perceived or regarded as having HIV because of their status in a group perceived as being at high risk (for example, gay men, and people of color in urban areas), as well as relatives and associates of people with HIV when they are discriminated against because of their association with an infected individual. Already, over 7,800 complaints have been filed with the Equal Employment Opportunity Commission under the ADA's employment provisions, and HIV is among the disabilities cited.
- Other important laws also address HIV in the workplace. For example, the ADA was modeled in part on the Rehabilitation Act of 1974, a federal antidiscrimination law covering employers receiving federal funds. State and local disability and antidiscrimination laws also may afford greater protection than federal law. These laws impose an expanding set of requirements on employers.
- To date, the vast majority of known occupationally related HIV and HBV infections have resulted from direct introduction of contaminated blood into the worker's body, primarily because of being stuck by needles contaminated with infected blood. Some infections also have resulted from splashes of blood onto open sores or mucosal surfaces (eyes or mouth). The OSHA Bloodborne Pathogen Standard places new demands on employers to protect their employees from potential exposure. Yet much remains to be done to ensure that all employers uniformly implement the standards. In particular, enforcement of the engineering controls, work practices, personal protective equipment, employee education and training, and record keeping requirements need to be addressed. There are also significant gaps in coverage, since employees in public-sector work sites are covered only in states with their own OSHA programs. Much also remains to be done to ensure that health care and other employees have access to safer medical devices, which can protect workers from needlestick injuries and other exposures to blood and bodily fluids.

What Needs to be Done

Over the day-long hearing on AIDS as a workplace challenge, the National Commission on AIDS received testimony from corporate executives, labor leaders, public officials, representatives from AIDS service organizations, business consultants, and other experts. Of particular concern to the Commission is the failure of so many private-sector employers to address HIV disease as a workplace concern despite clear and compelling evidence that it is in their interests and that of their employees to do so. The absence of AIDS policies, management strategies, and employee education programs, and the failure to systematically incorporate HIV into other employer-sponsored health and social support programs, if it continues, will impair the smooth running, productivity, and competitiveness of many businesses, especially small businesses. It reflects a failure of corporate leadership. It also

speaks to the failure of corporate America to seize a major opportunity to invest in its—and the nation's—most valuable resource, its people.

But also of major concern to the Commission is the absence of a concerted workplace response by the federal government. Only a handful of government agencies have implemented the OPM guidelines or used them to create their own workplace programs. Congress and the judicial branch are also notably absent. The critical factor in mounting an effective response to AIDS is leadership. Government and public officials, business executives, and labor leaders react when they see their peers take a stand. The nation reacts when the President identifies a problem as a national priority and issues a call for action.

Fortunately, we are seeing far more leadership on AIDS in the 1990s than we did in the 1980s. But there are still serious gaps and loud silences. We need a more assertive, visionary mentality when it comes to AIDS. We will never have this mentality until the President and his administration present a bold, unified, and well-managed plan to combat and prevent AIDS, reduce fear and discrimination, and increase compassion.

Now is the opportune time for the new President and his administration to mount cabinet-wide and multi-agency planning for high-visibility commitments to education, prevention, and agency-specific responses to the many components of AIDS as a workplace concern. This leadership will set an example for state and local government, for business executives and union leaders, for the nation, and for the world.

Recommendations

The Commission recommends the following:

1. **The President should emphasize the importance of addressing AIDS as a workplace issue by requesting initiation of an ongoing federal workplace AIDS program,** which should include, with a timetable, the following:

    a. Leadership, within their respective domains, by cabinet members and other senior administration officials.

    b. New mechanisms for using the commitment of prominent business sector leaders to help guide the Administration's response to the challenges of AIDS in the workplace.

    c. Convening of a national business and labor conference to focus on the impact of HIV/AIDS on the business sector.

    d. Agency-specific workplace policies. As part of this effort, federal agencies should mandate the Office of Personnel Management guidelines, as originally suggested by the Presidential Commission in 1988. This recommendation has still not been implemented. Training of federal managers in workplace issues, notifying federal employees of their rights, and ensuring ongoing employee access to information and services should be priorities.

e. Ongoing employee education for the entire federal work force, at all levels, beginning with the White House staff.

f. Endorsement of CDC's Business Responds to AIDS program and utilization of its resources by federal and all other work sites throughout the nation.

g. Consideration of mechanisms for federal government contracts that assure that all contracted employers conduct HIV/AIDS education for their work force, and that these employers be alerted to the requirements of other federal, state, and local laws and regulations that address and protect the rights of HIV-infected employees in the workplace (similar to the requirements regarding "drug-free workplaces.")

h. Attention to ensuring that during the health care reform debate, all workplace health and education issues are given proper attention.

2. **The Centers for Disease Control and Prevention should expand its support for the Business Responds to AIDS initiative by including efforts to obtain greater collaboration from existing mainstream organizations serving the business and labor sectors, such as the U.S. Chamber of Commerce, the Business Roundtable, the Conference Board, and others, to promote the availability of this program to their members and to make AIDS far more visible as a business concern.**

   CDC should more actively strive to establish links between businesses and local or regional sources of technical assistance on workplace issues and education. The need for targeted support in particular industries should be assessed.

3. **Federal agencies, particularly the Centers for Disease Control and Prevention, the Department of Justice, the Equal Employment Opportunity Commission, and the Department of Health and Human Services' Office of Civil Rights, should collaborate to provide increased support for continuing and strengthening the role played by AIDS service organizations and other community resources in providing assistance to businesses addressing AIDS workplace policies and education.**

4. **The Small Business Administration (SBA) should formalize and strengthen its preliminary investments in AIDS education efforts by designating an AIDS Coordinator for the agency. This individual would design and manage workplace AIDS education programs for all SBA employees and make these programs available to small businesses as part of SBA-sponsored conferences and seminars.**

5. **The Attorney General should underscore the commitment of the administration to enforcing the Americans with Disabilities Act and call upon states and employers to ensure full compliance with all aspects of the ADA dealing with HIV-infected employees, those perceived as having HIV, and those employees caring for people with HIV.**

The Departments of Justice, Health and Human Services, and Labor, and the Equal Employment Opportunity Commission should intensify their efforts to educate employers on the requirements of the ADA, and provide technical assistance and training to employers on how to meet those requirements, especially as they pertain to reasonable accommodation for HIV-infected employees. The Department of Labor, as part of its role in administering unemployment insurance to state employment agencies and commissions, should also alert employers in the states to the requirements of federal, state, and local laws and regulations that address and protect the rights of HIV-infected employees in the workplace.

6. **The Department of Labor should intensify its efforts to ensure that employers are knowledgeable about and comply with the provisions of the OSHA Bloodborne Pathogen Standard.**

   Employers should meet the standard's engineering controls, work practices, and personal protective equipment, employee education, and record keeping requirements, and rigorously monitor employee compliance with the requirements.

7. **Congress, the Food and Drug Administration, and the Occupational Safety and Health Administration, after consultation with the Centers for Disease Control and Prevention, should take the steps necessary to reduce the risk of HIV transmission 1) for patients and workers in health care settings, and 2) for other employees in occupations or situations where there is a risk of HIV transmission including:**

   a. Congressional passage of legislation ensuring the application of the Occupational Safety and Health Act and OSHA regulations to all employees, irrespective of state of residence; and

   b. FDA regulations designed to enhance the safety of devices used in health care settings.

8. **The Centers for Disease Control and Prevention should undertake a comprehensive program of research and development for infection control technologies and strategies to prevent occupational transmission of HIV and other bloodborne pathogens,** specifically including the safety performance evaluation of needle-bearing devices and other causes of percutaneous injuries to health care workers and sterilization and disinfection of reusable medical devices (as discussed in the Commission's previous report, *Preventing HIV Transmission in the Health Care Setting*.)

The foregoing discussions and recommendations focus on HIV/AIDS, as that is the Commission's specific mandate. However, much of what has been discussed in regard to the appropriate responses to employees with health problems and the opportunities for health promotion in the workplace are pertinent to other health problems. Opportunities to include initiatives on other health problems should be considered as the above recommendations are urgently implemented, with the ultimate goal of a comprehensive approach to health promotion in the workplace.

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APPENDIX A: Hearing Agenda

(Panel participants listed alphabetically)

National Commission on AIDS

Prevention Strategies in the Workplace: Current Challenges

The Auditorium at the Joe C. Thompson Conference Center
University of Texas, Austin, Texas
March 10, 1993

10:00 a.m. Opening Remarks—June E. Osborn, M.D., Chair

10:10 a.m. Welcoming Remarks—David R. Smith, M.D., Texas Commissioner of Health

Behavioral Research and AIDS Prevention: Using the Workplace and Schools

10:20 a.m. Martin Fishbein, Ph.D., Professor of Psychology, University of Illinois, Urbana-Champaign, IL
Anke Ehrhardt, Ph.D., American Psychological Association, Washington, DC

10:45 a.m. Discussion

The CDC's Role in Prevention Education in the Workplace and Schools

11:15 a.m. James Curran, M.D., M.P.H., Centers for Disease Control and Prevention, Atlanta, GA

11:30 a.m. Break

AIDS and the Workplace

11:45 a.m. **Panel One**

Erline Belton, The Lyceum Group, Cleveland, OH
Jerald A. Breitman, Director, Professional Relations, Burroughs Wellcome Co., Research Triangle Park, NC
Sharon F. Canner, Assistant Vice President, National Association of Manufacturers, Washington, DC
Alan Emery, Ph.D., Consultant San Francisco, CA
Benneville N. Strohecker, President, Harbor Sweets, Inc., Salem, MA

12:30 p.m. Questions

12:45 p.m. Lunch

2:15 p.m. **Panel Two**

Sandy Bartlett, Coordinator, Central Texas AIDS in the Workplace Task Force, Austin, TX
Carol Camlin, Manager, AIDS Education at Work, AIDS Action Committee, Boston, MA
Ledia Martinez, M.D., M.P.H., Office of HIV/AIDS Education, American Red Cross, Washington, DC
Brenda Moon, The George Meany Center for Labor Studies, Washington, DC
Barney Singer, J.D., Assistant Chief Counsel for Labor Policy, Small Business Administration, Washington, DC

2:45 p.m. Discussion

Discussant, B.J. Stiles, President, National Leadership Coalition on AIDS, Washington, DC

3:30 p.m. Commission Business

5:15 p.m. Adjourn

APPENDIX B: Resources on HIV/AIDS and the Workplace

A bibliography on HIV/AIDS as a workplace issue has been prepared for those desiring further information on topics covered in this report by the staff of the Business Responds to AIDS Resource Service of the CDC National AIDS Clearinghouse.

The bibliography contains information on:

- workplace policy issues,
- material for managers, supervisors, and employers,
- employee education material,
- workplace materials for the family, and
- materials for community involvement and volunteerism.

Copies of the bibliography can be obtained from:

CDC National AIDS Clearinghouse
Post Office Box 6003
Rockville, Maryland 20849-6003

Phone: (1-800) 458-5231; (1-301) 217-0023 (international calls)
Fax: (1-301) 738-6616
TTY: (1-800) 243-7012
(available in English and Spanish)

The Clearinghouse will also prepare materials in response to requests on other informational needs.