THE AIDS DISCRIMINATION DIVISION
of the
NEW YORK CITY COMMISSION ON HUMAN RIGHTS

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REPORT ON DISCRIMINATION AGAINST
PEOPLE WITH AIDS
AND
PEOPLE PERCEIVED TO HAVE AIDS

January 1986 - June 1987

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INTRODUCTION

The Human Rights Law of the City of New York prohibits discrimination in the areas of housing, employment and public accommodation on the basis of an individual's handicap or disability. The NYC Commission on Human Rights has taken the position that it has jurisdiction over all complaints of AIDS and AIDS-related discrimination under the protection afforded by the present statutory provisions. Consequently, the NYC Commission on Human Rights accepts complaints from and offers assistance to:

- People with AIDS
- People with ARC (AIDS-Related Complex)
- Those who have tested HIV antibody positive
- Members of a group considered to be at risk for AIDS
- Family members, co-workers, lovers and/or friends of someone in the above four categories who believe they have been discriminated against because of their association with this individual.

The Commission received its first reported incident of AIDS discrimination in June, 1983. Thereafter the AIDS Discrimination Unit was established to document and respond to complaints of AIDS-related discrimination. Our mandate is a broad one -- to eliminate AIDS discrimination. To date, the Commission has received more than 750 reported incidents of AIDS-related discrimination. This report summarizes a representative sample of complaints received by the unit from January, 1986 through June, 1987. Because of the large increase in the number of reported discriminatory incidents, it is impossible to include them all within this report.¹

HIV-RELATED DISCRIMINATION

AIDS discrimination differs from other forms of discrimination in that it often occurs in a crisis setting and therefore does not lend itself to the normal legal process. If the oxygen company will not make a delivery, if the hospital bed

¹ An earlier report, covering the period November 1983-April 1986 contains summaries of the first 170 AIDS-related discrimination complaints received by the Commission. Copies are available upon request.
has not been cleaned in days, or if a dentist will not provide
treatment for a person with AIDS, the person affected cannot wait
the weeks or months necessary for a complaint to be filed, to be
investigated and to proceed to a public hearing. These
situations require an immediate response and an expedited
problem-solving approach – advocacy – is often our best tool.

We often speak of three components of AIDS discrimination:
fear, misinformation and prejudice. By identifying which factors
are operating in a given situation, we can better address the
underlying problem. Part of our role is to assist service
providers, community activists and persons with AIDS in
identifying incidents of discrimination. And, since most people
with AIDS, as well as the people who assist them, are unable,
because they are trying to survive or helping someone get needed
services, to deal with discrimination, it is the role of the
human rights agency to not only remedy the instant situation, but
to attempt to eradicate the problem at its core so that it does
not reoccur. Wherever possible the Commission attempts to take
the burden of AIDS discrimination off the individual's back.
Utilizing this systemic approach has proved to be very effective
in achieving this goal.

As the AIDS epidemic has spread, so too has the scope of
AIDS-related discrimination. Some segments of the public,
fearful of AIDS, have labeled and stigmatized "AIDS victims" and
singled them out for condemnation, mistreatment and discrimina-
tion. There is a growing group of people who do not have AIDS
but are nevertheless targeted for AIDS-related discrimination:
those who are perceived to be "AIDS risks". This group includes
intravenous drug users, homosexuals, prostitutes, Haitians,
homeless men and women, the poor, racial and ethnic minorities,
people known to have tested positive for HIV antibodies and
anyone who loves and cares for people with AIDS. We have found
that no one involved in the care or support system of a person
with AIDS is immune from adverse public reactions due to the
relationship.

Demographics of AIDS within New York City

AIDS crosses racial, ethnic, national origin, age, gender,
class and sexual orientation lines. In New York City, 55% of all
persons with AIDS are Black or Hispanic. This figure is greater

2 Fears often have to be acknowledged and examined before
information can be imparted. Misinformation is corrected by
asking people to explain their positions and then supplying data,
printed materials and speakers to educate them. Prejudice must
be identified as such, examined and discussed but ultimately
rejected as an unacceptable basis for action.

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than the 44% population figure for Blacks and Hispanics living in New York City. Because the percentage of Blacks and Hispanics with AIDS has increased over the last year (it was 53% in 1986), we must assume that Blacks and Hispanics are currently being diagnosed at a much higher rate to effect this overall percentage.

As of June 1987, intravenous drug users constitute 30% of all adult AIDS cases in New York City. (An additional 5% of adult AIDS cases were men who both used intravenous drugs and had unprotected sex with other men.) In part because drug use is subject to criminal prosecution, it has been difficult to establish lines of communication with members of this population.

Gay men of all races continue to be targets of AIDS discrimination. Still, many people continue to believe that all persons with AIDS are white, gay men. In New York City, 35% of the homosexually active men with AIDS are Black or Hispanic. This raises other issues about the effects of homophobia within all communities. But regardless of race, merely "looking gay" may result in assumptions being made about an individual's risk of contracting AIDS and often leads to loss of jobs, housing and access to health care.

AIDS and HIV-related discrimination have had a devastating impact on women's lives in a multitude of ways which extend far beyond medical issues. In our society women often serve as primary caretakers for the sick -- whether as mothers, friends, wives, sisters or health care providers. Many incidents of discrimination were reported by women who do not have AIDS but rather care for or support a person with AIDS. The burden placed on women is tremendous. As caretakers they watch their loved ones endure the pain and humiliation attendant to sickness and discrimination. And if they themselves become HIV antibody positive or contract AIDS, the immediate impact on the extended family can be devastating. Antibody status has even been used as a basis to charge that a woman is an unfit parent.

3 On the national level, the statistical gap is even wider: while Blacks comprise only 12% of the total population, more than 24% of those with AIDS in the United States are Black. Similarly Hispanics, who comprise only 6% of our national population, represent 14% of all people with AIDS in the United States.

4 i.e. discrimination which is due to the person's having been diagnosed with AIDS or any other HIV-related disease; or because the person is HIV antibody positive; or because the person is perceived to be any of the above. Note: HIV stands for Human Immunodeficiency Virus, thought to be the cause of AIDS.

5 In 1986, 20% of the 314 AIDS-related complaints (and in the first six months of 1987 - 21% of the 300) brought to the Commission involved women.
Although present statutory provisions do not include discrimination against people who are incarcerated or under the supervision of the parole or probation system, incidents of human rights violations related to AIDS are increasingly being reported to the Commission from within the criminal justice system. The rate of AIDS among inmates in the NY State Correctional System has jumped from 30+ during 1985 to 80+ during 1987. The Commission documents these reports of discrimination, provides information and educational materials and, where appropriate, contacts corrections authorities in an effort to resolve problems.

Because so many communities are affected by AIDS, a wide variety of issues arise, all of which merit our attention and response. And that response is a continuing foray into a new and compelling area of discrimination law. The Commission joins others who concern themselves with the problems related to this tragic epidemic in summarizing and documenting what our experience has been since 1983.

The incidents related in the body of this report are representative summaries of individual and systemic complaints. By systemic, it is meant that the problem is company- or industry-wide, that a tacit or written policy exists which would adversely affect any person with AIDS or perceived to have AIDS who came into contact with the policy. This type of complaint is common and it is significant in that the number of people adversely affected by the practice may well be much higher than the number of reports received. For every report of systemic discrimination received, we must consider that scores of people with AIDS or those perceived to have AIDS may have been denied services, jobs or housing. By addressing areas of systemic discrimination, the Commission has a major impact against AIDS-related discrimination.

To assist the reader, complaints have been grouped by category -- employment, housing and subdivisions of public accommodations. Seeing these complaints in type-groups furthers an understanding of the similar and recurring nature of the problems. At the beginning of each section there is a brief explanatory statement about the particular problems surrounding each issue.

NOTE: Statistics appear at the end of the report.

EMPLOYMENT

Because AIDS is construed to be a physical disability, adverse decisions about the hiring, firing, promotion or terms
and conditions of someone's employment, if based on an individual's having been diagnosed with AIDS (or the perception that someone has or could develop AIDS), are prohibited under the human rights law.

In the last year, the Commission has observed an encouraging trend among large employers to seriously examine AIDS as a workplace issue. Many personnel officers and law firms representing employers contacted the Commission and requested that the AIDS Discrimination Unit assist them to formulate rational, nondiscriminatory policies regarding AIDS. Despite this trend, employees -- particularly those in jobs with a great amount of client contact (e.g. restaurants, hotels, transportation) -- continued to report AIDS-related discrimination.

Many incidents result in termination. Lack of accurate information about the syndrome often prompts irrational reactions from co-workers and employers alike. Mere mention by a seemingly healthy individual of involvement with someone who has AIDS can lead to the loss of employment. After accepting such complaints, the Commission was often able to assist complainants in obtaining reinstatement or financial settlements. The Centers for Disease Control has determined that no precautions need be taken in most work environments and has issued guidelines accordingly. Increasingly, through education, employers and employees have begun to understand that AIDS is not communicated by casual contact.

Employers, hoping to avoid any disruption of the work environment, often terminate employees with AIDS to pacify frightened staff members. It is imperative that all employers be advised that AIDS-related discrimination is against the law. An additional impetus is provided by the reminder of the expense of time and money which may have to be devoted to dealing with a discrimination suit, should an employee with AIDS choose to fight an unlawful termination.

Reports have been received that some insurance companies, reacting to the heavy burden of AIDS-related health care costs, are pressuring employers to determine, prior to hire if they can, the likelihood of a potential employee contracting AIDS. The ELISA Blood Test, which tests for the presence of antibodies to HIV (Human Immunodeficiency Virus, the agent generally thought to cause AIDS) and the back-up Western Blot test, are the methods most commonly used by employers to screen prospective and current employees. The public and the media frequently mistake this as an AIDS test and perpetuate the erroneous assumption that those who test HIV antibody positive have or will soon get AIDS. A positive test result does not mean an individual has or will get AIDS; it indicates exposure to a virus associated with the syndrome. Yet willingness to be subjected to the test is sometimes a pre-condition -- albeit an illegal one -- to employment, thus placing job applicants in a very difficult situation.
The Commission investigates allegations of discriminatory employment practices to determine whether employees with AIDS have been treated differently from other employees. As discriminators become more sophisticated, seemingly neutral policies and decisions must be closely scrutinized to ensure that they are not a subterfuge for discrimination or applied in an arbitrary manner which adversely affects employees who are perceived to have or be at risk for AIDS. Below are several employment discrimination reports:

EMPLOYMENT DISCRIMINATION CASES

SEPTEMBER 1985
EMPLOYMENT/PERCEIVED AIDS/HIV ANTIBODY TESTING

A woman from Brooklyn, whose boyfriend had died due to complications caused by AIDS, called with a problem. She had confided in a co-worker the cause of her obvious grief and soon thereafter no one in the office would speak to her. She called because she had just been told by the personnel director that she was being placed on "indefinite leave without pay" until she could "prove" that she doesn't have AIDS. He said he "had to" let her go because two other employees "threatened to quit and sue the company" if she was allowed to remain on the job. She called the Commission only to find out where she could "get the AIDS test." We explained that 1) before she considered taking the test for HIV antibodies, she should be aware of the possible repercussions she might experience if she tested positive, 2) she represented no health risk to co-workers, and wouldn't even if she did have AIDS, and 3) her employer was violating her civil rights and she was entitled to file a complaint with the Commission to rectify the situation. We offered to speak directly to her employer to explain these facts. Jurisdictional, but no complaint was filed.

NOVEMBER 1986
EMPLOYMENT/TERMINATION/ACTUAL AIDS

A man who worked as an instructor for a beauty school for a number of years took an authorized sick leave. During that leave he was diagnosed with AIDS. When his health stabilized and he attempted to return to work, the school refused to reinstate him because of an alleged hiring freeze. The man then filed a discrimination complaint with the Commission and the school admitted to the Commission investigator that they refused to permit the man to return to work because of his AIDS condition. Though the man provided documentation from a doctor confirming
his ability to work, the school insisted a person with AIDS could not perform the job. The Commission investigation supported the complainant's allegations and a public hearing will be held to resolve the matter.

MAY 1987
EMPLOYMENT/ACTUAL AIDS

A teacher whose employer did not know he had AIDS had been paying $1,000 per month out of his own limited salary because he felt that he couldn't risk submitting a claim to his insurance company to recover the cost of the life-saving but extremely expensive drug therapy (AZT) he was undergoing. Because the drug is considered AIDS-specific and has been widely mentioned by the media in connection with AIDS, he feared that the insurance company would notify his employer of his illness and would be terminated. We called his insurance agent and then reported back to the teacher the nature of the confidentiality controls which governed his situation. We also assured him that, if he were terminated because his employer discovered he had AIDS, the Commission would be there to accept, investigate and hopefully remedy his discrimination complaint.

FEBRUARY 1987
EMPLOYMENT/TERMINATION/ACTUAL AIDS

A man with AIDS worked as a manager for an international airline for many years. When illness required him to take sick leave, the company granted him a one month absence. However, later requests for additional sick time and a reduced work schedule were denied. The man filed a complaint with the Commission, alleging employment discrimination and pointing out that the company permitted managers with non-AIDS-related illnesses to take unlimited sick leave. The Commission negotiated a settlement whereby the Complainant received $12,000 compensation and the employer agreed to continue to pay for the man's health insurance for two years.

MARCH 1987
EMPLOYMENT/TERMINATION/ACTUAL AIDS

The brother of a woman diagnosed with AIDS called to report that, when his sister's employer visited her at the hospital and learned about her diagnosis, he fired her. The brother said that she worked as a secretary for a small firm of only two employees. The Commission attempted to resolve the situation through advocacy but was not successful. Due to a lack of jurisdiction over employers which have fewer than three employees, we were unable to accept a formal complaint from the woman.
MAY 1987
EMPLOYMENT/HIV ANTIBODY TESTING

An advertising executive called the Commission to ask if potential employers can require that applicants take the HIV antibody blood test. We told him that this is an illegal requirement and advised him that he could file a complaint if he was denied employment for which he was otherwise qualified because of a positive result or due to his refusal to take the test. He would not divulge the name of the company, but informed us that it is a large advertising firm. The job he was applying for was "very high level" and he felt he couldn't refuse to take the test nor could he file a complaint because the advertising industry is "a small town" and everyone in the business would know that he'd "gone outside." He felt his advertising career would be over if this occurred and so he decided to take the test. We did not hear from him again.

JUNE 1987
EMPLOYMENT/VERBAL HARASSMENT/PERCEIVED AIDS

A gay male government employee called to say that he held the elevator door open for a female co-worker who thanked him and then commented to a male co-worker that the gay man had acted "like a gentleman." The male co-worker responded that where he comes from, they "don't call them gentlemen," that such "gentlemen use their charms to give everyone AIDS." The Commission alerted the co-worker's supervisor, who then met with both men. The co-worker apologized to the complainant for his offensive remark and the supervisor informed the co-worker that discriminatory remarks would not be tolerated by management.

APRIL 1987
EMPLOYMENT/TERMINATION/PERCEIVED AIDS/HIV ANTIBODY TESTING/CONFIDENTIALITY

A woman who worked as an intensive care unit nurse at a private hospital for six years was contemplating becoming pregnant and, for this reason, requested the HIV test offered by her employer. She first queried the administration about guarantees of confidentiality regarding the test result and was assured that the result would be "absolutely confidential." When she tested positive, confidentiality was immediately violated. The hospital first told her she had the choice of accepting reassignment to an area not in her field of expertise or resigning and accepting one month's severance pay. The Commission accepted her complaint and, after investigating the matter, found that the Complainant had indeed been discriminated against. If the situation cannot be resolved, a public hearing will be held on the matter.

MAY 1987
A supervisor at one of the city's anonymous HIV test sites called the Commission because he was taken aback by the volume of mandatory test requests being presented by clients. He had noted a large number of people presenting letters from dentists, the Peace Corps and other potential employers, directing them to take the HIV antibody blood test with negative results as a requirement for treatment or employment. He said the people indicated little or no knowledge of the import of the test; they only knew that they wanted to be treated by their dentist, keep their job, etc. We advised our caller to inform people in this situation of their right to file a complaint with the Commission if, due to a positive test result or a refusal to take the test, they are denied a job or services. In addition, he agreed to leave the Commission's "AIDS-Related Discrimination Is Illegal" flyers and brochures in the reception area of the clinic.

JANUARY 1985
PROSTITUTES/BIAS/VIOLENCE/PERCEIVED AIDS

A church worker who deals with prostitutes in the course of her work called the Commission to express concern about the AIDS backlash she sees affecting prostitutes - particularly streetworkers, who are vulnerable to attack in their open environment. She reported an increase in arrests, harassment and violence towards prostitutes. No jurisdiction.

HOUSING

Some of the most devastating discrimination reports brought to the Commission involve housing. In such cases, not only does the person with AIDS have to cope with a swift decline in health but the individual also must face the possibility of having nowhere to live during this crisis. Landlords have been charged with refusing to make repairs or provide essential services, interrupting heat and hot water (vital issues when one is well; life-threatening factors for those in poor health) and harassing people with AIDS in an attempt to illegally evict them from their apartments. Misinformation about the syndrome, often compounded by pre-existing biases about gay men, IV drug users, immigrants or any other group connected by popular opinion to AIDS, may generate the irrational fears which underlie every discriminatory incident.

The spectre of discrimination does not stop with the person with AIDS. Life partners of people with AIDS have had to battle landlords in the courts to preserve their right to remain in an apartment after the named tenant with AIDS dies. It is
often difficult in such situations to separate the landlord's desire to reap the economic benefit of a vacant apartment from specific AIDS fears which may be present. But at times, it is clear that the landlord, in an opportunistic stroke, utilizes AIDS panic to his or her financial gain.

The Commission has also received complaints of discrimination in the rental of commercial space. Organizations which provide services to people with AIDS have been denied leases or have been pressured by landlords to limit the access of people with AIDS. Medical professionals (doctors, dentists and laboratories) have also reported termination of their leases or refusal to rent when it becomes known that their patients include persons with AIDS. Several housing discrimination case summaries follow:

HOUSING CASES:

OCTOBER 1984
HOUSING/ACTUAL AIDS

The wife of a man with AIDS called to say that her heat and hot water had been turned off by her landlord in an effort to drive the family out, due to his fear of AIDS. She only wanted the services restored and did not have the time to devote to a discrimination complaint. We made several phone calls, suggested referrals and the situation was resolved.

APRIL 1986
HOUSING/ACTUAL AIDS

A young dentist initiating a private practice subleased office space from a senior, established practitioner. After working together successfully for the first months, the senior dentist learned that the younger dentist was treating patients with AIDS and had agreed to having his name placed on a professional services referral list for people with AIDS-related conditions. The senior dentist insisted the younger dentist cease treating AIDS patients and remove his name from the referral list. When the younger dentist announced his intention to continue to offer his services to the AIDS-affected community, the senior dentist terminated the sublease. The younger dentist filed a complaint with the Commission, a public hearing was held on the matter and all parties are now awaiting a decision.

JANUARY 1987
HOUSING/PERCEIVED AIDS

An organization attempting to establish a national AIDS hotline signed a lease with a realty company for the rental of office
Prior to the date of occupancy, the company denied the hotline organization keys to the space, explaining that other tenants objected to the presence of an AIDS-related group. There was apparently a fear that people with AIDS might work in the office space. The AIDS hotline organization filed a complaint with the Commission. A speedy investigation ensued, probable cause was found to credit the allegations of the complaint, and the space was "posted" by the Commission (a process whereby the space is officially removed from the marketplace until the matter is resolved) all within approximately 24 hours of the filing of the complaint. Given the impetus of this process, the AIDS hotline director found he was then able to negotiate with the landlord to successfully obtain suitable office space.

MAY 1987
HOUSING/ACTUAL AIDS

A man with AIDS, who lived in a Manhattan residential building which had at least three other tenants with AIDS, was suddenly subjected to many offensive tactics allegedly perpetrated by the owner, superintendent and handyman, all of whom had recently begun to occupy space in the building. During the winter months, the landlord repeatedly left the building on weekends, first shutting off the heat and locking the entrance to the boiler room. On other occasions the handyman assaulted and threatened two tenants in the building, referring to each of them as "a faggot who has AIDS." The Commission accepted a complaint from the man with AIDS, found probable cause, and is attempting to resolve the matter before proceeding with the scheduled hearing.

PUBLIC ACCOMMODATIONS

The term "public accommodations" as defined in the New York City Administrative Code, includes all establishments which provide goods and services to the public. Because owners and directors of these places of public accommodation are subject to the whims and prejudices of their clientele, there have been a large number of reported incidents where persons with AIDS were excluded from or denied access to a place or service. Often the explanation offered is that staffmembers threatened to quit or that business might decline if a person with AIDS was given access. The law forbids this discriminatory practice and the Commission has acted accordingly.

Many respondents, when faced with a complaint of AIDS-related discrimination, have tried to challenge the Commission's jurisdiction to accept and investigate these complaints. It is indicative of the fear and concern about AIDS which permeate the public arena. As a society we must resist succumbing to misinformed panic. As a human rights agency, it is imperative
that a clear message be repeated to all: AIDS-Related Discrimination is Illegal and Will Not Be Tolerated.

DISCRIMINATION IN PUBLIC ACCOMMODATIONS

This section is broken into subcategories, because the term "Public Accommodations" includes not only public places, but services available to the public, including health-related services. Naturally, people with AIDS must seek a wide variety of health-related services and they experience discrimination in this pursuit. For convenience, the section is broken into: dentists and dental clinics; hospitals; health clinics; drug treatment facilities; and other health-related facilities or services.

DENTISTS AND DENTAL CLINICS:

As of the date this report is being issued, the Commission has accepted 25 complaints of discrimination against private dentists and dental clinics. Several other dental complaints were settled without resorting to the formal complaint process. This is a compelling arena of discrimination because of both the widespread denial of dental services faced by people with AIDS and the urgent need for such services. Because people with AIDS suffer immune deficiencies of varying severity, a simple infection can, if untreated, develop into a life-threatening crisis. The Commission has settled complaints; reversed the discriminatory policies of several dental practices; obtained treatment and/or monetary compensation for complainants; responded to a jurisdictional challenge posed by a leading NYC dental society; and, through active pursuit of all the foregoing, has brought the debate into the public arena. The result of focusing attention on the problem has been a series of meetings between dental societies in the New York area, the NYC Department of Health and the Commission. A helpful, constructive dialogue has ensued and the ripple effect from this exchange may well have a positive effect on the national level. Representative dental complaints have been included in this report to indicate the scope of this problem:

MARCH 1987
DENTIST/DENIAL OF SERVICES/ACTUAL AIDS

A man with AIDS saw a dentist in private practice to arrange for necessary dental care. During the course of the visit he voluntarily informed the doctor that he had AIDS. The doctor
completed the examination, took X-rays, suggested a referral for root canal work and accepted payment for services. However, after the man left his office, the dentist sent him a letter returning both check and X-rays and explaining that his office could not treat people with AIDS. The doctor claimed he could not properly sterilize his instruments and noted that the American Dental Association, the Centers for Disease Control and the New York State Department of Health have issued guidelines recommending adequate and necessary sterilization techniques for all patients for all viruses (including hepatitis and AIDS). The Commission accepted a complaint from the man with AIDS. The dentist, through his professional affiliation, has challenged the Commission's jurisdiction over private practice dentists and this issue is currently before an administrative law judge for determination.

OCTOBER 86
DENTAL CLINIC/DENIAL OF SERVICES/ACTUAL AIDS

A man who belongs to an employee's union arranged to receive dental care from the union's dental clinic. He voluntarily informed the clinic of his AIDS diagnosis. The dentist refused to treat the man, explaining that their policy prohibited serving people with AIDS at the clinic. Instead such clients were referred to a hospital dental clinic for treatment. The man filed a discrimination complaint which challenges both the legal and scientific basis for this policy. The Commission has accepted and is attempting to resolve complaints from this man and two other members of the union who related similar experiences. A formal hearing is scheduled on these complaints.

JAN-JUNE 1987
PRIVATE DENTAL CLINIC/ACTUAL AIDS

Many reports were received at the Commission that a chain of private dental clinics in New York City had a firm policy of refusing to treat anyone with AIDS. A Commission investigator called the clinic, ostensibly to arrange an appointment. Once a treatment date had been scheduled, the investigator said that he had AIDS. The receptionist apologized and said that, in that case, the clinic would not treat him. No referral was offered until the investigator pressed the clinic agent for some suggestion as to where he might obtain treatment. The Commission has accepted two individual complaints against this clinic; both were resolved to the satisfaction of the complainant. The Commission is now planning to place test calls to the clinic to see if the policy has altered and, if not, Commission-initiated complaints will be filed against the entire chain.

FUNERAL HOMES
The Systemic Approach to Investigation
During the period covered by this report, the Commission's AIDS Discrimination Unit regularly attempted to settle individual complaints of funeral home discrimination on a case-by-case basis. Then in July of 1986 the Commission charged three funeral homes with AIDS discrimination. These charges were not filed by an individual complainant but by the Commission itself. They were based on GMHC's (Gay Men's Health Crisis') reports of widespread discrimination against people with AIDS by the funeral homes. The funeral homes were charged with maintaining an alternate, higher price structure for services when the death was AIDS-related; insisting on unnecessary and costly funerary appurtenances (e.g. special seals and casket covers); refusal to embalm; or outright refusal to deal with the body in question.

One of the homes charged challenged the Commission's jurisdiction in court. The resulting court decision supported the Commission's jurisdiction to investigate such complaints. It further clarified three points: 1) that funeral homes are covered in the law's prohibition against discrimination in the area of "public accommodation;" 2) that people have rights not only in life, but also in death, and are entitled to be treated with dignity in both states; and 3) that family members and life partners may file complaints of AIDS discrimination on behalf of the deceased, despite the fact that they themselves do not have AIDS.

As a result of this decision and the continuing efforts of the Commission, concerned community groups and certain leaders within the funeral industry, this problem has been sharply curtailed, though not completely eradicated. As part of our response to this type of discrimination, Commission representatives met with representatives of funeral directors' associations and participated in large educational forums for one association's membership.

In 1987, the Commission again utilized this process and charged an additional five funeral homes with discrimination. Of the eight Commission-initiated complaints which were filed during 1986/87, five have been settled. Each of those funeral homes agreed to alter their policies to conform to the law. The three remaining cases are either under investigation or in the process of conciliation. Two funeral home discrimination case summaries are listed below:

FUNERAL HOME CASES:

JULY 1986
FUNERAL HOME/ACTUAL AIDS/PUBLIC ACCOMMODATION
The mother of a man who had recently died due to AIDS-related complications called to report that a funeral home in Queens charged her several hundred dollars extra for embalming her son's body and also required her to purchase a "special kit" that was totally unnecessary. We contacted the director of the funeral home and the extra charges were dropped. He also agreed to alter the funeral home's policy to deal in an equitable manner with the bodies of those who die due to AIDS complications.

AUGUST 1986
FUNERAL HOME/ACTUAL AIDS/PUBLIC ACCOMMODATION

A woman whose seven year old son had died due to AIDS-related complications called. She had been unable to find a funeral home that would provide both embalming and viewing services. She had finally found one funeral home which agreed to allow viewing, but they required that the mother purchase an unnecessary glass casket cover which cost an extra $500. We contacted the funeral director and reminded him of the Commission's agreement with the funeral association of which he was a member - that full services, including embalming and open casket viewing, would be provided to the families and friends of people who have died due to AIDS-related complications at no additional cost, unless additional costs were incurred by the funeral home. The situation was resolved.

HEALTH CARE FACILITIES

Unlike the large number of allegations of employment discrimination based upon the perception of AIDS in a healthy individual, the majority of reports alleging discrimination by health-related public accommodations such as hospitals and clinics are, naturally, from people who actually have AIDS. Many of the systemic reports involve service providers and life-threatening situations; there can be very serious consequences to discriminating against a person with AIDS.

Doctors, dentists, ambulance drivers, hospital cleaning and food preparation staff, laboratory technicians and therapists have reportedly refused to deal with AIDS patients who require their services. The range of rejections by service providers extends to nursing homes, most of which categorically deny access to patients with AIDS. Here the social worker rather than the patient with AIDS usually has direct knowledge of the discrimination and it is this individual who contacts us. The scope of service rejections is devastating.

HOSPITALS:
A large number of reports of AIDS discrimination emanate from the hospital setting. Because the individual is usually still a patient within the hospital when the report is received and is thus continuing to experience the problem, the Commission's usual route is to call the hospital's patient representative or another appropriate administrator to see if the difficulty can be remedied without resorting to a formal complaint. This process has proven very successful and most complaints are resolved within 24-48 hours. On other occasions, the family of a person who has died of AIDS-related complications chooses to file a complaint of abusive treatment by a hospital after the event. In such cases, there is the luxury of time and thus a full investigation can be conducted. A few examples of the types of hospital complaints the Commission received are listed below:

HOSPITAL CASES:

APRIL 1987
HOSPITAL/ACTUAL AIDS

The mother of a young blind man with AIDS (who has since died) stated that he was subjected to judgemental and moralistic treatment during a stay at a public hospital. During the emergency room intake procedure, doctors embarrassed him with inappropriate questions about his sexuality and specific queries regarding the sexual practices in which he engaged. This questioning delayed the delivery of necessary care. When he refused to answer these questions, staff repeatedly threatened, "You don't want to die, do you?" During his subsequent hospital stay, nurses regularly refused to change his bed sheets, provide him with a bedpan, serve him meals or give him a blanket at night. The hospital also, the mother charged, failed to supply a companion for him, as would be their usual practice were it not for the AIDS diagnosis. Many staff members also openly expressed antipathy towards patients with AIDS. The mother filed a complaint and the Commission is investigating the matter, while also meeting with hospital representatives to ensure that non-discriminatory policies are definitely in place at this time.

DECEMBER 1986
HOSPITAL/DIALYSIS REFUSAL/ACTUAL AIDS

A social worker whose client had been diagnosed with AIDS and was in immediate need of dialysis called to report that her client was being referred back and forth between two hospitals. Both refused to provide him with dialysis, alleging that they had no available beds. The Commission was able to resolve the situation when, after several phone calls from a Commission advocate, one of the hospitals agreed to provide the man with immediate dialysis.
APRIL 87
DOCTOR/HOSPITAL/REFUSAL OF TREATMENT/PERCEIVED AIDS

A gay man in need of medical care visited a physician whom he located through a listing supplied by his health plan. While responding to the doctor's inquiries regarding his medical history, the man said he was gay and added that he did not have AIDS. The doctor skeptically questioned the man's assessment of his health status and refused to perform the required procedure, instead referring him to a specialist at a hospital. The specialist, allegedly acting in accordance with hospital policy, refused treatment and made a referral to another facility - again specifically because of the man's sexual orientation. The original doctor and the specialist informed the Commission that "health concerns" justified their automatic referral of any gay patient, regardless of AIDS or HIV antibody status, to outside facilities. The man filed a complaint with the Commission and the matter is presently under investigation.

APRIL 87
HOSPITAL/DISCRIMINATORY TREATMENT/ACTUAL AIDS/CHILD

An eight year-old girl with AIDS was admitted to a public hospital and was subjected to abusive treatment during her stay. The staff prohibited her from using the common bathroom; nurses would not serve her meals and instead left trays in the hallway; her wheelchair was labelled in an offensive manner; and one nurse threatened, "If you don't stay in your room, I will tie you to your bed." The Commission accepted a complaint from the child's mother and was investigating the matter when the child died. The mother has expressed her continuing interest in pursuing the matter in the hope that "this won't have to happen to another child." The investigation will therefore continue.

JUNE 87
HOSPITAL BARBER/DENIAL OF SERVICES/ACTUAL AIDS/SYSTEMIC

The lover of a man hospitalized with AIDS called to report that the hospital barber refused to give patients diagnosed with AIDS haircuts because of the nature of their illness. After the Commission contacted the hospital administration, another barber who is willing to provide hair-cutting services to all patients regardless of illness or disability was hired. Jurisdictional; no formal written complaint filed.

OTHER CLINICS:

MAY 1987
A man with ARC called the Commission. He had responded to a clinic's advertisement which appeared in a gay publication. The ad stated that the clinic specialized in dealing with venereal warts. The man used the clinic's services, informing them that he had been recently diagnosed with ARC. He said the operation he then underwent at the clinic was "botched" and he ended up having to spend a month in bed. Insurance bills then came in, listing a price much greater than that quoted to him by the clinic. The caller said he suspects the clinic preys on gay men, knowing that many are in no position to question an inflated bill, since they fear the insurance company might find out they are gay, HIV positive, or have ARC or AIDS. We referred the caller to the Consumer Fraud Unit of the Attorney General's office.

A gay man called to report that when he visited a private medical clinic, he was told by the attending nurse that because of the AIDS epidemic, any patient suspected of having a sexually transmitted disease was required to be treated only at a city (public) clinic. The man left the clinic and paid extra money to be treated elsewhere. The Commission intervened and as a result the clinic reimbursed his expenses, sent him a letter of apology and changed its policy so that all patients will receive prompt attention at this facility.

Because of the connection between intravenous drug use and AIDS, both active and recovering intravenous drug users are experiencing discrimination. Reports have been filed with the Commission that certain drug treatment facilities require HIV testing before admission, and that others eject those suspected of having AIDS or ARC or being HIV-positive. Residents of drug treatment facilities and persons who are registered with outpatient methadone clinics have complained of discrimination experienced in the neighborhood of the facility. And former intravenous drug users have experienced difficulty obtaining medical services after admitting to past IV drug use.

The director of a live-in, drug-free treatment program called to say that the residents experienced difficulties obtaining services in the neighborhood immediately surrounding the
residence. He said there was a strong perception among neighborhood merchants that the facility's residents were "AIDS carriers" because they had been intravenous drug users. For this reason, residents had been denied entrance to various stores. We advised him of the illegality of this practice and suggested he direct residents to the Commission when this next happened.

JANUARY 1987
DRUG REHABILITATION PROGRAM/DENIAL OF SERVICES/PERCEIVED AIDS/HIV

A woman called to say that she was dismissed from a rehabilitation program located in Harlem because the director of the program found out that she is HIV antibody positive. The Commission was able to call program officials and resolve the situation by providing AIDS education for the director of the program and helping him to formulate a non-discriminatory policy regarding clients who are known to be HIV positive or who have been diagnosed with AIDS or ARC. The caller was readmitted to the program.

MAY 1987
METHADONE CLINIC/DENIAL OF SERVICES/PERCEIVED AIDS/SYSTEMIC

A Physician's Assistant working with substance abusers at a city hospital called the Commission to report that a methadone clinic with which the hospital dealt terminated a number of patients who, because the patients exhibited candidiasis (or another opportunistic disease associated with AIDS) were perceived to have AIDS. She said this was a regular occurrence but patients wouldn't take action against the clinic because they feared reprisal. We advised her of the protection afforded complainants under the law, and she recently referred an aggrieved individual, from whom the Commission took a complaint. That matter is presently under investigation.

JUNE 1987
DRUG REHABILITATION CENTER/PERCEIVED AIDS

The administrator of a live-in drug rehabilitation center ejected a man who had been successfully recovering from his addiction after participating for two months in the program. They perceived him to have AIDS and openly told him that this was the reason for forcing him out of the center. He was not provided with any referrals to other facilities and, having no resources of his own, necessarily relocated to a men's shelter. He filed a complaint and the Commission is now investigating the matter.

OTHER PUBLIC ACCOMMODATIONS

-20-
APRIL 1987
ABORTION CLINIC/DENIAL OF SERVICES/HIV STATUS

A woman called the Commission because she had been ejected from a Bronx abortion clinic when, during a regularly scheduled appointment, she informed the clinic staff that she is HIV-positive. She said they just told her to "get out." We urged the woman to come in and file a complaint but she did not do so, nor did she reveal her own name or the name of the clinic. We were thus precluded from further action.

NOVEMBER 86
RESIDENCE FACILITY/ARC

The Commission was contacted by the parents of a 17 year old severely retarded girl who had been living for some time in a residence specializing in the care of the severely retarded. She was sent to a local hospital for some tests and while in the hospital she was diagnosed with ARC. The home where she had been living contacted the mother and stated that they would not take her daughter back. Their primary reason for this decision was that the staff were afraid of AIDS. The Commission offered to file a formal complaint if necessary but suggested to the parents and the staff of the residence that a problem-solving approach might work best. The family met again with the director of the home and suggested education for the staff as one solution. After many conversations with the administrators of the residence, the Commission arranged for the facility to be visited by a member of the AIDS Education Unit of the city's Department of Health. A session was held wherein the fears and questions of staff were raised and addressed. This approach worked and the situation was resolved.

MARCH 1987
POSTAL SERVICE/ACTUAL AIDS

A major postal/delivery service refused to pick up packages from or deliver packages to a residence facility because it housed people with AIDS. The director of the residence filed a complaint on behalf of the residents and the Commission worked with all parties to arrange an amicable settlement through arranging AIDS education for the delivery service staff and designating a contact person within the organization who will deal with any future difficulties.

JANUARY 1987
SOCIAL SERVICES/ARC

A woman diagnosed with ARC had been trying to meet with her social worker for over a month when finally she called the
Commission to complain. She stated that every time she had a scheduled appointment, the social worker called and cancelled the meeting. The caller also alleged that the last time she was to speak with the social worker she was asked to wait outside the building and was finally interviewed by the director of the Center who told her that the social worker did not want to deal with someone who had been diagnosed with ARC. We referred the woman to the Crisis Intervention Unit of the city's Human Resources Administration, a unit which deals with the service problems of people who have AIDS or ARC.

NOVEMBER 1986
AIDS/PUBLIC ACCOMMODATION/UTILITIES/HOSPITAL SETTING

A doctor called from Harlem Hospital because a telephone installer flatly refused to install phones in the rooms of AIDS patients. This individual was the foreman of the work-crew assigned to the hospital and thus none of the workers would agree to perform this service. As a result, at least two patients with AIDS did not have telephones. Through advocacy the Commission was able to resolve the situation and insure that the telephones were connected. To date, there have been no more complaints from Harlem Hospital regarding this issue.

MAY 1987
RETAIL STORE/PERCEIVED AIDS

The owner of a sportswear store prohibited a gay male customer from trying on a pair of pants he was considering purchasing. He was told by the store's owner that he would have to buy them without trying them on. The salesperson further refused to allow the man to return or exchange the pants if he decided to buy them, explaining that the clothing would be "contaminated with AIDS." When the customer protested that AIDS is not transmitted via clothing, the salesperson replied that other customers might not know this and might therefore become alarmed. The man filed a complaint and the Commission is investigating these allegations.

A NOTE ABOUT INSURANCE:

The Human Rights Law does not specifically exclude insurance from its definition of "public accommodation." However, the Commission's Legal Department is reviewing case law to determine if we are precluded from accepting complaints against insurance companies. Meanwhile, the Commission is keeping a record of reported incidents of discrimination by insurance companies in order to document the problem. Complaints have been made against insurance companies for their refusal to cover treatment costs for people who have AIDS, their arbitrary
termination of insurance coverage and their repeated contention that AIDS constitutes a pre-existing condition and is therefore a valid basis upon which to cancel a policy. This has been reported even when an AIDS diagnosis occurs well beyond the end of a waiting period and although the patient had no prior knowledge of his condition. The New York State Commissioner of Insurance has issued a regulation prohibiting use of the HIV antibody test for determining eligibility for health insurance in New York State. The insurance industry has indicated that it will go to court to challenge this regulation.

CHILDREN:

A number of AIDS and AIDS-related discrimination cases involving children have been brought to the Commission. In 1986, 7% of all cases, (and in the first six months of 1986 2% of all cases) were brought on behalf of children. A sample of those cases follows:

JUNE 1987
CHILD/PERCEIVED AIDS/HIV TEST

The father of a three year old girl called because he had been contacted by the local office of a child welfare agency. As part of their investigation, he and his daughter (who were both on Medicaid) were ordered to take the HIV antibody test. This request was made because the office found out that his deceased wife was suspected of being HIV-positive. When he objected, he was told that this was in the best interests of the child and that the agency would remove the child if he refused to comply. Through advocacy, the Commission was able to halt the test request. It was then established that the agency's formal policy stated that HIV testing could not be required. In fact, such requests were supposed to be discouraged except where medically necessary. The test request was withdrawn and the agency has plans to clarify its policy on the issue and educate its personnel.

APRIL 1985
SCHOOL/PERCEIVED AIDS/CHILDREN

A female social worker, whose caseload included a man with AIDS, called to report that two of the man's three stepchildren (all of whom were stated to be "in excellent health") were being kept out of public school. One of the children, an eleven year old, attended a school where the officials discovered that her stepfather has AIDS; they immediately sent her home. The parents were told that she wouldn't be allowed to return because they "can't guarantee the safety of the rest of the children." To make matters worse, an official of the school called the officials of a school which another sibling attended (a ten year
old) and alerted them to the health status of the stepfather. The officials at the second school then decided to bar that child from attending. A doctor who is part of the AIDS team which works with the stepfather wrote the schools to state that there is no reason why the children should not be allowed to attend school. We suggested that all parties contact the AIDS Education Unit of the NYC Department of Health. The social worker informed us that an AIDS Education speaker went to both schools to calm their fears and as a result the children are now back in school.

SEPTEMBER 1986
SCHOOL/PERCEIVED AIDS/HIV/CHILDREN

A woman whose sister recently died of AIDS-related causes called because her sister's sons were directed by the headmaster of their school to take the HIV antibody blood test or not be allowed to return to school. The headmaster was contacted by the Commission and the situation was resolved.

OCTOBER 1986
SCHOOL/CHILDREN/PERCEIVED AIDS

A private school expelled a young child after learning that her aunt, with whom the child lived, had AIDS. The school first insisted the child receive a medical checkup, and then, fearing the loss of enrollment if others found out, unequivocally refused the child admission. The child's mother filed a complaint and the Commission found there was probable cause to credit the allegations of the complaint. The Commission will present the complainant's case at a public hearing in September, 1987.

PRISON, COURT AND PAROLE SYSTEM:

As mentioned earlier, a number of reports of AIDS and AIDS-related discrimination emanate from the justice setting. In 1986, 3% of all cases and in 1987, 17% of all cases involved the prison, court or parole/probation systems. Sample reports follow:

JUNE 1987
PRISON/COURT/HIV ANTIBODY TEST

A prisoner in a Westchester County facility had blood drawn for a hepatitis test. Without his consent, his blood was tested for HIV. Before the results were even known, his file was stamped "BEWARE BODY FLUIDS." When his court date came up, the prison guards refused to transport him to the courthouse. When the Judge asked why they wouldn't transport the man, the guards announced, in open court, that it was because "he has AIDS". A
newspaper reporter was present at the time and ran a story on the incident, naming the prisoner and stating that he had AIDS. Eventually, because transportation could not be arranged and also because of the fears of court officers, the Judge held the hearing at the prison. The blood test results then came back negative for HIV antibodies. The newspaper had since run a retraction of their story. No jurisdiction.

DECEMBER 1986
NYC PRISON/COURT/TRANSPORTATION/ACTUAL AIDS

A detainee at Rikers Island called the Commission to report that, because he has AIDS, his court dates were needlessly postponed or cancelled. As a result, he stated, his incarceration has been unnecessarily prolonged. He said that when he had recently been brought to Criminal Court in Brooklyn, he was left waiting in handcuffs in a cold truck outside the courthouse for over three hours. At the end of three hours, a corrections officer merely authorized his return to prison, without providing a reason for the delay. The next two times he was scheduled for court proceedings, corrections officials claimed they had not received notices from the judge ordering him before the court and therefore refused to transport him. The Commission, lacking jurisdiction to formally investigate these and similar matters, reported the allegations to the Office of Grievance Programs at the New York City Department of Corrections.

JUNE 1987
HIV/CONFIDENTIALITY/COURT SYSTEM

A woman called the Commission because she had been charged with assault. During the court session to hear the case, the person she allegedly assaulted stated that she had bitten him. He said that, if she would consent to take the HIV antibody test - and if she tested negative, he would drop the charges. The woman called because she had since gone to an anonymous test site and tested HIV positive. She didn't know what to do. We told her that the Commission doesn't have jurisdiction over the court system but, since no one had contracted AIDS from a bite, she should direct her lawyer to argue that the test is inappropriate. We contacted a lawyer who had successfully defended a woman from similar charges and arranged that he would speak to our caller's lawyer.

JUNE 1987
HIV TESTING/PAROLE SYSTEM

A counselor from an anonymous HIV test site called to report that three people came to the site requesting to be tested because their parole officers ordered them to do so. We arranged for AIDS education to be provided to the parole officers and alerted parole system administrators of the need to further educate their staff.
MARCH 1987
NYS PAROLE/HIV ANTIBODY TEST/PERCEIVED AIDS

A man who was recently released from a correctional facility called the Commission to report that his parole officer had ordered him to take the HIV antibody test to determine if he has AIDS. The Commission contacted the parole officer and the New York State Division of Parole, provided both with appropriate AIDS education and resolved the situation. The man did not have to take the test.

APRIL 1987
NYC PRISON/PHYSICAL VIOLENCE/ACTUAL AIDS

A detainee at Rikers Island called the Commission to report an incident of AIDS-related discrimination. While transporting a prisoner with AIDS to Bellevue Hospital to receive AZT treatment, a corrections officer commented: "You can take all the drugs in the world; you're all going to die." The caller alleged that the officer then hit the prisoner in the face with handcuffs and kicked him in the stomach. The prisoner required emergency room care including stitches on his face. The Commission reported these incidents to officials at the New York City Department of Corrections and the matter is being investigated.

BIAS & VIOLENCE:

This report touches briefly on the widespread problem of bias and violence directed towards those who have or are perceived to have AIDS. People with AIDS have been mortally attacked (and in one case set on fire) in their hospital beds; landlords have physically attacked tenants who have AIDS with lead pipes and knives in an effort to drive them from their homes; a residence for children, some of whom were thought to have AIDS, was burned to the ground before it could open its doors; and scores of reports have been received from gay men who, simply because they presented an exposed target on the street, were violently attacked by sociopaths who shouted anti-AIDS as well as anti-gay epithets throughout the assaults. Recognizing that AIDS stigma has become an issue affecting the stability of whole communities, the Commission's Bias Response Team works together with community groups (for example the NYC Gay and Lesbian Anti-Violence Project or a coalition of community boards in an area hard hit by AIDS) and the New York Police Department to monitor and investigate these incidents. It can only be hoped that, through continuing education, the attitudes which foster such attacks can be diminished. Bias/violence reports follow:
JUNE 1987
COMMERCIAL SPACE/PERCEIVED AIDS/BIAS

An AIDS information and referral center was established in the Richmond Hill area of Queens, New York. The group had located and leased commercial space and was engaged in their day-to-day operations when they experienced AIDS backlash firsthand. Although welcomed by some segments of the community, a coalition was formed by the Richmond Hill Block Association, the Richmond Hill Development Corporation and one state assemblyman to drive the center out of the space they legally occupied. This coalition attempted to pressure the landlord to break the AIDS Center's lease. An article appeared in New York Newsday, quoting the coalition as saying the Center posed "a risk to the community." The Commission assisted the Center in their effort to retain the commercial space they had leased and the field offices of the Commission continue to investigate the bias aspect of the situation.

AUGUST 1986
BIAS/VIOLENCE/PERCEIVED AIDS

Two groups of gay men were attacked in two separate instances on the same night, apparently by the same group of five golf club-wielding white men. (One of the gay groups was made up of three Hispanic teenagers; the other of two white men.) The gay men were beaten in both instances and, as a result, one of the teenagers had to be admitted to the hospital because of a wound incurred when he was hit in the forehead with a golf club. This gang preyed on gay men in the West Village because, as they phrased it, they wanted "to kill AIDS faggots." The assaults were reported to both the police and the Commission's Bias Response Team.

THE COMMISSION'S RESPONSE

What can be done about all these problems? The Commission's response has been multi-faceted. First, we have made full use of local civil rights law and other protections which now exist and can be called upon to facilitate solving the discrimination problems faced by people with AIDS.

Second, we have come to recognize, as have most other organizations dealing with people who have AIDS, that many problems can best be solved by assuming the role of ombudsman. By the creative use of advocacy, many problems can be resolved or settled very rapidly. Obviously, when a complainant is very ill or in an emergency situation, even a relatively speedy, traditional investigation may be impossible or inappropriate. Advocacy thus remains the best route and must become more widely available to those who suffer this type of discrimination.
Third, we have recorded all the complaints which have been brought to us. By documenting these problems, our intention has been to obtain clear indications of the nature and extent of AIDS and HIV-related discrimination so that we can begin to suggest and provide specific remedies.

Fourth, education remains critical and surely the best offensive measure. Effective education can not only deter transmission of the virus, it can also prevent the fear and ignorance which lead to the discrimination which causes so much suffering and severely undermines our best public health efforts to control the epidemic. Our role in the education process has been to apprise people of the civil rights aspects of this crisis and to encourage or incorporate transmission information and health education, when appropriate, as part of settlements or training sessions. Additionally, this year the Commission launched an intensive education campaign, involving both print and video formats, designed to educate the public about the illegality of AIDS and HIV-related discrimination.

There is also a need to continue to tackle rough issues: What of the constitutional and medical ethics of mandatory or routine HIV antibody blood testing? And will coercive measures undermine our best public health efforts? What effect does expanded testing have on the incidence of HIV-related discrimination? Where should test results be recorded and who should have access to them? How can we ensure confidentiality and prevent further discrimination? Though there has been much discussion about this issue, it is still unclear what controls must be legislatively instituted. In addition, because we see a trend toward the establishment of AIDS-segregated facilities (which on the one hand may upgrade the level of care afforded an individual with AIDS, particularly where discrimination is still rampant) we need to consider whether this segregation is the best long-range solution or will it perpetuate the stigma and increase discrimination? We must also find a way to acknowledge that public health and human rights are inextricably intertwined and must be recognized as necessary allies in the battle to halt this tragic epidemic.

Although the CDC has recently expanded the definition of AIDS, public health officials and community spokespeople continue to cite a severe underreportage, especially among those people who have HIV-related infections which are not categorized as AIDS. ARC (AIDS Related Complex) is covered under the Human Rights Law's protections for the disabled, but this fact has received minimal and confused coverage in the news. We know that the number of people with ARC is many times greater than the number with AIDS. People with ARC are, in many cases, quite ill. However, because people with ARC don't officially have AIDS, they are not always eligible for the services and assistance available to people with AIDS. They too are encountering discrimination, and there is still a need for a body of knowledge regarding the
experiences to which a person with ARC is subjected to be assembled.

It is the Commission's position that current legal protections must be fully utilized and that, where a lack of protection is noted, clear and comprehensive statements must be written into the law so that people with AIDS and those who are perceived to be high AIDS risks are fully protected from discrimination. The extent of bias and backlash and the devastating impact of the discrimination we have witnessed leads us to conclude that confidentiality must be rigidly adhered to; that mandatory testing is a counterproductive and dangerous measure; and that discrimination based upon the perception of AIDS-risk must also be considered illegal.

Advocacy, education and communication still remain our best tools. Willing, helpful and knowledgeable advocates to act on behalf of those with AIDS, those with ARC and those perceived to be AIDS risks must be available in all areas. Governmental agencies, private institutes, community workers and care- and support-providers must communicate not only with one another but with the real experts — those who have AIDS or ARC — to understand their experiences and identify problems.

The impact of Acquired Immune Deficiency Syndrome on our society continues to evolve. But the need for effective and creative responses to the problems it poses is already apparent. It is hoped that the experience summarized in this report can be utilized toward this end. By examining, understanding and working with a solid base of information, the kind that can only be obtained through experience, the AIDS care and support network can extend in a logical manner. It is only by working together that we can hope to meet the pressing needs of all those affected by this crisis and to stem the tide of the stigma associated with AIDS.

CONTACTS WITHIN THE AIDS DISCRIMINATION UNIT:

Keith O’Connor 566-1826
Katy Taylor 566-5446
Mitchell Karp 566-7638
Charles Brack 566-0528
Otto de Mendoza 566-0817
Azi Khalili 566-0819
Ernesto Castillo 566-0395
Richard Reynolds 566-2017
Amber Hollibaugh 566-5178
Alisa Lebow 566-5179

** Statistics appear on the following page **
# Statistics on AIDS-Related Discrimination Complaints

**Received by the NYC Commission on Human Rights During the Period January 1986 - June 1987**

## Breakdown by Group

<table>
<thead>
<tr>
<th>Breakdown by Group</th>
<th>1986 Full Year</th>
<th>1987 Half Year*</th>
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</thead>
<tbody>
<tr>
<td>MEN</td>
<td>228 (73%)</td>
<td>232 (77%)</td>
</tr>
<tr>
<td>WOMEN</td>
<td>64 (20%)</td>
<td>62 (21%)</td>
</tr>
<tr>
<td>CHILDREN</td>
<td>22 (7%)</td>
<td>6 (2%)</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td>314</td>
<td>300*</td>
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## HIV Status

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<th>HIV Status</th>
<th>1986</th>
<th>1987</th>
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<tbody>
<tr>
<td>AIDS</td>
<td>152 (49%)</td>
<td>158 (54%)</td>
</tr>
<tr>
<td>HIV POSITIVE</td>
<td>22 (7%)</td>
<td>45 (15%)</td>
</tr>
<tr>
<td>PERCEIVED AIDS</td>
<td>137 (44%)</td>
<td>89 (30%)</td>
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## Type of Discrimination

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<thead>
<tr>
<th>Type of Discrimination</th>
<th>1986</th>
<th>1987</th>
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<tbody>
<tr>
<td>EMPLOYMENT</td>
<td>80 (25%)</td>
<td>88 (27%)</td>
</tr>
<tr>
<td>HOUSING</td>
<td>40 (13%)</td>
<td>42 (14%)</td>
</tr>
<tr>
<td>JUSTICE SYSTEM</td>
<td>9 (3%)</td>
<td>50 (17%)</td>
</tr>
<tr>
<td>INSURANCE</td>
<td>5 (2%)</td>
<td>11 (4%)</td>
</tr>
<tr>
<td>PUBLIC ACCOMMODATIONS</td>
<td>141 (45%)</td>
<td>99 (33%)</td>
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### Public Accommodations Subcategories:

<table>
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<tr>
<th>Public Accommodations Subcategory</th>
<th>1986</th>
<th>1987</th>
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</thead>
<tbody>
<tr>
<td>Hospitals and Health Care</td>
<td>58 (41%)</td>
<td>32 (32%)</td>
</tr>
<tr>
<td>Funeral Homes</td>
<td>17 (12%)</td>
<td>21 (21%)</td>
</tr>
<tr>
<td>Dental</td>
<td>19 (14%)</td>
<td>27 (27%)</td>
</tr>
<tr>
<td>Other</td>
<td>47 (33%)</td>
<td>18 (18%)</td>
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</table>

## Incidents where HIV test was at issue

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<tbody>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>40%</strong></td>
</tr>
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</table>

**40% of all reported cases of AIDS and AIDS-related discrimination are systemic.**
"THE SECOND EPIDEMIC: AIDS' Untold Stories"

A Television Documentary

by:

Amber Hollibaugh

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Draft Copy
Date: June 1, 1987
INTRODUCTION:

The AIDS epidemic swirls around us, marking our medical, social, economic and political life as nothing else ever has. New York City is especially affected: it is the epi-center of a global AIDS crisis, having more AIDS, ARC (AIDS-Related Complex) and HIV infected people than any other part of the world. There is no known cure for AIDS, making public education our most important tool in combating the disease. But the national reluctance to frankly discuss the actual forms of transmission (semen & blood to blood contact) have dramatically slowed all efforts to educate and transform fear and ignorance into informed understanding of the virus and its transmission.

This fear and ignorance has created another epidemic, equally as serious and potentially as fatal to our social and community life, another wave of panic based on prejudice, fear and misunderstanding: a second epidemic as lethal as the first, an epidemic of discrimination.

The AIDS Discrimination Unit of the New York City Commission on Human Rights is a unique response to this crisis. Established in Nov. of 1983, and one of only three in the nation, it has received thousands of calls and documented, mediated or settled 600 cases of AIDS and AIDS-related discrimination since its founding.
Developing innovative, distinctive legal responses to combat this second epidemic, the AIDS Unit has brought together ten committed educators, lawyers and investigators who, together with other public health educators, city agencies and community groups, are challenging the broadly enveloping problems facing everyone who works around this issue. All who do this work, and certainly the AIDS Unit, must respond with particular speed since a person with AIDS or ARC is generally expected to live two years after diagnosis if gay or bi, 6 to 8 months if an IV Drug User. This fact amongst many has necessitated new legal and social responses to support the people affected. "Our job is to put out the brush fires while trying to divert a major catastrophe in the city and its boroughs," said Katy Taylor, Deputy Director of the Unit. "If we do our job well, then everyone else working against this epidemic can do their jobs more effectively. Discrimination gets in the way of learning."

THE PROGRAM:

"THE SECOND EPIDEMIC" is an hour-long documentary which will position itself squarely within the lives of those most affected by the epidemic: those with the disease or who are HIV-infected, and their friends, lovers, family members and care providers. It will
move inside the frightening statistics of this epidemic to portray the power and resistance of people with AIDS or ARC and those perceived to have the illness who have also been victimized by discrimination. Using the AIDS Unit as a trusted vehicle, the documentary will bring the viewer to a clearer understanding of the crisis, one which helps them distinguish AIDS discrimination, understand how it works and which will provide them with both an intimate and informed human look at the frightening consequences of the discrimination being faced by a person already struggling with a life-threatening disease.

**ACTUAL COMPLAINTS RECEIVED BY THE AIDS UNIT**

**Apr 85**  **Unemployment Insurance/Actual AIDS**

A man with AIDS called to report an incident that happened at an unemployment insurance office when he went for his eligibility hearing. First he was made to wait until everyone else had finished. Then he was instructed to go into a small glass-walled room. The rest of the judges stared at the man with AIDS through the glass while the administrative law judge assigned to his case began to interrogate him over a loudspeaker which broadcast throughout the office, "Mr. [name deleted for reasons of confidentiality], I understand you have
The caller said that he stated his objections to a hearing conducted under such denigrating conditions and was told by the judge, "It's this or nothing." The victim finally terminated the hearing and called the Commission. We were able to speak with the Unemployment Hearing Director that day. He agreed to educate his employees and establish appropriate policy rather than face possible charges of discrimination.

Jan 84 Public Accommodation/Perceived AIDS
A Haitian woman, who is a health care community worker dealing with a Haitian clientele, called to document an incident. She went to the main post office in Brooklyn to mail a package to the AIDS Institute. When she presented the package at the counter, no one would touch it and the clerks refused to wait on her. Even after she spoke with a supervisor, they would not accept the package. She mailed the package from another post office and reported the incident to the Commission.

Dec 85 Hospital/Public Accommodation/Actual AIDS
A man with AIDS needed kidney dialysis. When he arrived at the hospital for his treatment they refused to put him on the dialysis machine because
he has AIDS. As a result of not being able to obtain the treatment, he had to be rushed to the emergency ward of another hospital two weeks later. Though advised that he can file a complaint against the hospital for refusing to treat him, he has not yet done so.

Nov 83  Foster Care/Perceived AIDS/Public Accommodation

A woman who died from complications caused by AIDS left behind three small children. A social worker attempted to place the children in foster care, but was unable to do so because they were perceived by potential care providers to have AIDS. Eventually their grandmother, who was very old, ill and nearly blind, was forced to take them. No complaint was filed.

May 85  Funeral Homes/Actual AIDS/Public Accommodation

The Unit received an anonymous call from a woman in Queens. Her husband was near death due to AIDS complications and she was trying to quietly arrange for his burial because she was terrified that her friends and neighbors would discover the reasons her husband had died. She feared that she and her two children would be subjected to the
hysteria and discrimination that she had seen on television. Her immediate problem was that she could not find a funeral home that would bury her husband. The only one that was willing to inter the body wanted several thousand additional dollars, money which she just did not have. We interceded and the situation was resolved.

**THE APPROACH:**

**THE SECOND EPIDEMIC: AIDS' Untold Stories,** is a detective story. The camera will dog the steps of the Unit's investigators, lawyers and educators as they work on each section of a case. It will follow 4 to 6 people as they progress through the filing of their complaint to fact-finding, mediation, litigation and resolution. It will explain discrimination, the AIDS epidemic and issues of public health and safety. It will examine the attitudes which provoke or create fear and it will follow the people who are stigmatized as they work against the prejudices their illness has engendered. The viewer will see and hear the voices and stories of those most directly affected as they (and we) confront the idea of "AIDS VICTIM" showing instead the human face of this fight. It will challenge each viewer to see how easily anyone can be touched by this global epidemic and it will ask each of
us the deeply troubling questions being raised by this crisis, questions of how we, as a city and a nation, will respond...with reason, heart and common sense or the opposite, and be torn apart by fear and prejudice. And finally the documentary will bring the uniquely New York story to life, using a new set of voices - those most affected and unheard till now - who will speak directly to the rest of us about the personal meaning of the AIDS epidemic, their hopes, needs and struggle to face BOTH epidemics with bravery and dignity, challenging all of us in this country to do the same.
AIDS Information Exchange

Volume 6, Number 2 May 1989

AIDS/HIV Anti-Discrimination Initiatives

"Every time the government permits discrimination to occur, some person who could be gainfully employed after AIDS diagnosis loses his or her job and becomes a public charge. Some tenant who had a home becomes homeless. Some family frightened by fear refuses to care for its offspring, causing prolonged hospitalization, home care attendants, social work assistance and counseling for depression. Not to mention the cost to public health services when private hospitals, physicians, surgeons, and dentists turn AIDS patients away."

Mitchell Karp, Supervising Attorney, New York City AIDS Discrimination Unit, on the social costs of AIDS/HIV-related discrimination and the role of government.

When researchers, policymakers, advocates, and members of the media speak of an AIDS/HIV epidemic, the first impressions are of numbers, typically the number of people who have died or are diagnosed with AIDS that register on the Centers for Disease Control's periodic epidemiologic tables. Since AIDS was first recognized and subsequently entered the nation's and the world's consciousness, another epidemic has accompanied the solely "medical" outbreak and spread of HIV—a social epidemic of fear, misinformation, and prejudice regarding AIDS/HIV and persons affected by AIDS/HIV. Many experts believe that this often insidious "second epidemic" of discrimination is the crucial stumbling block that prevents an effective national response to the AIDS/HIV epidemic.

In June 1988 the President's Commission on the HIV Epidemic stated that "HIV-related discrimination is impairing this nation's ability to limit the spread of the epidemic." The Commission heard testimony from numerous witnesses who reported on the harmful effects discrimination against persons with AIDS/HIV or perceived to have AIDS/HIV has had on the delivery of basic human services, and on the willingness of individuals to come forward for testing and counseling for fear of losing jobs, housing, and needed services due to potential discrimination. The Commission, in calling for strong national and local anti-discrimination policies, concluded that "as long as discrimination occurs, and no strong national policy with rapid and effective remedies against discrimination is established, individuals who are infected with HIV will be reluctant to come forward for testing, counseling, and care."

Since issuing the report, most of the HIV Commission's recommendations have not been implemented (see summary of recommendations, page 17). At the federal level, legislation is pending in Congress to provide protection—for people with AIDS, infected with HIV, or perceived to be HIV-infected—against discrimination in employment, housing, and public accommodations in both public and private settings (see discussion of Americans With Disabilities Act, page 18). At the state level, twenty-six states have extended protection to persons with AIDS/HIV under existing laws prohibiting discrimination against persons with disabilities, most through written

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guidelines set down by state human rights commissions or attorneys general. Only five states—Florida, Iowa, Missouri, Rhode Island, and Washington—have extended their handicapped laws to include persons with AIDS.

In lieu of adequate federal or state protection, a number of localities have passed ordinances barring discrimination against people with AIDS/HIV in employment, housing and public accommodations. Advocates and legal experts concur that it is important that anti-discrimination laws be enforceable at the local level. Because of the nature of the disease, when people with AIDS are discriminated against, they often require an immediate remedy to the problem, lacking the time and resources to take someone to court. Thus there is a growing need in localities across the country for immediate resolution of complaints of discrimination against persons with AIDS.

This edition of AIDS Information Exchange is devoted to the issue of AIDS anti-discrimination efforts at the local level. The focal point for discussion is the New York City Commission on Human Rights' AIDS Discrimination Unit and how it has addressed the problem of AIDS/HIV discrimination through a program of legal advocacy and education. The report includes: a discussion of the history of the Unit; the types of cases brought before the Commission; the procedure employed to handle complaints and mitigate disputes; and how the Unit educates the public about New York's Human Rights Law and attempts to reduce fears and change attitudes regarding AIDS/HIV and people with AIDS/HIV.

While the nature of HIV-related discrimination is essentially the same across jurisdictions, policy and programmatic responses that localities formulate may differ, based upon local conditions. For example, a locality may find it more appropriate to deal with HIV-related discrimination within its existing human rights enforcement structure rather than establishing a specific bureau. However, New York City's methods in dealing with discrimination are illustrative of approaches that can be replicated within any locality.

This edition of AIX also addresses the growing problem of health providers—physicians and dentists—refusing to treat persons with AIDS/HIV. Given the widespread dissemination of federal guidelines regarding universal safety precautions and the small risk associated with treating people with AIDS/HIV for routine care, reports of discrimination among health providers as late as 1989 present an alarming problem.

New York City Commission on Human Rights
AIDS Discrimination Unit

- A woman calls the Human Rights Commission to say that her landlord has turned off the heat and hot water in her apartment. She says that he's trying to force her to leave. The woman's husband had AIDS. The landlord said he doesn't want any "AIDS carriers" in his building.

- A young man calls in a panic. Although he has been trying for days, he has been unable to obtain dialysis due to the fact that he is HIV antibody-positive. He has tried several hospitals, which will not provide him treatment because they believe it would contaminate their dialysis units. If he does not obtain this treatment within 48 hours, he says he will die.

- A man is fired from a job that he has held for many years as a manager for an airline. He has previously been granted a one-month sick leave from work due to his illness. A later request for additional sick leave is denied, even though the company has permitted managers with non-AIDS-related illnesses to take unlimited sick leave.

These are three examples of over 1,700 complaints of discrimination against persons with AIDS, persons testing positive for HIV antibodies, or persons perceived to have AIDS/HIV received by the AIDS Discrimination Unit of the New York City Commission on Human Rights since it was established in 1983. The Human Rights Law of the City of New York prohibits discrimination in the areas of housing, employment and public accommodation on the basis of an individual's handicap. The Commission on Human Rights has taken the position that AIDS is a handicapping condition affording those diagnosed with AIDS or infected with HIV protection against discrimination under the Human Rights Law.

The AIDS Discrimination Unit provides a central location for filing AIDS-related discrimination complaints and for enforcement of the law. Currently, the staff numbers 21 full-time workers consisting of investigators, attorneys, and education specialists. Broadly, the Division's mission is to swiftly resolve discrimination problems faced by people with AIDS/HIV through advocacy, mediation, or by judicial process, and to inform the public of the illegality of AIDS-related discrimination.
Organization of the AIDS Discrimination Unit

The New York City AIDS Unit is made up of three sections: investigative, legal and education.

Investigative

AIDS-related discrimination often occurs in a crisis situation, leaving little time for traditional complaint resolution processes. Increasingly, litigation is the avenue of last resort when dealing with AIDS/HIV discrimination; people’s resources are limited, their time may be limited, and they often need services immediately. An oft-cited example of this occurred in New York City when an oxygen company refused to deliver oxygen to the home of a person with AIDS. An immediate resolution to the problem was needed. The Unit’s investigative staff contacted the company and by informing them of the law and providing education about AIDS, was able to reach an agreement that the oxygen would be delivered. Through advocacy and mediation, the Unit’s investigators are often able to resolve complaints to the satisfaction of the complainants. Over 80 percent of the 1,700 cases received by the Division since 1983 have been resolved through advocacy without ever proceeding to a formal written complaint.

Most cases of discrimination are attributable to fear, misinformation, or prejudice. In most instances, accurate information delivered in a non-confrontational manner can dissipate the fears and misinformation affecting discrimination. If an investigator determines prejudice to be the causative factor in the complaint, the process can become more difficult and take a longer time to resolve.

Legal

If a complaint cannot be resolved through pre-complaint advocacy, a formal complaint is written and an investigator is assigned to the case. If a case cannot be mediated successfully, the Commission makes a determination whether the complainant’s case merits probable cause of discrimination. If so, the case is then handed to the legal section which prosecutes on the side of the complainant. The legal section works closely with the investigators to gather further evidence, continuing to pursue settlement of a dispute prior to a formal hearing before an administrative law judge.

In addition to case work, the section acts as legal watchdog for the rights of those affected by AIDS discrimination by monitoring legislative and judicial rulings concerning AIDS, and by tracking systemic violations of the human rights law throughout a particular industry. For instance, until recently, nearly all funeral homes in New York City denied services to people with AIDS or charged higher rates for the burial of people who died of AIDS. The Commission received numerous calls reporting funeral home abuses, spurring a widespread investigation of the funeral industry. One of the legal section’s attorneys successfully defended a jurisdictional challenge in court and, as a result, the funeral home association of New York agreed to change discriminatory practices. In addition, hundreds of funeral home directors and their employees attended AIDS educational seminars and obtained accurate information about HIV transmission and proper safety precautions.

Education

As part of its mission to educate the general public and specific target audiences, staff conducts approximately 5-10 trainings per month at hospitals, schools, and large employers on the facts about AIDS and the problems associated with AIDS-related discrimination. The Unit also disseminates information about AIDS discrimination through multi-linguual flyers, posters, brochures (see sample, pages 10 and 11), and through public speaking, TV and radio appearances.

New York City Human Rights Law
Statement of Policy

"In the city of New York, with its great cosmopolitan population consisting of large numbers of people of every race, color, creed, age, national origin and ancestry, many of them with physical handicaps, there is no greater danger to the health, morals, safety and welfare of the city, and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of differences of race, color, creed, age, national origin, ancestry or physical handicap."

New York City Commission on Human Rights
AIDS Discrimination Unit
52 Duane Street, 7th Floor
New York, NY 10007

(212) 566-1826 (Complaint #) or (212) 566-7638
Spanish speaking (212) 566-0395 or (212) 566-5597
Complaints of discrimination must be filed with the Commission within one year from the date of the incident(s). The first step, as outlined in the Commission's handbook for complainants, "Know Your Rights," is to call the AIDS Discrimination Unit. The intake investigator elicits information from the caller to determine whether the Commission has jurisdiction to accept the complaint. The Unit employs eight full-time investigators each of whom is assigned to intake duty on a rotating schedule to spread staff responsibility equally. Depending on the level of emergency, a response to the initial complaint is responded to within five minutes or up to one day. If the Commission has jurisdiction (in most cases they do) a form is completed and the case is assigned to an investigator who will oversee whether a charge of formal complaint will be lodged against the party allegedly discriminating against the complainant or whether the problem can be resolved immediately. In over 80 percent of the cases brought to the AIDS Unit, situations get resolved without filing a formal complaint. As stated in the handbook, "Very often a telephone call from the Commission to an employer or a landlord - informing the person that a verbal complaint has been made and advising the person of the serious consequences of discrimination - can remedy the situation."

In over 80 percent of the cases brought to the AIDS Unit, situations get resolved without filing a formal complaint.

Often violators may not know that they are doing something illegal, or if they are aware of the law, the threat of a complaint will cause them to reevaluate their actions. If a problem cannot be resolved through advocacy, a formal complaint is written up, signed by the complainant, and notarized. The complaint usually contains the specific allegations of discriminatory actions. The signed complaint is then mailed to the respondent and the Unit investigator will contact the respondent to obtain their response to the allegations as well as request necessary documents.

At this point in the proceedings the AIDS Unit acts as a neutral party in order to mediate the dispute. The investigator is apprised of what the complainant would consider to be a satisfactory settlement of the dispute. Typical remedies for resolution of cases include:

Employment complaints — reinstatement, back-pay, obtaining promotion denied, regaining lost benefits, good references, being transferred away from offending supervisor(s);

Housing complaints — obtaining apartment denied, being offered the next similar apartment, having an eviction proceeding stopped, obtaining the services or repairs denied;

General — in addition to the benefits mentioned above, the complainant may be given cash awards for "pain and suffering." A regular part of settlement is also a requirement that the firm charged with discrimination must provide AIDS education to employees.

Approximately two weeks after the complaint is mailed to the respondent, a fact-finding conference is held at the Commission. At the meeting both parties have the opportunity to tell the investigator their positions. When the investigation is completed, the investigator, acting impartially, writes a recommendation of "probable cause" or "no probable cause." A recommendation of probable cause means that the investigation supported the complainant's allegations. About 20 percent of the cases brought to the Unit are no probable cause. This figure is inversely proportionate to non-AIDS-related cases brought to the Human Rights Commission. If the case is listed as probable cause, it goes to one of the Unit's attorneys for review. If the attorney agrees with the recommendation, he or she will issue a "determination and order after investigation," notifying both parties of the outcome. The case will then be prepared at no cost to the complainant by the attorney for a public hearing before an administrative law judge. At this point, the Commission takes on a different role by actively prosecuting the case on behalf of the complainant.

Only about 10 cases brought to the Commission have gone as far as a public hearing. In most instances, settlement is reached before the matter goes to court; the attorneys continue to work for a settlement until the time of the hearing. The judge will issue a "decision and order," a final determination on the case, which can include an order that the complainant be compensated for any loss incurred in the discriminatory incident, as well as an order for affirmative relief which can take the form of training or education of employees, posting of anti-discrimination notices, etc.

The hearing process is very slow; it can take several months for a case to be prepared for a hearing and several months after the hearing before the judge will issue a decision and order. The Commission has not lost a case involving AIDS/HIV-related discrimination brought to a hearing. But because the hearing process takes so long, every effort is made by the Commission to settle complaints before reaching a hearing.
Types of AIDS/HIV Discrimination Dealt with by the Commission

A major portion of the AIDS Discrimination Unit’s work is documenting trends and evidence of patterns in discrimination cases. In the early days of the epidemic, a large proportion of cases (about one-third) were filed by persons who did not have AIDS, ARC, or were HIV positive, but were perceived by others to have AIDS, ARC, or be HIV positive. This was usually due to their being members of groups associated with AIDS diagnoses (gays, IV drug users, Haitians). Today almost all of the AIDS-related discrimination complaints involve discrimination against people who actually are HIV positive, or have been diagnosed with AIDS. Other trends witnessed by the Unit over the past few years include the following:

- Cases involving employment discrimination have remained constant (about one-third of all cases reported).
- Housing cases have shifted from evictions of tenants or refusal to rent to people with AIDS/HIV to an increase in cases involving people with AIDS/HIV who are denied access to shelters or single-room occupancy hotels (SROs).
- A sharp increase has occurred in recent years in cases involving public accommodations (i.e., access to health care services, public hospitals, restaurants, hotels, service industry).

In most instances the New York City Human Rights Commission investigator/advocate can diffuse a situation and provide for a speedy remedy to a problem. When contacting the alleged violators, the advocate determines if the cause of the discrimination involves fear, misinformation, or prejudice. If fear and misinformation are the causative factors, the Commission advocate supplies correct information about the modes of HIV transmission, and informs the parties about the human rights law (see examples of cases resolved through advocacy, page 6).

AIDS Unit staff stated that many persons contacted about discrimination incidents often assume that the Human Rights Commission is an enemy. People are often surprised at first to learn that the Commission staff takes a non-confrontational position; the AIDS Unit’s policy is to consider all alleged violators of the law to be potential allies. Given the right information, presented in the right manner, most people tend to change their minds and the problem is resolved.

In some cases the messenger is as important as the message. A person may be resistant to hearing about the human rights law from one of the advocates; he or she may instead ask to speak with one of the Unit’s attorneys. Other times the most appropriate person to deliver the message is the human rights specialist or advocate. Still other cases, particularly ones involving the health profession, may require a more detailed explanation of the medical aspects of AIDS/HIV. The Unit has established a working relationship with the New York City Department of Health whose representatives can deliver AIDS/HIV education talks at a workplace, health care setting or elsewhere when needed to correct misinformation about modes of transmission.

Although the first inclination of the AIDS Unit's attorney's may be to pursue a lawsuit against one individual or organization discriminating against another, a better policy is to try to educate the violator in order to prompt a change in behavior.

Cases Involving Prejudice

Cases involving deep-seated prejudice are often more difficult to resolve, leading to more protracted disputes which involve legal maneuverings and court hearings. Because the legal system is an adversarial system, once parties are engaged in the process, they are often locked into an intractable position to defend their argument. If a dentist refuses to treat a person with AIDS by arguing that the human rights law does not govern the practices of private dentists, he or she may become locked into a legal argument over whether “public accommodation” (places providing goods and services to the public) can include a private dental practice (see discussion of dentistry and AIDS discrimination on page 12). In such a case, the real issue of protecting the rights of people with AIDS/HIV and providing equal access to goods and services becomes lost; results are not likely to foster a change in a violator’s attitudes or beliefs regarding persons with AIDS/HIV. An attorney with the AIDS Discrimination Unit in New York noted that, “forcing a dentist or any health professional to provide health care to a person he or she does not want to touch is simply bad health care.” Although the first inclination of the AIDS Unit’s attorney’s may be to pursue a lawsuit against one individual or organization discriminating against another, a better policy is to try to educate the violator in order to prompt a change in behavior.

—continued, page 7—
Discrimination Cases Resolved Through Advocacy

Following are examples of discrimination cases remedied through intervention by the AIDS Unit’s investigator/advocate. These examples illustrate the impact that appropriate intervention and education can have in resolving discrimination based on fears and misinformation and allowing needed services to be delivered.

Residents of a group house for persons with AIDS in New York City had difficulty obtaining service from two neighborhood take-out places, one a delicatessen, the other a Chinese restaurant. In one instance a resident entered the deli in slippers and a robe and was mistreated by customers in the restaurant. Fearing the negative impact on his business, the owner tried to make arrangements to deliver directly to the house, to prevent residents from coming into the restaurant. When notified of this, the AIDS Discrimination Unit investigator met with the owner and informed him that he could not prevent the residents from being served at the deli. In addition, the advocate provided education about AIDS/HIV to counteract the owner’s fears and the issue was resolved.

A Chinese restaurant, aware that the house had residents with AIDS, refused to deliver food. The AIDS Unit staff made spot calls to the restaurant requesting orders to be delivered to the house. When the restaurant refused to deliver to the house but agreed to deliver to the house next door, Unit staff intervened and met with the owners. Because of the language barrier, the investigator was able to hook up with the Chinatown Community Health Center to provide AIDS education materials in Mandarin. The issue was settled and the restaurant now delivers food to the house.

A social worker at a hospital in the Bronx notified the AIDS Discrimination Unit that a patient who was terminally ill and was recently discharged from the hospital wanted to fly south to see family but was having problems with the airline. Because the patient was in need of assistance, the social worker had made arrangements with the airline. When the patient arrived at the airport along with an escort, the airline personnel questioned why the individual was disabled. Through further questioning the airline personnel determined that the person’s illness was AIDS-related. The individual was barred from boarding the plane. The AIDS Unit investigator phoned the executive offices of the airline to inform them of the incident. The airline representatives apologized but claimed that the precautions were for “the benefit of the customer.” The airline headquarters called the La Guardia Airport personnel to immediately resolve the situation by allowing the person to board the plane.

The AIDS Unit received a call from a grandmother who was the legal guardian of a seven-year-old whose mother had died of AIDS and whose father was incarcerated. The child was allegedly being beaten at school and on the school bus by other children. The grandmother claimed that the school was aware of the problem but would not take action. The AIDS Unit investigator contacted the school officials who asserted that the grandmother may be beating the child. When teachers asked the child who gave her the scratches on her arms she said, “Mommy scratched me.”

Special Services for Children investigated the case and determined that there was no evidence of wrongdoing by the grandmother. The AIDS Unit investigator negotiated with the school officials and coordinated a meeting with the school principal, the child’s supervisor in special education class, the child’s therapist, the grandmother, and the matron on the child’s school bus.

At the meeting, it was determined that the child was being beaten on the bus and in school because her mother had AIDS. In addition, because of a language barrier, it was determined that the scratches on the child’s arm came from her cat named “Mommy.” As a result of the meeting, the child will receive individual tutoring in addition to regular classes.
“Winning” a discrimination case through a hearing or through case-by-case conflict resolution does not always result in much progress. Resolving one isolated problem in a sea of similar discrimination cases does not ultimately halt discrimination from occurring again elsewhere. “Beating” one particular landlord, employer, or dentist in court will not necessarily change the attitudes of landlords, employers, or dentists in general. Human Rights Commissions, like New York City’s, do not have the time or resources to battle every employer in every industry that discriminates against persons with AIDS. In some cases the Commission hopes that a specific case will garner enough publicity that it will serve to prevent other cases from occurring; but this hope is not always realistic.

A more efficient use of resources to prevent discrimination is through targeted, appropriate education about the human rights law, and about the facts of AIDS/HIV modes of transmission. Staff of the AIDS Discrimination Unit are constantly making presentations to large groups (e.g., dental associations, funeral directors, criminal justice workers, drug treatment personnel) to inform them of potential abuses in their systems, and to try to change attitudes and practices when dealing with persons with AIDS/HIV.

Systemic discrimination is defined as repeated reports of discrimination in a particular industry or patterns of abuses among providers of a particular service (e.g., insurance industry, funeral homes). The following are examples illustrative of the AIDS Unit’s work on behalf of persons with AIDS/HIV in halting or preventing widespread discrimination by using a systemic approach to conflict resolution:

**Funeral Homes**

In 1986, the Commission received numerous calls reporting funeral homes that were refusing to provide services for people who had died from AIDS-related causes. No complaints were filed by individuals, it was found, because people were in bereavement and did not want to pursue formal complaints. The Gay Men’s Health Crisis (GMHC) in New York had conducted a survey that found that only 1 out of approximately 500 funeral homes in New York City wished to list itself for referral for persons with AIDS. The AIDS Unit, working with GMHC, began an investigation of the funeral industry through phone calls and spot checks. In July 1986, the Commission filed complaints against three funeral homes. They were charged with maintaining higher prices for services to persons who died from AIDS-related causes, or refusal to deal with the bodies. The Metropolitan Funeral Home Directors Association contacted the Commission to express concern that funeral homes would be systematically charged with formal complaints. One funeral home challenged the Commission in court on the question of the Commission’s jurisdiction over private funeral homes. The funeral home lost the case.

The funeral home director’s association contacted the Commission and agreed to have the AIDS Unit conduct a training for 100-200 of its members presenting accurate information about HIV transmission and safety. The Commission also obtained conciliation agreements with a number of funeral homes that the Commission brought complaints against. As a result, GMHC did a follow-up survey that documented that the funeral home directors were aware of what the law required of them, and about 80 funeral homes agreed to be placed on GMHC’s referral list. The following year, the funeral directors association sponsored a conference on grief and AIDS.

**Family Planning Clinics**

In circumstances currently under investigation by the Commission, it has been reported that many family planning clinics in the New York City area are not treating or, in some cases, mistreating women who are HIV antibody positive who want to have abortions. As in the case of the funeral homes, persons being discriminated against are not coming forward to register complaints due to the stressful situation they are in. Armed with significant anecdotal evidence, the AIDS Unit conducted a survey of clinics listed in the phone book to try to determine if discrimination occurs. The investigation was conducted as follows: in the course of trying to set up an appointment over the phone, the Unit investigator admits to the clinic that she has tested positive for HIV. In about two-thirds of all cases, the clinic canceled the appointment, claimed the doctor would be on an extended vacation, or attempted to refer the client to a hospital because of the “acute medical state” she may be in and the clinic’s lack of appropriate infection control facilities. The Unit is currently readying a report on its investigation, and attempting to arrange for a large scale education campaign targeted to family planning clinics in hopes of changing their practices.

An overriding philosophy of the Commission is to not assign blame to individuals or organizations until they work with them and can determine if the discrimination is a result of misinformation or stigma. The Commission approaches those who are discriminating as potential allies by providing education, training, and early intervention before a crisis occurs.
Coordination with Other Agencies

To increase awareness of the human rights law as it pertains to AIDS/HIV-related discrimination and the role of the Human Rights Commission in enforcing the law, the AIDS Discrimination Unit has made a conscientious effort to promote its accessibility to the public. The Unit has developed channels of communication with every AIDS service, advocacy, and related organization in the city such as Gay Men’s Health Crisis, PWA Coalition, ADAPT, Body Positive, the Minority Task Force on AIDS, and the Women’s AIDS Project, to name a few. Unit investigators have been formally assigned liaison duties with various community AIDS organizations, and are responsible for attending regular meetings of the organizations and maintaining contact with staff of the organizations to facilitate referrals to the Commission. Rare among other New York City agencies, the Human Rights Commission is often included as a community resource in publications related to AIDS and HIV. Brochures and flyers produced by the Commission, such as the ones reprinted on pages 10 and 11, are distributed through these channels to inform persons who may be discriminated against where to turn for help.

The Human Rights Commission coordinates its activities with other city government agencies. Representatives of the AIDS Discrimination Unit served as advisors to the New York City Task Force on AIDS to develop a five-year interagency plan for AIDS-related services, as well the City task force on budget issues to ensure that AIDS/HIV anti-discrimination is included as an integral part of every agencies’ activities. Since the city government is the largest employer in New York City, the AIDS Discrimination Unit has in some cases needed to serve as a watchdog of city activities to guarantee that individual agency actions do not run counter to city policy.

Recommendations for Action: 10 Steps

Because of its size and diversity, New York City cannot successfully be compared with many cities in any category. As the city with by far the highest number of reported cases of persons diagnosed with AIDS (nearly 19,000), a typical reaction from representatives of other areas in the U.S. is “That’s New York. You cannot compare what happens there with what happens here.” To a large extent this is true. Perhaps no other city in the country will ever need to have a full-time staff of 21 persons devoted to working on AIDS/HIV anti-discrimination enforcement. But even a locality where only one person has been diagnosed with AIDS, or 5 people learn they are HIV antibody positive, or 25 people are perceived to have AIDS or be HIV-infected, may at some point be confronted with AIDS/HIV-related discrimination which requires governmental action to resolve.

In 1983, New York City's Human Rights Commission received three complaints of AIDS-related discrimination. In 1988, that number increased to 604. (See chart showing statistics on AIDS discrimination cases in New York City on page 20.) Since the early 1980s, the face of AIDS/HIV-related discrimination has changed somewhat in New York City. Although some types of discrimination remain constant (in employment settings, and in public accommodations) or increase (health care and insurance cases), others types have gradually abated. The AIDS Discrimination Unit in New York reports that cases involving funeral homes, drug treatment centers, and ambulance services, once prominent discrimination arenas, have dwindled in recent years, due largely to the systemic approaches of the Human Rights Commission.

Other localities outside of New York City report different trends in cases of discrimination against persons with AIDS/HIV (see report on AIDS anti-discrimination efforts in San Francisco, Los Angeles, and Philadelphia on page 15). The fact remains that wherever there are people with AIDS or people who are HIV antibody positive, no matter how many, there exists the potential for discrimination. The discrimination cases faced by New York City or other larger cities in the early 1980s may be similar to the cases faced by smaller localities today or tomorrow. As the epidemic spreads to these smaller, lower incidence areas, local governments may need to be prepared to deal with cases of discrimination affecting persons who may not have the resources or capability to remedy their problems by themselves.

For localities that are considering ways to deal with AIDS/HIV-related discrimination, the following recommendations are based on the experience of the New York City Commission on Human Rights’ AIDS Discrimination Unit in receiving over 1,700 complaints of AIDS/HIV-related discrimination since 1983.

Reach Out

1. It is important to consider AIDS/HIV-related discrimination not as a unique and separate form of discrimination, but as part of entire realm of human rights violations. As stated by staff of the AIDS Discrimination Unit, AIDS does not exist in a vacuum. Those people hardest hit by the AIDS/HIV
epidemic are often already discriminated against because of race, gender, sexual orientation, disability, national origin, age or immigrant status. In New York City, over 55 percent of all people with AIDS are black or Hispanic. Over 11 percent of the people with AIDS are women, representing the fastest growing group of newly diagnosed cases. Over 60 percent of the cases are among homosexual males. The epidemic has largely affected persons who have been historically discriminated against. Experience has shown that persons who may have already experienced different forms of discrimination are less likely to seek help from governments, agencies, or service providers when faced with AIDS/HIV-related discrimination. Governments can actively attempt to reach out to historically marginalized communities through education and the media to show that the protections from discrimination exist for all people.

**Examine Disability Laws**

2. When localities consider whether to provide a mechanism for AIDS/HIV-related anti-discrimination enforcement, the New York City Human Rights Commission recommends making sure protections are accorded through or linked with existing local disability laws. The Unit questions the advisability of enacting AIDS/HIV-specific legislation for several reasons.

- It may be unnecessary to create a new law when an existing law may be equally effective if enforced.

- Creating AIDS/HIV-specific legislation may create additional stigma if it is seen as separate from other disabilities or other types of discrimination.

Some feel that creating a separate and unique AIDS/HIV discrimination ordinance may enhance the “Us vs. Them” dichotomy that already exists to a large degree in most communities. If, for instance, a person with AIDS is afforded greater protection by the law than a person similarly situated (due to a handicapping condition), resentment and stigma may be encouraged and enforcement of the law may be counterproductive.

As the Presidential HIV Commission explained, “The Commission believes that persons with HIV infection should be considered members of the group of persons with disabilities, not as a separate group unto themselves. Persons with HIV infection deserve the same protections as all other persons with disabilities, including these with cancer, cerebral palsy and epilepsy. The Commission rejected the notion of providing anti-discrimination protection only for persons with HIV infection outside of the context of other disabilities.”

The New York City AIDS Discrimination Unit recommends that localities look toward ensuring that local anti-discrimination laws include persons with disabilities and that disability is defined in such a way that AIDS, HIV seropositivity, or perception of seropositivity is included as a disability.

**Be Non-Confrontational**

3. Make every effort to appear non-confrontational when providing advocacy and investigating occurrences of discrimination. It is important to consider the persons allegedly committing acts of discrimination as potential allies. It is not always a question of winning or losing a case; the most important purpose of human rights law enforcement is educating violators to change their practices. From the standpoint of public relations it is more effective and efficient to attempt to work through the issues surrounding AIDS/HIV with a discriminator rather than coming down hard on them from the onset. According to the AIDS Discrimination Unit, since most complaints of AIDS/HIV-related discrimination occur due to fears and misinformation, appropriate advocacy and education often work better than litigation and confrontation.

**Coordinate Efforts**

4. Cultivate relationships with a multiplicity of organizations in your community to establish informal channels of communication in order to refer persons to appropriate services and increase accessibility to human rights enforcement mechanisms. For instance, it is important to establish working relationships with community AIDS services organizations in order to publicize the availability of legal protections and the awareness of the legal recourses to take for persons faced with AIDS/HIV-related discrimination, where legal protections are afforded by local law.

**Cultivate Multi-Dimensional Staff**

5. Develop a multi-cultural and multi-disciplinary staff with experiences in advocacy, investigation, community outreach, conflict resolution, employment relations, housing, civil and human rights law. An effective human rights enforcement project is largely dependent on the effectiveness of its staff in provid...
Recommendations (continued)

ing timely answers and appropriate remedies to problems that are often difficult to resolve. Cultivate a staff that is sensitive to AIDS and to persons with AIDS, and to cultural, racial, and ethnic diversity.

Focus on Systemic Approaches

6. Use resources efficiently by focusing on systemic approaches to prevent discrimination from occurring; use a multi-dimensional approach to ensure compliance with and enforcement of existing human rights policies or statutes. Be on the lookout for patterns in discrimination cases (e.g., among large employers, or specific industries) and attempt to cut discrimination off at its source. This is often a cost effective means of preventing discrimination since it may cut down on individual complaints.

Expedite the Process

7. Expedite the procedure for investigating, mediating, and resolving disputes involving AIDS/HIV-related discrimination, especially where the person’s health is an issue. Persons with AIDS or ARC often have little time for a protracted legal battle in order to be compensated for lost wages, or when denied needed services. On a psychological level it is important that persons with AIDS, like anyone else, maintain control over their day-to-day activities; the inability to obtain a needed service like dental care—something we all may take for granted—can become devastating to a person in a severe medical and emotional state.

Stress AIDS/HIV Education

8. Since litigation is often the avenue of last resort, AIDS/HIV anti-discrimination enforcement bureaus should stress education as a priority for resolution of disputes and prevention of future complaints. Complaint investigators should determine whether the act of discrimination is based on fear, misinformation, or prejudice. Often when fear or misinformation are the key ingredients, proper and accurate education about AIDS/HIV modes of transmission and the reality of the law can help to remedy problems. When a deep-seated prejudice is the causative factor, litigation and the publicity it may generate can, however, be useful to set a precedent in a particular setting (e.g., to determine whether private dentists can be held accountable for denying services as a “public accommodation”).
Seek Affirmative Relief

9. In remedying a discrimination complaint, seek affirmative relief where appropriate as part of settlement with employer, business, or land owner. This may include training of employees on AIDS/HIV, posting of anti-discrimination messages, institutionalizing AIDS/HIV education, etc.

Link with Local Health Department

10. When presenting accurate and relevant AIDS/HIV information to various audiences, the messenger is sometimes as important as the message. For instance, to impart accurate medical information about AIDS/HIV, it is often useful to establish a working relationship with a local health department or community AIDS service organization to conduct on-site HIV education to employers, businesses, health professionals, and others to quell fears and misinformation about AIDS/HIV and persons with AIDS/HIV. If involved in a legal dispute concerning matters of HIV transmission (e.g., proper safety precautions or techniques for handling blood products) utilize expert testimony from medical professionals to present at court hearings.

Reports Available from the NYC AIDS Discrimination Unit

The following are reports produced by the AIDS Discrimination Unit of the NYC Commission on Human Rights. Copies may be obtained by contacting the AIDS Discrimination Unit, 52 Duane Street, 7th Floor, New York, NY 10007.


AIDS Discrimination and the Dental Professional, a presentation to a meeting of the U.S. Public Health Service by Mitchell Karp, Attorney, AIDS Discrimination Unit, May 12, 1988.

Know Your Rights, a handbook for complainants put out by the AIDS Discrimination Unit of the NYC Commission on Human Rights.

AIDS Discrimination

It's illegal

It's your responsibility not to discriminate

It's your right to be protected from it

Report it.

Panel of NYC AIDS Discrimination Unit informational brochure.
Health Care Providers and HIV-Related Discrimination

Since persons with AIDS require a wide variety of health services, they very often experience discrimination in health-related settings. Although one might assume that most health professionals are keenly aware of the facts regarding HIV transmission and their legal responsibilities vis-a-vis persons with AIDS and HIV infection, evidence indicates many are not. According to an attorney with the New York City AIDS Discrimination Unit, "no one has a monopoly on ignorance when it comes to AIDS/HIV."

Health-related services constitute a significant number of complaints of AIDS/HIV-related discrimination reports received by the New York City Commission on Human Rights and other human rights agencies around the country. A total of 35 formal complaints have been filed against private dentists in New York City, with several cases settled without resorting to formal complaint proceedings. In localities across the country the refusal of health care providers to treat AIDS patients or persons with HIV infection is a growing problem that—given the existing shortage of physicians and dentists willing to treat persons with AIDS or HIV infection—could lead to a crisis in availability of health care.

**Compliance with universal blood and body-fluid safety precautions should, in most cases, provide sufficient protection for health care workers in all settings.**

Why is health-related discrimination against persons with AIDS or HIV infection occurring? As the President's HIV Commission noted, "Because HIV is blood-borne and sexually transmitted, there is no need to treat those infected with HIV in a manner different from those not infected in such settings as the workplace, housing, and the schools." For those occupations where persons who might be exposed to blood or blood products, such as health care workers, the Commission pointed out that detailed Centers for Disease Control guidelines have been issued for dealing with HIV infection. (See citations for relevant Morbidity and Mortality Weekly Reports page 18.) Health care workers have been urged to utilize these procedures for all patients. Compliance with universal blood and body-fluid safety precautions should, in most cases, provide sufficient protection for health care workers in all settings.

In light of these extensively publicized and disseminated CDC guidelines, the existence of misinformation and prejudice among a significant portion of health care professionals regarding persons with AIDS and HIV infection is alarming. Of particular relevance is the growing number of complaints about physicians and dentists who refuse to treat persons with AIDS or HIV infection. This sort of discrimination is often more insidious than employers or landlords discriminating against PWAs since doctors have the loophole of telling patients "I'm sorry, I'm not qualified to treat you, but I know someone who is." While the specialization of AIDS care is an understandable development, private practitioners who consistently refer patients to public clinics and so-called "AIDS doctors" represent an emerging problem. It is a problem that many critics see as thinly-veiled discrimination related to fears and misinformation regarding persons with AIDS and HIV infection.

In New York City, the Human Rights Commission has interpreted the City Human Rights Law to cover private dentists, physicians, and other health professionals under its jurisdiction in cases involving discrimination against persons with AIDS or HIV infection. Thus, health professionals cannot refuse to treat a patient because the person has AIDS or HIV infection. In addition, a doctor or dentist cannot refuse to treat a person with AIDS-related illness even if a referral is provided unless there is a medically compelling reason for referral as determined by the practitioner on a case-by-case basis. A dentist, for instance, cannot have a policy whereby people with AIDS are automatically referred elsewhere for dental care.

**Discrimination in Dental Practices**

In most cases there is no medical justification to refer persons with AIDS or HIV infection to hospitals or dental clinics since, in most dental procedures, universal safety precautions would prevent any exposure to blood. Routine cleanings, extractions, X-rays, and other dental care that can be provided in a dentist’s office can be performed safely on most persons with AIDS or HIV infection.

In those cases where there is a medically sound reason for a referral to a hospital setting, it is lawful to provide a referral, but only after an evaluation of a patient's condition. A dentist cannot, however, force a patient to submit to an HIV antibody test as a precondition for treatment. In New York City, there have been numerous cases involving dentists found to be discriminating against persons with AIDS or HIV infection in their dental practices. In the early days of the epidemic, discrimination cases were usually basic and easy to resolve; a dentist simply refused to treat AIDS patients or persons suspected of having AIDS. More recently there have emerged more sophisticated approaches to discrimination. Most cases today involve a health provider who does not blatantly refuse to treat, but rather claims to be incapable
Discrimination Cases Involving Dentists

A man with AIDS arranged for dental care with a dentist in a private practice. During the visit the man voluntarily informed the dentist that he had AIDS. The dentist went ahead with the examination, took X-rays, suggested a referral for root canal surgery and accepted payment for the services. That day—after the man left the office—the dentist sent a letter to the man, along with his check and X-rays, explaining that he could not treat people with AIDS. The dentist claimed he could not properly sterilize his instruments. The Commission accepted a complaint from the patient. An administrative law judge denied a pre-hearing motion by the dentist to dismiss the case. The dentist appealed to the State Supreme Court maintaining that the Human Rights Commission lacked jurisdiction to hear the complaint because New York State’s Education Law, which regulates the practice of dentistry, preempts the Human Rights Law. The Court rejected the dentist’s argument stating that the Commission has proper jurisdiction with regard to complaints of discrimination by dentists. The Court did not however decide the question of whether a private dental practice qualifies as a public accommodation subject to the Human Rights Law. In any event, the Commission will proceed with hearings to determine whether the denial of care was discriminatory.

In August, 1988, the Commission accepted the findings of an Administrative Law Court which held that a dental clinic discriminated against people with AIDS and HIV infection when it refused them treatment. Two complainants—one HIV positive and one diagnosed as having AIDS—went to the clinic and were refused treatment. The clinic, which is located in the heart of Greenwich Village in New York, used various arguments throughout the course of the complaint process to justify not treating the individuals. At first the clinic claimed it could not treat people with communicable diseases because the clinic lacked proper sterilization equipment. The Commission investigators told the clinic that the use of universal precautions would provide adequate protection from hepatitis B and HIV infection. The clinic then argued that the physical layout of the facility prohibited them from protecting other patients who were being treated; the clinic claimed they had four open area chairs. In fact, the clinic did have one private room where persons who identified themselves as having AIDS and/or HIV infection could be treated. The Commission found that given the evidence that adhered-to universal guidelines provide protection from exposure to HIV and other blood borne infections, the discriminatory practices at the clinic must cease.

A mother called the AIDS Discrimination Unit to complain that her daughter’s ongoing dentist mandated that she take an HIV antibody test as a precondition to continued treatment. The patient attested that she had not engaged in any risky behavior and the only past medical condition listed on her records was Epstein-Barr virus. The AIDS Unit investigator informed the woman that unless there is a clear denial of treatment, she has not been discriminated against; the dentist may still perform the surgery even without the test. The investigator encouraged the woman to meet with the dentist again and indicate her unwillingness to take the test. The dentist did in fact refuse further care. The investigator subsequently contacted the dentist and discussed the situation, informing the dentist about the law. The situation was resolved with the patient receiving care.
Dental Practices (continued)

of seeing the patient. Commonly, a dentist may claim that he or she does not have the proper sterilization equipment, or cannot provide specialized care. In the face of more complex discrimination problems, the Human Rights Commission must determine whether bias exists in the delivery of services.

Infection Control Practices

AIDS/HIV-related discrimination experts claim that most of the discrimination cases involving dentists relate to a lack of knowledge about HIV transmission and effective infection control procedures. Although safety guidelines regarding hepatitis B were issued over a decade ago, those dentists accused of discrimination commonly exhibit a reluctance to utilize universal precautions (i.e., assuming every patient is HIV positive, or has hepatitis B).

A recent survey of dentists conducted by the Oklahoma State Department of Health and the Oklahoma Dental Association assessed dentist's overall knowledge, attitudes and practices with regards to HIV, hepatitis B, and infection control procedures. Following are some of the major findings:

- Although a majority of the 750 dentists responding to the survey (82%) said they wear gloves consistently (76-100% of the time), close to 8% said they never wear gloves or do so less than 25 percent of the time.
- Only 71 percent of those surveyed said they consistently change gloves between patients, a decrease of 11 percent from the total that consistently wear gloves.
- One-quarter (25%) of those responding said they never or rarely wear masks (less than 25% of the time).
- Although most of the dentists (96%) felt that HIV-infected patients should have access to dental care, the overwhelming majority (83%) felt that the most appropriate setting was a hospital or dental clinic.
- Only 22 percent felt that dental care could be delivered routinely in a private practice setting.

The results of the Oklahoma survey do not differ significantly from those in other surveys conducted in California, Oregon and nationally by the American Dental Association. Among the chief barriers to caring for persons with AIDS or HIV infection cited by dentists in these surveys are:

- the fear of exposure to infected blood;
- the fear that other patients would be reluctant to continue their care if their dentist treated people with AIDS or HIV infection; and
- anxiety on the part of office staff.

Most medical and legal experts concur that these fears could be significantly reduced through appropriate AIDS/HIV information and effective infection control education.

The Oklahoma survey indicated that although most of the dentists (96%) felt that HIV-infected patients should have access to dental care, the majority (83%) felt that the most appropriate setting was a hospital or dental clinic.

Recommendations

The New York City Commission on Human Rights has worked on systemic approaches to promote mandatory education and ongoing training of members of dental associations. Among the major recommendations of the New York City AIDS Discrimination Unit with regard to dentists and other health professionals are the following:

1. Dentists and other health professionals need to recognize that they are subject not only to the rules of their associations, but also laws protecting the rights of their patients.

2. Professional associations like the American Dental Association have an important responsibility to ensure that member dentists have up-to-date information on AIDS and HIV infection, universal guidelines, infection control techniques, and legal responsibilities vis-a-vis people with AIDS and HIV infection.

3. Active and aggressive monitoring of the profession is needed to ensure that people with AIDS and HIV infection are not denied care because of stigma and misinformation.

For further information about the legal responsibilities of dentists in caring for persons with AIDS and HIV infection, contact the NYC AIDS Discrimination Unit, (212) 566-7638.

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AIDS/HIV Anti-Discrimination Initiatives in Other Cities

Local Policy Enforcement

In the absence of state and federal anti-discrimination policies, several cities have taken the lead in adopting policies that prohibit AIDS/HIV-related discrimination (see list, right). Currently, four cities have formal mechanisms in place to enforce AIDS/HIV anti-discrimination measures; Los Angeles, New York City, San Francisco and, more recently, Philadelphia, have established specific bureaus that are authorized to enforce anti-discrimination laws and investigate complaints of AIDS/HIV-related discrimination.

Other cities in the U.S. with policies prohibiting discrimination against people with AIDS or HIV infection have existing agencies that accept complaints of discrimination. In Washington, DC, the District of Columbia's Office of Human Rights is authorized to handle AIDS/HIV-related discrimination complaints. The same is true in Austin, Texas, where the Human Relations Commission accepts complaints of AIDS/HIV-related discrimination. These cities have not, however, established specific bureaus within these agencies that focus solely on AIDS/HIV-related discrimination.

The protocol developed by the New York City Human Rights Commission to investigate, mediate and litigate AIDS/HIV-related discrimination cases is similar in content to the protocols developed in San Francisco and Los Angeles and currently being implemented in Philadelphia. Like New York, the other three cities utilize a process that stresses the following major elements: early intervention; education; and expedited mediation.

San Francisco

In San Francisco AIDS/HIV-related discrimination complaints are received at the Human Rights Commission’s AIDS Discrimination Unit. The Commission received its first case in the Summer of 1982. Since then, it has investigated over 200 cases of AIDS/HIV-related discrimination. The total number of discrimination complaints actually received by the Commission is three to four times larger than the number formally investigated. Since 1982, 60 percent of the cases have involved discrimination in employment, 20 percent in housing, and 20 percent in public accommodations. Like New York City, the vast majority of cases are resolved through education; no cases brought to the San Francisco AIDS Unit have gone as far as a formal administrative hearing. Many cases involving discrimination based on sexual orientation have been brought to the Commission that may involve fears regarding people perceived to have AIDS or HIV infection, but these complaints are handled by a separate unit within the San Francisco Human Rights Commission.

In addition to the city government providing expeditious remedies of discrimination complaints, San Francisco’s AIDS Legal Referral Panel, an extensive network of over 300 attorneys under the aegis of the local bar association, offers free legal services to persons with AIDS and HIV infection. The high visibility of the city government, the private bar, the local health department, community based organizations and large private employers on the issue of AIDS/HIV-related discrimination have been cited as factors in the recent decline in employment-related AIDS/HIV discrimination cases in San Francisco.

Los Angeles

Los Angeles was the first city in the country to pass a law specifically prohibiting AIDS/HIV-related discrimination. The City Council authorized the office of the City Attorney to enforce the ordinance, and in January 1986 a full-time staff person was brought on to specifically handle AIDS/HIV-related discrimination complaints. Complaints are received by the AIDS Ordinance Enforcement Unit of the City Attorney which can quickly move for injunctive relief (i.e., restrain the discriminatory action). Unlike a traditional human rights agency, the Los Angeles City Attorney’s Office is not allowed by the law to seek damages on behalf of the complainant. The aggrieved individual is however allowed by the law to sue for

---continued, page 16---
damages through a private civil action.

Unlike the New York City and San Francisco Human Rights Commissions, the Los Angeles City Attorney's office does not utilize a formal complaint application or review process. Instead, the office investigates the complaints and through its injunctive relief powers, can call for a hearing at City Hall to hear both parties in a dispute and settle the complaint. Data on the number and types of complaints received by the L.A. City Attorney's office are available for the first two years of the project, February 1986 - February 1988. Ninety-three (93) complaints of AIDS/HIV discrimination were received in Year One, and 81 were received in Year Two.

Employment-based discrimination has led to the majority of AIDS/HIV-related discrimination complaints received by the City of Los Angeles. Proportionally, cases involving medical or dental discrimination increased over the two-year period. In addition to AIDS/HIV-related discrimination, the City Attorney's office handled 13 complaints of discrimination based on sexual orientation, the majority in employment settings.

Philadelphia

In February 1989, the Philadelphia Commission on Human Relations recently formed a department to handle AIDS/HIV-related discrimination complaints. The AIDS Bias Unit will act in a manner similar to the New York City, San Francisco, and Los Angeles units to provide rapid relief for persons with AIDS and HIV infection pursuing discrimination complaints. Organizers plan to make the unit readily accessible to the public to make complaints, as well as serve as a resource for information on the issue of AIDS/HIV-related discrimination. In 1987, Mayor W. Wilson Goode issued an Executive Order prohibiting AIDS/HIV-related discrimination under a provision of the city Fair Practices Act. Since 1986, there have been 12 AIDS/HIV-related discrimination complaints filed with the Philadelphia Commission on Human Relations.

Local Ordinances

Some debate surrounds the issue of establishing AIDS/HIV-specific anti-discrimination ordinances at the local level. While some advocates insist that new separate AIDS/HIV anti-discrimination ordinances should be developed at the local level because of the public health emergency of the epidemic and the lack of state and federal protections, others point out that existing laws protecting persons with disabilities may afford adequate protection for people with AIDS and HIV infection.

Representatives of New York City's Human Rights Commission advocate that localities should resist the move toward establishing AIDS/HIV-specific anti-discrimination measures outside of the context of other disabilities since creating AIDS/HIV-specific legislation may create additional stigma if AIDS/HIV is seen as separate from other disabilities or other types of discrimination.

The experience of the New York City Human Rights Commission has shown that instead of pushing for a new law, efforts may be more appropriately used to ascertain whether existing disability laws have teeth to them (i.e., allowing enforcement by local government) and that AIDS, HIV seropositivity, or perception of seropositivity is included as a disability.

Unlike New York City where the Human Rights Law has been formally interpreted to prohibit AIDS/HIV-related discrimination, both Los Angeles and San Francisco have enacted ordinances that specifically pertain to AIDS and HIV. In 1985, when both laws were passed, there was confusion as to whether the State of California Fair Employment and Housing Act included protections for persons with physical handicaps. California Governor George Deukmejian vetoed legislation that would have protected people with disabilities under the law. Thus, people with AIDS and HIV infection had no legal protection against discrimination and no mechanism for expeditiously registering and resolving complaints.

Both the city of Los Angeles and the city and county of San Francisco, among several other localities in California, developed AIDS/HIV-specific ordinances due to a lack of enforcement at the state and federal levels. San Francisco and Los Angeles AIDS anti-discrimination ordinances state that "existing state and federal restraints on such arbitrary discrimination are inadequate to meet the particular problems of this city [and county (S.F.)]." Thus in California, AIDS/HIV-specific anti-discrimination measures established by local statute were seen as crucial to provide immediate remedies to people discriminated against because of AIDS and HIV infection wherein adequate protections were not afforded by the existing laws.

In general, advocates for aggressive local enforcement of AIDS-related anti-discrimination measures agree to several basic principles: 1) localities should assess whether local laws protecting the rights of people with disabilities exist; 2) localities should determine whether the laws afford protections to people with AIDS and HIV infection; and 3) laws allow for AIDS/HIV-specific remedies for expediting the enforcement process and protecting confidentiality (i.e., authorize a specific agency to handle discrimination complaints). Using these steps, localities may be able to avoid the time and expense needed to enact new legislation and still be able to provide relief to people faced with AIDS-related discrimination.
In June 1988, the report of the Presidential Commission on the HIV Epidemic detailed the ramifications of HIV-related discrimination on the nation's ability to control the spread of the epidemic. The Commission reported that many people will not come forward for testing, counseling and care because they "fear that they will be unable to retain their jobs or their housing, and that they will be unable to obtain the medical and support services they need because of discrimination based on a positive HIV-antibody test." The report described the obstacles presented by HIV-related discrimination and provided recommendations for all levels of government and professions advocating a variety of measures to protect the rights of persons with AIDS/HIV.

The HIV Commission stated the following as obstacles to progress in effectively preventing the spread of HIV:

1. "There is no societal standard or national policy statement clearly and unequivocally stating that discrimination against persons with HIV infection is wrong."

2. "There is no comprehensive, national legislation clearly prohibiting discrimination against persons with HIV infection as a handicapping condition."

3. "There is a lack of coordinated leadership from our public and private institutions on the issue of discrimination against persons with HIV infection."

4. "A patchwork of federal, state, and local laws is both confusing and, ultimately, ineffective in preventing discrimination or providing remedies."

5. "Enforcement of existing anti-discrimination laws is slow and ineffective."

6. "Education about transmission of the virus and about the laws banning HIV-related discrimination is insufficient. This results in ignorance, misinformation, acts of discrimination, and in some persons, and irrational fear of association with those who are HIV-infected."

Among the major recommendations of the President's Commission on the HIV Epidemic regarding discrimination of persons with HIV infection were:

1. The President should issue an executive order banning discrimination on the basis of handicap, with HIV infection included as a handicapping condition.

2. Comprehensive federal anti-discrimination legislation which prohibits discrimination against persons with disabilities in the public and private sectors, including employment, housing, public accommodations, and participation in government programs, should be enacted. All persons with symptomatic or asymptomatic HIV infection should be clearly included as persons with disabilities who are covered by the anti-discrimination protections of this legislation.

3. If not now the case, states should amend their disability laws to prohibit discrimination against persons with disabilities, including persons with HIV infection who are asymptomatic or symptomatic, and persons with AIDS, in public and private settings including employment, housing, public accommodations, and governmental services.

4. Arbitration, mediation, and accelerated settlement procedures and programs should be developed and utilized to assist in the speedy resolution of HIV-related discrimination complaints.

5. Organizations representing health professionals should adopt a public policy statement that their members have an ethical obligation to treat patients with HIV infection in a non-discriminatory fashion.

Armed with these and other exhaustive recommendations on responding to the HIV epidemic, the Reagan administration in its final days made little progress in the area of HIV-related discrimination. The Justice Department issued a pronouncement reversing its 1986 position on the coverage of people with HIV infection and AIDS in federally operated or funded programs. The Justice Department opinion affirmed that both people with AIDS and HIV are individuals with handicaps and are protected against discrimination under Section 504 of the Rehabilitation Act of 1973. The reversal came as a result of the HIV Commission recommendations and the Supreme Court's decision in the 1987 School Board of Nassau County, Florida v. Arline case which established that contagious diseases are protected by the physical handicap provisions of the Rehabilitation Act.

In addition, President Reagan signed into law the Fair Housing Amendments Act in September 1988 which extends anti-discrimination protections to people with
disabilities and families with children. The law ensures that people with AIDS and HIV infection are now protected in both public and private housing as members of the class of people with disabilities.

Although both measures were seen by anti-discrimination advocates as steps in the right direction, the Reagan Administration left behind the larger questions raised by the HIV Commission concerning protections on a national level of persons with HIV infection and AIDS in the private sector, including the areas of employment and public accommodations. The 100th Congress was also not able to settle the discrimination issue; the comprehensive AIDS legislation that was part of the Omnibus Health Act of 1988 did not include expected confidentiality and anti-discrimination provisions. These questions have been left to the Bush Administration and the 101st Congress to resolve.

Current and Future Directions

Currently, movement is underway in Congress to enact comprehensive federal anti-discrimination legislation which prohibits discrimination against persons with disabilities in the public and private sectors. The Americans with Disabilities Act, which was introduced in August 1988 and will be introduced in the 101st Congress, is the vehicle AIDS/HIV anti-discrimination advocates intend to use this year. If enacted, the bill would expand the coverage of the Rehabilitation Act to include private sector protections of persons with AIDS and HIV infection, as well as other disabilities.

As yet, most of the HIV Commission's recommendations have not been implemented by the federal government. In lieu of comprehensive federal protection and enforcement, many states and localities have responded to the crisis by amending existing disability laws to include persons with AIDS/HIV as protected from discrimination in employment, housing, and public accommodations, or establishing AIDS/HIV-specific anti-bias laws where appropriate. As the shadow of AIDS broadens over the country, more and more people will require adequate protection from discrimination. Lacking pervasive federal protection, localities will need to respond in a timely manner to enforce laws and provide immediate relief to individuals denied access to needed services or forced underground by the fear of stigma and AIDS/HIV-related discrimination.

For further information about the progress of the Americans with Disabilities Act, contact the Senate Labor and Human Resources Committee, (202) 224-6572.

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Resources on Infection Control in the Dental Health Community

"Infection Control in the Dental Setting: Policies and Procedures," by Katherine West is the recently published manual for dentists that addresses prevention of hepatitis B and HIV in the workplace. Topics covered include: compliance with recent Occupational Safety and Health Administration regulations; staff protection and immunization recommendations; cleaning routines; forms for documentation; guidelines for following up on exposure; and cost containment information.

The manual is available for $55 and can be ordered from: Katherine West, Infection Control Consultant, 8631 Tuttle Road, Springfield, VA 22152, (703) 644-5032.


The Public Health Foundation, in association with the Association of State and Territorial Health Officials (ASTHO) and the Association of State and Territorial Dental Directors (ASTDD) will be releasing a report on the dental community and HIV control. Guide to Public Health Practice: HIV Control in the Dental Health Community, based on an April 1989 workshop sponsored by ASTHO and ASTDD, represents the official policy recommendations of these organizations with regard to: education and training the dental community about HIV prevention and infection control; caring for HIV-infected patients; and insuring confidentiality of medical information. The Guide is currently under preparation and will be available in August, 1989. For further information, contact Jud Richland, Public Health Foundation, 1220 L Street, NW, Washington, D.C. 20005, (202) 898-5600.
AIDS/HIV Discrimination Resource List

The following is a selected list of additional contacts regarding the legal issues surrounding AIDS/HIV discrimination.

American Civil Liberties Union AIDS Project
132 West 43rd Street
New York, NY 10036
(212) 944-9800

AIDS Legal Referral Panel
Bay Area Lawyers for Individual Freedom (BALIF)
1663 Mission Street, Suite 400
San Francisco, CA 94103
(415) 864-8186

Lambda Legal Defense and Education Fund
666 Broadway
New York, NY 10012
(212) 995-8585

AIDS Discrimination Unit
City of Los Angeles
200 North Main Street
1600 City Hall East
Los Angeles, CA 90012
(213) 485-4579

AIDS Civil Rights Project
National Gay Rights Advocates
540 Castro Street
San Francisco, CA 94114
(415) 863-3624

National Health Law Program, Inc.
2025 M Street, N.W., Suite 400
Washington, DC 20036
(202) 887-5310

National Lawyers’ Guild AIDS Network
558 Capp Street
San Francisco, CA 94102
(415) 824-8884

AIDS Discrimination Unit
New York City Commission on Human Rights
52 Duane Street, 7th Floor
New York, NY 10013
(212) 566-7638

Office of AIDS Discrimination Issues
New York State of Human Rights
55 West 125th Street
New York, NY 10027
(212) 870-8624

AIDS Unit
Philadelphia Commission on Human Relations
631 City Hall Annex
Philadelphia, PA 19107
(215) 686-4667

AIDS Discrimination Unit
San Francisco Human Rights Commission
1095 Market Street
San Francisco, CA 94102
(415) 558-4901

Office for Civil Rights
U.S. Department of Health and Human Services
330 Independence Avenue, S.W. - Room 5514
Washington, DC 20201
(800) 368-1019
# AIDS-Related Discrimination Complaints
## Received by the NYC Commission on Human Rights

**January 1986 — June 1987**

## Breakdown by group

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<thead>
<tr>
<th>Group</th>
<th>1986</th>
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<tr>
<td></td>
<td>Full Year</td>
<td>Half Year</td>
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<tr>
<td>Men</td>
<td>228 (73%)</td>
<td>232 (77%)</td>
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<tr>
<td>Women</td>
<td>64 (20%)</td>
<td>62 (21%)</td>
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<tr>
<td>Children</td>
<td>22 (7%)</td>
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<td><strong>Total</strong></td>
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<td><strong>300</strong></td>
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## Type of discrimination

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<tr>
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<tr>
<td>Housing</td>
<td>40 (13%)</td>
<td>42 (14%)</td>
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<tr>
<td>Justice System</td>
<td>9 (3%)</td>
<td>50 (17%)</td>
</tr>
<tr>
<td>Insurance</td>
<td>5 (2%)</td>
<td>11 (4%)</td>
</tr>
<tr>
<td>Public Accommodations</td>
<td>141 (45%)</td>
<td>99 (33%)</td>
</tr>
<tr>
<td>Other</td>
<td>39 (12%)</td>
<td>10 (3%)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>314</strong></td>
<td><strong>300</strong></td>
</tr>
</tbody>
</table>

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Thanks to the following people for their assistance in preparing this issue: Mitchell Karp, Katherine Franke, Keith O'Connor, Katy Taylor, Romeo Sanchez, and Amber Hollibaugh of the New York City Commission on Human Rights; Ron Toth of the State of Oklahoma Department of Health; Norm Nickens of the San Francisco Human Rights Commission; and David Schulman of the Office of City Attorney, Los Angeles.
I am Mitchell Karp, the Supervising Attorney of the AIDS Discrimination Division of the New York City Commission on Human Rights. With me is my colleague, Katy Taylor, the Deputy Director of the Division. Working daily as we do with the overwhelming discrimination problems faced by people with AIDS, we are pleased and honored to be addressing this Commission today.
Many people have tried to steer the discussion of AIDS-related discrimination to one where public health is pitted against civil rights. We are here to tell you that this is totally misleading. Ever since AIDS emerged as a public health emergency early in this decade, it has been shrouded in fear, misinformation and prejudice. These three factors have clouded the issues and complicated all efforts to manage the crisis. We are really dealing with two epidemics, the first is a medical epidemic and the second, equally devastating, is one of stigma and discrimination. We cannot eradicate the medical epidemic without eliminating the epidemic of discrimination.

Please understand that what we have to say about discrimination is in no way theoretical. This is not an academic study; it is not supposition; it is fact. People with AIDS, people with ARC, people who are HIV antibody positive and people who are perceived to be any of the above (because they are part of a so called "risk group" or are the family members or loving partners of a person with AIDS or because they provide services to people with AIDS) are suffering intensely - right now - from overwhelming discrimination. Over and over we hear the same thing from the people who come to us: "Getting sick is terrible,

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1 A copy of "AIDS Discrimination and its Implications for State Legislators and Health Policymakers" is attached. This testimony was presented by the AIDS Discrimination Unit to Regions IV and VI of the Public Health Service in New Orleans on December 4, 1987.
but what's really made my life a living hell is the way I've been treated."

The stigma attached to HIV infection adversely affects every aspect of this epidemic from research to public policy. It affects the quality of health care (and even the basic right to obtain health care), the dignity accorded the infected, and the willingness of the uninfected and uneducated to reach out for HIV prevention literature or even be seen watching an AIDS education video. As a result, vital opportunities to prevent further spread of the disease are missed daily in churches, homes, synagogues, schools and communities around the country.

As we mentioned earlier, this epidemic of stigma and discrimination has three components: fear, misinformation & prejudice. This perhaps deserves more explanation. The fears are often primary fears about death, disease and sexuality. They must be acknowledged and dealt with, but we cannot permit irrational fears to dictate our behavior. The misinformation is in some ways the easiest to deal with - we can correct the misinformation with accuracy and facts. It will, of course, require a commitment to a rigorous, culturally appropriate mass education campaign. And the full impact of prejudice must be recognized. AIDS stigma is an interlocking web which draws on many of the underlying prejudices which have long plagued our society. Those who have been hardest hit in this epidemic are often already marginalized by race, gender, sexual orientation, disability, national origin, age or immigrant status.
In New York City, for example, and in many other parts of the United States, one must always take into account the impact of poverty and the effects of racism when attempting to catalogue the toll of AIDS upon those who have the disease. 54% of all people with AIDS in NYC are Black or Hispanic. When considering the discrimination affecting this group of people with AIDS, we must also take into consideration the pre-existing prejudice against racial and ethnic minorities which further fuels the intolerance typically directed toward people with AIDS.2

The AIDS Discrimination Division has handled approximately 1,200 complaints of AIDS-related discrimination. The number of complaints has risen each year from 3 in 1983 to more than 300 in 1986, a total which nearly doubled again in 1987 to a total of almost 600 complaints. This number of complaints is surprisingly large when you remember that a) the Commission on Human Rights is a small agency, and b) people overwhelmed by coping with basic daily survival, which is the case when someone is sick or dying, are much less likely to be able to file a complaint with a human rights agency. Many people lost their jobs, thereby losing their insurance coverage; others lost their homes. A significant number of the complaints involved denial of medical treatment; and often the person with AIDS was having a medical emergency at

2 For further information on this phenomenon, we direct your attention to the report of the AIDS Discrimination Unit, entitled "AIDS and People of Color: the Discriminatory Impact."
the time. People have been denied transportation by ambulance, dental treatment, dialysis, surgery, oxygen deliveries to their homes. The list goes on and on. To give you some idea of the scope of AIDS-related discrimination, allow me to tell you about a few of the people who have come to us.

-An older Hispanic woman from the South Bronx could not find a funeral home willing to handle the body of her daughter who had died of AIDS-related causes. When she contacted the AIDS Discrimination Division, we were able to arrange for her daughter's burial through a funeral home which did not discriminate. Two years later this same woman had to call us again, because her landlord had found out how her daughter died and was now trying to evict her and her three grandchildren, whom she'd taken in after her daughter's death.

-A young man called us in a panic. Though he had been trying for days, he had been unable to obtain dialysis due to the fact that he is HIV antibody-positive. If he did not obtain this treatment within 48 hours, he said, he would die. After speaking with several hospitals which would not provide the treatment because they wrongly believed it would "contaminate" their dialysis units, we arranged with a public NYC hospital to provide the treatment.

-Many people with AIDS or ARC have found themselves totally unable to obtain dental treatment from any private dentist or
even from a clinic. (You must keep in mind that the Centers for Disease Control has repeatedly advised that all patients be assumed to be HIV antibody positive and treated accordingly.) Although in all but a few cases there is no reason to exclude HIV positive persons from one's practice, many dentists in New York City refuse to work on patients who are infected with the virus. There is no sound medical reason for this exclusion; it is based on discrimination and ungrounded fears.

We ask that you review the AIDS Discrimination Division's report on discrimination against people with AIDS and people perceived to have AIDS for further information and case histories.³

If this Commission is to make a substantial contribution to the fight against the HIV epidemic -- and we trust that you will -- a massive, federally directed anti-discrimination campaign must be undertaken. We have heard from some federal legislators that they consider it appropriate to leave such legislation "to the states themselves." Our experience tells us that it is far too late and the stakes are far too high for hoping that others will take the initiative in this area and that the action taken will be rational. The federal government must point others in the right direction by seeing to it that

³ The AIDS Discrimination Unit's "Report on Discrimination Against People with AIDS and People Perceived to have AIDS" is available in an updated version. Call (212) 566-1826 for additional copies.
discrimination issues are no longer raised as an afterthought; anti-discrimination protections must be made one of the cornerstones of each and every aspect of the Commission's recommendations. At this point, if we aren't actively deconstructing AIDS stigma, we are fueling the growth of this second epidemic.

We bring with us a set of principles as well as recommendations, believing that there are not only recommendations to be made, but principles to apply when implementing these recommendations. Principles or Concepts which will effectively fight the discrimination and stigma connected to AIDS:

1. Adopt a strong, visible, national anti-discrimination stance.
2. Make human rights the cornerstone of all AIDS efforts - whether educational, for the public health, or matters of policy.
3. Actively de-construct stigma at every opportunity. An invaluable step in this direction would be for the federal government to drop current "risk group" terminology and adopt the "actual risk" terminology used by NYC and also the World Health Organization.
4. Consider the entire social context of AIDS. This will include squarely addressing the impact of the underlying prejudice and discrimination issues associated with AIDS.
5. Fully evaluate the impact of all policies for the impact on human rights and the social consequences. Not only is this required by our constitution, it also makes good public health sense and avoids panic or short range solutions which might be detrimental in the long run.

6. Maintain a global perspective - to fail to do so distorts our perspective and limits our ability to evaluate and find real solutions.

We recommend:

I. That the federal government take a strong anti-discrimination stance by rapidly implementing national policy against HIV-related discrimination.

1. We recommend the appointment of a blue ribbon panel composed of experts knowledgeable about the full range of issues and representing all affected communities, as well as elected officials committed to eradication of AIDS-related discrimination. The role of this panel of experts will be to set a positive anti-discrimination model nationwide by reviewing legislative policies, funding packages, research, educational initiatives and any and all directives dealing with HIV-related issues, for discriminatory language, content or effect. The panel will serve two functions. The first is to ensure that the wording and content of: bills, funding agreements and educational initiatives (including
public health initiatives) does not unfairly or disproportionately harm certain classes of people. There is a need to ensure that the wording or intent of such bills, agreements and initiatives does not further stigmatize people with AIDS, people with ARC and people who are HIV-positive. Second, the panel will ensure that guarantees that people with AIDS will not be discriminated against by the recipients of the contract, funds, etc. are contained in written form in the body of the agreement, contract, funding arrangement, etc.

2. We strongly urge that the federal government issue Executive Orders banning HIV-related discrimination in federal housing, employment and programs.

3. The President must take an active, leadership role in quelling the epidemic of stigmatization of people with AIDS, including:

- The Commission should strongly urge the President to make telephone calls to the victims of discrimination where there is national media coverage (for example: the Ray family of Arcadia, Florida) assuring them that America does not condone or support such violence.

- A telephone call from the President is also in order for those whose response to AIDS-related discrimination is positive and creative (for example: the Mayor of Swansea, Mass. deserves such a call, congratulating the town for their sane and humane
response to people with AIDS.
- The President must make speeches which address the issues affecting those with AIDS, condemning discrimination and explaining how stigmatizing the infected is hurting us all.

4. Aggressive support must be generated for lobbying on behalf of federal legislation prohibiting HIV-related discrimination.

5. The authority of the federal budget should be used to ensure that AIDS monies are inextricably linked with assurances of civil rights protection.

6. The President can and should call on governors and mayors, urging them to take similar steps on regional and local levels.

II. **Legislative Enactments**

1. Federal laws must be passed to ensure that all disability discrimination (including coverage for asymptomatic HIV infection) is prohibited in private and public employment, housing and public accommodations. (This is similar to the protection currently afforded those who are discriminated against on the basis of race or sex.)

2. This Commission should require (or, if not possible, request) that states and municipalities legislate safeguards to ensure that HIV-infection is included
within general protections against disability discrimination. If that power is not within this Commission's reach, a search should be undertaken to determine which agency or official could make such a request.

3. It must be required that medical and dental schools include a mandatory course on HIV-infection: what it does and doesn't mean for the medical professional.

4. We very strongly recommend that all efforts to legislatively overturn the Supreme Court's ruling in Arline be rigorously fought.

5. The advisability of avoiding local AIDS-specific legislation must be stressed, focusing instead on the appropriateness of including HIV-related discrimination under protections afforded by existing disability legislation, thereby minimizing the additional stigma that such specificity creates.

IV. Administrative Programs

1. The Commission must stress the need for a nationwide education campaign which includes not only transmission information, but accurate information which de-emphasizes "risk group" terminology and states that there is no need to fear people with AIDS, people with ARC or those who are HIV antibody positive.

2. Similarly, the Commission should recommend that the federal government undertake a campaign of public
service announcements designed to eliminate scapegoating various groups for the epidemic.

3. There should be a federal proclamation of National AIDS Awareness Day, coordinated with a Presidential speech and including special incentives for positive, innovative AIDS policies and programs in all workplaces and schools.

V. Funds

We recommend the institution of a reward system whereby inclusion of a non-discriminatory policy statement regarding the HIV-infected is necessary for a program's funding to be awarded. Those organizations which fail to guarantee that they will not discriminate against those with AIDS or ARC or those who are HIV antibody positive.

Please Note: A statistical summary of the number of discrimination complaints handled by the AIDS Discrimination Division is attached.
STATISTICS ON AIDS-RELATED DISCRIMINATION
SUBMITTED BY THE AIDS DISCRIMINATION UNIT
OF THE NYC COMMISSION ON HUMAN RIGHTS

Nashville Hearings on Discrimination 3/16/88

As of January 31, 1988 the AIDS Discrimination Unit had received 1,112 complaints of AIDS-related discrimination. Most of these complaints were resolved through advocacy. In other words, once the report was received a unit staff member made phone calls, wrote letters, or arranged meetings which would be attended by both parties, at which time an AIDS Discrimination Unit worker acted as mediator to help the sides reach an amicable resolution. Only when these methods failed did the unit resort to the formal filing of charges which results in a legal finding or a decision and order by the Commission on Human Rights' Hearing Officer. There is usually no time for these methods when dealing with AIDS discrimination cases. Thus advocacy is the route of choice.

The following is included in order to apprise the President's Commission of our current complaint activity. At this time, an average of 67 complaints are filed with the unit each month.

In order to inform you of the nature of these discrimination complaints, we grouped the most recent month's complaints by category. In January of 1988, 63 AIDS-related complaints were reported to the unit. They break down as follows:

1 Summary of Complaint Activity in Unit:

<table>
<thead>
<tr>
<th>Year</th>
<th>Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>1983</td>
<td>3</td>
</tr>
<tr>
<td>1984</td>
<td>49</td>
</tr>
<tr>
<td>1985</td>
<td>96</td>
</tr>
<tr>
<td>1986</td>
<td>314</td>
</tr>
<tr>
<td>1987</td>
<td>587</td>
</tr>
<tr>
<td>Jan 88</td>
<td>63</td>
</tr>
<tr>
<td>Total</td>
<td>1,112</td>
</tr>
</tbody>
</table>

2 In the early days of the unit's activities, nearly one-third of the complaints were filed by people who did not have AIDS or ARC, nor were these people HIV positive. They were simply perceived by others to have AIDS, usually because they were members of a group connected by media reports with AIDS diagnoses (gays, Haitians, former intra-venous drug users.) However, things have changed. Almost all the AIDS-related discrimination complaints being dealt with at this time involve discrimination against a person who actually is HIV antibody positive or who has been diagnosed as having AIDS or ARC.

3 Based upon actual statistics: 94 complaints were filed in October, 1987; 74 in November; 38 in December; and 63 were filed in January of 1988. Average: 67.3 complaints per month.
<table>
<thead>
<tr>
<th>Category</th>
<th>Count (Percentage)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment</td>
<td>10 (15.9%)</td>
<td>(usually involves employee's termination, often after a hospital stay during which co-workers learn nature of illness.)</td>
</tr>
<tr>
<td>Housing</td>
<td>15 (23.8%)</td>
<td>(evictions, refusal to rent both residential and commercial space or to make repairs because of workmen's fears of entering the apartment of a PWA.)</td>
</tr>
<tr>
<td>Medical/Health-Related</td>
<td>17 (27%)</td>
<td>(refusals of service by: ambulances, clinics, home-care attendants, visiting nurses, dentists, doctors, etc.)</td>
</tr>
<tr>
<td>Social</td>
<td>7 (11.1%)</td>
<td>(Problems obtaining SSI, Medicaid, shelter, etc. because of AIDS/ARC or HIV positivity)</td>
</tr>
<tr>
<td>Court/prison/police</td>
<td>4 (6.3%)</td>
<td>(unfair treatment because of AIDS)</td>
</tr>
<tr>
<td>Children</td>
<td>6 (9.5%)</td>
<td>(usually concerns mandatory HIV antibody testing of children due to parents' history)</td>
</tr>
<tr>
<td>Insurance</td>
<td>4 (6.3%)</td>
<td>(Mandatory testing and insistence on negative results to qualify for insurance policies)</td>
</tr>
</tbody>
</table>
NYC COMMISSION ON HUMAN RIGHTS  
Report on Discrimination Against People With AIDS  
November 1983 - April 1986

The Human Rights Law of the City of New York prohibits discrimination in the areas of housing, employment and public accommodation on the basis of an individual's handicap or disability. The NYC Commission on Human Rights has taken the position that it has jurisdiction over all complaints of AIDS and AIDS-related discrimination under the protection afforded by the present statutory provisions. Consequently, the NYC Commission on Human Rights accepts complaints from and offers assistance to:

- Persons with AIDS
- Persons with ARC (AIDS-Related Complex)
- Those who have tested HTLV-III antibody positive
- Members of a group considered to be at risk for AIDS
- Family members, co-workers, lovers and/or friends of someone in the above four categories who believe they have been discriminated against because of their association with this individual.

The Commission received its first reported incident of AIDS discrimination in June 1983. Thereafter the AIDS Discrimination Unit was established to document and respond to complaints of AIDS-related discrimination. This report summarizes the complaints received by the unit from November 1983 through April 1986. With the exception of some few cases, where the facts surrounding the incident have been determined, these reports of discrimination must be considered allegations, unproven at this time. In many cases, the Commission was able to settle the case through advocacy, and resolve the problem to the satisfaction of the caller and the party charged with discrimination. In such instances, official findings of fact were not reached. (Most often in such cases, a formal investigation to determine the veracity of the allegations was unnecessary. Indeed, respondents were very open about having fired someone with AIDS, or evicted someone they suspected of having AIDS.) In other cases, formal complaints were never filed; again, the facts could not be determined. However, such a body of allegations possesses a merit of its own: it is a record of the experience of the callers.
Discrimination problems abound for the person with AIDS, but such problems also affect those in close proximity to an individual who has AIDS: the support person, care provider, family member, lover or spouse. We have even heard from a doctor and a dentist who, because they chose to treat patients who have the disease, experienced discrimination. No one involved in the care or support system of a person with AIDS is immune from adverse consequences due to the relationship. In addition, an alarming number of incidents of discrimination have been reported persons who do not have AIDS but instead are perceived to have AIDS or assumed to be in a risk group for AIDS. All these groups may suffer some form of AIDS-related discrimination.

A civil rights worker has to be innovative and responsive to adequately address the myriad problem situations affecting an individual with AIDS. It is the rule, rather than the exception, that a caller reports more than one problem when contacting the Commission. Many of these callers raise complicated legal issues and seek help in areas for which the territory is as yet uncharted with respect to discrimination law. And those who have AIDS often need assistance quickly and desperately.

Unfortunately, because of AIDS hysteria, many callers fear adverse publicity or other negative reprisals and are reluctant to file a formal complaint or leave their name or telephone number, making follow-up in these instances difficult if not impossible.

The end result, or perhaps it is more factual to say the ongoing result since the situations addressed in this volume continue to plague those who have or deal with AIDS, is a foray into a new and compelling area of discrimination law. We hope that others who concern themselves with the problems related to this tragic epidemic will also try to summarize and document what they have learned because problems which require revisions in law or policy can best be delineated when a greater number of people are involved.

The incidents related in the body of this report are summaries of individual and systemic complaints. By systemic, it is meant that the problem is company- or industry-wide, that a tacit or written policy exists which would adversely affect any person with AIDS or perceived to have AIDS. This type of complaint is common and it is significant in that the number of people adversely affected by the practice may well be much higher than the actual number of reports received. For every report of systemic discrimination received, we must consider that scores of people with AIDS or those perceived to have AIDS may be denied that service (or job, housing, etc.)

To assist the reader, the complaints have been grouped by category. (i.e. all hospital and health-related complaints are listed in one group, all employment discrimination complaints in
another, etc.) Seeing these complaints in type-groups furthers an understanding of the similar and recurring nature of the problems.

EMPLOYMENT

During the period covered by this compilation, the Commission received a total of 44 reports of AIDS or AIDS-related employment discrimination. Approximately two thirds (31) of these involved incidents where the person did not actually have AIDS but was perceived by co-workers or by an employer to have AIDS or be at risk for contracting and somehow spreading AIDS. Many incidents resulted in termination; others arose because an employer refused to hire someone after concluding that the person might be in a high risk group. Lack of accurate information about the syndrome often prompted irrational reactions from co-workers and employers alike. Mere mention by a seemingly healthy individual of involvement with someone who has AIDS can lead to the loss of employment.

By accepting these complaints, the Commission was often able to assist complainants in obtaining reinstatement or financial settlements. Increasingly, through education, employers have come to understand that AIDS is not communicated by casual contact. The Centers for Disease Control have determined that no precautions need be taken in most work environments. AIDS is not a special case; it is simply a disability as defined by law and discriminating against an employee who has or is perceived to have this disability is punishable by law.

Reports have been received that insurance companies, reacting to the heavy burden of AIDS-related health care costs, are pressuring employers to determine, prior to hire if they can, the likelihood of a potential employee's risk of contracting AIDS. The ELISA Blood Test, which tests for the presence of antibodies to the HTLV-III virus thought to cause AIDS, is the method most commonly used by employers to screen prospective and current employees. This test, as licensed by the Food and Drug Administration, is to be used for research only and is not to be considered diagnostic. A positive test result does not mean an individual has AIDS, will get AIDS, or could transmit AIDS. It indicates exposure to a virus associated with the syndrome. Yet willingness to be subjected to the test is often a precondition - albeit an illegal one - to employment, thus placing job applicants in a very difficult situation.

Some employees are hired, start to work and suddenly find they are terminated. Only later do they learn that their blood was tested for HTLV-III antibodies without their knowledge or consent and that their tests proved positive. This abuse of HTLV-III antibody testing is discriminatory and illegal.
Other reports have come in that potential employers seem overly interested in the marital status and age of male job applicants. Apparently an unmarried male in his late twenties or thirties is viewed by many interviewers as a poor risk. In addition, any history of IV drug use, and possibly even the admission that one is from or recently worked in Haiti would also be viewed negatively. Certainly reports from the Haitian community confirm this latter contention.

HOUSING

Some of the most devastating discrimination reports brought to the Commission involved housing. In such cases, not only did the person with AIDS have to cope with a swift decline in health but also had to face the possibility of having nowhere to live during this crisis period. Landlords have been charged with refusing to make repairs or provide essential services, interrupting heat and hot water (vital issues when one is well; life-threatening factors for those in poor health) and illegally evicting people with AIDS from their apartments. Misinformation about the syndrome, often compounded by pre-existing biases about gay men, IV drug users, immigrants or any other group connected by popular opinion to AIDS, combined to generate irrational fears which underlie each discriminatory incident. In one instance neighbors complained that AIDS might be spread by moving furniture through the hallways because it had belonged to a person who had AIDS. In another case a man with AIDS, trying to return to his apartment after having a debilitating chemotherapy treatment, was brutally attacked by an agent of the landlord, wielding a lead pipe. Add to these situations the likelihood that the individual has probably suffered a loss of income, take into account the tight rental market, and one gets some idea of the almost insurmountable difficulty someone with AIDS faces in his or her effort to secure housing.

HEALTH CARE FACILITIES

Unlike the large number of allegations of employment discrimination based upon the perception of AIDS in a healthy individual, the majority of the 30 reports alleging discrimination by health-related public accommodations such as hospitals and ambulances are, naturally, from people who actually have AIDS. Many of the systemic reports involve service providers and life-threatening situations; there can be very serious consequences to discriminating against a person with AIDS. The report contains several mentions of ambulances refusing to transport a very ill patient with AIDS or to provide needed emergency medical treatment. In more than one such incident, the patient may well have died because medical attention was withheld.
Not only ambulance workers but ambulette (invalid coach) drivers, doctors, dentists, hospital cleaning and food preparation staff, laboratory technicians and therapists have reportedly refused to deal with AIDS patients who required their services. The range of rejections by service providers extends to nursing homes, which categorically deny access to patients with AIDS. Here the social worker rather than the patient with AIDS usually has direct knowledge of the discrimination and it is this individual who contacts us. Service rejections affect those with AIDS throughout the course of their illness and beyond - funeral homes regularly inform family and friends that they will not deal with the body of a loved one who died due to complications caused by AIDS or, if they do deal with the body, charge exorbitant rates for doing so. Often we found that in such instances the family members and surviving spouses and lovers were too traumatized by the disease, the mistreatment and finally the death to file a formal complaint. The scope of service rejections is devastating.

INSURANCE

The Human Rights Law does not specifically exclude insurance from its definition of "public accommodation." However, the Commission's Legal Department has advised that case law precludes acceptance of complaints against insurance companies. Nevertheless the Commission has kept a record of reported incidents of discrimination by insurance companies in order to document the problem. Complaints have been made against insurance companies for their refusal to cover treatment costs for people who have AIDS, their arbitrary termination of insurance coverage and their repeated contention that AIDS constitutes a pre-existing condition and is therefore a valid basis upon which to cancel a policy. This has been reported even when diagnosis occurs well beyond the cessation of a waiting period and although the patient had no prior knowledge of his condition. In addition, the ELISA and other tests may become an industry-wide tool to screen applicants for insurance - this despite the fact that the test cannot be considered diagnostic. The implications are chilling. Are we entering an era when simple exposure to a virus can render one uninsurable for life? A clear understanding of the meaning of a positive test result and carefully written guidelines for utilization of this and other related testing systems are necessary immediately.

THE COMMISSION'S RESPONSE

What can be done about all these problems? The Commission's response has been multi-faceted. First, we have made full use of the civil rights laws and other protections which now exist and can be called upon to facilitate solving the discrimination problems faced by a person with or perceived to have AIDS.
Second, we have come to recognize, as have most other organizations dealing with people who have AIDS, that many problems can best be solved by assuming the role of ombudsman. By the creative use of advocacy, many problems can be resolved or settled very rapidly, usually within 24-48 hours. Obviously, when a complainant is very ill or in an emergency situation, even a speedy traditional investigation may be impossible or inappropriate. Advocacy remains the best route and must become more widely available to those who suffer this type of discrimination.

Third, we have recorded all the complaints which have been brought to us. By documenting these problems, our intention has been to obtain clear indications of the nature and extent of AIDS and AIDS-related discrimination so that we can begin to suggest and provide specific remedies.

Fourth, education remains critical and is surely the best defensive measure. Effective education can both deter the epidemic itself and prevent the fear and ignorance which lead to discrimination. Our role in the education process has been to apprise people of the civil rights aspects of this crisis. Finally, once the problems have been identified, appropriate legislation must be proposed and enacted.

There is also a need to responsibly define and legislatively address what we refer to as the grey areas: What of the constitutional and medical ethics of forced or secret HTLV-III antibody blood testing? And what of the lack of confidentiality regarding the test result when it is not an employment-related issue? Who might learn of a positive result? Where would that result be recorded? And what discriminatory repercussions might this person later experience? In the areas where medical and legal issues are so involved and intertwined as to be indistinguishable to the layman, public hearings with expert medical/legal input must be convened to determine the need for change and the best methods by which to effect this change.

There is also the issue presented by people with ARC (AIDS-Related Complex). ARC is also covered under the Human Rights Law, but this fact has received minimal and confused coverage in the news. It is not even clear to the population at large what ARC is or that it represents no more threat of contagion than AIDS. There has been little documentation of the problems experienced by people with ARC. We know that the number of people with ARC is many times greater than the number with AIDS. They too are encountering discrimination and are, in many cases, quite ill. However, because they don't officially have AIDS, they are not eligible for many of the services and assistance available to people with AIDS. A body of knowledge regarding the experiences to which a person with ARC is subjected must be assembled.
It is the Commission's position that current legal protections must be fully utilized and that where a lack of protections is noted, clear and comprehensive statements must be written into the law so that people with AIDS and those who are perceived to be AIDS risks are fully protected from discrimination. The extent of bias and backlash and the devastating impact of the discrimination we have witnessed leads us to conclude that confidentiality must be rigidly adhered to; mandatory testing of anyone must be illegal; and discrimination based upon the perception of AIDS must be considered equally illegal.

In the interim, advocacy, education and communication remain the best tools. Willing, helpful and knowledgeable advocates to act on behalf of those with AIDS, those with ARC and those perceived to be AIDS risks must be available in all areas. Governmental agencies, private institutes, community workers and care and support providers must communicate not only with one another but with the real experts - those who have AIDS or ARC - to share their experiences and identify problems.

The impact of Acquired Immune Deficiency Syndrome on our society is only beginning to emerge. But the need for effective and creative responses to the problems it poses is already apparent. It is hoped that the experience summarized in this report can be utilized toward this end. By assimilating and working with solid information, the kind that can only be obtained through experience, the AIDS care and support network can extend in a logical manner. It is only by working together that we can hope to meet the pressing needs of all who are affected by this crisis.

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Mitchell Karp 566-7638
Charles Brack 566-0817
Peter Moy 566-0395
Otto de Mendoza 566-0817
Azi Khalili 566-0819

-7-
AIDS AND AIDS-RELATED
DISCRIMINATION STATISTICS

NOVEMBER 1983 - MID-APRIL 1986

On the following two pages are statistics summarizing the discrimination incidents listed in this report. As the numbers indicate, AIDS discrimination is on the increase, except for two areas which seem to be showing the positive effect of AIDS Education combined with legal clout: hospital complaints and complaints alleging discrimination by ambulance or ambulette companies.

It is equally satisfying to note that AIDS Education has effected positive change in the provision of services by hospital and ambulance/ambulette workers. As noted earlier, this situation is a model attesting to the efficacy of AIDS Education.

1984 and 1985 are the two full years covered by this report (i.e. 1983 covers only a month and a half from mid-November through December; and only January through part of April 1986 could be included in this report). Therefore 1984 and 1985 are statistically significant years for purposes of comparison.

The number of AIDS-related discrimination complaints nearly doubled from 1984 to 1985 (49 in 1984; 96 in 1985). A further interesting fact emerges when comparing the basis for each charge. In 1984, only 30.6% of the complaints were based upon perceived disability; in 1985, 40.6% were perceived disability complaints. And if we extrapolate from 1986's statistics, the trend continues: 61.9% are based on the misperception that the person has AIDS.
## Statistics on AIDS Discrimination Complaints

Receivined by the NYC Commission on Human Rights during the period November 1983-April 1986

<table>
<thead>
<tr>
<th>Area</th>
<th>AIDS</th>
<th>AIDS</th>
<th>TOTALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment</td>
<td>12</td>
<td>32</td>
<td>44</td>
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<tr>
<td>Housing</td>
<td>15</td>
<td>7</td>
<td>22</td>
</tr>
<tr>
<td>Public Accommodation *</td>
<td>61</td>
<td>15</td>
<td>76</td>
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<tr>
<td>Violence</td>
<td>3</td>
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<td>12</td>
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<tr>
<td>Schools</td>
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<td>2</td>
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<tr>
<td>Insurance</td>
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<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Prison</td>
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<td>-</td>
<td>6</td>
</tr>
<tr>
<td>Miscel.</td>
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<td>1</td>
<td>2</td>
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<tr>
<td><strong>Totals</strong></td>
<td>101</td>
<td>69</td>
<td>170</td>
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</tbody>
</table>

*Subtotals of inner categories included in the Public Accommodations totals are listed on the following page.
Public Accommodation Subtotals, by category:

<table>
<thead>
<tr>
<th>AREA</th>
<th>AIDS</th>
<th>PERCEIVED AIDS</th>
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<tbody>
<tr>
<td>Nursing Homes</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Ambulances/Ambulettes</td>
<td>19*</td>
<td></td>
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<tr>
<td>Funeral Homes</td>
<td>4</td>
<td></td>
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<tr>
<td>Hospitals/Health</td>
<td>23</td>
<td>7</td>
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<tr>
<td>Other Pub. Accom.</td>
<td>9</td>
<td>8</td>
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<tr>
<td><strong>TOTALS:</strong></td>
<td><strong>61</strong></td>
<td><strong>15</strong></td>
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*There were 8 rejections by ambulances, 8 by ambulettes and 3 where both refused to transport a person with AIDS.

TOTALS BY YEAR:

<table>
<thead>
<tr>
<th></th>
<th>ACTUAL AIDS</th>
<th>PERCEIVED AIDS</th>
<th>TOTALS</th>
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<tr>
<td>1985</td>
<td>57</td>
<td>39</td>
<td>96</td>
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<tr>
<td>1st Q 1986*</td>
<td>8</td>
<td>13</td>
<td>21</td>
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<tr>
<td><strong>TOTALS</strong></td>
<td><strong>101</strong></td>
<td><strong>69</strong></td>
<td><strong>170</strong></td>
</tr>
</tbody>
</table>

NOTE: 1983 covers only the one and a half month period from mid-November of 1983 through December of 1983; thus only 4 complaints were documented.

*In the first quarter of 1986 reported cases were down somewhat. However, figures for the second quarter (not shown here) show a significant increase.
<table>
<thead>
<tr>
<th>SECTION</th>
<th>PAGE</th>
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<tbody>
<tr>
<td>EMPLOYMENT</td>
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<tr>
<td>HOUSING</td>
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<td>PUBLIC ACCOMMODATION:</td>
<td>(19)</td>
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<tr>
<td>Nursing Homes</td>
<td>19</td>
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<tr>
<td>Ambulances &amp; Ambulettes</td>
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<tr>
<td>Funeral Homes</td>
<td>26</td>
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<tr>
<td>Hospitals &amp; Health Care</td>
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<tr>
<td>Other (includes drug treatment facilities)</td>
<td>36</td>
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<tr>
<td>VIOLENCE/BIAS</td>
<td>41</td>
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<tr>
<td>SCHOOLS</td>
<td>43</td>
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<td>INSURANCE</td>
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<td>PRISON</td>
<td>45</td>
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<tr>
<td>OTHER</td>
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</table>
I. EMPLOYMENT DISCRIMINATION

NOV 83 EMPLOYMENT/ACTUAL AIDS

A man with AIDS was employed as a clerk at a hospital. When it became general knowledge among staff that he had AIDS, he was terminated. The problem is a jurisdictional one and the Commission accepted a complaint from the man. Probable cause was found to credit the allegations of his complaint and the matter was settled by our legal staff, without a public hearing. The man obtained a cash settlement in resolution of his complaint. Jurisdictional.

NOV 83 EMPLOYMENT/PERCEIVED AIDS

A man called to report that his employer laid him off because he was perceived to have AIDS. The man described himself as having a "slight build" and stated that he was single. He also suffers from a chronic illness which kept him out of work on disability leave for several months. The company laid him off with no explanation. He found out through co-workers that the rumor was circulating that he must be gay and have AIDS. Due to his illness, he chose not to file a complaint. Jurisdictional.

MAR 84 EMPLOYMENT/PERCEIVED AIDS/NATIONAL ORIGIN

A healthy Haitian man was terminated by his employer. The man told the Commission that prior to his dismissal, there had been abusive verbal comments directed at him by staff; they said that he had AIDS. The man charged that this was due to media coverage of Haitians who have the disease, and he charged that he was terminated because of his national origin and because he was perceived to have AIDS. The Commission found probable cause to credit the allegations of his complaint and the case was transferred to the Legal Division for confirmation.

MAR 84 EMPLOYMENT/PERCEIVED AIDS/NATIONAL ORIGIN

A Haitian man told the Commission that he was fired from his job with a real estate company because, due to his place of national origin, he was perceived by his employer to have AIDS. The man filed a complaint which was eventually transferred to the State Division of Human Rights.

APR 84 EMPLOYMENT/ACTUAL AIDS

A man with AIDS called. He worked at the Human Resources Administration and contacted the Commission because he had received a letter denying his request for a year of sick leave.
The caller claimed that his union contract stated that he was entitled to up to one year of sick leave. The Commission contacted his employer and learned that, as a provisional employee, he was not allowed indefinite sick leave. We discussed the situation and the employer suggested that, when his health permitted, he could reapply for his former position and he would be given special consideration at that time. We contacted the man and relayed this offer, which he considered a satisfactory solution.

MAY 84 EMPLOYMENT/PERCEIVED AIDS/NATIONAL ORIGIN/RACE

The AIDS Discrimination Unit of the Commission made a presentation on AIDS-related discrimination on a popular Haitian radio program - "Momentes Creole." During the call-in portion of the show a Haitian electrical engineer called. He had recently been forced to quit his job in a computer science company due to race and AIDS-related discrimination. He stated that he had been passed over five times in a two year period for deserved promotions and claimed that jobs were given to "less qualified white men." We referred him to the NY State Division of Human Rights to file a complaint because this incident happened outside of NYC.

JUN 84 EMPLOYMENT/ACTUAL AIDS

A lawyer from the pro bono AIDS panel called to document the discrimination one of his clients had reported to him. The man has AIDS and had been out of work with a secondary infection related to AIDS. When he filled out a disability claim form and submitted it to his employer, the employer deduced the nature of his illness and fired him. No complaint was filed with the Commission.

SEP 84 EMPLOYMENT/PERCEIVED AIDS

A man said he was seen taking Kaopectate at work for a mild diarrhea problem. That night, Channel 13 ran a special on AIDS. When he went to work in the morning, his boss said "we know you're gay," and said some of "the women" were worried that he had AIDS. Although he assured the boss that he was fine, the boss continued to talk to co-workers about the alleged problem and hysteria mounted in the office. Co-workers accused him of being a promiscuous homosexual; the boss said the man was seen going into a restaurant "arm in arm" with another man. He was finally told that he had to "take an AIDS exam" with one of the company doctors or work elsewhere. The man felt he had no choice in the matter and was planning on taking "the test" and then filing a complaint with us if the matter was not resolved to his satisfaction. Jurisdictional, but the man did not file a complaint.
A man who worked as the manager of an upper East Side store ran a fever for a week, probably due to a flu. His boss fired him, interpreting the illness as AIDS because he is gay. We were able to accept a complaint on the basis of perceived disability and obtain reinstatement for him.

The Commission received an anonymous call from the personnel department of a hospital. The caller wanted to fire one of their employees who had been out for two months on disability leave because of AIDS. We informed her of the laws protecting employees with disabilities and advised her of the hospital's legal responsibilities toward its employees.

A waitress called. She and her boyfriend, who worked in the same restaurant, were fired after their employer learned that her uncle had AIDS. We advised her that she could file a complaint but she wouldn't bring charges against her employer because she lived in the neighborhood where the restaurant was located and feared repercussions. Jurisdictional, but no complaint was filed.

A man worked for a data processing firm for many years. In 1983 he participated in the annual Gay Pride March and his picture appeared in the NY Times' coverage of the event. The next day at work anti-gay comments and jokes about AIDS were directed at him. Soon after, he was demoted from his position despite years of excellent work reviews, and was put on probation. Eventually he was given the choice of quitting or being fired. He quit. The company prevented him from collecting unemployment and seven months later he was still unable to get another job. He was told by potential employers that his former employer described him as "undesirable." Referred to the NY State Division of Human Rights because the company is located on Long Island. No jurisdiction.

A man with AIDS worked in a public library in Brooklyn and reported harassment due to his disability. He feared he would lose his job and wanted to know what his rights were. He did not want to file a formal complaint. Jurisdictional.
DEC 84  EMPLOYMENT/PERCEIVED AIDS

A gay man who worked in a retail store stayed home from work one day with a mild fever and cold symptoms. That evening he received a call from his boss, telling him that he was fired and would receive his final check in the mail. When the caller asked his boss why he was being fired he replied that he couldn't "keep anyone who might have AIDS." He filed a formal complaint, but subsequently chose to drop the charges. Jursdictional.

FEB 85  EMPLOYMENT/PERCEIVED AIDS

A gay man working in a food store was fired because his employer perceived him to have AIDS when the man had a cold which lasted for several weeks. The employer was frank about the reason for termination. The man chose to file his complaint with the NY State Division on Human Rights.

MAR 85  EMPLOYMENT/PERCEIVED AIDS/HOSPITAL/CONFIDENTIALITY

An openly gay man who worked for a health and beauty products manufacturer several years ago, reported that at that time he had gone to Sloan Kettering to be tested for a suspected cancer. The tests turned out to be negative. But he said that because he is gay the hospital sent him for a series of "infectious disease tests." He lost some time from work and his employer began to suspect that he had AIDS. The employer apparently contacted Sloan Kettering and was told that the man was undergoing "infectious disease tests." Based on the fact that the man is gay and that he was having such tests, the employer decided the man had AIDS and fired him. Due to the fact that this is alleged to have occurred more than one year prior to the man's calling us, we were time-barred from accepting a complaint from him, although the issues he presented (both his treatment by the hospital and the employer's reaction) are jurisdictional.

APR 85  EMPLOYMENT/PERCEIVED AIDS

A gay man contacted the Commission to say that he works in the transportation industry and is not "out" on the job. He experienced trouble at work because his lover, who has AIDS, appeared on a popular TV talk show. A few of his co-workers had briefly met his lover, whom he had introduced to them as a friend, and recognized him. Now, he said, people at work won't speak to him or come near him. When he walks by, they whisper and make snide comments about him being a "pervert." The managers of his department are very tolerant of bigotry in general and he received no support from them when he requested assistance. Because his employer is outside NYC, we referred him elsewhere.
A man with AIDS (he had Kaposi's Sarcoma, a skin cancer which affects some people who have AIDS) told the Commission that his employer had terminated him due to the fact that he had AIDS. We accepted a complaint from the man. In the next few weeks, the man notified us that he expected to die shortly and that he would accept any reasonable cash offer as a satisfactory resolution to his complaint. The employer offered $1,400. The man accepted the offer; we transferred the funds to him and he died six days later.

A man with AIDS called to report an incident that happened at an unemployment insurance office when he went for his eligibility hearing. First he was made to wait until everyone else had finished. Then he was instructed to go into a small glass-walled room in which a microphone had been set up. While the entire office and the rest of the judges stared at the man with AIDS through the glass, the administrative law judge assigned to his case began to interrogate him over a loudspeaker which broadcast throughout the office, "Mr.[name deleted for reasons of confidentiality], I understand you have AIDS." The caller said that he stated his objections to a hearing conducted under such denigrating conditions and was told by the judge, "It's this or nothing." The victim finally terminated the hearing and called the Commission. We were finally able to speak with the Unemployment Hearing Director that day. He agreed to educate his employees and establish appropriate policy rather than face possible charges of discrimination. Referrals to the AIDS Education Unit of the NYC Department of Health were made.

A man who had been employed as a security guard at a mortgage company called to ask if the company could legally tape phone calls he made while on the job. He had been told that the company began taping his phone calls because he is gay and they feared that he has AIDS. Soon after the first incident, his supervisors and co-workers began harassing him by repeating quotes from telephone conversations he had assumed were private. Because the atmosphere was so hostile, he was forced to quit and was therefore not eligible for unemployment benefits. In the ensuing three months he was not able to find other work. We suggested that he call the New York Civil Liberties Union to see what, if anything, could be done about the taping issue.
JUN 85 EMPLOYMENT/PERCEIVED AIDS

An openly gay man who works with a large private utilities company had a mild epileptic seizure on his job. His supervisors responded by avoiding him and sending him unescorted and by subway to the company's medical center, even though he was acutely disoriented due to the seizure. He was then given a final warning of termination. He stated that this company regularly treated all employees in a callous fashion. However, he felt his treatment was particularly extreme due to the fact that he is known to be gay and is thus seen as an AIDS risk. He is protesting the warning through his union. This is jurisdictional but he did not choose to file a complaint.

JUL 85 EMPLOYMENT/PERCEIVED AIDS

A gay man said that he was fired from his job at a day care center in July of 1983 because of fear by the parents and teachers of being exposed to AIDS. He did not have AIDS.

JUL 85 EMPLOYMENT/ACTUAL AIDS/CONFIDENTIALITY

A man who works as an executive in a large fuel company had been out of work on short term disability due to AIDS. His physician received a call from the company's medical department. They asked if the employee had AIDS. The doctor, despite patient/doctor confidentiality, said yes. The man feels that he must return to work or he will lose his job and his insurance, but he fears his employer's reaction. We discussed strategies and he will file a complaint against his employer if necessary. Jurisdictional.

AUG 85 EMPLOYMENT/PERCEIVED AIDS

A man who had been hired by a large Wall Street investment firm called. After a few weeks on the job he was sent for a routine employment physical. The doctor examined him, said he seemed to be in perfect health and asked him if he had any concerns about his health. The man acknowledged that he is gay and worries about AIDS at times. The next day he was fired without explanation. No complaint was filed. Jurisdictional.

AUG 85 EMPLOYMENT/ACTUAL AIDS

A man with AIDS was fired from his job as a waiter in a Manhattan restaurant. The man had Kaposi's Sarcoma (a rare cancer which affects many people with AIDS) and his employer openly stated that they were letting him go due to the KS. We accepted a complaint from the man. When we contacted the employer, they offered the complainant $10,000 and two years continuance of his insurance coverage to settle the matter. The complainant accepted the offer and the case was closed.
A mother from Staten Island called because she feared she would lose her job unless she could "prove" that she did not have AIDS by taking the HTLV-III test. Her boss knows that she has a son who is unmarried, in his 40's, and lives in Greenwich Village. He has concluded that her son must be gay, must have AIDS and therefore his mother must be an "AIDS carrier." She has been told that she must prove that she doesn't have AIDS or be fired. The mother called, not about the violation of her civil rights, but wanting only to know where she could get the test. As she said: "Where am I going to get another job at my age?" Jurisdictional but no complaint was filed.

A healthy man who works as a stock clerk for a large discount retail chain called the Commission when he was laid off from his job. His supervisor told him that a rumor was circulating that he had AIDS and so he was being laid off without pay until he could "prove" that he didn't have it. Since he has been laid off, he has been receiving anti-gay and AIDS-oriented, abusive phone calls. Due to his concern about confidentiality, no complaint was filed. Jurisdictional.

A woman from Brooklyn, whose boyfriend had died due to complications caused by AIDS, called with a problem. She had confided in a co-worker the cause of her obvious grief and soon thereafter no one in the office would speak to her. She called because she had just been told by the personnel director that she was being placed on "indefinite leave without pay" until she could "prove" that she doesn't have AIDS. He said he "had to" let her go because two other employees "threatened to quit and sue the company" if she was allowed to remain on the job. She called the Commission only to find out where she could "get the AIDS test." We explained that 1) before she considered taking the test for the HTLV-III antibody, she should be aware of the possible repercussions she might experience if she tested positive, 2) she represented no health risk to co-workers, and wouldn't even if she did have AIDS, and 3) her employer was violating her civil rights and she was entitled to file a complaint with the Commission to rectify the situation. We offered to speak directly to her employer to explain these facts. Jurisdictional, but no complaint was filed.
A Haitian man with AIDS suffered from Pneumocystis Carinii Pneumonia, an opportunistic disease frequently associated with AIDS. His employer, a large, very conservative religious organization, did not know he had AIDS but was aware of the PCP infection. He had been on disability leave for some time and was therefore at home. However, his home is in the same neighborhood where he works and many of his neighbors are also employed by the religious organization. He had recovered from the pneumonia and needed to return to work because he is the sole provider for his family. Because he is Haitian, his employer suspected that he had AIDS and insisted that he reveal his diagnosis or not be allowed to return to work. He felt trapped. Either he revealed the diagnosis, which he and his family had carefully guarded from all, and as a result they would "be treated like lepers" by employer and neighbors, or he couldn't go back to work. We discussed the options open to him and offered our services in the event that he lost his job. In the end, he and his family decided not to risk becoming pariahs, and he quit the job. Jurisdictional, but no complaint was filed.

OCT 85 EMPLOYMENT/PERCEIVED AIDS/PHYSICAL DISABILITY

A gay teacher contacted the Commission. For many years, he had been the dean of a private New York school. He came down with cancer in the past year and, due to the fact that he is known to be gay, this was perceived by many to be AIDS, though he states his illness is unrelated to AIDS. He charges that the headmaster of the school dismissed him, saying that the students could not deal with the physical deterioration he suffered from his condition. The man charged that, due to his actual disability (cancer) and the perception of him as having AIDS because he is gay, he was discriminated against. This is a jurisdictional issue and the Commission accepted a complaint. The investigation is ongoing at the time this report is being written.

NOV 85 EMPLOYMENT/PERCEIVED AIDS

A gay man called to say that for years he had been the butt of jokes and verbal abuse at work because of his sexual orientation. He said that he'd tried very hard to explain to co-workers that this was insensitive and inappropriate in an office environment and he'd felt the situation was under control due to his efforts. However, when media attention once more focused on AIDS, the workers reverted to their former behavior with a vengeance, harassing him at every opportunity and apparently viewing him as a threat of AIDS contagion, judging by their remarks. The man was advised that he could file a complaint but wanted to see if he could quell the situation on his own. Jurisdictional, but no complaint was filed.
A man worked at an ad agency and he was called in by his general manager one day. She said that it was known that he is gay and he'd been overheard saying that he thought he had AIDS. Though the man had mentioned this casually, almost jokingly, the comment was taken seriously. He was told that he had to go to a doctor to "show" he isn't "sick". In the end, he had to go to two separate doctors and have an expensive series of tests, all of which showed that his immune system was functioning normally. He didn't want to file a complaint at this time but wanted to apprise us of the situation in case there were further repercussions. Jurisdictional.

A heterosexual woman employed in a beauty shop was the victim of an unfortunate joke. Someone had written her a letter purporting to be a notice from the Board of Health advising her that she had come in contact with someone who had a venereal disease. Her boss intercepted the letter and interpreted it as meaning the woman had AIDS, although she was in no known risk group. The boss told her that she would have to leave work and was not to return until she had been "tested". Jurisdictional, but the woman did not file a complaint.

A social worker called. His hospital had issued a directive to all staff saying that they must give a blood sample for Rubella testing. (This call came at the time of fears of a Rubella epidemic.) The caller said that each employee who had gone to the employee health department had received an injection and given blood. His fear was that the hospital, once in possession of a blood sample from all employees, would choose to further test these samples for evidence of antibodies to HTLV-III. Since this hospital worked with the Centers for Disease Control, he felt this was a real possibility. If the employer chose to use the blood in this fashion, he felt they hadn't the right to make such a decision without the employees' knowledge or permission and he feared where the results of these tests might be logged. The Commission advised him that, should anyone experience adverse consequences as a result of testing, this individual should contact the Commission about filing a complaint.

A management level individual from a child care agency called. She said that one of their teachers had been "out sick a lot" and had used up her available sick leave. The employee is known as a drug user, but this knowledge is considered peripheral to the
fact that she is a good worker. As a result, the rumor began that this employee has AIDS. The caller wanted to know what responsibilities they had for the employee, because she wanted to put the teacher on disability. We advised her that this would not be the best route to follow and she agreed to consult appropriate sources about developing a sensible policy with respect to both employees who have and those who are perceived to have AIDS.

FEB 86 EMPLOYMENT/PERCEIVED AIDS

An openly gay, healthy man had worked at a limousine company for years without experiencing negative reactions from his co-workers or employers because of his sexual orientation. However when some newspapers wrote stories illogically linking the passing of the gay rights bill with a spread of AIDS, the man said he was fired. The reason the company gave him was that he was drunk on the job; he told us he doesn't drink or take drugs. He said staff in the garage had gotten "cold" to him in the weeks preceding his termination and he felt the attitude change and the termination were due to a fear of AIDS. Jurisdictional but he didn't want to file a complaint. Since his industry is a small one, he felt that word of his complaint would reach others in the field. Jurisdictional, but no complaint filed.

FEB 86 EMPLOYMENT/PERCEIVED AIDS

A man called the Commission. He had just been reading the NY Times and it triggered a connection in his mind. The paper noted the profile of the typical New Yorker with AIDS: male, single, and in his late thirties. He realized that on all the unsuccessful job interviews he'd had lately, interviewers had asked him his marital status and his age. He thought this odd at the time but attached no special attention to the remarks. He had been trying to get a job as a limousine driver and went from one company to another; despite prior experience, a safe driving record and many job openings, he had not been hired. When he read the Times article, it jogged his memory and the connection was made: because he is a single, gay, male New Yorker in his late thirties, they worried that he had or would get AIDS. This failure to hire due to a perception of AIDS is illegal, but the man was not interested in filing a complaint.

FEB 86 EMPLOYMENT/PERCEIVED AIDS/HTLV-III

A man who worked for an international volunteer organization called. He had requested the HTLV-III antibody test of his own volition and the result was positive. The organization had found out that he tested positive and "went nuts". They first transferred him to Washington DC and then advised him that he was terminated. Since Washington is outside our jurisdiction, and
since the transfer emanated from Washington, we apprised him of local sources he might contact for assistance.

MAR 86 EMPLOYMENT/ACTUAL ARC/PERCEIVED AIDS

A man said he'd worked for the same company for 12 years. He has had ARC (AIDS-Related Complex) for four years; his boss doesn't know this. He had been out ill for two weeks at the time of his call and he was worried about returning to work. He figured his boss was "70% sure" he has AIDS and he was afraid that he would be fired upon his return to work and that he would thus lose his insurance. Since nothing had yet happened, there was no basis for a complaint. But we were able to advise him that he did have the right to file a complaint if he was fired and this information reassured him.

MAR 86 EMPLOYMENT/PERCEIVED AIDS

A civilian employee in the NY Police Department called. He said that an openly gay man at work was out sick for several months; when he returned to work he looked haggard. Other workers, fearing AIDS, refused to work with him and have been filing grievances. As a result the gay man has allegedly been reassigned from his former position, where there was much interaction with co-workers, to a position where he works totally alone. The caller said that the gay man is afraid and doesn't want to be bothered with protesting this treatment. But he, the caller, is also openly gay and fears the same thing might happen to him if he falls ill. We apprised the individual of his rights should he experience similar treatment.

MAR 86 EMPLOYMENT/PERCEIVED AIDS

A gay man who works in New Jersey called. Although he is apparently in good health and has worked at his firm for 16 years, his workplace was rife with rumors that he has AIDS and he feared he would lose his job. Since he lives and works in New Jersey, we directed him to his city's Human Rights Commission. We then called that commission to ensure that they would deal with his problem effectively. They were unfamiliar with the concept of perceived disability but, after we explained the theory, agreed that they would pursue the matter on his behalf. Not jurisdictional.

MAR 86 EMPLOYMENT/ACTUAL AIDS

A lawyer contacted the Commission on behalf of a client who has AIDS. The man is a State Corrections Officer and his employer is aware that he has AIDS. He is not working and is receiving disability pay (half-pay). Even these cash benefits are due to
stop as of mid-March. He wants to return to work and his doctor has certified that he is fully fit to return to his job. His lawyer told us that the State Department of Corrections informed the officer that he cannot return to work, doctor's note notwithstanding, until he is examined and found fit for duty by a doctor in the State's Employee Health Services Division. Adding to the problem, the department told the officer that there is a "backlog" of people waiting for such medical exams and that they will not give his case priority over any others. In the interim the man is jobless and receiving no benefits. Since this is a state level problem, we suggested they contact the State Division of Human Rights. They have since filed a complaint with that office.

APR 86  EMPLOYMENT/ACTUAL AIDS

A woman called. Her husband had been diagnosed as having AIDS two weeks prior to her call. She said their hospital bills were enormous and that their financial position was weak because her husband had been terminated from his job as an executive prior to his diagnosis. She didn't feel that the employer fired him because he had AIDS, though certainly his ill health had been a problem in the past year. She said that he had been terminated because of his age. He was 58 years old and had been replaced with a man in his twenties. We told her that he could file a complaint of age discrimination with the Commission. In the end though, her husband decided that he would not file a complaint due to fear that his health would be brought up in the course of the investigation and they might discover that he has AIDS. This is an example of how having AIDS frequently inhibits a person from seeking to protect his or her basic rights. Jurisdictional, but no complaint was filed.

APR 86  EMPLOYMENT/PERCEIVED AIDS

A man filed a complaint with the Commission. He had worked only one and a half days for an organization which deals with the problem of AIDS. He charged that his supervisor's insensitivity to AIDS caused him to resign. His lover has AIDS and the supervisor is alleged to have told the complainant, among other things, not to bring cups from home because of the diseases that might thus be spread. The supervisor also belittled the lover's chances for survival, something the complainant felt was unspeakably insensitive. A formal complaint was accepted and is being investigated at the time this report is being written. Jurisdictional.
II. HOUSING

FEB 84 HOUSING/ACTUAL AIDS

A social worker called. He had been arranging for the hospital discharge of a patient with AIDS and found out the man had been evicted from his apartment while he was hospitalized. The landlord had learned of the patient's condition and reacted by evicting him. The social worker felt that the patient was "in no condition to fight legal battles" and simply needed a place to recuperate. We made appropriate housing referrals and documented the incident, since no complaint would be filed.

MAR 84 HOUSING/ACTUAL AIDS

A social worker reported that he was having great difficulty finding housing for people with AIDS who were released from the hospital. Increasingly the agents for housing placements were pressuring the hospital to identify all patients with AIDS. Once identified as AIDS patients, efforts to secure housing failed.

AUG 84 HOUSING/ACTUAL AIDS/DRUG TREATMENT PROGRAM

A hospital social worker reported that a client who had AIDS and a history of being an addictive personality, had been evicted from his room in a Brooklyn YMCA "because he got high and drunk." The veterans' hospital where he was now a patient wanted to discharge him to the care of a drug treatment program and was having great difficulty locating a facility willing to accept him, due to his diagnosis. The man is effectively homeless and, because the social worker could not find another hotel willing to accept him, he had to go to a men's shelter. Because most drug treatment centers are state-run, the Commission usually has no jurisdiction over placements in therapeutic communities. However, state Substance Abuse officials have been receptive to our calls on behalf of people with AIDS. In this instance, no complaint was filed, though the Commission has jurisdiction over AIDS and housing and could have intervened in the hotel situation.

AUG 84 HOUSING/ACTUAL AIDS/BIAS

A worker from the AIDS Medical Foundation contacted the Commission about a case with which she had become involved. A woman from a small town in Maryland called the Foundation for help on behalf of a man in her town who had contracted AIDS. She said that the town had mobilized to force him to move. She was so frightened of retaliation by her neighbors that she would not give the Foundation staff member to whom she spoke either her name or phone number. She wanted to obtain information about his
rights so that she could secretly pass the information on to him. We provided the requested information.

OCT 84 HOUSING/ACTUAL AIDS

The wife of a man with AIDS called because her heat and hot water had been turned off by the landlord in an effort to drive the family out, due to fear of AIDS. She only wanted the services restored and did not have the time to devote to a discrimination complaint. We made several phone calls, suggested referrals and the situation was resolved. Jurisdictional.

NOV 84 HOUSING/ACTUAL AIDS

A tenant living in a Manhattan building said that she lives below a man with AIDS. Due to his condition, he must sit in his bathtub for hours every day. The plumbing in the building is poor and the water from his bathroom leaks into her apartment. The landlord has not fixed the plumbing because he claims he cannot find anyone who will go into the man's apartment. We contacted GMHC and as a result, the buddy of the man with AIDS met with the landlord to resolve the problem. Jurisdictional.

DEC 84 HOUSING/ACTUAL AIDS

Two male lovers who live together were experiencing problems with the superintendent of their building. One of them has AIDS. The superintendent of the building found out and has been openly referring to them as "fucking faggots" and generally being a nuisance. Since AIDS seems to be the basis of this problem, it is jurisdictional and we were able to call the landlord and advise him that he must direct his employees to stop harassing these tenants or face a formal complaint. Jurisdictional, but it was not necessary to accept a formal, notarized complaint to obtain relief for the complainants.

DEC 84 HOUSING/PERCEIVED AIDS

The Commission received a call from a clinic nurse in Brooklyn. She was concerned because the five children of a woman who had recently died from AIDS-related complications were "going from clinic to clinic" trying to find a doctor who could "certify" that they did not have AIDS. The children had been told that, because they could not "prove" they were not contagious, they were being thrown out of a city-owned housing project. The eldest daughter was of legal age and had the right to assume the lease. However, the building manager would not put her name on the lease. Therefore the welfare department would not release the rent checks. For this reason, the rent was one month in arrears. When the Commission called the managers of the housing
project, they denied that the family was being evicted due to the fear of AIDS and claimed that it was due to arrears. We then called the NYC Housing Authority. They agreed to immediately halt the illegal eviction, turn the lease over to the family, and provide AIDS education materials for employees of the Housing Authority. We also contacted the welfare case worker and explained the situation and he agreed to release their checks immediately so that the children could pay the rent.

JAN 85 HOUSING/PERCEIVED AIDS

The lover of a man who died from complications caused by AIDS attempted to take over the lease to their apartment, which had been in the lover's name. The landlady refused to allow the surviving lover to remain in the apartment because she perceived him to be an "AIDS carrier" and she didn't want to "catch AIDS." The Commission accepted a formal housing complaint from the man, based on perceived disability.

FEB 85 HOUSING/ACTUAL AIDS

An AIDS case worker called with a common problem: a homeless AIDS patient was placed in an SRO upon his release from the hospital. The management of the SRO discovered the man had AIDS when he was readmitted to the hospital. At the time of the call, the SRO refused to allow the patient to return and the patient had nowhere to which he could be released by the hospital. The Commission became involved as an advocate and the problem was resolved.

FEB 85 HOUSING/ACTUAL AIDS/SYSTEMIC

The Commission received an anonymous call from an employee at the Housing Authority reporting that the Authority was refusing to process requests from people with AIDS who applied for public housing through Section 8. The caller reported that numerous applications had been on hold for several months because they "didn't want to make the decision to take people with AIDS." We called the Authority to ensure that they knew the City Human Rights Law prohibits such discrimination. The executive office acknowledged that the report was accurate and took action to remedy the situation immediately. When they noted that NYCHA staff wouldn't enter the apartments of people with AIDS, we referred them to the City Department of Health's AIDS Education Unit for their staff. Jurisdictional, but no complaint necessary.
A healthy man called to report that his landlady had recently told him that he must move from his weekly rental in a rooming house because he is "a homosexual" and "we don't want an irreversible disease here." We informed the caller that he was not protected from sexual orientation discrimination in housing but that he could file a complaint on the grounds of perceived disability because the landlady implied he has AIDS. He filed the complaint with the NY State Division on Human Rights.

A Haitian doctor with AIDS decided, when she became ill, that it would be best for her to give up her apartment in NY and return to Haiti to be near her family. After a few months she returned to NY because the available medical treatment is better here. However, she was unable to find housing upon her return due to the AIDS diagnosis. She did not want to file a complaint; she just wanted a place to stay. We made appropriate referrals. Jurisdictional but no complaint was filed.

A social worker with a state-run disabled children's program called in frustration. For two months she had been trying to secure "decent housing" for a two year old child with AIDS. The child had lived with her family in a tenement in the Bronx. When the ceiling of the apartment fell in, the family was left homeless. The social worker was able to move them into a welfare hotel until they could be placed in a NYC Housing Authority project. However, the Housing Authority representative with whom she was dealing stated that AIDS "is not considered a disability" and therefore the family would not be considered for emergency placement. When we informed the Housing Authority that AIDS is a disability under the City Human Rights Law, we were told "it doesn't matter anyway because the leaseholder has to be the disabled person and the leaseholder has to be an adult." While we were attempting to solve the problem, the child was hospitalized with pneumonia and died. A social worker at the hospital stated that the child had "probably become ill from living in unhealthy conditions in the welfare hotel."

A representative from a housing management company called to consult us on a problem she had in one of the buildings she manages. A tenant had died and it was known throughout the building that he had had AIDS. It had been arranged that a moving company would be coming in to move his belongings out. The other tenants were upset and threatening legal action because
they feared that "AIDS would get all over the walls" during the moving job. She anticipated that the moving company might even refuse the job after speaking with these tenants. We explained that this move posed no danger to anyone, and suggested that tenants who were overly concerned about the move should contact the city's AIDS Education Department. We also suggested that she post someone in the building on the day of the move to ensure that no problem developed.

NOV 85 HOUSING/PERCEIVED AIDS

A man called the Commission and reported that his landlord was using AIDS as a pretext to drive tenants out of the building. He'd used various harassment tactics in the past (no repairs, heat, etc.) but lately had discovered AIDS to be an effective means to his end: he told the superintendent of the building and other building employees that various tenants had AIDS. He made absurd, alarmist statements in front of maintenance workers, such as "Don't touch that pipe, it has AIDS on it." The caller was well aware of the benefits and availability of AIDS Education and had arranged that building staff be spoken to by experts. He called us only to record the problem. Jurisdictional, but no complaint necessary.

NOV 85 HOUSING/ACTUAL AIDS

A woman called. She is the mother of an 18 month old baby and the child has AIDS. Her landlord is trying to evict her. The mother herself is not in good health and was scheduled to go into the hospital for an indeterminate stay. She'd arranged through a social worker for Red Cross volunteers to stay with her child while she was hospitalized but the landlord's harassment seemed to preclude this arrangement. He had previously ripped her mailbox out, causing her to have to go to the post office daily. Now he had shut her electricity off. She couldn't see how the Red Cross worker could mind her baby in the dark. We advised her that we would intercede on her behalf. However, she then informed us that the landlord didn't even know her child had AIDS, and she feared his finding out. He only wanted her out so that he could give the apartment to a member of another racial group. We told her this was also jurisdictional and encouraged her to file a complaint on that basis. In the interim she had numerous other problems and we gave her advice and referrals. She was to come in the following day to file a race complaint but never did. Since she did not have a phone and hadn't yet given us her address, we could not re-contact her. Jurisdictional.

DEC 85 HOUSING/ACTUAL AIDS

Because of ill health, a man with AIDS sublet his apartment in NYC so that he could stay with his parents in another state.
When he notified the "friend" to whom he'd sublet that he intended to return to his apartment, that individual angrily informed the landlord that the original tenant had AIDS. When the man with AIDS returned to his apartment, the landlord began a campaign to force him out. He somehow arranged that the man's heat and hot water were turned off and refused to do anything about fixing them. The man's specific opportunistic infection was Pneumocystis Carinii Pneumonia, a virulent form of pneumonia associated with AIDS. The lack of warmth and hot water were severe tests to his health. A friend of the man with AIDS contacted the Commission for help. When we contacted the person with AIDS, however, his fear of divulging his condition to anyone precluded his filing a complaint. He simply felt he could not publicly admit that he had AIDS. We therefore could only offer him the city's usual heat and hot water complaint hotline. Jurisdictional, but no complaint was filed.

FEB 86 HOUSING/PERCEIVED AIDS

Two gay men said that a co-op board refused to sell them a unit in a Manhattan building. Though nothing overt was said at the interview with the board, they sensed hostility and disinterest from most board members. It seemed that a decision not to sell to them had already been made before the interview although they clearly met the financial requirements for the purchase. Their reading of the matter was that the hostility was due to the fact that they are a gay couple. However they later learned from a confidant of one of the board's members that the board feared selling to them because one of them might get AIDS and because of this the other one would have to sell precipitously and the board might lose control over who bought the apartment. We accepted a formal complaint from the men, who sought only to obtain the money they'd spent on an attorney for the co-op negotiations. We were able to obtain a cash settlement in that amount and the case was settled. Jurisdictional.

MAR 86 HOUSING/PERCEIVED AIDS

We received an anonymous call on our tape machine. The man said that he is gay and that his landlady uses anti-gay, abusive language when speaking to him and accuses him of being an "AIDS carrier". He was quite upset and feared eviction. He left no phone number and we did not hear from him again. This is a jurisdictional issue and we might have been able to accept a formal complaint from the man (as long as the event was jurisdictional in other respects).

MAR 86 HOUSING/ACTUAL AIDS

A lawyer contacted the Commission. He represented a man with AIDS who had received a dispossess notice from his landlord
allegedly because he had an illegal sublet (the landlord contended that the GMHC buddy was a subtenant). The landlord had refused the man's rent checks and gone so far as to offer the man, through his GMHC buddy, money to move out. In the interim, he refused to perform repairs in the man's apartment. The lack of repairs caused serious problems. For instance, his doorbell did not work and therefore visiting nurses could not get in to see him. It turned out that the landlord definitely knew that the man had AIDS and therefore his attempts to drive the tenant out were possibly discriminatory. The lawyer was advised that his client could file a complaint but he chose to pursue the matter in state court. Jurisdictional, but no complaint filed.

APR 86 HOUSING/PERCEIVED AIDS

A dentist contacted us. Because he treats patients who have AIDS, the dentist from whom he sublets office space terminated his rental agreement. As his landlord, the dentist violated the law if he evicted him because of his treatment of people with AIDS. The dentist has filed a formal complaint and the matter is under investigation at the time this report is being written.

III. PUBLIC ACCOMMODATION

A. NURSING HOMES

As mentioned at the beginning of this report, the Commission plans to take action on the current policy of nursing home rejections of people with AIDS. While there is general agreement that providing long term care for people with AIDS is an extremely pressing problem, thusfar efforts by community organizers, social workers, doctors, the Gay Men's Health Crisis, the Commission, and other governmental agencies to effectively resolve the problem have been unsuccessful. Documenting the extent of the need for such care facilities and ascertaining whether there has been any discriminatory admissions policy against people with AIDS remain high on the Commission's list of priorities. Clearly the complexity of issues and the gravity of the problem merit special attention.

The incidents provided below are all reports of systemic discrimination and give some idea of the scope of the problem. We did not list here each and every report we received, for they would all read the same: I'm a social worker and I've tried to place patients with AIDS in nursing homes for a long time and I've given up because it is impossible. Almost every rejection was related to the Commission by a social worker. This group in particular is desperately trying to find a suitable place of residence for those patients who are not acutely ill and do not need to be kept in a hospital bed, but who are not well enough to care for themselves at home, even given the assistance of part- or full-time nursing care. Further complicating the matter, such nursing care is not always available to these individuals.
In most instances listed in this section, the problem was related to us in retrospect. If the situation was reported when current, efforts to gain entrance for the individual concerned were attempted; all failed. We recommend the reader notify others of our interest in addressing this issue and refer anyone with related problems to the Commission's AIDS Discrimination Unit.

SEP 84 NURSING HOME/PUBLIC ACCOMMODATION
ACTUAL AIDS/HOSPITAL/SYSTEMIC

A Puerto Rican man was comatose in a Manhattan hospital. Before his illness, he had been a successful New York City lawyer. When his sister arrived from Puerto Rico to tend to his affairs, she found that the staff at his law firm had been embezzling large sums of money from him. She was also shocked by the poor hospital treatment her brother was receiving and arranged for private nursing care until he could be moved to a nursing home. The GMHC ombudsman who was handling this case reported that every nursing home that was contacted refused to take the patient. The nursing home rejections are jurisdictional, but no complaint was filed. This issue remains, at the time of the issuance of this report, an overwhelming and widespread problem affecting people with AIDS.

APR 85 NURSING HOME/PUBLIC ACCOMMODATION
ACTUAL AIDS/AGE/SYSTEMIC

A social worker at a large NYC Hospital called to report that she had been unable to find "any nursing home in the entire city" which would take a patient with AIDS who was no longer in need of an acute care bed, but who was still in need of skilled nursing care. The most frequently cited reasons for rejection were: 1) No AIDS patients accepted; 2) Too young; and 3) No room. The social worker stated that she had no choice but to keep this patient in the hospital, which is a much more expensive proposition and one which unnecessarily ties up an acute care bed. The Commission contacted medical and legal sources in order to coordinate an effective investigation into nursing home discrimination against people with AIDS and is evaluating this problem at the time of this writing.

AUG 85 NURSING HOME/PUBLIC ACCOMMODATION/ACTUAL AIDS/SYSTEMIC

A social worker from Beth Israel Hospital called to report that for over ten months he tried unsuccessfully to place people with AIDS who were no longer in need of acute care hospital beds into nursing homes. Although he repeatedly applied to over twenty homes, he was always told there were no beds available when he said that the patient had AIDS. For the last year he has not
even tried to place people with AIDS in nursing homes because he doesn't "have the time to waste." Instead he tries to find appropriate home care. This often fails and he is forced to keep the patient in the hospital in what he describes as "the worst death of all" due to severe isolation. This information was documented to assist efforts to remedy this widespread discriminatory practice.

AUG 85  NURSING HOME/PUBLIC ACCOMMODATION/ACTUAL AIDS/SYSTEMIC

After receiving the previous report, the Commission called another social worker with a large AIDS caseload. She reported the same pattern. After trying for many months to place people with AIDS in nursing homes, and after constant rejection by the seven largest nursing homes in the city, she had given up trying over one year ago. She too seeks alternative care. As stated above, the Commission is working to resolve this problem. Jurisdictional.

AUG 85  NURSING HOME/PUBLIC ACCOMMODATION/ACTUAL AIDS/SYSTEMIC

A Bronx social worker, having heard that the Commission was researching nursing home rejections of people with AIDS, called to report her experience with this problem; we found it to be identical to that of so many other social workers to whom we had spoken. She had been unable to place a single person with AIDS in a nursing home. She said that in one case a man with AIDS who was no longer very sick was kept in an acute care bed in her hospital for six months. We added this report to our documentation of nursing home rejections. Jurisdictional.

JAN 86  NURSING HOME/PUBLIC ACCOMMODATION/ACTUAL AIDS/SYSTEMIC

A social worker called us. She knew of our interest in nursing home rejections of people with AIDS and wanted to tell us that she had an AIDS patient whom she tried to place in five different nursing homes. He was rejected from all due to his youth and his AIDS diagnosis. Nursing homes admit patients according to their rating on a DMS-1 evaluation form; this patient's high score should have guaranteed his entrance but he was still rejected.

B.  AMBULANCES AND AMBULETTES

The Commission has listed below a number of the reports it received of rejections of people with AIDS by ambulettes and ambulances. In those instances where the situation was relayed to the Commission as the problem occurred, staff members were able to call the company concerned and obtain the necessary transportation for the individual. In other instances, social
workers, family members or others called us to say that a company had refused to transport a patient with AIDS at some past date. Although in these instances callers were advised that the Commission would accept a formal complaint on behalf of the individual who experienced the rejection, usually no complaint was filed. In most cases the patient's health prevented him or her from filing a formal complaint; in others, the person simply did not wish to pursue the matter. The Commission advised the caller that the Commission would intercede on the patient's behalf if such a situation arose again and documented the incident for its own records.

Commission representatives spoke with city and state officials about ambulance and ambulette complaints by people with AIDS. Every effort has been made to relate the problem to health officials who are in a position to issue guidelines which will eradicate the possibility of such discriminatory treatment in the future. Additionally, the Commission has met with legal representatives of the ambulance and ambulette companies in order to obtain their viewpoint and understand their concerns. Some progress has been made in this area and rejections seem to be on the decline.

**JAN 84 AMBULETTE/ACTUAL AIDS/PUBLIC ACCOMMODATION**

A man with AIDS called to report repeated discrimination on the part of ambulette companies. On the day he was discharged from the hospital, he waited all day for an ambulette to transport him home. Each time he called, he was told "they're on their way" or "the ambulette broke down." Finally, in disgust, he decided to take a taxi. When he got outside, there were four idle ambulettes, all from the same company he had called and all unwilling to transport him. Since then he has been unable to get an ambulette to transport him from his home in the Bronx to his clinic appointments in a Manhattan hospital. Instead he has paid for taxis. [Note: Medicaid will not reimburse patients for transit by taxi]. In May of 1984, the Commission accepted six complaints filed against ambulette companies alleged to discriminate against people with AIDS. All were either resolved to the satisfaction of the parties concerned, or forwarded to our legal division for public hearing. However, at the time of this report, the problem continues to occur. Jurisdictional, but the caller did not file a complaint.

**MAR 84 AMBULETTE/ACTUAL AIDS/PUBLIC ACCOMMODATION/SYSTEMIC**

A social worker from a private NYC hospital called to report four different ambulette companies that refused to transport her patients with AIDS. Jurisdictional.
MAR 84 AMBULETTE/ACTUAL AIDS/PUBLIC ACCOMMODATION/SYSTEMIC

A social worker from a large city hospital called to report problems with ambulette companies refusing to transport patients with AIDS. Jurisdictional.

JUN 84 AMBULETTE/ACTUAL AIDS/PUBLIC ACCOMMODATION/SYSTEMIC

A social worker from a private NYC hospital called to report insurmountable problems arranging transportation by ambulettes for his patients with AIDS.

NOV 84 AMBULANCE/ACTUAL AIDS/PUBLIC ACCOMMODATION

A Red Cross worker called to report an incident involving an ambulance company. One of their home attendants called for an ambulance to transport her client, a woman with AIDS, to the hospital. The patient was having difficulty breathing. When the ambulance driver, who was described by the Red Cross worker as "very abusive," arrived, he refused to touch the patient, saying "this woman's contagious." Eventually the situation was resolved when another ambulance company transported the woman.

JAN 85 AMBULETTE/ACTUAL AIDS/CHILD/SYSTEMIC

A Red Cross social worker called to report an insurmountable problem regarding transportation. A 2 1/2 year old baby with AIDS needed regular transportation from Staten Island to Einstein Hospital in the Bronx for necessary treatment. Ambulette and taxi companies had refused to transport the baby because she has AIDS. And because Medicaid's expense ceiling is so low, the social worker has been unable to seek other modes of transportation. The end result is that the child has to be ferried to and from appointments by the Red Cross, tying up one of their few volunteer cars all day and thus cutting off service to others. Jurisdictional.

JAN 85 AMBULANCE/AMBULETTE/ACTUAL AIDS
PUBLIC ACCOMMODATION/SYSTEMIC

A Red Cross social worker called to say that, in trying to arrange transportation for an AIDS patient, he had encountered refusals because of the AIDS diagnosis from 5 ambulance/ambulette companies. He added that the company representatives who answered the phones and dealt with him said that the "drivers' union" informed them that they are "not required to transport anyone with AIDS." This report was added to the Commission's growing investigative file of discrimination by ambulette and ambulance companies due to AIDS.
We were informed that a man with AIDS died at his parents' home after an ambulance refused to transport him. Neither the parents of the man nor any other person was the executor of his estate. Therefore no one had sufficient legal standing to file a complaint on his behalf, although the situation is within the Commission's jurisdiction.

An AIDS caseworker called to say that he was finding it harder and harder to locate ambulette companies willing to transport AIDS patients. Jurisdictional.

A Red Cross worker called to report that a man with AIDS was refused service by an ambulance when attempting to return from St. Vincent's Hospital to his home. The situation was reported after the fact and thus was simply added to the Commission's reports of ambulance and ambulette discrimination against people with AIDS. Jurisdictional.

The mother of a man with AIDS brought home "to die in peace" eventually had to call an ambulance for her son because he took a turn for the worse and couldn't breathe. When the Emergency Medical Technicians from the volunteer ambulance service arrived, they found out the man had AIDS and wouldn't transport him.

A Red Cross worker called us to say that, in trying to arrange transportation for a man with AIDS, he had called an ambulance company and made an appointment for him. When the ambulance attendants arrived at the patient's home, they refused to transport him, saying that their union contract stated they do not have to transport people with AIDS. The Red Cross worker said that when he called the company, they confirmed this claim about the union's position. We referred this charge to our legal department, which was then negotiating with the lawyer representing the ambulance and ambulette unions about a similar situation.
Hospital social workers called to say that a 4 year old child with AIDS who needed transportation from home to hospital for weekly medical treatments was denied both ambulance and ambulette service due to her diagnosis. The social workers tried to arrange for alternate service but couldn't and their concern was that the child would miss needed treatments if the few Red Cross vehicles were unavailable. So far they had been able to provide the necessary service. This is jurisdictional but no complaint was filed on the child’s behalf. We told the social workers to let us know if and when another denial occurred, stating that we would intervene, since the problem is a jurisdictional one.

The Patient Transportation Department of Woodhull Hospital reported that they had tried to arrange transportation for a patient with AIDS and several ambulance companies refused due to the patient's diagnosis. The patient needed oxygen and so medically equipped transportation was essential. Eventually they found a company willing to arrange transportation and the situation was resolved.

The guardian/social worker of a child with AIDS was repeatedly denied ambulance service for the child by several different companies and called to report the problem. We added this report to our growing file of ambulance and ambulette denials and notified the person that we should be called on if this happened again.

A hospital social worker with a large AIDS caseload called in frustration about the ongoing and widespread discrimination by ambulette companies. She had recently attempted to arrange transportation for a man with AIDS from his home in the Bronx to a hospital in upper Manhattan for weekly treatments. Two of the largest ambulette companies refused to carry him, saying they didn't want to "contaminate" their cars. The social worker was eventually able to find a company which would carry him, so she was only calling to let us know about the problem.

The mother of a woman with AIDS called to report that she has had great difficulty finding an ambulance company which will
transport her daughter to the hospital for appointments. Just that morning ambulance drivers arrived and discovered that her daughter had AIDS, refused to transport her and she missed her appointment. We agreed to accept an individual complaint from her but, like most people with AIDS and those who care for them, she had "plenty to deal with already" and doubted she'd take the time to file a formal complaint. Jurisdictional.

AUG 85 AMBULETTE/ACTUAL AIDS/PUBLIC ACCOMMODATION/SYSTEMIC

A social worker from St. Vincent's Hospital called to report that two primary ambulance companies which serve the hospital recently stated that they will no longer transport people with AIDS. They said people with AIDS must be transported by ambulance (at three times the cost of an ambulette). The social worker was attempting to pursue the companies to reconsider their new policy at the time of her call; she said she would notify us if her efforts failed. Jurisdictional.

OCT 85 AMBULANCE/AMBULETTE/ACTUAL AIDS
PUBLIC ACCOMMODATION/SYSTEMIC

A social worker from Beth Israel Hospital called to report that he was "having trouble" with ambulette and ambulance drivers. For some time, he said, ambulette companies and drivers had refused to transport people with AIDS to and from their clinic appointments, so he'd been relying on ambulances for this service. Now the ambulance drivers would not always show up for appointments, and when they did, they insisted on wearing masks, gowns and gloves to transport AIDS patients. This requirement is an unnecessary measure which then subjected his patients to additional humiliation and discrimination because their neighbors saw the protective garb, became alarmed and demanded to know what disease the patient had. We discussed strategies and the social worker was able to resolve the problem.

C. FUNERAL HOMES

Relatively few complaints have been lodged against funeral homes. The reason for this is simple: having encountered price gouging or a refusal from a funeral home to handle or embalm a body, provide a viewing or any other service on behalf of a person who died due to AIDS complications, the family or friends primarily seek the names of funeral directors who will deal with the body and will do so at a reasonable rate. In a time of grief, then, the family is ushered to a more helpful provider of this necessary service. After the grief period, the idea of filing a complaint is counter to the family's impulse to put the event behind them. Consequently complaints are rarely filed. The Commission is aware of the situation and has chosen to pursue the
matter through Commission-initiated complaints. In this method of investigation the Commission, rather than an individual complainant, files a complaint if it has reason to believe a discriminatory practice exists. The following reports are included to illustrate the scope of the problem.

**NOV 83 FUNERAL HOME/ACTUAL AIDS/PUBLIC ACCOMMODATION**

The Bronx mother of a young woman called. She couldn't find a funeral home to bury her daughter. Every one she called refused to deal with the body when they found out the death was due to complications caused by AIDS. The woman was bereft and did not want to press any charges; she just wanted her daughter "to have a decent burial". We were able to supply her with the names of a few funeral homes that will deal with AIDS-related deaths. We accepted a complaint against the first funeral home the woman contacted, but the complainant later refused to pursue it.

**MAY 85 FUNERAL HOMES/ACTUAL AIDS/PUBLIC ACCOMMODATION**

We received an anonymous call from a woman in Queens. Her husband was near death due to AIDS complications and she was trying to quietly arrange for his burial because she was terrified that her friends and neighbors would discover the reason her husband had died. She feared that she and her two children would be subjected to the hysteria and discrimination that she had seen on television. Her immediate problem was that she could not find a funeral home that would bury her husband. The only one that was willing to inter the body wanted several thousand additional dollars, money which she just did not have. We intervened and the situation was resolved. Jurisdictional.

**AUG 85 FUNERAL HOMES/ACTUAL AIDS/PUBLIC ACCOMMODATION/SYSTEMIC**

The staff of a NY State Assemblyman called to report that his constituents had contacted him complaining that funeral homes were refusing to bury people who had died from complications of AIDS. Additionally, he said that one constituent finally found a funeral home that would handle the burial but that individual had been charged thousands of dollars more than normal for the services. We reported that this is a widespread problem and that we would cooperate in any efforts to correct this type of discrimination. No jurisdiction since this occurred outside NYC.

**MAR 86 FUNERAL HOME/PUBLIC ACCOMMODATION/ACTUAL AIDS**

A hospital social worker called. Her client had died due to AIDS complications. The family of the client called her that morning to say that a funeral home had told them that they couldn't
arrange an open casket viewing because the NYC Department of Health had told them that open caskets were not allowed in AIDS cases. She wanted to know if this was true. We told her it was not and advised her that the family could file a complaint with the Commission against the funeral parlor if they wished. We asked her to give this information to the family, even if they seemed uninterested in filing a complaint at this time. As always, it is our hope that, once the grief period passes, they may choose to pursue the complaint. We also provided the names of funeral parlors which do not discriminate on this basis. Jurisdictional, but no complaint has yet been filed.

D. HOSPITALS/HEALTH CARE

In the earliest days of the AIDS epidemic, hospitals were often the sites of blatant discrimination against patients with AIDS; fortunately this situation has greatly improved. This microcosm exemplifies the effectiveness of AIDS education. As the following reports indicate, patients were often denied medication because of fears by nurses; had their trays of food left outside their rooms rather than brought to them like other (non-AIDS) patients; suffered the discomfort and indignity of unclean rooms and soiled bedding because household staff were afraid to enter the rooms. After being alerted that such behavior was rampant, hospital administrators responded to the problem. The names of patient representatives to be called in such a crisis were made available. It has been the Commission's experience that patient representatives are very responsive to calls reporting patient abuse. In almost all cases they investigated the situation, met with the staff of the floor or ward in question and either spoke with fearful workers themselves or provided AIDS Education workers knowledgeable about the means of transmission of the disease. As a result, workers' fears were eased and a tense situation was defused. In almost every instance, follow-up calls by the Commission to the patient or family of the patient confirmed that the problem had been resolved within 24 hours. Such reports still come in, but sporadically, and at a much slower rate. Here then are some of the reports the Commission received.

JAN 84 THERAPIST/PUBLIC ACCOMMODATION/PERCEIVED AIDS

A gay man had been seeing a therapist professionally for some time when he admitted to the therapist that he had been unfaithful to his lover by having sex with another man. The therapist immediately terminated the therapy, saying he could not see the man if he was not monogamous, since he might have AIDS. The man filed a formal complaint with the Commission and we were able to get back for him all the money he'd paid this therapist.
The mother of a male IV drug user with AIDS called. Her son was in a Brooklyn hospital. The hospital was threatening to discharge him despite the fact that he was very ill and had nowhere to go. We called and spoke with the patient representative. Apparently the hospital was frustrated because the patient was refusing treatment and demanding to be released. The situation was a complicated one: he had been told that he had tuberculosis, rather than AIDS, at the request of his mother because she did not want him to "give up fighting". Due to the nature of his illness, he was subjected to painful tests and treatments and he didn't understand the reasons for his regimen. His mother was concerned that they were experimenting on her son. The hospital maintained that they were doing only what was medically appropriate. We were able to work out a sensible solution to the problem through mediation with all concerned.

The cousin of a patient who had died due to complications caused by AIDS called. He wanted to know how he could sue the large hospital where his cousin had been a patient for the "mistreatment and discrimination" to which both he and his cousin had been subjected. We advised him of the patient's rights and also made appropriate referrals. Jurisdictional but no complaint was filed.

The uncle of a man with AIDS called regarding the treatment to which his nephew was being subjected in the hospital where he had been for several weeks. The uncle is a retired hospital administrator and described the situation as "shocking and getting worse." His nephew's room had not been cleaned during the time he was there nor had his bedding been changed. Food was not brought into his room (although he was bedridden) and medication was not administered. He complained repeatedly to every level of hospital staff to no avail and he called us in frustration. Our call to the administrator of the hospital prompted immediate action and the situation improved. The uncle also reported that the nephew's insurance company was refusing to pay the bills and attempting to exclude him due to his diagnosis. Jurisdictional on the hospital issue/not jurisdictional on the insurance issue.

We were contacted by a husband and wife who both had AIDS. They stated that their health insurance policy only allowed them to consult certain oncologists and radiologists, all of whom offered
them absolutely no treatment. The callers said that the health care provider's position was that there is no effective treatment for AIDS and therefore they would not agree to cover expenses incurred for treatment outside the health care provider's system of doctors. CCHR has no jurisdiction over insurance matters and therefore could not investigate. Instead we made referrals. The couple also reported that when they were last in the hospital (a private Manhattan hospital) they were treated poorly and had a "constant battle" to have their rooms cleaned and their food trays brought into their rooms, rather than have them left on the floor outside their rooms. We encouraged them to call us should they experience abusive treatment during future hospital stays since this is a jurisdictional issue and we have found such situations to be easily remedied.

AUG 84 DENTAL CLINIC/PUBLIC ACCOMMODATION/ACTUAL AIDS/SYSTEMIC

A social worker called to report that a dental clinic refused to treat a patient because he has AIDS. The Commission was one of many agencies that contacted the clinic on the man's behalf and eventually treatment was arranged both for the man and for patients with AIDS in general. Jurisdictional.

SEP 84 HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION

A worker from GMHC called to complain that a private hospital in Manhattan had discharged "another" AIDS patient without proper medical assistance. The patient must take a drug, which is both costly and difficult to obtain, in order to avoid a side effect of his chemotherapy treatments. Without the drug, he was subject to deterioration of his bones. The man was released from the hospital without a source for the drug or any money to purchase it. The hospital was not helpful about attempts to resolve the problem. We referred the case to the state agency which reviews misconduct by hospitals.

OCT 84 HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION

A friend of a man with AIDS called about the poor treatment his friend was receiving in a Brooklyn hospital. His room was not cleaned, his food trays were left outside his room, and he was left in his own body waste for several days. The Commission contacted hospital administrators and the situation was investigated and corrected the same day. When we followed up a few days later, there were no further problems. Jurisdictional.

NOV 84 PUBLIC ACCOMMODATION/ACTUAL AIDS

A man with AIDS needed a medical test and was taken to a laboratory with special equipment needed for the test. The lab refused to perform the test when they realized the nature of his
illness. The Commission contacted the owner of the lab and the situation was resolved.

**JAN 85** HOSPITAL/PERCEIVED AIDS/PUBLIC ACCOMMODATION

A man who had a heart transplant told the Commission that he had to take cyclosporine to reduce the risk that his body would reject the heart. This drug suppresses the immune system. His immune system is so suppressed that he has lesions resembling those of Kaposi's Sarcoma. In effect then, he appears to have AIDS although he does not. He was scheduled for an angiogram and other tests at a private hospital in the city and when he showed up for the procedure, a doctor told him that the hospital refused to proceed. The doctor explained that even though they know that he doesn't have AIDS, there is "too much blood involved" in the procedure and they won't do it. Once advised that he could file a complaint, he planned to confront the hospital. He didn't call again and no complaint was filed.

**FEB 85** HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION

The mother of a man with AIDS called to say that, due to his diagnosis, her son was so mistreated by the staff of a hospital that she brought him home "to die in peace."

**FEB 85** HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION

It was reported by the GMHC "buddy" of a person with AIDS that the man was kept waiting for 18 hours in a hospital emergency room. The next day when his family visited they found him lying in his own excrement in a bed that had no covers. He was very sick and had not been fed. We were told that his parents, who are quite old and poor, were so upset that they used their life savings to hire private care for their son. He has since died and the Commission looked into filing a complaint on behalf of his estate. CCHR advised the GMHC buddy, who planned to become the executor, that if he assumed that role he would be able to file a complaint. No complaint was filed.

**FEB 85** HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION

The family of a man with AIDS called the Commission. At the time, the man was in a private Brooklyn hospital. The family reported that the son was not being taken care of due to fear of AIDS by hospital staff. The family said that the nurses on his floor would not enter his room. We called the hospital administrator directly and the problem was resolved.
The family of a person who had died due to complications caused by AIDS called to ask us to intercede in the matter of an autopsy to be performed on the body. The family objected to the autopsy because of their religious beliefs. They said they had been told by a funeral home that the body was collected from the hospital by the Medical Examiner's office so that an autopsy could be performed. We called the ME's office to find that there was no autopsy scheduled, but they did have the body and didn't know why. We learned that anyone can prevent this procedure in such a situation by supplying a written affidavit stating the objections to the procedure. We relayed this information to the family, who had thought that because the death was AIDS-related, a special procedure had been invoked.

MAR 85 HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION

A social worker called to report that two city-run, chronic care hospitals on Staten Island were refusing to accept people with AIDS because "it's contagious." The caller wanted to know if this was legal. We advised that it is not. Jurisdictional but no complaint was filed. When the Commission called the hospital, they said that the statement in question had never been made. We heard no further reports to confirm the allegations.

FEB 85 DENTISTRY/PUBLIC ACCOMMODATION/ACTUAL AIDS/SYSTEMIC

A man called to report that NYU's Dental Clinic and Bellevue's dental clinic would not provide dental care to people with AIDS if the care needed was routine rather than emergency treatment. The caller pointed out that all dental care required by people who have AIDS is a potential emergency since a minor problem could so easily become major due to the impairment of the patient's immune system. The Commission requested clarifying information from both dental clinics. Further meetings occurred and some progress was made. The Commission has offered to intervene if further problems arise.

FEB 85 OXYGEN DELIVERY/PUBLIC ACCOMMODATION/ACTUAL AIDS

An AIDS patient with pneumonia required oxygen for use in home care. Through a caseworker, a delivery of oxygen was arranged with a vendor of home health care supplies. When the drivers of the delivery truck found out the patient had AIDS, they refused to deliver. The Commission was called on to intervene by the caseworker. We spoke to the owner of the supply company, who initially told us that they "refuse to deliver until a doctor can guarantee that we won't get AIDS." The Commission explained that this denial of service is a violation of the civil rights laws and sent the owner information about the law as well as AIDS
educational information. Once apprised of the medical and legal facts, she agreed to arrange the delivery and to see that her workers obtained AIDS education. Oxygen was delivered to the man shortly thereafter.

APR 85  HOSPITAL/PUBLIC ACCOMMODATION/PERCEIVED AIDS

A man reports that he arrived at a Manhattan hospital with a herniated disc. Upon arrival, he was asked if he is gay, "because of AIDS." He did not have AIDS and did not look debilitated in any way inconsistent with the herniated disc. After he told them he is gay, they asked a series of irrelevant questions about his history of venereal diseases. The result of this interview was that "HOMOSEXUAL" was stamped all over his chart and doctor's report. He states that he was labeled a homosexual and was therefore presumed to have AIDS and as a result he received inadequate treatment during his hospital stay.

APR 85  PUBLIC ACCOMMODATION/ACTUAL AIDS/INSTITUTION

The mother of a man who had been a mental patient in a state institution for most of his adult life, contacted the Commission. Her son, who had AIDS, was taken to a local hospital in the Bronx for treatment of an AIDS-related infection. He had already recovered at the time of her call. She said the hospital wanted to return him to the mental institution. The problem, as the mother expressed it, was that the son had been mistreated at the institution and she feared to return him to the poor level of care he had experienced in the past. She said that, due to their fear of AIDS, staff had failed to feed or even talk to him, and his medication was frequently not administered. Commission staff called the institution and officials agreed to set up training for their staff in order to be able to care for AIDS patients. The mother was pleased with this resolution and her son was then returned to the institution.

MAY 85  PSYCHOTHERAPY/PUBLIC ACCOMMODATION/ACTUAL AIDS

The Gay Men's Health Crisis buddy of a woman with AIDS called us about an incident which occurred in a large psychotherapy clinic in Brooklyn where his client had gone seeking treatment for depression related to her AIDS diagnosis. After waiting many months for her Medicaid benefits to clear, the woman went for an intake interview with a social worker. The social worker became alarmed when she discovered that the woman had AIDS and dismissed her, claiming the clinic was unable to provide therapy for her and suggesting that she "leave by the back exit." When the GMHC buddy attempted to contact the director of the clinic, his calls were refused. He then notified state and city agencies about the incident and, through the combined efforts of several agencies including CCHR, the clinic director agreed to educate his staff.
about AIDS, acknowledging that there was "widespread trepidation about handling AIDS among staff." The woman no longer felt she could seek therapy at that clinic however and therapy was arranged elsewhere. Jurisdictional, but no complaint was filed.

**JUL 85 PUBLIC ACCOMMODATION/PERCEIVED AIDS**

The parents of a thirty year old, single, heterosexual man called. They said that their son, while hospitalized for pneumonia, had experienced some symptoms similar to those of an AIDS patient. This resulted in a misdiagnosis of AIDS and the misdiagnosis was reported (as required) to the NY State Board of Health and the Centers for Disease Control. Since his recuperation, the parents had been trying to place him in a rehabilitation center for people with head injuries (he had suffered such injuries in a car crash). However, because the term "AIDS" appeared at one point in his medical history, the rehabilitation center, which is in another state, would not accept him. We do not have jurisdiction outside NYC, so we referred the parents to that state's human rights agency.

**SEP 85 HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION**

A Bellevue Hospital employee called to report an ongoing problem with a vendor who has a service contract with the hospital. She had frequent problems with telephone company workers who repair and replace telephones in patients' rooms. Whenever the technicians even suspect that a patient has AIDS they refuse to provide service. We offered to intervene but she said that she would re-contact us only if her negotiations with the vendor's union weren't successful. Jurisdictional, but no complaint was necessary.

**SEP 85 HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION**

A newspaper reporter called to see if the treatment accorded a friend of his who had died due to complications of AIDS was common. He said his friend, who had been in a hospital, was kept on a stretcher for twenty-two hours before being admitted; when he was finally admitted, there was no air conditioning in the area to which he was assigned and this occurred during the hottest part of the summer. He said they couldn't even get water or ice on his ward. Jurisdictional, but no complaint was filed.

**SEP 85 HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION**

A Red Cross home attendant called to report the poor treatment one of her clients was receiving in the Brooklyn Hospital to which she had been admitted with a bout of AIDS-related pneumonia. When our caller visited her client in the hospital,
she found that she and her roommate, who also had AIDS, had not been cleaned in three days, their beds and clothing had not been changed or cleaned, and food trays were left in the hall. The Red Cross worker was so upset that she cleaned both women herself, made their beds and took their soiled clothes home to wash. She stated that the staff treated them like "lepers" and that when she complained to the administration, she was given "the run around." We called the hospital and they agreed to look into the matter and correct any problems and provide additional training for staff. Jurisdictional.

OCT 85  HOSPITAL/PUBLIC ACCOMMODATION/PERCEIVED AIDS/DEATH

A woman whose brother was gay called the Commission. She said her brother had been taken to a Brooklyn medical center the week before with pneumonia. During an intake interview, the family was asked if he was gay. When they confirmed that he was, the brother was put in isolation on the assumption that he had AIDS. She stated that because the staff feared AIDS, the treatment he received was "grossly inadequate." Within a week he was bloated, yellow and parts of his body had become paralyzed. When the alarmed family confronted the doctor, they were told that he was "resisting treatment." The next day he died. He was 29 years old. The hospital ordered an autopsy and concluded that he died of a heart attack. The man had never been diagnosed as having AIDS. The sister felt he died as a result of neglect and malpractice because he was perceived to have AIDS. We advised her that the man's executor could file a complaint with the Commission with respect to poor treatment because of a perception that the man had AIDS, and referred her to the State Investigation Unit which handles misconduct inquiries in hospitals. We also suggested that she consult an attorney if the family wanted to pursue a malpractice suit. Jurisdictional, but no complaint was filed.

OCT 85  HOSPITAL/ACTUAL AIDS/PUBLIC ACCOMMODATION

A crisis worker from the Gay Men's Health Crisis called because one of their clients, who had neither insurance nor Medicaid, was refused admittance to a Brooklyn hospital. He had been "dumped" there by the Veterans' Hospital and had no home to return to because he lost his apartment as a result of the financially draining and debilitating nature of his illness. We gave the crisis worker the referral source he sought and offered to assist further if necessary. Jurisdictional, but no complaint was filed.

NOV 85  HOSPITAL/PERCEIVED AIDS/PUBLIC ACCOMMODATION

A male outpatient of a private hospital requested that the hospital test him for antibodies to the HTLV-III virus. After
some delay he was given the test. The problem was that he was unable to obtain the results from the hospital. He worried that the results were positive and that as a consequence, the hospital feared him as an AIDS "carrier". We called the hospital's coordinator of patient advocacy and arranged that she would be in the clinic when our caller arrived for his appointment that afternoon and see that he received his results.

DEC 85  HOSPITAL/PUBLIC ACCOMMODATION/ACTUAL AIDS

A man with AIDS needed kidney dialysis. When he arrived at the hospital for his treatment they refused to put him on the dialysis machine because he has AIDS. As a result of not being able to obtain the treatment, he had to be rushed to the emergency ward of a hospital two weeks later. Though advised that he can file a complaint against the hospital for refusing to treat him, he has not yet done so. Jurisdictional.

FEB 86  DENTIST/PUBLIC ACCOMMODATION/PERCEIVED AIDS

Gay Men's Health Crisis related the following incident: a young man who wore an earring when visiting his dentist was perceived by the dentist to be gay. Consequently, he was also perceived to be a threat of AIDS, despite his apparent good health. Thus the dentist told the young man that he had to leave. The young man is heterosexual and simply chose to wear an earring. GMHC is pursuing this matter and we offered to take a formal complaint if the situation is not resolved.

MAR 86  HOSPITAL/PUBLIC ACCOMMODATION/ACTUAL AIDS

A woman called the Commission. She said that her ex-husband, who has AIDS, experienced discrimination at the hospital where he was being treated. She reported that his food was not brought to him, his room was not cleaned, etc. This complaint is one of a large number the Commission received on this topic. As always, we were able to call the hospital administrators directly and resolve the problem. The woman called the next day to say the situation had "improved tremendously." Jurisdictional, but no complaint necessary.

D. PUBLIC ACCOMMODATION REPORTS - (OTHER)

NOV 83  FOSTER CARE/PERCEIVED AIDS/PUBLIC ACCOMMODATION

A woman who died from complications caused by AIDS left behind three small children. A social worker attempted to place the children in foster care, but had been unable to do so because they were perceived by potential care providers to have AIDS. Eventually their grandmother, who was very old, ill and nearly
blind, was forced to take them. Jurisdictional, but no complaint was filed.

JAN 84 PUBLIC ACCOMMODATION/PERCEIVED AIDS

A Haitian woman, who is a health care community worker dealing with a Haitian clientele, called to document an incident. She went to the main post office in Brooklyn to mail a package to the AIDS Institute. When she presented the package at the counter, no one would touch it and the clerks refused to wait on her. Even after she spoke with a supervisor, they would not accept the package. She mailed the package from another post office and reported the incident to the Commission.

MAR 84 PUBLIC ACCOMMODATION/ACTUAL AIDS

A social worker, whose caseload included a man with AIDS, told us the man had applied for emergency assistance, Medicaid and food stamps in February. The social worker had received an anonymous phone call that day from the Public Assistance Center, saying that they refused to provide benefits to the client because "it's too dangerous." The Commission intervened and the situation was resolved. Jurisdictional.

JUN 84 PUBLIC ACCOMMODATION/ACTUAL AIDS

A man called to say that he had gone to a bathhouse with friends and was ejected by management because they were aware that he has AIDS. He told the Commission that he went only to socialize, was fully clothed and was only in the cafe of the establishment. He did not want to file a complaint.

OCT 84 PUBLIC ACCOMMODATION/ACTUAL AIDS

It was reported to the Commission that the Officer's Union of the State Supreme Court demanded that people with AIDS be tried in glass booths like those used to try Nazi war criminals. Apparently the suggestion was dropped by the union; we were unable to track it down but no further problems have been reported.

NOV 84 FOSTER CARE/PUBLIC ACCOMMODATION/ACTUAL AIDS/CHILD

The Commission received an anonymous call about an infant in a NYC hospital who was in need of foster home placement. Both the child's parents were IV drug users. The infant shows no indication of having AIDS but, because the child has a two year old sibling with AIDS, the caller had been unable to place the baby in a foster home. We made appropriate referrals.
A doctor from a city hospital called because one of her patients, an IV drug user who showed no sign of having AIDS, was being denied entrance to a live-in drug rehabilitation program unless she could "prove" that she did not have AIDS. The Commission became involved and eventually, after cooperating with the City's Health Department and the State's Substance Abuse Division, the program admitted the patient. Jurisdictional.

We received a complaint from a man with AIDS. He was repeatedly frustrated in his attempts to procure some of the basic services and benefits available to people who are handicapped or disabled. Most recently he had been denied a reduced fare card on public transportation and was also turned away from one of the largest national non-profit agencies which act as advocates on behalf of the handicapped. He was calling only to confirm that AIDS is covered under the law which prohibits discrimination on the basis of disability and didn't want to file any complaints yet. He hoped it would not be necessary.

The daughter of a woman with AIDS had been reporting to a local welfare office to pick up welfare checks to which her mother was entitled. She was told by a case worker that she could no longer come into the center because she might be "contaminated." The Gay Men's Health Crisis intervened on her behalf and the situation was resolved without our involvement. Jurisdictional, but no complaint was necessary.

A gay teenager was living in a residential home because his family wouldn't accept his sexual orientation. He was forced to leave the residence when he was diagnosed with AIDS-Related Complex (ARC). The Institute for the Protection of Lesbian and Gay Youth was trying to resolve the problem out of court and they said they would call on us if it seemed that our involvement would be necessary.

A therapist in the detoxification unit of a medical center called because he had been unable to find a residential treatment program for a young woman trying to kick an I.V. drug habit. She had lymphadenopathy, which many I.V. drug users develop and which
may be a precursor to AIDS. The therapist had tried every available program and they all turned the woman down due to fear that she might develop AIDS. The therapist was concerned that if she went back on the street she would again use I.V. drugs. We offered to attempt to mediate in this situation. Jurisdiction is questionable since many such treatment facilities are state-run. However, we met with cooperation from the authorities and did not have to resort to a formal complaint.

AUG 85  DRUG TREATMENT PROGRAM/PUBLIC ACCOMMODATION/ PERCEIVED AIDS

A case involving an I.V. drug user was reported through the Gay and Lesbian Confidential Documentation Project. A gay man who was also an I.V. drug user had graduated from an acute detoxification facility and was now looking for a residential treatment program. None would accept him because he is openly gay and was thus considered to be an AIDS risk, though he had absolutely no AIDS symptoms.

SEP 85  PUBLIC ACCOMMODATION/ACTUAL AIDS/PERCEIVED AIDS/SYSTEMIC

A social worker reported that the Headstart Program issued a statement instructing all their facilities to exclude any child with AIDS or suspected of having AIDS. The social worker said she was familiar with the situation because the three (healthy) children of one of her patients, a woman with AIDS, had been banned from a Headstart Program in the Bronx. Jurisdictional, but no complaint was filed. We alerted the NYC Department of Health's AIDS Education Unit.

NOV 85  PUBLIC ACCOMMODATION/PERCEIVED AIDS

A healthy man told the Commission that he had regularly frequented a restaurant for a number of years. However, the manager recently told him that he was no longer welcome. It seems a rumor was started by other patrons that he has AIDS. We called the manager and told him that even if the man did have AIDS, and he did not, barring him from the restaurant is illegal. He backed down, saying he'd not barred the man, only "requested" that he not come. Once apprised that this was still illegal, he capitulated and the man was once more "welcome". We added that if his customers gave him any trouble over this, he could call on us and we'd speak with them. Jurisdictional.

DEC 85  PUBLIC ACCOMMODATION/ALCOHOLISM TREATMENT PROGRAM/ARC

A man told the Commission that he was unable to enter an alcoholism treatment program because he has ARC (AIDS-Related Complex). We called the program concerned and spoke with a
doctor about his entering the program. The next time we spoke with the caller, he was already in the program. Jurisdictional, but no complaint necessary.

JAN 86  PUBLIC ACCOMMODATION/ACTUAL AIDS

A man with AIDS was not able to obtain any benefits through the city's Department of Social Services because he did not get the new client ID card which features a picture of the client. The card is needed so that he can obtain and use his benefit checks and food stamps. The problem, as a friend of his related it to the Commission, is that no one from the Department's "Home Bound Photo ID Program" will come to his home to arrange for the new card. He is too sick to go to the office. When clients are very ill, it is departmental policy to send someone to the client's home. However, according to the caller, the supervisor of the office which arranges such visits gave his employees the option of refusing to visit this client "because he has AIDS". We wrote up a formal complaint, based on the caller's story, and sent it to the man with AIDS. It was never returned. However, since we were in possession of so much information about this alleged event, we pursued the matter further on our own. We called the Income Maintenance Center and asked a supervisor what was done when a physically disabled person was not able to come in to pick up a photo ID card. She said they send a staff member out to the individual. We then asked what they do when the client has AIDS. She said in AIDS cases, they try to get the someone from Gay Men's Health Crisis to visit the person, adding that they do not send one of their own people over. We then contacted managerial level staff at the Human Resources Administration. When apprised of the situation, they said they would immediately issue a directive that such visits must be performed by regular staff.

FEB 86  PUBLIC ACCOMMODATION/ACTUAL AIDS/HEALTH AND LEGAL SERVICES

The General Counsel of Gay Men's Health Crisis informed the Commission that a man contacted him because he had experienced extreme difficulties after being diagnosed with AIDS. Although he had been a patient of his doctor's for many years, the day his doctor told him he had AIDS, he also told him that he could no longer be his patient. Upset, he went to his therapist and related his experience and his therapist told him that their relationship was terminated immediately. When he contacted his lawyer to see if anything could be done about the problem, the lawyer said he could no longer number him among his clients. Totally distraught, the man called GMHC only so that he could tell another person what had happened. Although advised by GMHC that each of these three rejections is illegal, the man was too traumatized to consider pursuing the matters further. Jurisdictional, but no complaint filed.
IV. VIOLENCE/BIAS

MAR 84 PERCEIVED AIDS/NATIONAL ORIGIN/BIAS/VIOLENCE

A Haitian community activist called to report increasing bias against Haitians in the NYC metropolitan region because they are perceived to be "AIDS carriers." She mentioned that numerous Haitian business owners reported a significant loss of income and several faced bankruptcy. She also referred to a recent incident in a New York Public High School where a Haitian teenager was gunned down in the school yard by a gang of students who didn't want "any Haitians with diseases" in their school.

SEP 84 PERCEIVED AIDS/BIAS

A lesbian tried to give blood at a blood center and was refused "because of AIDS" despite the lack of any logical connection between lesbians and AIDS. We alerted the City's AIDS Education Unit to the situation and the situation was resolved.

JAN 85 PERCEIVED AIDS/PROSTITUTES/BIAS/VIOLENCE

A church worker who deals with prostitutes in the course of her work called because she is concerned about the AIDS backlash which she sees affecting prostitutes, particularly streetwalkers, who are vulnerable in their open environment to attacks by others. She said there had been increased arrests, harassment, violence and, consequently, a loss of income for those affected.

APR 85 ACTUAL AIDS/BIAS

Two gay men with AIDS said they had a distressing experience. They had been scheduled to be interviewed on network TV. They were taken to a lounge to await the taping and then were told that there would be a delay because of technical difficulties. To the best of their knowledge, what happened was that three technicians and camera persons announced that they did not want to be in the same studio with people with AIDS. A technician was finally located to do the work of three people and the taping was executed. However, no make-up people would touch the two men and they were directed to clip on their own tie-clip microphones. No jurisdiction.

MAY 85 AIDS-RELATED/BIAS

It was reported to the Commission that a popular and respected curate at a prestigious Episcopal church proclaimed his support of the church's adoption of a positive resolution regarding AIDS. One of the wealthier members of the church became upset and
accused the curate of being gay. The curate acknowledged that he is and a "hate campaign" was started. Despite his former popularity, a significant percentage of the parish turned against him and forced him to resign. No jurisdiction.

JUL 85 PERCEIVED AIDS/PORSTITUTES/BIAS/SYSTEMIC

A research reporter from a major magazine was doing a story on the impact of AIDS on prostitutes when he called the Commission. The prostitutes to whom he had spoken reported growing AIDS-related backlash against them in their personal and professional lives. They expressed frustration that they were being labeled a risk group when they are not, and said they are often the most informed of sexually active adults and are extremely careful about sexually transmitted diseases, including AIDS. They pointed out that condom use was standard practice in the industry long before AIDS and that the exchange of bodily fluids was often minimal and that in fact they would make "excellent safe sex counselors." We referred the reporter to the AIDS Education Unit of the NYC Department of Health.

AUG 85 ACTUAL AIDS/BIAS/BOMB THREAT

The Gay Men's Health Crisis, which provides services to people with AIDS, received a bomb threat on their hotline. The caller said, "you dirty gay people! Don't be surprised if there's a bomb in the building." Fortunately there was no bomb.

AUG 85 PERCEIVED AIDS/BIAS

The NYC Gay and Lesbian Anti-Violence Hotline reported that their staff had been receiving a lot of harassment calls. The hotline director felt that the calls were related in part to "whipped-up homophobia" as a result of then recent media coverage. One caller said "This is Rock Hudson. Die, you cocksuckers!"

AUG 85 ACTUAL AIDS/BIAS

A man with AIDS called the Commission to report that he had been asked to speak on a major network interview show about AIDS. When he arrived at the station he was not allowed into the studio because of fear of AIDS and the show was taped without him. He was angry and offended. At his request, we contacted the station and referred them to the Department of Health's AIDS Education Unit. No jurisdiction.
SEP 85 PERCEIVED AIDS/BIAS

The minister of a Manhattan church called to report that an irate man had been harassing his parishioners by telling them that they "will all get AIDS." The clergyman said that the church hosted a gay AA meeting there weekly and supposed this to be the reason for the man's statement. Referred to police bias unit. No jurisdiction.

SEP 85 PERCEIVED AIDS/BIAS

The Commission was told that a man collapsed in a Greenwich Village coffee shop. (Greenwich Village is known as an area with a large gay population). He seemed to have stopped breathing. No one would go to his assistance except a gay man who did not know how to perform cardio-pulmonary resuscitation. No one in the coffee shop offered to help, nor would anyone on the street, including a police officer. Finally the gay man administered mouth to mouth resuscitation as best he could and this apparently kept the unconscious man alive until an ambulance arrived. When bystanders were later interviewed, they stated that the man appeared as though he might have AIDS and they were afraid to help out. No jurisdiction.

SEP 85 PERCEIVED AIDS/BIAS

A man collapsed and seemed to have ceased breathing on a street corner in an area of the Lower East Side known for its drug activity. No one would perform cardio-pulmonary resuscitation, including the police, due to fear of "catching AIDS." The man died. No jurisdiction.

V. SCHOOLS

FEB 84 SCHOOL/PERCEIVED AIDS/CHILD

The mother of a teenage son, whose stepfather had died of complications caused by AIDS, called. Her son had been subjected to humiliation and abuse after the city-funded Catholic school program he had been attending expelled him because they perceived him to be an "AIDS carrier." Since that time, he became anti-social, depressed and had been arrested on petty charges. Now he was in a facility with "hardened criminals" and she feared she would "lose him". She wanted to sue the city, whom she saw as ultimately responsible. We made appropriate referrals. Not jurisdictional.
A nursing student who had AIDS was asked to leave the Bronx community college she was attending. She was told this was necessary because the other students were "in an uproar." (Reported to the Commission by a lawyer from the pro bono AIDS panel which was handling the case.) No jurisdiction, since student situations are not covered under the City Human Rights Law.

A social worker, whose caseload included a man with AIDS, called to report that two of the man's three stepchildren (all of whom were stated to be "in excellent health") were being kept out of public school. One of the children, an eleven year old, attended a school where the officials discovered that her stepfather has AIDS; they immediately sent her home. The parents were told that she wouldn't be allowed to return because they "can't guarantee the safety of the rest of the children." To make matters worse, an official of the school called the officials of a school which another sibling attended (a ten year old) and alerted them to the health status of the stepfather. The officials at the second school then decided to bar that child from attending. A doctor who is part of the AIDS team which works with the stepfather wrote the schools to state that there is absolutely no reason that the children should not be allowed to attend school. We suggested that all parties contact the AIDS Education Unit of the NYC Department of Health. The social worker informed us that an AIDS Education speaker went to the schools to calm their fears and as a result the children are now back in school.

VI. INSURANCE

A social worker at Kings County Hospital called to report that one of her AIDS patients found that her group insurance policy was refusing to pay for her treatment and attempting to exclude her from coverage due to her diagnosis. Since insurance issues are not considered covered under the Human Rights Law umbrella term of "public accommodation", we referred her to the State Insurance Board, which regulates the insurance industry. No jurisdiction.

A man called to say that his insurance policy had been cancelled. The provider stated this was because he "misrepresented" his health. He says he did not but that his medical information may
therefore have assumed that he will get AIDS. This, he believes, was the reason for the cancellation of his policy. No jurisdiction.

JAN 85 INSURANCE/PERCEIVED AIDS

A man was referred to the Commission by his therapist. His insurance company cancelled his health insurance. When he called to ask them why, they reportedly said: "You know why you've been cancelled." He said he had inadvertently omitted mention of amebiasis on his forms and he said he supposed this parasitic infection, preying as it does on many gay men (along with other groups), was revealed to the company by medical reports. Thus he felt that the company's determination that he is gay was the cause of the insurance cancellation. Referred individual to NY State Department of Insurance, supplying name of contact person for gay and AIDS-related insurance denials. Not jurisdictional.

APR 85 INSURANCE/ACTUAL AIDS

A social worker from an organization known as the AIDS Social Work Network called to report that the insurance policy of a male patient with AIDS had been cancelled by the carrier. The man had taken out a health insurance policy which went into effect in March of 1984. In May of 1984 he was diagnosed as being "Pre-AIDS." It wasn't until August of 1984 that he was given a definitive diagnosis of AIDS. The insurance company covered the cost of his hospital care but refused all home care bills and, the social worker reported, was now cancelling his policy entirely, stating as their reason for this move that he had a pre-existing condition. Since insurance is not included in the umbrella term of public accommodation, we referred this incident to the state authorities in charge of monitoring possible discrimination in insurance because of a person's sexual orientation or a diagnosis of AIDS. No jurisdiction.

AUG 85 INSURANCE/PERCEIVED AIDS

A man reported to the Commission that two years ago, after he was diagnosed with lymphadenopathy, the private health insurance policy that he had carried for several years prior to his diagnosis was cancelled. He said they "used some other excuse" but he thought they perceived him to have AIDS. No jurisdiction.

VII. PRISON

JUN 84 PRISON/ACTUAL AIDS

The mother of a man with AIDS called. She said her son was incarcerated in a NY state prison. She was frantic because his
situation had deteriorated drastically and she was afraid he would die before he became eligible for parole in six months. She could not visit him because she couldn't afford the transportation fee nor could she withstand the rigors of the eight hour bus trip. She and her daughter had tried for months to have his parole date moved up or to have him moved closer to home so they could visit him and help take care of him. She wrote to the state, her congressman and President Reagan requesting assistance but so far had received no answer. We gave her several referral sources and suggestions and she called back a few weeks later to say that the Department of Corrections had agreed to move him to a facility closer to NYC. No jurisdiction.

JUL 84 PRISON/ACTUAL AIDS

The wife of a man who developed AIDS while in prison called because she and her husband felt that he had been exposed to the disease due to poor prison medical practices. She claims that blood was taken from all prisoners using the same needles. We provided her with appropriate referrals and notified the City's Health Department. No jurisdiction.

MAR 85 PRISON/ACTUAL AIDS

The sister of a man who had recently died of AIDS while in a NY State prison called. She wanted to file complaints against the NY State Department of Corrections and against the prison's hospital facilities for malpractice. She said her brother was very ill and paralyzed due to complications caused by AIDS. The family had made many futile complaints about poor medical care to the health services department of the Department of Corrections. She said that on many occasions he had been left without medication or blankets. They tried to no avail to have him transferred to a facility closer to home so that family members could at least feed and bathe him. Her brother had been dead for three days before the family found out, and then only when the mother arrived to visit her son. We made appropriate referrals and directed her to the NY State Division of Human Rights because the incidents were alleged to have taken place outside New York City. No jurisdiction.

JUL 85 PRISON/ACTUAL AIDS

The mother of a man who has AIDS and is in prison called. She said that her son still had 2 1/2 years left to serve on his sentence. The warden had called her to say that they would let her son go as long as she promised to care for him and keep him in her home. She felt unable to accept this offer because she has a husband, a family and a job, and would not be able to provide the level of care her son needs. She offered to place him with a relative, but the warden refused this counter-offer.
She told the Commission that she thinks the prison was trying to "dump" her son now that he is so sick. We provided her with appropriate referrals to resolve the problem since this is not a jurisdictional complaint.

SEP 85  PRISON/ACTUAL AIDS/PERCEIVED AIDS

A community worker, who visited Rikers Island Prison on a case she was handling, called to report that she was given a "very nasty" flier from representatives of the prison guards union as she left the facility. The flier stated that guards should not have to deal with gays and those who have AIDS because of "risk to (their) families."

OCT 85  PRISON/ACTUAL AIDS

The mother of a young man with AIDS who was incarcerated at Rikers Island Prison, called for assistance. Her son was not eligible for parole for another three months but she had recently been told by his doctors that he only had three weeks to live. She wanted to bring him home to die but had been unable to arrange this through the facility. We contacted the Department of Corrections, which can grant medical furloughs when appropriate, and set the wheels in motion.

VIII. OTHER

SEP 85  ACTUAL AIDS/INFORMATION REQUEST

In September we received four calls from employers and business owners requesting information on how to prevent AIDS discrimination in the workplace. We sent information and made appropriate referrals.

OCT 85  PERCEIVED AIDS/HTLV-III

A Queens grandmother called, wanting to know where she could take the HTLV-III antibody blood test. She has two children: a son who is gay and whose lover died of AIDS, and a married daughter with two children. The mother had visited her son recently and the daughter now refused to allow her mother to come to her home and see her grandchildren because she feared they would "all catch AIDS." The grandmother said she was heartbroken and wanted only to take "that test" in the hope that it would persuade her daughter to allow her to visit. We suggested that she contact the state or the city for accurate information about AIDS which she could give to her daughter and we offered to speak with her daughter to explain that there is no danger of contracting AIDS through casual contact. No jurisdiction.