



The Real Lethal Weapon

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When Dr. Robert Franke, 75, a retired university provost and minister, was evicted from an assisted living facility in Arkansas because he has HIV, the reaction among many people was not only outrage, but surprise. It's 2010—could this still be happening?

The alarming and infuriating answer is yes, stigma and discrimination against people with HIV are still facts of life in our society. No one should believe that the epidemic—or the discrimination—is over.

HIV is still a critical issue for the LGBT community: According to the Centers for Disease Control (CDC), men who have sex with men (MSM) account for nearly half of the more than one million people living with HIV in the U.S. They are also the only risk group in which the annual number of new HIV infections is increasing.

In our just-published national health care fairness survey, which analyzes responses from nearly 5,000 individuals who identified as LGBT and/or as living with HIV (see feature article on page 11), over 35 percent of respondents living with HIV reported that health care professionals refused to touch them or used excessive precautions, while over 25 percent reported they were blamed for their own health status.

Disturbing forms of discrimination are also taking place within the criminal justice system, though most people—and especially law enforcement professionals—should know better by now. Recently, a judge in New York State ruled that the saliva of a man living with HIV was a “dangerous instrument”—something readily capable of causing death or serious injury. The court concluded that the man could be prosecuted under a felony assault charge because he bit a police officer. The saliva of someone living with HIV cannot transmit HIV, even via a bite. This ruling adds to ignorance about transmission and compounds the stigmatization of people living with HIV.

More than twenty-five years ago, in 1983, we filed the nation's first challenge to AIDS discrimination and won a court order stopping the efforts of neighbors to evict a doctor because he treated patients who have HIV. Our commitment to impact litigation, education and policy work to eliminate discrimination based on HIV status remains as strong as ever.

This year, Lambda Legal filed two new lawsuits challenging HIV discrimination. We represent Wisconsin resident Melody Rose, who was refused gallbladder surgery after she told the surgeon she has HIV. And we filed a federal lawsuit on behalf of Dr. Franke and his daughter in Arkansas after he was evicted.

Our legal advocacy is *getting* results. Last February, Lambda Legal filed an amicus brief with a New York State appellate court in a case in which the State Board for Professional Medical Conduct, as part of an investigation, sought medical records of individuals living with HIV. Lambda Legal asserted the importance of strong confidentiality protections and the need for strict compliance with statutory protections under New York law. The appellate court unanimously adopted many of the points in our *amicus* brief and ruled that even though the Board had a right to seek the records, the law requires additional precautions to protect patients' confidentiality.

Our public policy advocacy is getting results, too. When President Obama was elected, our HIV Project attorneys joined with other experts to send him a 15-point plan of action to eliminate discrimination in federal laws and policies. In October, President Obama announced that the administration would finally lift the HIV travel and immigration ban, which was discriminatory, inhumane and could not be justified on public health grounds.

Lambda Legal is the only national legal organization with two full-time attorneys dedicated to HIV-related litigation and policy work. Our community educators help people understand their rights under the law, and have been promoting health care fairness for LGBT people and people with HIV.

Laws and policy decisions should be based on sound science rather than fear and bias. We are prepared to fight for that principle in court, with government policy-makers and in our communities.

EXECUTIVE DIRECTOR