

SJSU'S CAMPUS BLOOD DRIVE SUSPENSION: QUIXOTIC OR EFFECTIVE SOCIAL MOVEMENT?

© Asbjorn Osland, San Jose State University

On March 4, 2010, Senators Kerry and Franken with the support of 16 other senators asked FDA Commissioner Margaret Hamburg to review the law banning men who have had any homosexual sex since 1977 from donating blood. The FDA defended the ban. Later the FDA agreed to review the policy. It appeared that the gay community's political pressure had paid off. Though it's difficult to pinpoint what specific pressure proved effective, SJSU's campus blood drive suspension was possibly part of the social movement that managed to get the senators to sign their letter to the FDA.

SJSU President Don W. Kassing stated his view in 2008: "... I remain steadfast in my belief that the FDA's lifetime blood donor deferral affecting gay men violates our non-discrimination policy. Our policy is much more than a regulation. It is an expression of values we all share, most notably our core belief that people must be treated as individuals, free of prejudice." He received extensive praise from local politicians and social groups because of his stance.

On the other hand, the social conflict surrounding the blood donor controversy in the gay community could be better focused on reducing HIV infection rates, which continued to rise. The ban on MSM as donors was based on risk assessment: MSM were high risk for HIV contamination of the blood supply. The FDA's stance was not homophobic since women who have sex with women (WSW) were welcomed as donors. Also, SJSU was the only university in the United States that had banned blood drives; was the SJSU ban quixotic?

Logical Challenges to SJSU's Reasoning

In September 2010, the CDC listed alarming health related statistics for MSM:

"MSM account for nearly half of the more than one million people living with HIV in the U.S. (48%, or an estimated 532,000 total persons). MSM account for more than half of all new HIV infections in the U.S. each year (53%, or an estimated 28,700 infections). While CDC estimates that MSM account for just 4 percent of the U.S. male population aged 13 and older, the rate of new HIV diagnoses among MSM in the U.S. is more than 44 times that of other men MSM are the only risk group in the U.S. in which new HIV infections are increasing. ... the annual number of new HIV infections among MSM has been steadily increasing since the early 1990s. ... In a study of 21 major U.S. cities in 2008, MSM had high levels of HIV infection, and many of those infected with HIV did not know it. Overall, one in five MSM participating in the study was infected (19 percent). While MSM of all races and ethnicities were severely affected, black MSM were particularly impacted. Among those who were infected, nearly half (44 percent) were unaware of their HIV status. Young MSM and MSM of color were least likely to know they were infected."

The risk to blood recipients can be fatal or disabling and is therefore more important than being excluded as a donor because the FDA links one to a perceived risk category. The ban on blood donations from MSM by the FDA is not discriminatory in a legal sense. It doesn't discriminate against groups of people but rather eliminates or insists on deferrals for many groups based on risk assessment. The CDC reported that there has never been a documented case of a lesbian transmitting HIV to another lesbian. If the FDA approach were truly discriminatory there would be viable law suits working their way through

federal and state courts and there are not as yet. SJSU's political reality was constructed from a civil rights perspective. However, this is not a civil rights issue. Instead, the issue is more about protecting patients' rights and ensuring their safety during any type of treatment that requires blood transfusion. The erroneous civil rights social construction was at odds with the safety factor. What about the rights of blood recipients? Surely they have a right to clean blood. The technology isn't perfect so one can't simply hope the testing will work; the problems with technology in this instance involve human error and the window when HIV is undetectable in some cases. Do hemophiliacs feel comfortable with MSM donating blood? Clearly they don't. They were the group that suffered greatly from contaminated blood in the 1980s.

Key stakeholders left out in the original decision making process at SJSU were students and SJSU staff, the patients receiving blood transfusions, potential donors of blood, physicians, and health care professionals who work in the blood industry. There appeared to be no consulting with experts who would be well aware of the risks involved in blood transfusions from different types of donors; research studies from academic clinicians were not referenced when making this decision. There are no credible experts in refereed blood industry journals that agree with SJSU's policy. There was no public forum where students, staff and others could express their views. Experts were not invited to debate the issue on campus. At least one of Kassing's advisors was potentially biased in that she is an advocate for gay rights.

The cognitive biases observed in the SJSU decision appear to be reasoning by analogy and representativeness. Reasoning by analogy was used in that people stated that if the FDA will allow a woman that had sex with someone that had HIV to donate blood after a year surely it should receive blood from MSM after a year. Though logical on the surface it breaks down when one looks at the high levels of STDs in MSM. In terms of representativeness, people that support the ban on blood drives equate the FDA policy against MSM with the discrimination endured by other groups such as Blacks. This is a powerful term in American society because of its common use with civil rights for Blacks. Though one can include gays in civil rights discussions because they too have suffered and continue to suffer discrimination, rejecting them as blood donors is because of the high incidence of HIV/AIDS and STDs in the MSM population. Racists reject Blacks because of prejudice, not facts related to their group. The FDA rejects MSM as blood donors because of facts regarding disease and risk to the blood supply.

ROTC had clearly discriminated against gays yet it was permitted to function at SJSU because the loss of federal dollars would be devastating. Campuses that rejected ROTC lost federal funding. But eliminating blood drives resulted in no negative financial consequences to SJSU so the president and the academic senate didn't have to pay a price for taking what they perceived as an ethical stance.

Other Considerations

According to David Mease, an expert statistician (personal communication, September 20, 2010) risk models used for MSM and blood donations:

“... really just try to be predictive but are not necessarily causal. Also, they try to use as few variables as possible. ... the question would be whether the MSM variable could be replaced with two or more other variables and get better predictive power. That is likely the case, but a reason for not doing that is to limit the number of screening questions you need.”

One could ask: “Have you not had sex with a man for at least 12 months?” If MSM have not had sex with MSM for whatever reasonable deferral period was used they may be likely to have lower disease

rates; this could apply to celibate men (e.g., physiologically impotent due to cancer or other non-communicable health problems, priests etc.). This would have to be verified through research.

Another important question could be: “Are you married to a man in a monogamous relationship? If so, have you abstained from sex with other men for at least 12 months?” Men married to men could be another group that would presumably have lower disease rates than the MSM community at large, although this would have to be verified in research.

Inclusiveness is a fundamental value of SJSU’s culture. Rejecting gay men from the blood donation drives on campus made some feel marginalized. The CDC statistics don’t reflect individuals and people don’t appreciate being lumped into a disease-ridden categorization such as MSM. Another way to look at it is to take the exclusion of gay men from blood drives as an opportunity to raise awareness regarding safe sex. The steady increase in HIV infections among MSM indicate the need for increased vigilance and awareness.

Michele Hyndman, Public Relations Manager, Stanford Blood Center (personal communication, September 30, 2010) stated: “Most people are first exposed to blood donations as students and then some of them become life-long, dedicated donors. Stanford Blood Center is missing an opportunity to form this important relationship with thousands of potential donors. Many of whom will never donate blood because of SJSU's decision. It is also unknown what the potential impact of the misunderstanding and bad publicity will do for this generation of students and potential donors.”

There have been less than five cases of transfusion related infections reported in the last 10 years and there has only been one case of transfusion related infection in the last five years. Is this evidence that the FDA questionnaire is effective? Or, is this proof that the screening technology works so well that it would catch the occasional HIV tainted donation? According to Michele Hyndman (personal communication, October 11, 2010), there are several extremely unlikely but potential reasons for an infected unit to erroneously be transfused: the previously mentioned window period, “there are sensitivity and specificity issues with tests or rare strains of the virus that current tests don't recognize, labeling errors could potentially occur in the collection or processing of units and error in the storage and transfusion of an autologous HIV positive unit. An autologous donation is when a person donates blood for their own use.”

Current Dilemma

Should SJSU continue its lonely protest by maintaining the ongoing campus blood drive suspension or should it permit the blood banks to collect blood while continuing to express concern that the FDA review its policy? Surely celibate and MMM should be treated differently than the entire group of MSM.

References

Centers for Disease Control. September 2010. CDC FACT SHEET. HIV and AIDS among Gay and Bisexual Men. (Accessed on September 27, 2010 at <http://www.cdc.gov/nchhstp/newsroom/docs/FastFacts-MSM-FINAL508COMP.pdf>)

For an unofficial listing of protests and boycotts, see http://en.wikipedia.org/wiki/MSM_blood_donor_controversy