MANDATED LIFE VERSUS MANDATORY DEATH: NEW YORK'S DISGRACEFUL PARTNER NOTIFICATION RECORD

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ABSTRACT: In New York City in 1993, there were some 18,000 positive HIV tests but only 350 partner notifications completed by the New York City Health Department. The bleak disparity between these two numbers should haunt us all. We will never know for certain how many lives could have been saved by universally available notification services, but looking at the results of current, obstructive New York State notification law and policy, we have to know we are facing an enormous public health failure. In states and cities with well-established notification programs, between 50 and 90% of HIV-positive clients cooperate voluntarily with notification and, typically, 90% of partners contacted seek HIV-testing and preventive counseling. There are no differences in cooperation based on race, gender or sexual orientation.

In New York, urgently required reform means legislation to mandate that notification services are offered to all people who test positive and to require the state to supply enough trained personnel to undertake sensitive notification and counseling. With Black and Latina women—most of whom are mothers—now at the highest risk for sexual HIV infection, New York's refusal to undertake the life-saving policies common elsewhere has not only resulted in a horrible abandonment of a very vulnerable population, but also accelerated the orphaning of children at unprecedented rates.

INTRODUCTION

In 1993, there were some 18,000 positive HIV tests in New York City but only 350 partner notifications were completed by the New York City Department of Health. In the bleak disparity between these two numbers are literally thousands of lives that should haunt us all. We will, of course, never know for certain how many partners of these 18,000 positive New Yorkers could have had their own lives literally
saved by being informed and counseled about their direct risk for contracting HIV; however, looking at the results of current law and policy on partner notification, we have to know that we are facing an enormous failure in public health which can only be changed by legislation which makes partner notification a universal service, with equal access—and personnel available—both for clients in public medicine and private medicine.

I will discuss partner notification as a universal service in more detail later. But first, noticing that the announced topic of today's debate is "mandatory partner notification," I have to begin by underscoring that partner notification, in a practical sense, cannot be generally mandatory. You cannot hang people by their thumbs until they spew forth the names of their partners who may have been exposed to HIV. So that is not what we are discussing. We are, however, adamantly discussing whether the same public health laws which have applied to other sexually transmitted diseases for more than a half century should be employed to create precious opportunities for AIDS prevention and treatment.

PARTNER NOTIFICATION: WHAT IS IT?

That more than a decade into the epidemic we could be involved in such a confusion of terms only speaks to our profound unwillingness still to understand the seriousness of this epidemic—and to accept the moral and ethical responsibilities that go with that seriousness. For those who wish a complete history of the development of partner notification in the United States, and how its functions have been misrepresented—often purposefully—during the AIDS epidemic, I refer you to Ronald Bayer's seminal article, "HIV prevention and the Two Faces of Partner Notification," in the August, 1992, American Journal of Public Health. As Bayer points out, the many confusions and political agendas associated with AIDS have "led many to mischaracterize processes that are fundamentally voluntary as mandatory and processes that respect confidentiality as invasive of privacy."

Indeed, the partner notification laws which govern other sexually transmitted diseases, as they do AIDS in an increasing number of states, establish such clear procedures that it is hard to understand how they could have become so publicly misrepresented in New York except for political purposes. Those laws—to make it clear—essentially require two steps. The first is that all persons with serious sexually transmitted