

A Changing Epidemic: Partner Notification Laws as Manifestations of Public Attitudes Towards HIV/AIDS | Julia Pizzi

Throughout the HIV/AIDS epidemic, the attitudes and ethics relating to the disease have been changing. Whereas the early to mid-1980s were marked by fear, discrimination and denial of HIV, its causes and its implications on society, the 1990s exhibited heightened respect for HIV-positive individuals. Instead of blaming the infected for their plights, in the 1990s many societal messages regarding HIV/AIDS focused on the universal nature of the disease, thus pressuring all people to protect themselves from infection. The government and medical establishments largely initiated this change; in order to ensure that individuals at risk of infection sought testing and treatment, health care workers and public officials alike attempted to reduce the burden of a seropositive status through voluntary and anonymous testing, anti-discrimination policies and a wide variety of support networks. Yet despite these efforts, HIV/AIDS is still a large threat to many if not all Americans. Local infection rates in the United States have either plateaued or slowly increased in recent years, and many high-risk behaviors that declined in past decades, such as anonymous sex in bathhouses, are again on the rise.

These negative developments have led to yet another change in governmental and public attitudes towards HIV-positive individuals. Frustrated by the unmet promises of the 1990s, society in general now exhibits a degree of complacency and anger towards the ever-present epidemic. Often, these public and governmental attitudes are not universally applied to all infected individuals, but only to those who are seen as contributing to the resurgence of HIV/AIDS in the United States by engaging in high-risk behaviors.

One such group of infected individuals are “non-disclosing patients,” or HIV-positive persons who do not inform their past or current partners of their seropositive status. In order to counteract non-disclosure and inform partners of HIV-positive individuals of their heightened risk of infection, governments and public health departments have initiated partner notification programs throughout the nation. Partner notification programs are in no way unique to the HIV/AIDS epidemic, as they were first used in the 1930s in response to syphilis outbreaks. Yet the specificities of these programs have changed dramatically since then, especially during the more than two decades of the HIV/AIDS epidemic. In the late 1980s and early 1990s, partner notification was yet another program aimed at protecting the anonymity and confidentiality of infected individuals while at the same time serving public health goals. The ethics behind partner notification, however, may now be changing, in accordance with the recent shifts in governmental and public attitudes regarding HIV/AIDS patients. As such, these programs may in the future become significantly more punitive, mandatory and burdensome for infected individuals, under the guise of protecting public health.

At this point, partner notification programs as created by state statutes are just beginning to show these shifts in their underlying attitudes and motivations. Although the majority of states have partner notification laws that still adhere to standards of voluntariness and anonymity,

several states are beginning to depart from this paradigm. A small but growing number of states are mandating partner notification programs, requiring all HIV-positive individuals to disclose the names of their past and current partners, regardless of specifics of their relationships that may render disclosure useless or harmful. One notable example of this shift is seen in New York, where in 1998 state legislators passed a revised public health law creating mandatory partner notification procedures. New York State has traditionally been an influential arena for public health initiatives; by passing this law, New York might be paving the way for more states to adopt these types of programs that value partners' interests over those of already infected individuals.

It is unclear, however, whether the assumed obligations in mandatory partner notification programs are actually found in the high-risk sexual situations where disclosure often does not independently occur. Studies have shown that despite the theoretical and ethical pressures to disclose one's HIV status to a casual or anonymous partner, such disclosures simply do not occur on the whole. Infected individuals may refrain from disclosure for many reasons, such as to avoid violence, fear of exposure to stigma, or simply because they do not feel an obligation to disclose within the bounds of these relationships. As opposed to the norms found with long-term couples or more traditional dating relationships, studies have shown that at-risk individuals often approach casual or anonymous encounters without an expectation of trust. Instead, they enter these relationships with the assumption that their partners may indeed be HIV-positive, and to avoid infection, they need to protect themselves accordingly. This type of mindset may be the most realistic strategy for casual and anonymous relationships, given the current sexual landscape; studies do indeed show that a good portion of at-risk individuals adhere to this ethic. Yet partner notification programs depart from reality when they impose ethical obligations such as a need to disclose and a duty to warn on these same individuals who feel so such requirements in their personal lives.

By creating these obligations, partner notification programs may potentially drive at-risk individuals away from HIV testing and treatment. First of all, the evidence regarding partner notification's efficacy is inconclusive at best; therefore, partner notification is not as of yet a proven mechanism for actively reducing HIV infection rates for a given population. Based on this lack of evidence alone, partner notification should be used cautiously when needed. Yet other evidence points to the potentially negative effects partner notification may have on the numbers of at-risk individuals who seek HIV testing and treatment. These people may fear breaches of confidentiality or violations of their privacy via partner notification, and thus may be driven away from getting tested and initiating this procedure. In addition, many at-risk individuals may find the ethics behind mandatory partner notification as troubling, especially since the underlying attitudes often blame an HIV-positive person for their partner's infection, even if the infection was a result of a consensual act. Thus, mandatory partner notification programs may result in even fewer people seeking HIV testing, driving the epidemic underground and causing increases in infection rates over time.

Partner notification does, however, offer many benefits in certain situations. For instance, its use in long-term relationships may avoid the problems of partner notification while still serving the valid needs of at-risk partners. It should not, however, be universally applied to all HIV-positive individuals who seek treatment. Instead, state governments and public health departments should focus on improving education and counseling programs, in order to alter at-risk behaviors, improve rates of self-protection and facilitate direct disclosure between infected individuals and their partners. Partner notification programs may indeed have a place in the arsenal of health care options to combat HIV/AIDS. Yet due to their many disadvantages, mandatory partner notification programs as they have been enacted by several states are not a viable option for decreasing HIV/AIDS infection rates nationwide.