

Effort to enforce HIV 'health threat' law raises questions

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(Medical Xpress)—Michigan health officials are using HIV surveillance technologies to assist in enforcing a "health threat" law that makes it illegal for HIV-positive people to have sex without disclosing their status.

A new University of Michigan study reveals that health officials employ the state's names reporting database, alongside partner services referrals, for law enforcement purposes. However, this is bad social policy for a variety of reasons, says Trevor Hoppe, the study's author and a [doctoral candidate](#) in sociology and women's studies.

When clients visit publicly funded [health clinics](#) in Michigan to be tested for HIV, they can expect more than just a finger prick or blood draw. Counselors also ask clients extensive questions about their [sexual practices](#) and partners.

If the client tests positive for HIV or other sexually transmitted diseases, the counselor will provide treatment referrals. They are also legally mandated to ask clients to report the names of [sexual partners](#), which health officials attempt to contact to recommend that they be tested.

Hoppe found that some health officials also ask their clients if any of their partners reported to them that they were HIV-positive. Officials then attempt to cross-reference the reported name against the state's database of everyone in the state who has been diagnosed as HIV-positive. If an individual reported as a partner is identified by the state as

HIV-positive and the client did not report that they disclosed, an investigation would be launched that could have legal ramifications.

At least 24 states have laws making it a misdemeanor or felony for HIV-positive people to have sex without first disclosing their status. In Michigan, failing to disclose is a felony punishable by up to four years in prison—whether or not the person was ever at risk of contracting the disease from their partner.

"The evidence is mounting that these laws are bad public policy and certainly bad [public health policy](#), yet Michigan health officials are helping to enforce them," Hoppe said.

At the minimum, there is little transparency in how health officials use epidemiological data for law enforcement purposes, he says.

"Health officials in some local jurisdictions are using data they collect for public health purposes to help enforce the law, but they're not telling their clients how their personal information could be used," Hoppe said.

From an ethical perspective, the question is whether it is reasonable for health officials to use confidential medical information to enforce the law.

Hoppe interviewed 25 local health officials who manage "health threat" cases from 14 jurisdictions across Michigan. His research also reveals that how local [health officials](#) interpret what qualifies as a "health threat" varies. In some cases, local officials suggested that an HIV-positive woman who became pregnant or contracted another STI might be labeled a "[health threat](#)."

"These systems were not intended for legal surveillance, yet data collected by them are susceptible to being used for criminal

proceedings," Hoppe said.

Whether this practice should be continued must be discussed among policymakers, advocates and stakeholders, including those in the HIV-positive and –negative community, he said.

The findings appear in the February issue of the journal *Social Problems*.

Provided by University of Michigan

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