Private Acts, Social Consequences

AIDS and the Politics of Public Health

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For Adelle Bayer, my mother, and the memory of Max Bayer, my father.
infection on the other, the latter seemed much more weighty. It is a measure of the dominance of the perspective provided by public health officials in the first years of the epidemic that despite popular opinion states resisted the passage of premartial screening laws until 1987, when Louisiana became the first to enact one.\textsuperscript{40} Illinois soon followed suit, despite the strenuous opposition of its chief health officer.\textsuperscript{41} Within a year both states would be compelled to recognize the wisdom of those who had warned about the folly of mandatory premartial testing. The public health benefits had been astonishingly small; the cost predictably high.

Surgeon General C. Everett Koop's statement to the American people in his fall 1986 \textit{Report on AIDS} epitomized the opposition of public health officials to wide-scale mandatory testing and the exclusionary policies that would be made possible by the coercive identification of the infected. Throughout the report Koop stressed that casual, nonsexual contact posed no risk; that the presence of those with AIDS or HIV infection in public represented no danger. Reassuringly, he asserted, "Shaking hands, hugging, social kissing, crying, coughing or sneezing will not transmit the AIDS virus. Nor has AIDS been contracted from swimming pools or bathing in hot tubs or from eating in restaurants (even if a restaurant worker has AIDS and carries the AIDS virus). AIDS is not contracted from sharing bed linens, towels, cups, straws, dishes, or any other eating utensils. You cannot get AIDS from toilets, doorknobs, telephones, office machinery or household furniture."\textsuperscript{42} "Thus, over the full range of social encounters, from the most remote to the most "intimate" of nonsexual contacts, those infected with the AIDS virus represent no hazard. Having thus dismissed as unfounded the fears that fueled proposals to exclude HIV-infected individuals from work, school, housing, and public accommodations, the surgeon general could reject discrimination based on HIV status as without medical warrant.

But despite the surgeon general's effort to preclude an irrational turn toward screening and exclusion, a sense of popular disquiet persisted. Such disquiet tapped populist distrust of the scientific elites and may even have been fostered by the apparent unanimity of the opinion-making media. Just how socially embedded the anxieties were was reflected in a referendum placed before the people of California in November 1986.

\textbf{A Referendum on AIDS and Public Health: The LaRouche Proposition}

In October 1985 the attorney general of California was notified by Khushro Ghandi, the West Coast coordinator of the National Democratic Policy Committee—the political arm of Lyndon LaRouche's extreme movement—and Bryan Lantz, the NDPC's Northern California coordinator, that they intended to submit a proposition on AIDS to the electorate in the November 1986 election.\textsuperscript{43} Under their leadership, the Prevent AIDS Now Initiative Committee (PANIC) thus began its remarkable effort to obtain the 400,000 signatures needed to qualify for a place on the ballot.

LaRouche's movement, which had achieved notoriety for its conspiracy theories linking Britain's Queen Elizabeth to the international drug trade and Henry Kissinger to the Soviet Union, seized upon the AIDS issue as providing one more opportunity to uncover the ineptitude of America's leadership with regard to fundamental crises. Critical of the refusal of public health officials to adopt harsh measures to control AIDS, LaRouche had called for mass testing and quarantine. "In order to insure that the rapid spread of AIDS is halted, nothing less than universal screening and then, under full medical care, 'isolating' or 'quarantining' all individuals who are in the active carrier state' was required.\textsuperscript{44} In cities and states across the country adherents of LaRouche's movement had pressured local school boards to remove schoolchildren with AIDS from the classroom and demanded the screening of all food handlers and teachers, so that those who showed signs of antibody to HIV could be barred from work that would place others at risk.\textsuperscript{45}

The proposition drafted by PANIC bore none of these strident elements in its text. Instead, California voters were to be asked to support a series of ambiguously framed amendments to the state's health and safety code. The initiative was necessary, said Bryan Lantz, because "state and federal officials are not treating AIDS as carefully as they treat other communicable diseases."\textsuperscript{46} To protect the people of California from what the legislature had already declared a "serious and life-threatening" challenge to "men and women from all segments of society," the proposition required that AIDS be defined as an "infectious, contagious and communicable disease" and that the condition of being a carrier of the HIV virus
be defined as an infectious, contagious, and communicable condition. Both were to be listed by the Department of Health Services among the reportable diseases and conditions covered by existing relevant state statutes. To preclude any recapitulation of what PANIC believed was the failure of state health officials to protect residents of California from AIDS, the proposition mandated the enforcement of all relevant statutory and administrative provisions.57

By the summer of 1986, the closing date for the submission of petitions, PANIC had succeeded in obtaining 683,000 signatures for what would be officially termed Proposition 64.48 This achievement was all the more striking given the broad-scale opposition to the initiative that had gained momentum during the first six months of 1986. To those who were appalled by what they believed would be the disastrous consequences to follow if the voters of the state approved the referendum, it had to be made clear just how dangerous the superficially innocuous terms of the proposition were.

That process had begun late in 1985 when the Civil Liberties Union of Southern California undertook its first analysis of what might follow from the application to AIDS of extant statutes and regulations concerning communicable diseases.49 Seropositive schoolchildren would be barred from school, together with all others who had communicable diseases. Antibody-positive individuals "could" be excluded from jobs that entailed food handling. Public funerals for those with AIDS or infected with HIV "might be" prohibited. Those who tested positive for antibodies to the AIDS virus not only would be reported to state health officials but would be subject to "discretionary quarantine by local health authorities." Such a reading of Proposition 64 presupposed that public health officials would apply the relevant statutes and regulations governing communicable diseases in general in an inflexible way, with little tailoring to what was known about the transmission of HIV. But given the risk that such an interpretation might be put forth by some local health officials, "it appears that all the more Draconian general provisions ... might be applied to all ELISA positive individuals." For the Civil Liberties Union there was no question but that the "ultimate intent of the initiative appears to be to subject HTLV-III virus carriers to serious deprivations of civil liberties."

By the spring of 1986 an even more dire interpretation of what the initiative would require if approved by the electorate was made by the Orange County chapter of the ACLU: names of those who were or were even suspected of being infected with HIV would have to be reported to local health officials; those who were or were suspected of being HIV carriers would be prohibited from working as cooks, waiters, airline stewards, and possibly bartenders; school exclusion would probably be required for students, teachers, and other staff who were infected with HIV or who "conceivably even merely resided" with HIV-infected individuals; restrictions on travel might be applied to those with AIDS as well as to infected individuals; quarantine and isolation powers might be more readily used by law enforcement and public health officials against HIV carriers and those with AIDS.50

Opposition to the referendum came from the entire medical establishment, including the California Medical Association, the California Nurses' Association, and the California Hospital Association. In a statement to the voters, the three associations stressed the irrationality of a proposal that assumed the existence of casual transmission of HIV in the schools, the workplace, or restaurants. Only those who were expert in the scientific and clinical dimensions of AIDS were qualified to fashion public health policy, not those driven by politically motivated "partial truths and falsehoods." "Would you let a stranger with no medical training or no medical background diagnose a disease or illness that you have? Would you let a political extremist dictate medical policy?" asked the statement. "OF COURSE NOT."

The deans of four schools of public health in the state—the University of California at Berkeley and Los Angeles, San Diego State, and Loma Linda University—signed a joint statement declaring, "Proposition 64 would foster the inaccurate belief that AIDS is a highly contagious disease, easily spread through food or by coughing, sneezing, touching or other types of casual contact." The actions that would follow from the initiative were "scientifically unwarranted [and] would do nothing to curtail the spread of AIDS."52 James Chin, chief of Infectious Disease for the state's Department of Health Services, characterized the initiative as "absurd," "stupid," and "disastrous."53 Finally, the state's AIDS Task Force found the proposition both dangerous and utterly without merit as a public health measure.54

Joining the state's medical establishment in opposition to Proposition 64 was a broad spectrum of social organizations, the state's po-
Compulsory Screening 151

The initiative does not require mass testing unless [the director of the Department of Health Services] or other health officials think it is necessary. . . . Personally I hope that passage of the proposition encourages the state to do it, but they don’t have to.”60 To those who asserted that a program of mass screening and the denial of employment in schools and food-related industries, not to speak of possible quarantines, would cost millions of dollars, PANIC’s response was that such calculations represented a gross distortion of what Proposition 64 mandated. More important, “Even if the initiative did cost this much, the health and welfare of the people of California should come first.”61 Finally, to those who noted that the entire medical and public health establishment was aligned against Proposition 64, PANIC retorted that the mission of the initiative was to compel public health officials to adopt the same precautions and safeguards applied to other communicable diseases.62 Khushro Ghandi, PANIC’s president, thus said, “What we are doing in the process of this initiative is forcing the state to take those proven standard public health measures which are already law, in fact, in this state, in every other state, and in fact generally the law in every advanced country around the world and now implement those public health laws with respect to AIDS.”63 In short, PANIC sought to portray itself as defending the tradition of public health intervention against the restraint and passivity of those who had failed to safeguard the people of California.

The strategy of characterizing the initiative in very limited terms was shared by William Dannemeyer, who in July became the only major political figure in California to support Proposition 64. In a press release he noted, “All the initiative does is to treat a person who is antibody positive in the same way as a person with venereal disease is now treated, namely, the condition is reportable.”64 Though he supported the exclusion of infected children from the classroom, he argued that the proposition did not mandate such a measure but would instead grant that authority to local health officials and school boards. Dannemeyer claimed that the specter of quarantine used by opponents of Proposition 64 had little to do with what the initiative called for. Distancing himself from Lyndon LaRouche and his extreme movement, Dannemeyer wrote to elected officials in California asking them to support the initiative on its merits.65

So ambiguous was Proposition 64 that the state’s legislative ana-
lyst could not determine with any degree of certainty the ultimate fiscal impact if the initiative were to be approved by the voters. Everything would depend "on what actions are taken by health officers and the courts to implement the measure." If existing laws and regulations governing the control of communicable diseases were applied and health officials continued to exercise professional discretion in determining the appropriate forms of intervention, "few, if any, AIDS patients, or carriers of the AIDS virus would be placed in isolation or under quarantine. Similarly, few, if any, persons would be excluded from schools or food-handling jobs." If, however, Proposition 64 were interpreted so as to place new requirements on health officers, the results would be far different, involving a massive expansion of testing, the exclusion of infected individuals from schools and food-handling positions, and the imposition of isolation.

With so ill-defined a situation before the voters, with the proposition's opponents suggesting that dire and Draconian measures would follow from voter approval, and with the proposition's proponents insisting that the implications of approval would be limited and appropriate, what could the November referendum signify? At a minimum, given the political alliance that had materialized in opposition to Proposition 64, a "yes" vote could only be read as a rejection of the claims of the medical and public health establishments that they were in fact doing everything within reason to limit the spread of AIDS. Further, a "yes" vote would be an expression of distrust and profound frustration. A "no" vote would have much broader implications. It would represent not only an expression of confidence in the state's health leadership and its policies but a rejection of the Draconian alternative—mandatory testing, workplace and school exclusions, reliance on threats of isolation and quarantine.

Given this symbolic significance of the referendum, it was no surprise that a well-organized and financed effort to defeat Proposition 64 was mounted. At stake for public health officials was their scientific authority. At stake for the state's gay leadership was the threat that a usurpation of that authority would open the doors to the mobilization of irrational public sentiment on AIDS. On election day close to 7 million voters cast ballots on Proposition 64. Seventy-one percent opposed it; 29 percent favored it. Though this was a stunning defeat for PANIC, it was a hard-won victory for those who had mobilized the effort against the proposition. Two and a quarter million dollars had been spent. The organization of the cultural, social, medical, and political elites in opposition to the proposition had required an enormous expenditure of energy. And so, despite the success, there was a darker side to this story. Just fewer than two million voters, almost one in three, had been persuaded to support an initiative linked to one of the most extreme political movements in America. The referendum had revealed how popular discontent might be exploited in the years ahead as the absolute numbers of AIDS cases mounted. It had also demonstrated the existence of a popular base that could be mobilized for a repressive turn in public policy. The specter of popular irrationality haunted public health officials as they faced the growing impact of the epidemic. This threat posed a great political challenge to such officials: to convince the broader public that the emergence of a culture of restraint and responsibility among those at increased risk for transmitting the AIDS virus required a commitment to restraint and responsibility by those with the authority to make public policy.

Reaffirming Voluntarism: The CDC and the Debate Over Compulsory Screening

Just how volatile the situation remained was demonstrated when the Centers for Disease Control announced in early February 1987 that it would host a conference of public health officials and those concerned about civil liberties to discuss the future role of HIV antibody testing in the overall strategy to control AIDS. A furor was touched off because two among the many proposals to be considered would entail mass mandatory screening: the testing of all applicants for marriage licenses (though not the prohibition of marriage by those found seropositive) and of all hospital admissions. Proposals for premarital testing were not new. But no one had ever before proposed the testing of all hospital admissions, regardless of age or diagnosis. Were these proposals a trial balloon to determine the acceptability of a major shift in the course of public policy—one that would use every encounter between public agencies and Americans as an occasion for HIV antibody testing? Was this an effort to put forth ideas being pressed within the Reagan administration and among influential conservative political groups so that the oppo-
of what had been termed early in the history of AIDS the "secondary epidemic"—the epidemic of fear. Reassuring statements about the risks of HIV transmission, no matter how sound, provoked questions about the scientific basis for judgments in the face of inevitable uncertainty. To the extent that some public health officials had resistently challenged data with socially discomfiting implications—the possibility of transmission from HIV-infected females to their male sexual partners, for example—they had inadvertently contributed to the disquiet. How much more had they refused to acknowledge? Similarly, refusals to adopt standard venereal disease control measures like sexual contact notification provoked concerns about whether arguments against other aggressive measures represented capitulation to the demands of those who failed to give the public health the priority it warranted.

Ironically, public health officials were also charged with exaggerating the extent to which AIDS posed a threat to the American social mainstream. Here too they had contributed to a climate of distrust. To underscore the biologically incontestable point that HIV transmission could occur within both homosexual and heterosexual relations, that AIDS had no sexual preference, some public health leaders had asserted that there were no high-risk groups, only high-risk acts. But in terms of the epidemiological risk of contracting AIDS, such an appealingly universal formulation, which shifted the onus of attention from gay men and intravenous drug users to all sexually active individuals, was misleading. It mattered who one was as well as what one did. Sexual acts like intercourse without the use of condoms posed a calculable danger among individuals who were at increased risk of infection. Where HIV infection was very rare or almost nonexistent, the same acts represented only a theoretical hazard. To those who were always ready to suspect the motives of public health officials, emphasis on the common threat of HIV infection—so prominent in both the surgeon general's report and the Institute of Medicine-National Academy of Science's Confronting AIDS—was nothing but a scientifically dishonest act of collaboration with gay leaders who had an understandable political interest in dehomosexualizing AIDS. How better to encourage massive expenditures on research and treatment than to destigmatize the epidemic by making it a challenge to the communal fate, rather than to the fate of the socially marginal? Motivated by antialarmist concerns, rather than by an animus toward gay men and intravenous drug users, the New York Times, too, cast doubt upon the motives of those who sought to stress the epidemic's universal threat.

Such AIDS-specific doubts merged with an undercurrent of populist distrust for scientific authority that had been amplified in recent years by politically charged debates among scientists over environmental and occupational health policy. If committed experts could do battle over the threats posed by environmental or workplace toxins and if governmental standards for exposure to such substances could shift with Washington's administrations, what could guarantee that the American people were not being manipulated by scientists whose statements were inspired by partisan considerations? Certainly it was such suspicions that permitted Lyndon B. Johnson's Prevent AIDS Now Committee to capture 29 percent of the vote on a California referendum opposed by the state's public health and scientific leadership.

The lessons of Proposition 64 were clear. The social basis for the support of groundless, drastic measures is created when popular perceptions take hold of a failure by public health officials to pursue a course deemed adequate to protect communal well-being. Writing about the Black Death, William McNeill noted, "In northern Europe, the absence of well-defined public quarantine regulations and administrative routines—religious as well as medical—with which to deal with plagues and rumors of plagues gave scope for violent expression of popular hates and fears provoked by the disease. In particular, long-standing grievances of poor against rich often boiled to the surface." We have, thus far, not experienced the kind of anomic outbursts described by McNeill, though reported increases of assaults on gay men and strikes by parents seeking to keep schoolchildren with AIDS from the classroom may be viewed as functional, but pale, equivalents. More to the point, however, have been the calls in the press, in state legislatures, and from insurgent candidates for elective office—still restricted to the extreme right-wing of American politics—for the quarantine of all antibody-positive individuals, despite the opposition of the public health establishment.

Rarely do those who propose mass quarantine suggest how all antibody-positive individuals would be identified, how they would be removed to quarantine centers, how they would be fed and housed, how they would be forcibly contained. Indeed, it is one of
Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus,” MMWR (November 15, 1985), 681-86, 691-95.

15. Ibid., 682.


17. MMWR (November 15, 1985), 683.

18. Ibid., 686. 691.

19. Ibid., 682.


22. Ibid., 136.

23. Office of the Legal Counsel, Department of Justice, Memorandum June 20, 1986.


33. ABT Associates, AIDS and Correctional Facilities.


44. San Francisco Chronicle (June 25, 1986), 7.

45. Washington Post (October 9, 1985), C5.

46. Oakland Tribune (June 22, 1986), D5.

47. “Initiative Measure to be Submitted Directly to the Voters,” Mimeo.


51. “Rebuttal Argument Against Proposition 64,” Mimeo.

52. New Scientist (September 25, 1986), 19.


54. Ibid.

55. No on 64—Stop LaRouche, “Partial List of Opponents of Proposition 64,” n.d., Mimeo.


57. San Francisco Chronicle (June 27, 1986), 76.

58. San Francisco Examiner (June 29, 1986), A12.


60. San Francisco Chronicle (July 20, 1986), 8.

61. San Francisco Chronicle (July 19, 1986).


64. William Dannemeyer, Press Release, n.d.
71. Ibid., 1.
72. CDC "Recommendations" (April 30, 1987), Appendix III.
74. Ibid., 4.
75. Ibid., 6.
76. Ibid., 8.
77. Ibid., 6.
78. Ibid., 9.
79. Ibid., 12.
80. Ibid., 15.
84. Theodore Woodward and Robert Wells, Memorandum to Assistant Secretary of Defense (Health Affairs), September 19, 1985.
96. Ibid.
99. Ibid.
102. Washington Post (June 1, 1987), 1.
104. New York Times (June 7, 1987), Sec. IV, 28.

Chapter 6 Isolating the Infected