



Mayor Michael R. Bloomberg
City Hall
New York, NY 10007

Dear Mayor Bloomberg:

On behalf of the HIV Health and Human Services Planning Council of New York (Planning Council), I write to encourage you to support the Positive Justice Project's Consensus Statement on the Criminalization of HIV Transmission. This is the first national consensus statement against HIV criminalization in the United States, endorsed by a diverse group of activists and professionals from a broad range of backgrounds. The PJP Consensus Statement highlights injustices caused by HIV criminalization and includes clear rationales, both scientific and legal, for why change is overdue.

As you are aware, appointees to the HIV Planning Council of New York include the City's best and most qualified HIV health and social services providers, government representatives, educators, researchers, and New Yorkers living with HIV. The Council has the authority to set priorities for and allocate approximately \$120 million dollars in federal funding on an annual basis for the care and treatment of low-income people living with HIV in New York City and the Tri-County region north of the city. As part of its work, the Planning Council monitors HIV/AIDS-related federal, state, and local policy issues and recently began focusing on the implication of HIV transmission, exposure, and non-disclosure laws.

Across the country, many individuals have been prosecuted for failing to disclose their HIV status to their sexual partners. Dozens of states and territories have implemented HIV-specific criminal statutes, including sentence enhancement. Nondisclosure of HIV status is frequently cited as an element of a crime. Although New York State does not have any HIV-specific statutes, Senate Bill S2189A-2013 was recently introduced to "amend the penal law, the criminal procedure law and the correction law in relation to criminalizing the reckless transmission of HIV/AIDS and to require testing of AIDS and HIV for certain persons."

Currently, HIV-positive New Yorkers can be targeted using general criminal laws such as reckless endangerment and aggravated assault. At least one New York

court has allowed access to a defendant's medical records to prove whether she was HIV-positive to meet elements of reckless endangerment.¹

Given the chance that HIV-positive New Yorkers will be prosecuted for failing to disclose their HIV status, we are concerned about the potential impact that legislation such as S2189A-2013 will have on the City's successful HIV testing initiatives. President Obama's National HIV/AIDS Strategy, too, notes that HIV-specific criminal statutes may diminish an HIV-positive individual's inclination to divulge his or her status by leaving the individual feeling more vulnerable to bigotry, intolerance and arrest. The National HIV/AIDS Strategy states that in certain instances, lawmakers may want to consider re-examining current laws and re-evaluate whether they in fact advance the public health and well-being. The ongoing prosecution of people living with HIV by using such laws, states the National HIV/AIDS Strategy, in many cases goes against scientific data concerning methods of transmission and may weaken the public health objective of encouraging HIV testing and care.²

HIV Planning Councils cannot take positions on legislative matters such as S2189A-2013. As your appointees, however, we can encourage you, on behalf of New Yorkers living with HIV, to take a position on this matter. In addition, we are eager for you to support the Positive Justice Project's Consensus Statement calling on federal and state officials to modernize criminal laws and policies and to eliminate HIV-specific statutes. We look forward to hearing from you and thank you in advance for your attention to these important issues.

Very truly yours,

Dorella Walters, MPA
Community Co-Chair

Encl: Positive Justice Project Consensus Statement on the Criminalization
of HIV in the United States

S2189A-2013: An act to amend the penal law, the criminal procedure
law and the correction law, in relation to criminalizing the
reckless transmission of HIV/AIDS and to require testing for AIDS
and HIV for certain persons.

cc: Thomas Farley, MD, MPH, Commissioner of Health
Jan Carl Park, MA, MPA, Governmental Co-Chair, HIV Planning Council

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¹ In re Gribetz, 605 N.Y.S.2d 834 (Rockland County Ct. 1994).

² National HIV/AIDS Strategy for the United States. July 13, 2010, pp. 36-37.