

Background

In recent years, heightened concern over bioterrorist events and infectious disease outbreaks, have prompted efforts to broaden public health authorities' ability to respond rapidly to a public health crisis. However, these initiatives fail to proactively address the interests of vulnerable populations.

Vulnerable populations have political, economic, social, and/or legal barriers to representing their own interests. Historically, children, the elderly, persons under the government's control, the poor including homeless, immigrants, the disabled, and ethnic minorities have suffered harm under government and public health authority¹.

In urban centers during a public health crisis, these populations' unique characteristics (e.g. congregated living conditions, language/ cultural barriers, strained finances) increase their likelihood of harm from an epidemic and pose barriers to the benefits of a traditional intervention.

Ethical Inquiry

In an urban setting during a public health emergency, is it ethically justified to develop proactive policies to address vulnerable populations' unique needs?

Methods: Ethical Analysis

Moral Considerations

Utility: maximize balance of benefits over harm/costs

Justice: distributing benefits and burdens fairly

To be ethically justified, a public health measure that infringes upon other moral goals must satisfy 5 justificatory conditions:

Justificatory Conditions²

1. **Effective** (measures lead to stated outcomes)
2. **Proportional** (benefits balance adverse effects)
3. **Necessary** (all lesser intrusive alternatives exhausted prior to adopting coercive measures)
4. **Least infringing** (adopt the least coercive measure)
5. **Public justification** (transparency and public participation, especially for affected communities)

¹ K. Michi Ettinger, A Critical History: Public Health's Treatment of Vulnerable Populations, May 2005.
On file with the author: ettinger@jhu.edu

² James F. Childress, Ruth R. Faden, Ruth D. Gaare, Lawrence O. Gostin, Jeffrey Kahn, Richard J. Bonnie, Nancy E. Cass, Anna C. Masroiani, Jonathan D. Moreno, & Phillip Nieburg. *Public Health Ethics: Mapping the Terrain*. 30 Journal of Law, Medicine & Ethics, 171-172 (2002).

Proactive Policies

Immigrants

- No request for immigration status during an intervention
- No reporting of immigration status will be made for anyone contacted by the public health service
- Community programs to educate immigrant communities about confidentiality during public health interventions and about public health, its role, and its services during a crisis
 - Co-develop programs with community leaders
 - Establish culturally appropriate & language accessible manner
- Develop communication strategies to reach immigrant communities in the event of crisis
 - Identify best possible means to disseminate information
 - Establish strategy to promote participation in vaccination/ detection/ treatment measures

Poor & Homeless

- Educate the public that no health insurance is necessary to receive screening and treatment during intervention
- Develop appropriate communication strategies for:
 - Homeless through shelters
 - Substance users through street networks
 - People without access to traditional media (TV, radio, internet)
 - Illiterate
- For working poor, policies that provide assurances that measures will not have adverse economic consequences:
 - No costs for screening and treatment
 - During Quarantine:
 - Minimum wage and/or deferral of bill payments
 - Policy barring termination from employment/eviction
 - Programs to support child care

Institutionalized

- Communication strategies to reach these isolated communities that depend on others for their information
 - Information needs to be provided in an understandable manner
 - Acceptable and non threatening, if not understandable
- Develop advance policies for managing an outbreak within the institution
- Institutions need to proactively develop infection control and screening protocols to be used during an emergency for:
 - Staff
 - Visitors
 - People within the facilities

Persons with Disabilities

- Develop appropriate communication strategies for disabled communities
 - sensory impaired
 - cognitively impaired
 - psychiatric disabilities
- Establish policies that ensure emergency measures are accessible to and practicable for these communities:
 - Physically accessible locations for the physically disabled
 - Home-based/separate area screening for immune-compromised
 - Procedures for surveillance and home management of disabled
 - Considerations regarding additional needs of immune compromised and of chronically ill during quarantine
 - Layered confidentiality/privacy concerns for contact tracing
 - Complications and side effects of treatment or vaccination programs with immune compromised population
 - Prevention of infection training for 1:1 caregivers

Ethical Arguments

Effective

- For an infectious disease, an **effective** measure requires rapidly stopping the spread of the disease; vulnerable populations have characteristics that pose foreseeable barriers to receiving the benefits of intervention measures.
 - For each vulnerable population missed:
 - the threat to the public's health increases significantly
 - the missed group has an increased health threat
 - the missed group faces greater burdens from subsequent measures that are more liberty infringing
 - Emergencies arise quickly; to be **effective**, comprehensive communication strategies must be prepared in advance.

Proportional

- Assessing **proportionality** requires considering vulnerable populations' needs that affect public health measures' benefits and costs when applied to these groups.
 - Because vulnerable populations' characteristics make them more likely to suffer harm from a public health threat and to suffer **disproportionate** burdens from public health measures, **disproportionate** spending on prevention and efforts to develop targeted, effective policies for these populations is essential.
 - If these concerns are not addressed proactively, then vulnerable populations will bear **disproportionate** burdens under an intervention and the entire public's health will be at greater risk from the disease.

Necessary & Least Infringing

- Adopting **least infringing** measures requires proactive commitment to making lesser intrusive measures accessible for vulnerable populations, so that when coercive measures are **necessary**, they are not the first line of intervention for vulnerable populations.
 - To reduce disproportionate burdens on liberty and to ensure that lesser alternative measures are exhausted (**necessary**), less intrusive measures must be implemented effectively for vulnerable populations.
 - The strongest (government) must endeavor whenever possible to provide the weakest, (vulnerable populations) with the benefit of **least infringing** measures prior to resorting to coercive measures.

Public Justification

- To be **publicly justified**, the public health community must forthrightly communicate what it intends to do (or not do) and the foreseeable costs and burdens that arise from those decisions in planning for public health emergencies.
 - Not developing proactive policies to address vulnerable populations' needs will result in:
 - reduced protection of the entire population's health
 - unequal distribution of the benefits of an intervention
 - disproportionate burdens on vulnerable populations

Ethical Justification

It is ethically appropriate to develop emergency intervention measures that address the needs of vulnerable populations.

- Public health power derives from all people; thus, it confers a duty to protect all people, including the vulnerable.
- Public health interventions should provide vulnerable populations with equal benefits and burdens of public health interventions.
- Public health professionals deal with population health; vulnerable populations are discrete populations with identifiable needs relevant to public health interventions.

Proactive policies addressing vulnerable populations' needs during a public health emergency are ethically justified.

- An **effective** intervention requires developing proactive policies targeted at vulnerable populations. Omission of these policies will lead to a greater risk of uncontrolled disease and harm to the public.
- Vulnerable populations' characteristics will result in **disproportionate** burdens on their liberty interests and greater health harms, if not addressed proactively through targeted policies. These policies, which require disproportionate spending at the outset, are essential for intervention measures to be **proportional** responses to the threat.
- Proactive policies that address vulnerable populations' needs are **necessary** to ensure that all lesser intrusive alternative measures are exhausted and that only **least infringing** measures are applied.

An Ethical Analysis: Vulnerable Populations During a Public Health Emergency

K. Michi Ettinger. Poster Presentation: Public Health Law Conference, June 13 – 15, 2005.

Developing proactive policies to address vulnerable populations' needs during a public health emergency is morally obligatory.

- The promise of public health to protect the common good confers an obligation to protect the public including *populations* with characteristics that interfere with their ability to receive an intervention's benefits increasing the health threat to the entire public's health and to their health.
- The more essential a measure is to protecting the public's health, the greater public health's obligation is to make that measure accessible to the broadest public.
- The problems of foreseeable barriers to receiving an intervention's benefits and of suffering greater burdens under an intervention's measures obligate public health officials to develop policies that ensure lesser intrusive, preventive measures are accessible to vulnerable populations.

Conclusion

Public health emergency policies targeting vulnerable populations in urban centers are ethically justified to ensure effective interventions that respond proportionally to health threats and that use only necessary, least infringing measures. For the foregoing reasons, developing proactive emergency policies that address vulnerable populations' needs is morally obligatory.