



Legislative Affairs
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2019 – 2020 Legislative Memorandum

Subject: Relates to requiring that COVID-19 contact tracers be representative of the cultural and linguistic diversity of the communities in which they serve
S.8362-A (Serrano) / A.10447-A (Joyner)

Position: SUPPORT with Recommendation

Contact tracers are considered an essential ingredient for re-opening the State following New York on Pause. Indeed, Governor Cuomo has required that regions have thirty contact tracers per 100,000 residents in order to begin re-opening.¹ The hope is that contact tracers will stem the spread of COVID-19 by identifying and contacting individuals who have been exposed to the virus and giving them the information and resources they need to get tested and to self-quarantine.

But contact tracing will only be effective if individuals who are diagnosed with COVID-19 are willing to share their contacts and if their contacts are willing to act on the information the contact tracers provide. Both sides of this transaction require community trust. S.8362-A (Serrano)/A.10447-A (Joyner) takes important steps to build this trust by requiring that all contact tracers hired within New York City after its effective date represent the cultural and linguistic diversity of the communities they serve and by requiring annual reporting on contact tracer diversity. The NYCLU supports this legislation and urges that it be expanded to cover all contact tracers hired statewide.

By now, we know well that, thanks to a toxic cocktail of socioeconomic factors (including income, education level, family and social support, and experience of discrimination), physical environment (including place of residence, crowding conditions, air and water quality, and transportation systems), and inferior access to health care,² black and brown communities are disproportionately likely to suffer from COVID-19.³

¹ See *Regional Monitoring Dashboard*, NEW YORK FORWARD, <https://forward.ny.gov/regional-monitoring-dashboard> (last visited May 26, 2020).

² Centers for Disease Control, NCHHSTP Social Determinants of Health, <https://www.cdc.gov/nchhstp/socialdeterminants/index.html> (last visited May 14, 2020); see also Ibram X. Kendri, *Stop Blaming Black People for Dying of the CoronaVirus*, ATLANTIC (April 14, 2020), <https://www.theatlantic.com/ideas/archive/2020/04/race-and-blame/609946/>.

³ *Fatalities*, NYS DEP'T OF HEALTH, <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Fatalities?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n> (last

These communities also bear the brunt of over-policing generally⁴ and specifically to enforce COVID-19-related social distancing.⁵ In addition, black and brown individuals often receive lower quality health care than their white counterparts as a result of the racial biases that pervade our health care systems.⁶ In the context of these realities, many individuals in communities of color may be justifiably skeptical of contact tracers who, like law enforcement and many in the health care system, carpetbag in from outside of the community.

Just as community members have been more effective at convincing their neighbors to wear masks and adhere to social distancing,⁷ community members are more likely than outsiders to convince their neighbors to identify their contacts, to get tested, and to self-quarantine when necessary.

They are also likely to be more attuned to community-specific needs around stigma and safety – whether regarding sensitive associations or regarding immigration enforcement or over-criminalization. If employed effectively, culturally and linguistically competent contact tracers are New York’s best chance to learn from the earliest HIV contact tracing programs and avoid some of the pain wrought by those programs.⁸

Culturally and linguistically competent contact tracers are both more likely to be effective from a public health perspective and more likely to understand and serve their communities’ needs; and this is no less true statewide than it is in New York City. The NYCLU supports S. 8362-A/A.10447-A, and we urgently recommend that this provision be expanded, by amendment or future enactment, to cover contact tracers throughout the state.

visited May 26, 2020); see also *The Color of Coronavirus: COVID-19 Deaths By Race And Ethnicity in the U.S.*, AMP RESEARCH LAB, May 20, 2020, <https://www.apmresearchlab.org/covid/deaths-by-race>; John Eligon, Audra D.S. Burch, Dionne Searcey, & Richard A. Oppel Jr., *Black Americans Face Alarming Rates of Coronavirus Infection in Some States*, NYTIMES, Apr. 14, 2020, <https://www.nytimes.com/2020/04/07/us/coronavirus-race.html>.

⁴ E.g. *Stop-And-Frisk in the De Blasio Era (2019)*, NYCLU, Mar. 14, 2019, <https://www.nyclu.org/en/publications/stop-and-frisk-de-blasio-era-2019>; *New York Should Legalize Marijuana the Right Way*, NYCLU, Apr. 25, 2019, https://www.nyclu.org/sites/default/files/field_documents/20190425_marijuana_onepager_final.pdf.

⁵ Josiah Bates, *Police Data Reveals Stark Racial Discrepancies in Social Distancing Enforcement Across New York City*, TIME, May 8, 2020, <https://time.com/5834414/nypd-social-distancing-arrest-data/>.

⁶ Khiara M. Bridges, *Implicit Bias and Racial Disparities in Health Care*, 43 ABA HUMAN RIGHTS MAGAZINE (2018).

⁷ Ashley Southall, *Police Face Backlash Over Virus Rules. Enter ‘Violence Interrupters.’*, NYTIMES, May 22, 2020, <https://www.nytimes.com/2020/05/22/nyregion/Coronavirus-social-distancing-violence-interrupters.html>.

⁸ See generally THE SOCIAL IMPACT OF AIDS IN THE UNITED STATES (Albert R. Johnsen & Jeff Stryker, eds., 1993).