

Balancing Public Good With Privacy, Autonomy, and Confidentiality



Copyright © 2020 Johns Hopkins University and Emily Gurley. Except where otherwise noted, this work is licensed under a [Creative Commons Attribution-NonCommercial-ShareAlike 4.0](https://creativecommons.org/licenses/by-nc-sa/4.0/) license.

Johns Hopkins Bloomberg School of Public Health

Balance Between the Public Health Good and Individual Rights

- ▶ Contact tracing programs are a public good because they reduce the risk to the public from COVID-19
- ▶ We must balance this good for society with rights of privacy, confidentiality, and autonomy

Public
safety



Requesting
private
information

The Three Legal “Tests” for a Public Health Intervention

- ▶ For a public health intervention to be able to limit the rights of individuals to privacy or autonomy, it must meet three “tests” or criteria:
 1. The intervention must be respectful of individuals and their rights
 2. It must be a benefit to society that is balanced with the limits on individuals
 3. It must benefit all members of society

Legal Basis for Contact Tracing

- ▶ The legal authority to conduct public health interventions is included in the US Constitution and state constitutions
 - ▶ There are clauses to “protect the public welfare”
 - ▶ Common law and general principles also apply
- ▶ Examples of other public health interventions to protect welfare:
 - ▶ We require children to receive vaccinations to attend school and to protect the community’s public health and safety
 - ▶ If you have tuberculosis and refuse to take your medication, you can be required to do so by the health department so you do not infect others

Respect for Privacy and Confidentiality During Contact Tracing

- ▶ Assure cases and contacts that the information provided will be ***confidential*** and used ONLY for the public health investigation and will not be shared with anyone else
- ▶ Assure cases and contacts that the information will be kept ***private***—contacts identified will be told that they have been exposed, but they will not be told who the case is

Example: When a Case Tells You Private Information—Situation

- ▶ During an interview with a COVID-19 case, he tells you that his contacts are his wife, his two children, and also his girlfriend, who lives in his neighborhood

Example: When a Case Tells You Private Information—Questions

- ▶ Should you list his girlfriend as a contact?
- ▶ Should you tell his wife about his girlfriend?

Example: When a Case Tells You Private Information—Answers

- ▶ Should you list his girlfriend as a contact?
 - ▶ *Yes, she has been exposed and should be notified and asked to quarantine*
 - ▶ *Her exact relationship is not important*

- ▶ Should you tell his wife about his girlfriend?
 - ▶ *No, this is private information, and you are not allowed to disclose this to anyone*

Example: When You Hear Private Information About Someone You Know—Situation

- ▶ During an interview with a COVID-19 case, he tells you about the people that he had contact with at a party, and some of those people went to high school with your younger brother
- ▶ You are alarmed that there could be people with COVID-19 in your community

Example: When You Hear Private Information About Someone You Know—Question

- ▶ Should you warn your younger brother not to have contact with his friends?

Example: When You Hear Private Information About Someone You Know—Answer

- ▶ Should you warn your younger brother not to have contact with his friends?
 - ▶ *No, you cannot disclose any private information you learn during contact tracing, even to your family members or friends*

Example: When a Contact Is an Undocumented Worker—Situation

- ▶ During an interview with an elderly COVID-19 case, she tells you that one of her close contacts is her helper, who comes to her house three times a week to help clean and cook
- ▶ When you interview the helper, she tells you that she provides these services to two other elderly patients each week, as well
- ▶ She also tells you that she is undocumented
- ▶ When you ask her to quarantine for the next 14 days, she says she cannot, because if she does not work, she does not get paid

Example: When a Contact Is an Undocumented Worker—Questions

- ▶ How might you try to convince the woman about quarantine?
- ▶ Should you call immigration or the police?

Example: When a Contact Is an Undocumented Worker—Answers

- ▶ How might you try to convince the woman about quarantine?
 - ▶ *You should offer to put her in touch with organizations that might be able to help her get food or other assistance while she stays home*
 - ▶ *You should remind her that the people she cares for are at high risk for death if they get infected because of exposure to her*
 - ▶ *In some places, you may also require her to quarantine*
- ▶ Should you call immigration or the police?
 - ▶ *No, you do not have the right to disclose this private information*