



THE CITY OF NEW YORK

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Michael R. Bloomberg
Mayor

Thomas R. Frieden, M.D., M.P.H.
Commissioner

nyc.gov/health

November 26, 2004

Dear Colleague,

On November 21, 2004, the *New York Times* reported on a recent agreement between the New York City Department of Health and Mental Hygiene (DOHMH), the New York Police Department, and the New York Office of the Federal Bureau of Investigation. This protocol formalized a mechanism to conduct joint public health and law enforcement investigations following a bioterrorist attack. Many organizations have expressed interest in this protocol, and it is attached to this letter.

Few public health emergencies have as much potential to cause illness and death as a bioterrorist attack in an urban center. Years ago, we recognized that public health and law enforcement would have to coordinate closely in order to reduce such an event's impact. The benefits of coordination include more rapid identification of at-risk populations to protect the public's health, and swifter investigation and intervention by law enforcement to apprehend those responsible before they attack again and cause even more disease.

When the anthrax attacks occurred in October 2001, medical epidemiologists and criminal investigators were able to use a draft of the attached protocol to guide collaborative investigations, resulting in far fewer interagency conflicts in New York City than occurred in other jurisdictions.

Negotiations leading to this agreement were not easy; all parties take their missions seriously and interests do not always intersect. However, in most areas there are convergent needs and goals. Because all parties understood that this initiative is important to protect our community, an agreement was reached.

While formalizing the channel for appropriate sharing of public health information with law enforcement under extremely limited circumstances, the protocol limits information exchange to that which is allowed by the New York City Health Code, the Federal Privacy Act, the Health Insurance Portability and Accountability Act (HIPAA) and all other applicable laws, rules and regulations. Accordingly, confidential information will only be provided if the Health Commissioner concludes that it is necessary to divulge this information in order to protect the public health. This would occur only under extraordinarily rare circumstances. Circumstances of this nature were anticipated more than 40 years ago in the New York City Health Code, which has long permitted disclosures when necessary to protect the public's health.

In the event of a public health emergency, DOHMH would be the lead agency for public health response, conducting epidemiologic, environmental and laboratory investigations, and

directing public health interventions to prevent illness and stop spread of disease. Public health would not act as an agent of law enforcement. The agreement has established a mechanism by which law enforcement can, in extremely limited circumstances and with appropriate safeguards, participate in epidemiologic investigations.

Our agency takes its stewardship of confidential medical information very seriously. The trust that providers and the public have in the NYC DOHMH's commitment to confidentiality and individual rights is crucial to our Agency's success. This joint investigation protocol was conceived and concluded with this commitment firmly in mind.

Sincerely,

Thomas R. Frieden, MD, MPH
Commissioner