

mother remarked, “I don’t think it’s up to the city to mandate anything. We all have constitutional rights.”² Well, yes and no.

Constitutional law is clear that states may require individual liberty to yield to reasonable public health regulations, including mandatory vaccination laws that threaten fines. As the U.S. Court of Appeals for the Second Circuit, which encompasses New York State, recently noted, arguments that such laws infringe impermissibly on liberty are “foreclosed.”³ States may also require vaccinations for school admission and forgo religious exemptions to such laws.

Notably, mandatory vaccination is not forcible vaccination. But the city’s “shall be vaccinated” language appears to leave the latter option open, and the health commissioner said it could be considered on a “case-by-case basis.”⁴ That suggestion is startling.

For competent adults, forcible vaccination should represent an unconstitutional intrusion on liberty. The right to refuse medical care has constitutional dimensions, and the U.S. Supreme Court has noted that forcible injection “represents a substantial interference” with liberty.⁵ Because most people can choose vaccination, and because quarantine can hinder transmission without invading bodily integrity, state-sanctioned forced vaccination of adults for measles seems extreme — evocative of a police state and a sharp departure from the principle that government may not invade our bodies to benefit others. Execution of such orders could be grotesque.

Forced vaccination of children may be different. Vaccination offers near-certain protection from

illness, and some scholars argue that vaccination is a human right. Under a best-interests analysis, courts have ordered chemotherapy for children — riskier and more intrusive, with less certain efficacy, than vaccination. And in 1991, a Pennsylvania family court ordered measles–mumps–rubella (MMR) vaccinations for several children at risk during a measles outbreak.

Yet the course is hardly benign. Forced vaccination could inflict lifelong or even intergenerational trauma and could deter families from obtaining medical care entirely. It raises questions whose answers seem disproportionate to the potential harm: Will state troopers wrest children from parents? Will the children and parents be restrained? Can families relocate from Brooklyn, or do they risk extradition? Do we also force the second dose? And why wait for an outbreak when hot spots are predictable? Unless New York City clarifies its order or the issue arrives in federal court soon, physicians may wish to consider their response to a directive to forcibly vaccinate a child. In my view, the option should be reserved for extraordinary cases, in which the risk of death or disability is overwhelming, after less intrusive options have been exhausted. Though the benefit is clear, I am not convinced that measles prophylaxis meets that test.

Even without forced vaccination, the order raises concerns. Evidence on health-related behavior suggests that people respond poorly to directives. Authoritarian tactics may escalate tensions and galvanize opposition. A combative stance can stigmatize insular communities, like the Jewish sects tied to the New York outbreaks. Rocky

rollouts in both areas of New York State, like changing previously announced orders or instituting bans that lack scientific support, do not inspire confidence. If vaccine hesitancy is linked to distrust of government, these missteps exacerbate that problem. And people may resist. By May 29, New York City had issued 123 civil summonses for noncompliance with its order.

Furthermore, emergency edicts may not increase vaccination rates. The numbers Rockland cites in claiming success are unconvincing. Between October 2018 and March 26, 2019, when its state of emergency began, the county tallied 16,958 MMR vaccinations — on average, 96 per day. Over the next 9 weeks, it added 4624 — 73 per day. But Rockland did not order vaccination. If New York City excludes confounding variables, perhaps its data, which are not publicly available, will be more compelling. Regardless, the precedent’s dangers remain.

Law shifts culture best through incremental change. To reset vaccination norms, state legislatures could lower the age of consent, eliminate nonmedical exemptions to school-entry vaccination laws, and develop oversight mechanisms for medical exemptions. The federal government could fund research on combating vaccine disinformation. These efforts could help reawaken the attitudes of an era when families gratefully lined children up to claim the new superpower of awakened immunity, an invisible shield to stave off an invisible foe, because they understood the devastation that vaccine-preventable diseases wrought (see photo). Meanwhile, arm-length efforts like New York City’s proclamations, robocalls, and

finer may not quell its outbreaks. Neither will posters that evoke propaganda. Rather, the solution may lie in relationships.

In Brooklyn, the Orthodox Jewish Nurses Association published a booklet that cites science to rebut antivaccination claims, and members have spoken to small groups in living rooms to inoculate them against innuendo. Without threat or judgment, they unpack fears and change minds. Though evidence of their success is anecdotal, the approach follows best practices for vaccine acceptance: build trust and address misinformation.

Beyond being legally sound, regulations should be inherently wise. New York City asked the nurses to print and distribute a version of their booklet — which they did, at a reported cost exceeding \$10,000. Perhaps before issuing its order, the city could have offered them financial support for their booklet efforts and for training other community influencers in more living rooms. If it hasn't yet done so, it could, with the nurses, ask the Brooklyn holdouts why they hesitate to vaccinate and what might move them. The answer may be illuminating, leading to a focused,

An audio interview with Dr. Cantor is available at NEJM.org

evidence-based policy with less risk of collateral damage.

New York City's order, though well-intentioned, may be neither necessary nor sufficient to stop its outbreak, and the order may



Schoolchildren Waiting in Line for Immunization Shots at a Child Health Station in New York City, 1940s.

have unintended consequences, like impairing relationships with citizens, undermining their sense of security, and eroding the parameters of liberty. And what happens if it fails is unclear — a health department representative said the department would address “curve balls” in real time. Since panic is toxic to civil liberties, I believe the city should vet possibilities now that meet people where they are, literally and figuratively, rather than deploying additional force. Because force, whether economic or physical, does not educate, develop trust, or protect human dignity. And it will never be an antidote to fear.

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