

# MANDATORY TESTING LAWS: A THREAT TO HIV RESPONSES?

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## LESSONS LEARNED FROM A CIVIL SOCIETY ADVOCACY CAMPAIGN IN AUSTRALIA

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**A coalition of NGOs, HIV activists, researchers, doctors, public health workers' unions, and lawyers campaigned against the introduction of mandatory testing laws in Australia.**

**We failed.**

**In New South Wales, the law now gives Police & other public sector workers the power to force some people to test for HIV, without consent.**

**This may apply where a worker is exposed to bodily fluids, including saliva, as a result of a deliberate act.**

### Lessons Learned

**The risk of backsliding is real, even in States known for best-practice HIV responses.**

**Fractures within Government can threaten the coherence of HIV responses.**

**HIV fears & stigma remain potent. Facts and evidence alone are not enough.**

**Alliances beyond the HIV sector are needed.**

**Health workers' unions can be strong allies.**

**Solidarity between communities affected by police violence is vital.**

**Multi-jurisdiction strategies are needed to avoid domino effects.**

### Background

Since 2015, a coalition of civil society organisations has advocated against the introduction of new mandatory testing laws in Australia.

Proposed by police unions, mandatory testing laws have now been formally introduced in the States of Queensland, Victoria, Western Australia, and, most recently, New South Wales.

Well-funded, bi-partisan, and delivered in partnership, HIV responses in New South Wales HIV-responses are often recognised as best practice. The introduction of mandatory testing, however, may compromise the State's ability to reach its ambitious targets to reduce HIV stigma and end transmissions.

### Activities

The 'Stop Mandatory Testing' campaign was conducted by a broad coalition of civil society organisations.

Aimed at convincing legislators to withdraw or amend the proposed laws, the campaign recently focused on the State of New South Wales.

The campaign centred on the provision of scientific and empirical evidence and personal testimony to convince Australian decision-makers that compulsory testing violated rights, increased stigma and fear, could be misused punitively, and was proposed for situations that carried little to no risk of transmission (e.g., spitting).

Activities included:

- An 'HIV facts' advertising campaign
- Lobbying
- The provision of submissions and reports
- Appearance before a Parliamentary inquiry
- Media

### Outcomes

Our campaign failed to stop the introduction of mandatory disease testing in New South Wales where it became law in 2021.

However, we succeeded in delaying its introduction. We also secured some safeguard mechanisms, including:

- The right of health workers to refuse to draw blood from people subject to mandatory testing orders;
- Some (limited) appeals mechanisms;
- Safeguards against the misuse of samples;
- Some oversight by the NSW Ombudsman; and
- Some (limited) protections for vulnerable people subject to mandatory disease testing orders.

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