



## **A Matter of Racial Justice: The Alarming Disparities of Lead-Poisoning Rates in New York State**

*By Michael Hanley*

Lead poisoning may be color blind, but it is by no means an “equal opportunity” menace. Although lead-based paint can poison *any* child, regardless of race or ethnicity, the shameful truth is that in New York State lead-paint hazards pose a *far* greater threat to Black and Latino children than to their White, non-Latino counterparts. Worse yet, our public health and legal systems are failing to respond effectively to that inequity. In fact, the progress that has been made in fighting lead poisoning in the population at large over the last two decades is now typically presented by state and local health agencies as a great success story. That story, however, masks the degree to which lead poisoning *remains* at crisis levels in the neighborhoods that are home to a stunning proportion of the children of color in our state. What once may have been primarily a public health issue has now become a matter of racial justice. This is not simply a question of minorities suffering because they may be at the bottom of the economic ladder. This is a situation in which a remedy is at hand, the state is failing to act, and those suffering as a result are overwhelmingly children of color.

### **First, the troubling facts:**

Outside of New York City, a Black child under age five in our state is 8.5 times more likely to live in a neighborhood linked to high incidences of lead poisoning than is a White, non-Latino child. There is a link between lead-poisoning and poverty, of course, but the inequity in the risks of lead-poisoning isn’t due simply to the higher percentage of minority children living below the poverty level. In fact, in sheer numbers there are more white children living in poverty than non-white children. It’s time to admit a harder truth -- although the highest risk areas were identified by the state nearly a decade ago, and although during that time we have also known the techniques that are effective for finding and removing lead-paint hazards, we have nonetheless failed to make a concerted effort to prevent children in the highest risk areas of the state from becoming poisoned when we could have done so simply by inspecting the housing in those neighborhoods and making it lead safe. Not surprisingly, most of those neighborhoods in which lead hazards were lurking were areas that were then and are now overwhelmingly Black and Latino. No one would seriously believe that we would have reached this same result had those same high incidence rates been found in an equivalent proportion of the more affluent, non-minority, neighborhoods of the state.

Under the Pataki administration, the state Health Department and housing agencies (the Department of State and the Division of Housing and Community Renewal) did not have any plan for systematically inspecting housing for lead paint hazards – at least until it was already too late for the child living there. That is, no health or building official would

go out to inspect a house or apartment for lead hazards until *after* a child had already become poisoned and had become permanently impaired by lead.

State Health Department data shows that in 2001 over 41% of the children poisoned in the state (outside of New York City) lived in only 36 of the state's nearly 1700 zip codes. The Department of Health labeled these areas as "high incidence rate" zip codes. In a way, that should have been really good news. It meant that we should have been able to attack the problem without trying to inspect every one of the more than seven million housing units in the state.

The situation is even more egregious in light of the unfulfilled promise made by state officials when they identified these high risk areas in 2001. At that time they said the state would pursue a plan for "primary prevention." That's the term used for the strategy of finding lead-hazards in buildings before children are poisoned. But, despite the lip service paid to primary prevention in each annual report from the Department of Health, the Division of Housing, and the Department of State, the state has never actually taken the steps needed to make those inspections happen, or for that matter, even made any effort to lay the groundwork for primary prevention inspections other than on a voluntary basis or in connection with *federally* funded lead hazard elimination grant programs.

Whether intentional or not, by failing to embark on any building inspection initiative while simultaneously holding out to the public that lead poisoning incidence rates have been dropping, the state has masked the severity of the problem. Eager to highlight the progress that has been made (which many attribute to the continuing effects of the federal elimination of lead from gasoline in 1974, and for newer homes, the elimination of lead in paint in 1978), the state has simply failed to take the next critical steps. The state continues to maintain in its most recent major document on the subject, "Eliminating Childhood Lead Poisoning in New York State by 2010" that "[t]he statistical models indicate that incidence rates in NYS, exclusive of NYC, will have decreased by the year 2010 to very low levels." Reading this report, you would think that the problem is well on the way to being solved.

Unfortunately the overall (i.e. statewide) drop in the incidence rate for lead poisoning has not been reflected in the high risk areas now populated by minority children. It is cold comfort, even if the current statewide incidence rate of 2 to 3% drops below 0.5% as projected when you are living in a neighborhood in which the incidence rate may still be more than forty times that level. And that's what the case would be when you live in a neighborhood with a 20% incidence rate, meaning that one child in five who has been tested is found to be poisoned by lead. The lead paint that was put on the walls of the housing in those neighborhoods in most cases is still on the walls, just as it was when a different generation, the baby-boomers, grew up playing on those same floors and porches. But the risk of hazards in those units has increased dramatically. That housing is now nearly a half century older, and as the years have gone by, the paint in those houses has become more and more likely to peel and flake off. Once owner-occupied properties have now become rental properties that are less likely to be well-maintained. And, like the boomers themselves, the infrastructure isn't what it used to be. Roofs and windows have deteriorated, adding to the flaking and peeling of the paint, and creating lead new lead poisoning hazards.

In the absence of a mandate or guidance from the state, however, none of the housing in these neighborhoods has ever been routinely inspected for lead paint hazards.

Perhaps local health officials saw building inspections as a “housing” problem, and local building inspectors saw it as a “health” problem. At any rate, no one apparently has seen it as his or her job. State officials simply never addressed the administration gap.

In most municipalities, the presence of lead-paint hazards is not even a building code violation. Although hazards *can* be cited under the state Public Health Law (see PHL §1375), as far as we know, no local building officials have been designated (as the state law allows) to enforce the Public Health Law. It was not until the City of Rochester adopted a local ordinance requiring inspections in high risk areas, that there was *any* requirement for the routine inspection for lead paint hazards in *any* of 36 the zip codes identified by the state as “high incidence rate” zip codes. Consequently, lead hazard inspections occurred only after it was too late, that is, *after* a child had been poisoned.

In addition to the direct impact on the children poisoned by lead, there is a severe impact upon older cities and urban neighborhoods. Out of the 36 zip codes identified by the state in 2001, *nine* were in Buffalo; *six* were in Rochester; *five* were in Syracuse; and *five* were in Albany. Lead poisoning has had a devastating social and economic impact upon these cities, imposing overwhelming burdens on their schools and criminal justice systems.

***Consider this: even if we were to get the poisoning rate in a city the size of Rochester down to 500 children per year that would still mean that, over the twelve years a child takes to go through school, there would be 6,000 children in the school system who are permanently diminished in their intellectual capacity and exhibiting aggressive and distracting behaviors.***

But certainly it is children, particularly minority children, who continue to be most directly in harm’s way. According to the 2000 census data, the 36 high risk areas identified by the state are home to over 91% of the Black children under age 5 living in the city of Buffalo; over 87% of those in Albany; nearly 80% of those in Rochester and over 65 % of those in Syracuse.

The numbers are nearly as high for Latino children. Almost unbelievably, over 33% of ALL of the Black children under age five in New York State (outside of New York City) lived in one of the 36 zip codes identified by the Department of Health as a high incidence rate zip code.

Our new Governor, Eliot Spitzer and his Executive agencies can act immediately to address this problem. In fact, this should be a top priority for the newly appointed Children’s Cabinet. What better challenge to tackle than the future health of our state’s most vulnerable and highest risk children. Talk about investing in the future.

Several steps can be taken administratively, essentially with the stroke of a pen. State training for local building officials to learn how to identify lead-paint hazards needs to be increased and the state needs to designate local building inspectors to cite owners for lead paint hazards under the existing

Public Health Law. Similarly, the state can require county health officials to work, with assistance from the state, to develop true primary prevention plans targeted to the highest risk areas. Updated data should be made available to the public, on an ongoing

basis, in order to assure the transparency that is needed to monitor progress.

Additionally, legislation is needed not only to secure the guarantee that the state, regardless of who is sitting in the Governor's office, will be vigilant in protecting children from lead poisoning, but also to provide the economic assistance to building owners to remove lead hazards safely.

A new Senate bill, S. \_\_\_\_ by Senator Bill Perkins, would require the Department of Health to each year identify the neighborhoods where the lead poisoning risks continue to be the highest. The legislation will then require the Department of Health to give local health and building officials in those communities the help that they need to develop effective "primary prevention plans." And, to make sure the housing gets fixed, the bill provides financial assistance to property owners, in the form of tax credits, to make sure they have help to eliminate lead-paint hazards. Comprehensive, strategically targeted legislation such as this is critical to eliminate lead-paint hazards in *buildings* before *children* are poisoned and *before* their lives are ruined – regardless of their color.