Understanding Laws Governing Foodborne Disease Outbreak Investigations

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Patricia Elliott JD MPH
Logan Circle Policy Group, LLC
Washington DC
Presentation Objectives

• Identify the types of state and local laws governing foodborne disease outbreak investigations.

• Identify a framework for understanding legal authorities governing foodborne disease outbreak investigations.

• Identify upcoming CIFOR resources available to locate and understand laws governing foodborne disease outbreak investigations.
Presentation Agenda

- CIFOR Law Project overview
- Key foodborne disease (FBD) outbreak functions
- Characterizing laws for FBD investigation and response and how these laws are applied
- Framework for understanding laws for FBD investigation and response
- CIFOR Law Project resources under development
CIFOR Overview

• Council to Improve Foodborne Outbreak Response (CIFOR)

• CIFOR is a multidisciplinary collaboration of 8 national associations and 3 federal agencies

• Chaired by CSTE and NACCHO

AFDO
APHL
ASTHO
CSTE
NACCHO
NASDA
NASPHV
NEHA
CDC
FDA
USDA
CIFOR Goals

• Improve methods to detect, investigate, control, and prevent FBD outbreaks
• Identify barriers to rapid detection and response to FBD outbreaks
• Develop projects that address these barriers
• *Guidelines for Foodborne Disease Outbreak Response*
CIFOR Law Project

- Law Project is one of a number of CIFOR projects
- Law Project activities overseen by a work group of CIFOR members
- Law Project objectives:
  - Examine the legal authorities and capacities needed to conduct and implement FBD investigations
CIFOR Law Project Activities

• Targeting practitioners, lawyers and policy makers

• Three project activities:
  – Analysis of State Legal Authorities
  – Practitioners Handbook on Legal Authorities
  – Legal Drafting Options Menu

• More about each of these later

• Next: Approach to the work and findings that inform all the project activities
Key FBD Outbreak Functions

• CIFOR *Guidelines* identified a number of key FBD outbreak functions

• Law Project adapted the functions into 4 areas—detection, investigation, control, and documentation

• Project scope did *not* include routine licensing, training, education, or enforcement
Law Project Outbreak Functions

- **Outbreak Detection**
  - Identifying individual cases or clusters of FBD through surveillance systems and activities

- **Outbreak Investigation**
  - Determining the specific FBD agent, the contaminated food, the number and distribution of ill persons, and the process of contamination
Law Project Outbreak Functions

Outbreak Control
- Identifying and implementing measures to mitigate or stop the FBD event

Outbreak Documentation
- Creating a report of the FBD event to record specifics of the outbreak, identify lessons learned, and take enforcement action as needed
Law Project Outbreak Functions

• What types of laws/legal authorities are available to accomplish the key FBD outbreak functions?
Characterizing Laws for FBD Investigation & Response

• Looked at types of laws potentially available to support FBD activities

• Characterized these into 4 areas:
  - General Governmental
  - General Public Health
  - Communicable Disease
  - Food and Food Safety

• Other laws may be relevant
  – Nature of the event, type of food, setting
General Governmental Laws

General governmental laws applicable to any agency or person

- **Examples:**
  - Public records and confidentiality laws
  - Authorities granted to agencies or agency officials
  - General governmental or agency emergency powers
  - Interjurisdictional cooperation activities, compacts and agreements
  - Civil and criminal penalties
General Public Health Laws

Laws empowering a health agency, other agencies, and specific officials to take action to prevent and respond to public health threats

**Examples**
- General state and local governmental authorities to protect public health
- Authorities granted to agencies or agency officials to protect public health
- Authorities to abate public health and other nuisances
- General governmental or agency emergency health powers
Communicable Disease Laws

Laws defining surveillance and control measures for a range of communicable diseases and conditions

- **Examples**
  - Communicable disease case reporting, investigation, and post-investigation reporting laws
  - Animal communicable disease laws
  - Foodborne and waterborne disease surveillance, investigation, control, and reporting
# Food and Food Safety Laws

Laws governing the production, distribution, storage, and serving of various foods in different types of establishments

<table>
<thead>
<tr>
<th>Food Laws</th>
<th>Food Establishment Sanitary Statutes</th>
<th>Food Code Regulations</th>
<th>Product-specific Laws</th>
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<tbody>
<tr>
<td>A state’s law akin to the Federal Food, Drug and Cosmetic Act (FD&amp;C Act).</td>
<td>State statutes that govern the sale of food through establishments like restaurants, retail food stores, and mobile food service vehicles.</td>
<td>A state adoption of the FDA’s Food Code into the state’s food code regulations.</td>
<td>Commodity or food product-specific statutes and regulations (e.g., eggs, dairy)</td>
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Understanding Legal Authorities

• What emerges is a patchwork of legal authorities
• States and localities have a variety of different types of laws to accomplish key activities during FBD events
• A number of factors determine the laws used in any one jurisdiction:
  – Nature and size of the event
  – Food, setting, participants
  – Laws available and their interpretation
• Can be a nuanced analysis in determining the approach to use given specific facts of a FBD event
Framework for Understanding Legal Authorities

• When analyzing a law and its utility for a given situation, look at 4 factors:

  - Authority
  - Process
  - Rights
  - Compliance
Framework for Understanding Legal Authorities

- **Authority**
  - What action is authorized and by whom?

- **Process**
  - What is the process for undertaking the action?

- **Rights**
  - What are the rights of parties affected by the action?

- **Compliance**
  - What measures are available to make parties comply?
CIFOR Law Project Resources in Development

• Learnings from the project are incorporated into a series of resources

• Available in the fall on the CIFOR web page www.CIFOR.US
Analysis of State Legal Authorities Report

• Describes and analyzes the types of state legal authorities generally available to conduct FBD investigation and response activities

• Based on 12 states’ laws; findings may not apply in all states

• Report used as the basis for the foregoing information
Practitioners Handbook on Legal Authorities

- A practical guide for public health professionals who perform key roles in FBD events
- A primer on the array of potential legal authorities that may be used

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<th>Agency Roles</th>
<th>Issue/Question</th>
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<td>Identify the state agencies involved in foodborne outbreak detection and response activities and briefly describe their roles. (Consider health, agriculture, environment, and other agencies and boards.)</td>
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<td>How do state health agencies interact with other state agencies? Are there any statutory or regulatory provisions that mandate, permit, or prevent interactions?</td>
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<tr>
<td>How is the relationship between state and local health agencies structured (e.g., centralized, decentralized, shared/mixed)?</td>
</tr>
<tr>
<td>How do local health agencies interact with other state or local agencies? Are there any statutory or regulatory provisions that mandate, permit or prevent interactions?</td>
</tr>
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- Provides a series of checklists for identifying relevant agency actors and laws within a jurisdiction
Menu of Legal Provisions

• A menu of legal provisions for state public health officials and policy makers
• A resource for states to use in filling gaps and clarifying or enhancing their legal authorities.
• NOT a model law or otherwise suggesting “ideal” language
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THANK YOU

CIFOR Law Project Contacts:

Pat Elliott, Logan Circle Policy Group
PElliott@LoganCirclePolicyGroup.com
202-683-4114

Lauren Rosenberg, CSTE
LRosenberg@CSTE.org
770-458-3811