

Ethical and Legal Aspects of Disaster Response

Day 2 Captions

Recorded 8/24/2012

Please stand by for realtime captions. >>

This is Shavonne, I am going to mute everyone's phone. You can still participate by pressing star six on your phone and that will allow you to talk. We do that on all of these conference calls because there are so many people. It is just easy to forget that you are on. You know, you might put us on hold or somebody may come up behind you. So, we just put everybody up on you. -- So we just put everybody on mute.

All guests have been muted. You can unmute your line by pressing star six.

Hi, [Indiscernible name]. This is Debra, are you ready?

[Pause]

Okay, so should I go ahead and introduce myself or should you do that?

I will go ahead and do that.

Okay, terrific.

Welcome back, everyone to part 2 of Ethical and Legal Aspects of Disaster Response . Today, we have Barbara [Indiscernible last name], a public-health information is from the health sciences at University of Pittsburgh, and she will be presenting to you today. I will turn it over to Barb and we will get started.

Thanks very much, Deb. As Deb said, I am an information is doing a lot of work with our public-health school at the University of Pittsburgh. That work has limited interest in this current topic. We have a number of lawyers on staff who have been interested in legal aspects of health and looking at how the state legal environment and federal legal environment either supports -- excuse me. Supports public health practice or don't support it. And, this includes aspects that have to do with preparedness.

So, that is the way that I got into this topic, and I have also been very fortunate to get a lot of support from those people at the University of Pittsburgh, as I went ahead and made this presentation.

Okay, so the agenda for today is fairly simple. We are going to start off with a few definitions and background information that will help us through the rest of this class. There will be some talking about the class reading as we go along.

Oh, how do I get back there? Okay. Talking about the class reading as we go along. And, there will be a few little quizzes, so if you did not read it, take part in the polls anyway, maybe it'll be fun for you.

After we get through the intro, we will get into the core elements of legal preparedness. I have organized a talk around the Moten -- Molten article from 2003. I did that because he lays it out into four elements that I can use to present information resources related to each one for you.

As we go to class today, it is similar to yesterday. Feel free to put in any question then he might have into the chat box and we will take care of them as we go along. Also, if you have any technical questions, you can put those in as well, and I think that Deb is going to be handling those for you. Here are the objectives for today. By the end of the class, you should be able to describe the legal structure supporting disaster planning and response. You will be able to recognize interaction between ethics and law in disasters. Yesterday, we got more of an in-depth look at ethics. It is kind of the smaller part of today's topic but it does tie together very nicely. >> You have the idea about how you might want to plan a search for legal information. And, you'll also be able to describe how some of the key historic events that have happened in recent times have shaped our present approach to disaster law.

Okay, keep this in mind as you go along. To become a legal researcher, you often have to go to school and take classes in legal research. I have not done that, so I will not teach you to be a legal researcher by the end of the class. Another thing to keep in mind is just like we as librarians cannot practice medicine but can show people where the resources are, and let them draw their own conclusions, when you're helping people find information that is legal, you can't advise them on what it means. Leave them to the information. No practicing law without the prices.

We are onto the first polling questions. The first two questions that I have is to help me get an idea about your experience with legal information. So, let's see. Shavonne, are you going to do the quiz here? Or Deb? It should be up in the pods. There we go.

So it is open and you can go ahead and vote.

[Poll taking place] >>

Okay, now I am not surprised by the results here. It looks like most people set seldom or never. And what that means is that when we do get a question that involves legal information, it takes us out of our comfort zone. It means that we have to use resources that we may not use on an everyday basis. You can find a lot of information in State Hub Med that has legal information in it, but it is not everything. I encourage you to explore other resources as you need to going through these things.

Okay, let me close the poll now. Next one. Okay, does your workplace have a manual or guide for emergencies or disasters that includes legal information? So go ahead and open that one up. There we go.

[Poll taking place] >>

Okay. It looks like again the majority of people are not sure whether they have such a resource in their organization. If you are at a hospital, I would imagine that you do. And most universities as well to have disaster plans in place. Chances are because everything that you do in response to a disaster has some sort of a legal base, there is probably legal information in there. I would encourage you to find such documents and see if you can add them to your collection of the library, or if there is any way that you can support their ongoing maintenance and development with your own research skills. Okay, let's move on now.

Let's go ahead and close the poll. Great, thank you.

Okay, now we are to the definition part. For those of you who do not work in public health, I want to encourage you to look closely at this definition and see that public health is defined very broadly and it includes health care system, communities and individuals. You are represented somewhere in this definition. This is the definition of public health, emergency preparedness. Basically, it is the idea that all of these various components of the public health system are ready to prevent -- protect against response and recovery from health emergencies.

They are particularly focused on things that overwhelm routine capabilities which is the part of a definition of what an emergency or disaster is.

I put that one in because when Molten in his article started to define what public legal health preparedness was, he defined it as a subset of public health preparedness. This is a very broad scope here. This goes out to the world community, in this case. In essence, he is saying that if you are prepared and have met some legal benchmarks that say that your system is ready to plan and respond and recover from disasters or emergencies.

Those legal benchmarks can include a lot of things. For example, they can include having correct laws on the book that allow you to take the actions needed, having people who have the skills to use them appropriately, and other aspects as well. And we will talk about some more as we go along.

Okay, many of these classes have started out with a disaster definition. And I have chosen not to put a definition in their, -- in there, because there are many definitions out there. A good, legal definition is not so much about describing a disaster as saying, what are the conditions that allow us to invoke a disaster and then trigger the release of funds and personnel and support to the respond -- to respond to it?

You want a good, legal definition that clarifies conditions under which these things can happen. In recent times, in addition to defining disasters, many states have revamped or added a definition of a public health emergency to their state statute.

Okay, just as a reminder, this was the class reading that we have. And I chose this reading, even though it is a little bit on the older side, because I thought it was a really good background piece about the state of public health law in response to disasters.

The person who is the first author there, Molten, between 2000 and 2010, he was the director or so -- codirector of the CDC public health Law program is the exact title. So, he was there from the very beginning when they set their research agenda, when they started to design what kind of training they wanted to do. So, what is in the article not just reflects what is going on at that point in time, in 2003, but it can also point you in the direction of things that have happened since then. It is a good background article.

Now, one of the key things that I want you to think about as we go along is what Molten says about the relatively of preparedness information. In 2003, he said it was rare. As we go through this, that is exactly the case today. Maybe there are some things more than they were at the time. Notice there are a couple of things that he points out as being legal resources. First, bench books. Bench books will talk about the -- about more as we go along.

These are for judges. Judges have bench books in a number of topics that help them deal with requests that come through their courts. A public health emergency then spoke -- bench book might help explain forums that might help in starting a quarantine order, information about basic public health conditions they might not be familiar with and so forth.

The other things that he said is rare here are manuals for loyalists -- lawyers at work for government hospitals that have to hope this entity's plan for and respond to disasters. Of course, we would be interested in also having these kinds of resources for the healthcare community and for public health providers.

Okay, now we come to our first quiz question about the reading. So, let's get the poll open for this one. Molten named for core elements for legal preparedness. Which one of these four are not one of those?? Let's see, can we make the box a little bit bigger? I am not seeing the whole poll. That is better, thanks.

[Poll taking place] >> Okay, we have about 21 votes so far. Anybody else have something to say? Keep in mind, I don't know who you are. You could even guess wildly, if you want to.

Okay, I think we will go ahead and close the results now. Okay. So, the majority of people set ethics. A couple of votes in there for competencies and cross jurisdictional coordination, information and laws. And the actual answer, which is on the next slide, is ethics.

Okay. Now, yesterday we talked a lot about ethics. Ethics are actually very important to law. Obviously, when people are in charge, they are trying to make ethical decisions about what they want to allow and not allow. But, ethics are not a synonym for law. Competencies are one of the things that Molten talks about. It is important to have competencies to implement it. Cross jurisdictional coordination are one of the key byproducts of having good laws in place for public health preparedness.

Information supports the practice of legal preparedness, and of course the laws and statutes are an obvious part of it. So, I have got a little diagram here that I got from the crisis standards of care document that Patty recommended yesterday. This is the 2012th -- this is the 2012 one from the Institute. At the bottom, there are two slabs that support the whole structure. One of which is ethics, and the other is legal authority and environment.

If it is not real clear on your screen, I don't know how big it shows up for everybody, you can always go find the actual report and look at it in more detail. We are not going to talk too much about all of these things down in the middle. Those are there to support the acquisition of crisis standards of care by all of the entities that are in the pillars of the top there.

One other thing I want to point out before we move on is that on the top you have two slabs. One for federal government and one for local and state government. In fact, it is not an accident that the local and state governments slather is bigger than the federal government's lap. And that is because under our system of government, there is more legal authority to implement public health law of the state level than there is at the federal level.

Okay, a little bit more about the ethics health law and disasters. First off, it seems that at times, what is happening with the law is that there is a struggle between two different sets of ethics. The individual level ethics, which we are used to thinking of in the United States having the right to regulate themselves and make their own decisions, versus the communitywide better goods.

So, we want to have the community able to protect itself from diseases. And, we also want individual to do what they would like to do. So, in between those two, there is a conflict at times. Where that is handled in the law is that the law will have a law that allows for quarantine or isolation or social distancing to reduce the spread of disease. But at the same time, it should have to process built into it by which the individual has their own say was one of these things has been imposed on them.

And they will have the opportunity to request that it be lifted. And that goes into the courts and they will take care of that. There are also the ideas under our Constitution that property rights are protected. But, there is also the idea that, let's say you have a hurricane that comes through in a building is damaged but has not fallen, the community should be able to go in and remove that danger, whether or not the property owner feels that is the correct course of action.

Okay, so we are going to talk about the core elements of public health preparedness now, or legal preparedness. The first one is law. So, this brings us to our next and longest polling question.

According to Molten, which of the following are considered to be law? So, we will open this up and see what people have to say. We are going to have to make it take to get all of those in -- we are going to have to make it big to be able to get all of those in.

That is good.

[Poll taking place] >> Okay, it looks like we've got about half of the people voting at this point. Let's go ahead and close this. Okay, so the majority of people picked only A, B, E and F, and actually, the answer is all about. Now, this might sound very odd. If I have not read the article very carefully, I might have only said A, B, E and F myself, because those are the most obvious things that look like law to myself. But, he says the memorandum of understanding that a public health agency or hospital puts together is supported by and enabled by, or perhaps required by law.

So essentially, it is an operationalization of the existing law. The same thing goes for mutual aid agreements between states. You may be aware of the eMac law which allows for states to be able to make these mutual aid agreements so that if I'm in Pennsylvania and a disaster happens in our I/O, the mechanisms -- in Ohio, the mechanisms are in place to have people there and money go back and forth as needed.

Those are also under the law and in authorization. That is how Molten defines it. There could be an argument made that the A, B, E and FF are the core part. And by the way, other people have gotten this wrong. Don't feel bad if you did not get it.

One of the things that Molten left out of his -- oh, how did I end up there? Let's get back. I don't know how that happened. There we are. Okay. Building blocks of law. Molten left out constitutions in the list here but actually, Constitution is a very important document that sets the environment within which all of the other statutes and regulations have been. So, the building blocks of law are the constitutions of both the federal and state governments.

Statutes with laws passed by legislatures, regulations or rules, and that is a synonym there. So for example, I passed a law in Pennsylvania, and then it goes to an agency who is in charge of implementing that law, and they will put out regulations and rules that need to be followed by people who have to comply with the law or respond to it.

Court rulings that look at laws and say whether they are constitutional or not also have the force of law. So, for example, we recently saw the affordable care act going up to the Supreme Court and they upheld most pieces of it. That has also happened with other pieces of public health legislation along the way through the years. And again, one -- once it is done, the court ruling has the force of law, called common law.

A very important thing that you need to know about that has a lot of influence on how public health happens in the United States is the concept of federalism. And what that means is that

under our U.S. Constitution and the Bill of Rights, states have sovereignty over those matters that are not specifically granted to Congress, the president or the federal judiciary.

So, what that means for public health is that public health is not mentioned in these things anywhere. So, most public-health powers fall down to the state level. Those powers are usually referred to as police powers, because they ensure that the state has the right to regulate the behavior of people and organizations. Change what you might want to do otherwise.

So, for example, in the regulation of persons, you could require children to have vaccinations before they go into the school system in order to preserve the health of the community. You could regulate businesses as well, and tell them what kinds of things they can and cannot do to improve public health or two -- or to improve other aspects of life in the community.

Again, states can go and prevent or mitigate dangers and instances. It can also take those powers and delegate them down to the local level of government. Now, of course the federal government has something to do with public health. And, the way that they get into this comes through other more general powers that the federal government retains. So, for example, the taxing and spending power. So, the federal government can go and collect taxes from states, and then as they redistribute the money, they can put conditions on getting it.

For example, they could require states to create a strategic national stockpile distribution plan in order to receive some money. A very famous case in this area that is not really public health preparedness but was kind of public-health related was in 1984, the federal government said, if you would like to get all of your federal highway money, you have to raise the drinking age to 21. At that time, there were a number of states that have an 18 year drinking age. All of the states ultimately complied with that. >> If they have not complied, they would have lost 5% to 10% of their highway funding. And that was ruled to be constitutional, by the way. Under the general welfare, for example, in the area of defense, if the federal government wants to ensure that the troops are healthy and there was an outbreak of a disease, they could take actions. The federal government could take actions to ensure that less of the troops got infected with the disease that was moving around.

Regulating commerce. Regulating commerce means that the federal government is allowed to have a say when goods are crossing state lines within the United States, or they are coming in or out of the United States. So, in that way, you think about, well, how would that influence health? And, it is pretty straightforward. If you think about it, diseases can travel. Let's say you have cantaloupes with a disease on them, like we have been seeing lately, the federal government can come in and work to stop that from happening.

Here is an example that illustrates quite nicely this kind of divide between the federal and the state as far as public-health legal powers. So, notifiable diseases. There is a list of notifiable diseases that is put out every year at the federal level. It is published in the MMWR, and of states to participate in creating and revising that list every year. But, each state also has the opportunity to make their own list of notifiable diseases.

It might not be the same list that the federal government requires. Oddly enough, while they are participating in making the federal list, the states are not required to then send their information, their statistics onto the federal government. Because, under the federalism doctrine, the powers with the states -- the power is with the states. And while most of them to comply and send their data on and it is put into a national pool of data, it is not required by law for them to do that. It's a little bit counterintuitive, how that works. >> Okay, you may be familiar with a famous report that was put out in 1998 by the Institute of medicine on the future of public-health . And among many other things that they have said was that the public-health laws at the state level were not up to date and they were not ready to protect the health of the community. Public health agencies do not have the right amount of authority or responsibility. The structure was not set up to deal with contemporary problems. >> If you look at the date on this, 1988, one of the main contemporary problems that they would have been concerned about the time with HIV, something that started to happen early in the 80s. At that point in time, public-health was no decline. This is kind of a description of what it looks like. Prior to the anthrax attack in 2001, there was a low level of state and local laboratory capacity to identify infectious diseases, that might be bioterrorism agents.

They also had difficulty coordinating with other agencies. In part because they have very low access to computers and the Internet. Having done some work in our own county health department at that point in time, I can say that not everybody had a computer and the Internet was not at the same level of quality or penetration into the workforce as you would find a say in the University.

Public health agencies, because they haven't really had to do this for a while, some say that bioterrorism is a pandemic condition, did not really know what the rule would be if such a thing happened. The general public was rather confused about what public-health did. I, myself, would say back in the 80s when I have little kids and was living in Wisconsin, I did not know that much about public health. As far as I was concerned, the local county health department was where you went to get your kids vaccinated, but I did not know what else they did.

At the same time, the workforce was not trained for terrorism response. They were trained to deal with the average, everyday public health events that they were used to dealing with.

Okay, now we said in our goals that we were going to talk about things that have changed the law. And one of the really important things is the anthrax attacks that happened shortly after 9/11. Because, they put it right out there, as plain as day, that in order to be prepared for all of the different hazards that can happen, we have to be prepared for infectious disease hazards.

So, in response to the anthrax attacks, a number of things happened right away. One of the first was that a model State emergency health Powers act was created. This has actually been underway before the anthrax attacks, but then, after it happened, they brushed along the timeline and put out the first draft. I think it was by December of that year. What this really is is not a law that in full form has been enacted in any particular state, but it was meant to be a kind of checklist. So, as a state, I could go and look at the model State emergency health Powers act,

compared to my own existing laws and say, how good am I.? Do I have the right kind of authorities in place or should I replace what I have with what is in the model acts?

Now, something to keep in mind if there was a lot of pushback about this. People have not really looked at quarantine laws for a long time and were shocked by some of the things that were in the spirit they felt it was an invasion of individual liberty and privacy. Something to keep in mind is that everything that was in there had actually been derived from existing laws in other states. They had just come and gone and pulled the best of the best out and put it together.

Once they received that pushback, they went and created a second version and make it more explicit that this was not prescriptive, this is more diagnostic. They could go and use it as a checklist, instead of having to enact the whole thing. The most common changes that states made afterwards, and by the way, I think it was about 40 states that have some language that reflects the model act, or that they included a definition of the public-health emergency which might have been lacking before that.

They became clearer about the emergency reporting structure. So, who had to report what to whom and in what conditions? They took their isolation and quarantines laws and updated them. Another thing that is a big topic for many people was liability. So, they looked at their liability laws and who is immune from liability prosecution under emergency conditions. We will talk about a bit about that later on as well.

Okay, I have a document that I would like to share with you now. Oh, there is a question here from Alicia. There is a list somewhere of the states that have adopted parts of the act. And in fact, that is a network for public health. I have that in the Moodle link as place that you can go into with you which states have adopted what parts of it.

What I want to do now is I want to go ahead and share the desktop so that I can show you a document that I made about federal law changes. Okay, let's see. Is that coming up? What I have here is a word document which is also posted on Moodle as well. What I did is to the major events that influenced changes in the laws and they put them into a timeline. So, when you go and look at this you will be able to see what the state of the law was prior to 9/11. The kinds of things that existed.

There is a major document and report that went along so that you can see where the Institute of medicine report is and a number of other events that happened pre-9/11. And then, you start to get into some of the laws that were passed in response to these kinds of events.

It is a fairly lengthy document, and I encourage you, if you are interested in how the law has been effected by things that have happened along the way, take a look at it. It gives you a nice little overview of the whole process. Okay. So, I believe that for you to deal with later.

Now, I've got to get back to the stop sharing. Okay, let's put the PowerPoint backup. Okay. Now, some of the key public health preparedness laws that have come about as a response to various

things that have happened to include the public health security and bioterrorism act of 2002. And among the key things that were involved there were increasing the public-health capacity. So, this is where you start to see them saying, we need to have more skills, not only in healthcare workers but also in public-health in diagnosing and responding to bioterrorism incidents.

They also want to develop medical countermeasures for all hazards. So, chemical, biological, radiological, nuclear as well. It amended the public-health act in a lot of ways including putting in the advanced registration for people who might respond to a disaster. So, all states now have a place where medical volunteers or potential medical volunteers can go and register and have their credentials in place, prior to having anything like that happen.

There is a number of other things that happened in it, such as the creation of the assistant Secretary for public health emergency preparedness, which is now the word of Mac office referred to yesterday when Patty was talking about getting funding. So, within the Department of public health and human services, they oversee all of the preparedness health activities.

A number of other things I've got down here are the presidential direct it -- directive. Of course, presidential directives also have the force of law and happen immediately. The Congress does not have to ratify them. The Congress -- the president put them out in things happen. For example, under number 8, there was financial support and assistance for state to develop equipment standards for first responders and there were national drinking -- training programs established.

Under Project Bio Shield in 2004, this was the one that supported the stockpiling of drugs, vaccines and such against bioterrorism agents, such as smallpox. Again, there are a number of things out there related to this. I would like to share another screen with you again. Going back over, this is a website, and this is the homeland security digital library. And I am showing it to you, because what this library has is a very nice collection of many of the documents related to preparedness, including ones that have to do with health.

So, if you wanted to go in and see all of the presidential direct it is related to preparedness working legislation, this would be an easier way to get to it then going into [Indiscernible] and searching directly for the loss. Also, I did a little searching here to give you an idea of some of the things that are in here. I did a search for hospitals and emergency management plan for the last two years, and you take a look, and you can see that they have a lot of date, county level conference of emergency plans. So, somewhere in there, they actually will mention hospitals.

Another place you can go, I know in my own work with state public health professionals, oftentimes what they want is to see what someone else has already done in a particular topic area. They don't want to reinvent the wheel. If you can pull up somebody else's emergency management plan and share it with him, that should make them happy. Now, there are things within the homeland security digital library that asks you to register to use them. And Cindy asked me to tell you that, don't be worried about that, you don't need some high level security clearance in order to do that. They want you to use the resources. So, go ahead and register for that if you think you have a use for it. Okay, let's go ahead and stop sharing and now we will go

back to the PowerPoint. >> Okay, so that was a really short look at some of the things that have happened as far as individual laws that have come up in response to different disasters and terrorism attacks. One of the interesting things to think about is what has the impact of all of this federal law then? A good place to look to find out is to go to the trust for America's health. And every year, they put out a report talking about how ready we are.

So, what I have here is the Pennsylvania screenshot. So, key health data about Pennsylvania and they have readiness indicators there. Now, this is from 2010. You can see for the majority of indicators, they are getting a positive note, yes. There's only two that are in now. Just to give you an example of how this has changed over time, in 2003, there were only 13 states that had a preparedness plan. In 2010, or 2012, all 50 states did. In 2003, only two states had what was considered to be an adequate strategic national stockpile distribution plan . In 2010, all 50 states did.

And again, they were required to do so by the law. In 2005, there were only 10 states that have increased or maintained their public-health laboratory capacity. In 2010, 49 states had. Moving over to the hospital side of it. 75% of human health and services program participants have met 90% of preparedness goals. So, it is very important to keep in mind that you can measure the impact of these laws and that people may want that information from you.

So, you might want to consider this as a resource for that. Okay. International law is not the main focus today, but I wanted you to know that there are international health regulations. The World Health Organization put out the second edition of these in 2005, and in 2007, they went into effect. There is a little over 190 nations that participated in these.

The key overall goals are to reduce the risk of international spread of disease. And at the same time, they want to make sure that the impact of whatever actions are taken is minimal on trade and travel of individuals. Some of the things included in these regulations are provisions to improve the capacity of developing nations to report. And, also to detect diseases that have potential for spreading internationally.

And also, an improved reporting structure for those events that goes into the World Health Organization. I encourage you to take a look at them if you are interested in that and I also encourage you to sign up for the September 6 and seventh class on understanding the international context in which this will be the whole point of the class.

Barb, before you move on, you have a question.

Were there any laws enacted regarding West Nile virus? I do not actually know. Public health laws can either be written very specifically to say, this is what we are going to do to respond to a specific disease or condition, or, they can be written very broadly and say that public health authority has the right to take measures to reduce the spread of disease.

So, it may be that they did not need specific laws about West Nile virus, because they could take action under existing broader laws. And again, you have to look at the state level to see what was there. You may want to consider looking into state laws for wherever you live to see what they have about that. Some of the things we are going to get into later on are some of the resources that we can use to make those kinds of searches.

If you want to talk about this more after the class, I would be happy to talk to anybody who wants to contact me. Okay, now, having reviewed the laws of it, let's talk about what the current issues are. Most of these come from the 2012 article that was written by Hoge. He is another that has written extensively about public health and laws, and especially public preparedness laws. He will see his name, and over -- over over again. I also have on the Moodle site for the class a bibliography of many resources I found while preparing for the class, and you'll see a lot of things in there as well.

First of all, the current issue is our quarantine isolation was an unneeded violation of personal rights question Mark there are still some discussions about this. To our modern medical systems allow us to deal with these without imposing these harsh measures on people?

Just a little bit more, to define what quarantine and isolation are, so that you know what we are talking about. Quarantine basically means that he wrote off an area and say that no one can go in, no one can go out. It does not matter whether you were exposed to disease or not, you're confined to a particular place. Isolation is applied when a person has been exposed to or infected by a disease considered to be dangerous. Let's say SARS. you find that person is then put into isolation to limit the spread of the disease.

One of the things that is very important is that if you put somebody under isolation, it has to be in an area where they can receive treatment. It can't be punitive, it can be in a prison. It should be in a hospital or other similar facilities. And it should be for the minimum amount of time necessary in order to compass the goals of putting them in isolation. Okay, some people feel that this is unnecessary and the discussion goes on today.

Currently, going on to the next one, some states allow for declaring a general disaster at the very same time that you declare a public health emergency. So, if I am a responder under both situations, I might have some confusion about what my primary role is coming into I am reporting to us that goes on.

Some of those authority overlap the two declared up. A really important one is, is the legal workforce prepared to provide legal advice in real-time? Anybody who has been involved in a disaster response no such conditions, that are unique for every single one, and may require interpretation on the fly.

So, do we have lawyers out there who are ready to do that? A couple more current issues. This is an important one that can apply just to medical people, but let's say people who are involved in search programs. Say they are volunteering in the community. There is no uniform liability

protection for all responders under all conditions. There may be some inconsistencies there. It's extremely important if you are involved in any kind of emergency response to check and see what your legal protections are.

For example, there are good Samaritan laws. These apply in the very initial stages of an emergency. Or, let's say you know, you see somebody on the sidewalk who is having a heart attack. And you take action to help them. A good Samaritan law can protect you under that circumstance. But, if an emergency drags on, say something like Katrina is going on for months and people are still responding in helping out, the good Samaritan law no longer applies because it is not an emergency that is happening right now in front of you. It is a longer, more prolonged response.

Then you have to see what happens after that. There is a document that I put into the Moodle site that talks about search and liability from FEMA. It is a very up to date document. If you have questions about that for your own local use, I would consider looking at that, if I were you.

Okay, now another thing that is important to think about is stay professional scopes of practice laws. Do they have enough flexibility to allow search response? Do we have enough people that can give people flew shocked if we needed to vaccinate a whole community? And finally, how do we measure the go preparedness question Mark this is an ongoing question. I know that some of the people I work with are involved in national level discussions about what appropriate measures, Google matures -- doable measures are for legal preparedness.

Okay, we are going to move on to our next core competency. And this is competencies. Okay, core element, I guess. The gentleman that you see there in the future is participating in exercise at the Atlanta airport in which they are imagining that a person is coming in on an airplane who has a disease like SARS. And so, he is going through a checklist. One of the ways that you check for competencies or improve them is to have exercises such as that. So, a person who is competent will know that the applicable law is, be able to put their hands on it and apply it correctly in a given situation. Now, what you're supposed to do with it and the level of skills that you are supposed to have differs depending on what your job is and the level at which you are working. So, there are documents out there that talk about competencies, and it will be specific to a job, rather than just general.

No, this is an interesting study, something to keep in mind. This is a qualitative study. They went out and interviewed a whole lot of people working in public health and emergency management. If they want to know whether they understood and really knew the legal environment in which they work, or, they were unaware of it. Most of them were aware that there were legal underpinnings to what they do, but they were a majority of people who acted on what they thought was the legal environment, rather than really knowing what it is. So, there is still room for improvement here. Room for training for people in public health and emergency management in order to have them respond appropriately.

Now, you may want to be looking for competency standards. So, there are general articles out there that discuss the various competency standards that have been put forth and or adopted. So, the 2008 must have been a banner year for competencies. There is the word of Mac article and Hodge article. I recommend the table in the Hodge article for a table of sources that lays out a nice comparison.

The national health reporting public standards are standards for looking at and evaluate the state and local health departments. While they cover the whole gamut of public health, they do include some standards for preparedness in legal preparedness as well. And finally, you've got the CDC public health preparedness capabilities national standards for state and local planning and that is a document that you can go and take a look at on your own time.

Okay, there is training out there to support acquisition of these competencies. The CDC public health programs has some resources up there, including a series of PowerPoint and associated classes meant it to be delivered by a lawyer to a public health audience. I took a look at them myself while putting this class together. You don't have to be a lawyer to read and understand them. I encourage you to look at those if the topic interests you.

There were a lot of centers for public health practice that are still in existence, some have gone away at this point, that were funded over the last 10 years or so.

Most of them did a lot of education. And, they have put together this guide to education resources. So, you can go look at that and you will see in addition to other topics that they were educating the public health workforce about, they were also doing legal education. This is a resource to find some more.

And finally, you've got the County and city health officials national organization. They have put together something called the public health and law and emergency preparedness training kit. And I have taken a look at this and it is a nice little kids. It's good for using together and going out and doing some training with.

Okay, something else to consider is there are a number of online training systems. Training is a public health foundation resource. There are a number of states that participate and put their trainings into it. Their online training archives. And so, you as an individual can go and register to use the site in few trainings. And if you need certification or continuing education credits, that is built into those as well.

I did take a look at the TRAM system at John Hopkins. And I recommend at least one of their offerings. It was a nice, concise history of legal authorities and public health. I think it was from about 2006.

Another kind of training that you may engage in our tabletop exercises or live training that would involve using the legal resources. Okay, we are going to move onto the next core element which is coordination. Now, the diagram that I have put on the top here is a diagram that was generated

out of a software tool here at Pittsburgh called the legal network analyzer. If you watched the video I put up on Moodle which was a little conversation between me and Elizabeth [Indiscernible last name] who is the coinvestigator on this project, then you have already seen a description of what it is.

Basically, they have made a database which has the laws from 12 states related to public health preparedness emergency preparedness. They did a huge systematic view in LEXIS-NEXIS to put all of that together. And as part of that, they went and coded all of the laws for a number of parameters. So, what agencies are involved, what do they have to do under what conditions? So, this diagram is kind of a social network diagram showing in the state of Pennsylvania, which agencies and organizations have to work with each other in order to create an emergency management plan.

Another interesting thing that you can do with this resource to which I have a link to on the web is you can go and say, choose Tuesdays and compare them and see how it just -- choose Tuesdays and compare them and see how similar or different they are.

Coordination, if you have been involved in preparedness, from other standpoints this will sound very familiar. Coordination growth in several directions. It goes up and down between the layers of an organization, from the local up to the international level, and horizontally between disciplines. Public health has to talk to emergency management, law enforcement and so forth.

This has always been a challenge and will always be a challenge because organizations naturally are silos. And, you have to work hard to break those down. So, things that are in a lot require you to work together they actually help to improve that coordination.

A couple of the issues you may run into. So, in my organization, let's say I am very confident, I know what I'm doing, I know all of the laws I have to follow. But, I have to partner with another agency. If that other agency is not a similar level of competency, we will not quite be ready to coordinate.

Another thing that is a challenge is that who is in charge and who can do what is very situational. There is an article that I am citing here about the case of a gentleman who had multi-drug-resistant TB and chose to ignore the laws that the state put out and went on an international trip, crossing many borders -- crossing many borders.

One thing that this article highlights is the difficulties in keeping up not just with where he was, but with who was in charge and implement them back. Once he was finally back into the states, the chain of custody where he went from, you know, the CDC to the state of Georgia to the hospital where he was in the local county, public health agency was fairly clear.

But, in an emergency situation, it might be very challenging to coordinate as the geographic level and complexity changes.

Okay, now this is a big element for us. This is a core element of information. The next slide that I have is I believe another poll, celebs go to that. Okay -- so, let's go to that. Okay, according to Molten, which of the following is true about information sources supporting legal preparedness?

[Poll taking place] >>

Wow, we have a neck and neck race here. Everybody better vote to break the tie. Okay, anybody else? Okay. Let's go ahead and close the poll at this point. -- Let's go ahead and close the poll app this point.

Most people voted for, they are scarce. And indeed, that is true. So, that is what Molten said, anyway. They are scarce. I might argue that there may not be enough of them right now, but there are more of them. But, they are still challenging to find. What I want you to remind about that is, you know, where might these information sources be? There is not really a central repository. There is not a tool available to find them. Something to keep in mind is very often legal preparedness resources are created under grants. And grants have a limited lifetime.

So, they have to consider what happens at the end of the grant. To the resources that were created go up on the CDC website or do they linger on in some kind of archival form on the web? For example, the turning point Project, which ended in 2006 and had a model state law as well for public health. You go to their website, they say, okay, we ended in 2006, here is our stuff, it is still here in archives. But, there are other states -- said that he will go and look at that have not been updated in years but yet the resources are still there but it is hard to determine what their status is.

One of the challenges is actually finding out what the most current resources. -- Resource is. These are some of the things that Molten said people need. They need repositories of public health law. Laws that affect public health at both the state and federal level are not just in one neat statue called the public health act, they are scattered throughout other Persians -- portions of the code of laws in every jurisdiction.

So, it can be challenging to pull them all together. Something like the project I showed you that made this social network analysis does make an effort to bring as many of the laws together as they can. But, it is a challenge. Current awareness of new laws and other needs that are out there. Things are changing all the time. For example, on the American Hospital Association's website, if you look at their news ticker, each of you on a regular basis laws that Congress is considering, laws that have been passed and it was about implications for hospitals.

Laws best practices are also needed. What he means by that are kind of the lessons learned from practical experience or let's say if there was an exercise that was done. For example, they did an exercise in Illinois in which they did a tabletop and they come up with a list of things that did not work so well for them from a vigorous standpoint. Then they can go and say, here are the things that did work and generate best practices out of it.

Another thing they need our manuals for attorneys in bench coach which we already talked about a little bit. Okay, so how do you find these repositories? What I usually do when I want to do this is just kind of make a mental list of who are the organizations that might be likely to have this.

Government agencies that have some responsibility in this area may have some sort of legal repository. Training centers or research centers at universities and other more independent organizations may be also likely sources. And finally, professional interest groups that help in the law. Say something like an American health lawyers Association.

I already showed you the homeland security digital libraries will not look at it again. But they've got that policy and strategy thing that you can look at and I think it goes over the federal laws pretty well for you.

Want to go to look at one of these repositories, take a look at these things and make sure they are up-to-date and how complete they are. Let's say you are looking at one of the statutes and need to know the course actions, so you need to look in more than one place. Consider they are the right forum for the purpose at hand.

What I mean by that is when you pass a law, it shows up at the freestanding law and the law is talking about what statutes in the existing US code going to be affected by it. But it is not the final form in which people are actually acting on it.

You may want to look at the codified law, which is the public health law as it exists now with the various changes over the years. Something else to think about when you look at a response story - a repository is who is the audience. Something that is not appropriate for public health lawyers may not be -- something that comes out from the American Hospital Association. Okay, now, this is like here I took from a study that was done in 2011. And they asked people, primarily in New York, which of the following areas would be included in a resource guide for multijurisdictional resource guide for preparedness. Hopefully it is picking up on your screen to see the things that I highlighted.

You can see that the top concern with liability protection and the second one was legal authority. To enter into agreements. So, you can see as you go through it then that legal questions are extremely important when it comes to this multi-jurisdictional collaboration for preparedness.

This is a document up on the Web that actually was the result of the project but that survey was done for. So, it is a cross-border issue analysis. And while they say in the document that it is a living document, you can see the data up on it in the top that it was 2009 was the last time it was public at it.

Still, I think it is a useful doctrine for you to look at if you are interested in the legal aspects of working across state lines. Okay, some place else that you might want to consider if you are looking for repository kind of information. The [Indiscernible] the national Library of medicine is

also one of our sponsors for the day. They do collect information about legal aspects of preparedness as part of their ongoing current awareness tool.

I don't know if all of you are getting their newsletters that come out once a week. But, they are very useful if you are keeping up-to-date with new things on the Internet. Now, I'm just going to share the screen again. Let me pull up the resource guides just to show you what it looks like. Let's see here, move the mouse over here.

Okay. The computer that I had that were showing me what the participants is seen has decided to go to sleep for some reason so I cannot see it. If there is any problem with viewing the screen come about me now. What I did here is I went into Dimmick and did a search within the research guide for estimates in public health -- an archive for things that have been put out in the newsletter. I searched for law, legal, legislative, etc. A lot of different terms that relate to law and came up with 231 resources.

For example, you can see here, identifying vulnerable older adults for increasing their protections during all hazard emergencies. You will find a number of interesting things like that. You can go in and do a more specific search based on a topic that interests you as well. Okay, so I'm going to stop sharing back now and go back to the slides.

Now, while that is coming up -- oh, it came back to the right spot, that's great. I did highlight the place that you click in order to get to that, and there are other resources. Another great in that they have up there that will help you do a search is they have a list of mesh terms related to disasters.

Okay. [Indiscernible name] talked about identifying public health agencies to look for agencies that -- for example, [Indiscernible name] that we have mentioned already, they have pages in there about legal aspects of preparedness and response. Another thing to consider is, like I have arguments and I like to do, I like to talk to other experts in the field. So, do you know a law librarian? Do you have a law library in your area? Consider looking at them and using them as a resource.

Okay, there are some nongovernmental law repositories out there. And sometimes, when I try to find them, I will use various techniques. For example, when I looked at my search I found a number of people who have a publishing in this area and it looked with whom they were affiliated. So, centers for laws in the public health and things like that. That is one way to find it. Sometimes I will go into the CDC public health Law program. One of the things they offer is technical assistance. So, you as a person in health care or public health, if you are interested in some aspect of public health law, they have a forum that you can fill out on the website that I have listed there, and they will respond to you. I actually worked with him while I was putting this presentation together and they were extremely helpful and very happy to hear from you.

Extremely excited that librarians are interested in this topic and I think you'll find them responsive. You may want to look and see who is funding these efforts. So, the Robert Woods

Johnson foundation, the Kellogg foundation, the CDC center that we have mentioned already are frequent sponsors of grants that are meant to study or improve legal preparedness. I also will frequently go and look at the American public health Association annual conference proceedings. There is also a public health Law conference that happens every year . I have been talking to them and trying to encourage them to put their proceedings up any permanent manner. It kind of shows a piecemeal on the [Indiscernible] website.

And also, you will see each year as they announce what they are going to do, you will see what is going to be on the proceedings. Finally, check the network for public health law. This is a really great resource. One of their main purposes is to support public health practice within the entire United States. So, there is a central organizing group. I think it is in Michigan. And then there are regional groups. On their website, there is a place for you to request assistance. If you are working with a public health agency and they need some expert assistance in interpreting or using the law, this is a resource for them.

Here is an example of something that I found up on their website. This goes over the whole Michigan public health code, and you can go and take a look at these kinds of things later on. Consider looking at associations that will put this kind of resource up for you. So again, the County and city health officials I mentioned earlier. There is also an organization that the people who belong to it are usually health officers at the state level or territorial level. They have a number of resources up there about legal aspects of preparedness.

Again, the American health lawyers Association . It is also an interesting thing to compare the sight of resources that they put up because they'll have a different emphasis depending on who their audience is. Okay, it is what you really want to do is go out and look for the laws as they were passed, or if, you know, the ones that have been put into the US code having been codified, you can go and use Fed [Indiscernible]. In this class, we are not going to go into all of the nitty-gritty details of how you do that. That is for another time, another day. But, I would highly recommend it if you want to look at it on your own time, they spoke about fundamental government information, they have some very nice sections in there that will discuss where you have to use resources that lead you right to the law and the court cases and such.

Also, consider trying to talk to your library in France, or look into resources providing the American Association of Law libraries.

Okay, here is a nice shortcut to finding the websites. I am going to share a screen with this, too. Let's see here. Okay, so this is for finding the resources that are available at the state level. So, [Indiscernible] is one of the several sites that do this. The Cornell legal research Institute. That may not be there exactly. But, Cornell does have a law site also links out to many of the state and local resources about law. So, this one I just pulled up, Pennsylvania. You can see the kind of topics they have up here. And then they go down under legal resources. You can see that you can get to Constitution, court cases, the general website, the governor, Legislature and so forth. And then you can see some individual courts down there.

Also, another thing that can be challenging to find, the Kaiser can be preparedness was at a local level, city website and city codes are also listed there. I don't know how complete the listing is, though. Okay, so let's go back to the PowerPoint. >>

Okay. Alicia, here is your answer. This is a summary metrics for state decisions about the model act . And there is also a link in here that takes you to the text of the act in both its original version in the second version which was more of a checklist.

Okay, we already talked about about the legal indicators project. That is how I made a diagram that I showed you on the coordination slide. The link that goes here goes to the database, and the full text of public health preparedness lost from 12 states. It is searchable by keyword. In the interest of time, I'm not going to share the screen with you right now. But basically, when you go into it, you can search by keyword, or you can ask for what they call notes. So, different pieces of the public health system. Let's say I wanted to find all of the laws in Pennsylvania related to hospitals. I could do that. And what it brings up a list that takes me up to the full text of the law. And then you could also use the visualizer. >>, It -- but, if you ever try to use the visualizer, keep in mind it is a prototype. As a prototype, it is a little bit fussy. It needs to have certain things installed. It only works with Firefox when I first tried to use it and it requires some plug-ins. If you want to use it and run into problems, contact me and I will help you with it.

Okay, if you want to keep up on what is new in legislation that has come down or regulations, there are places that have some compilations. The CBC put out a public health law newsletter. It is e-mail once a month. I think you need to go back to the actual site to see everything that is there, though. It covers public health in a very broad way, not just preparedness. But, it's a good place to go to see what kinds of things than be coming down the pike. American Hospital Association's. The American -- emergency readiness site. They have a news ticker that I already mentioned that may have things about pending legislation.

If you want to keep up on a more thorough way, you want to see the regulations are being put forth, based on legislation. You will want to either look of the Federal Register, which is the daily business record of the federal government, in which all proposed rules go up for public comment and then go up again in their final version. There is also a site called regulations.gov, which is meant for people to use to actually make comments on the public -- during the public comment portion. You can go in there and search for regulations that are coming by.

And also, you can go into the Fed [Indiscernible] system and find what else have gone through maybe one house of Congress but maybe not the other and track what is going on.

Okay, and other information needs is precooling mentioned our toolkits. Now, in these toolkits what you're generally going to find is not an actual text of a law, but tools that have been created that comply with the law or how people understand or use the law. So, this is just an example here from Washington state. It is an isolation and quarantine response planning toolkit. Okay, we talked about best practices that will but already, and that they are typically derived from practical experience. The reeds article from 2008 which I have cited in the citations at the end is a good source of more information about that.

Some of the places that you're going to find it, maybe after action reports from public health emergency exercises, applied research, lessons learned, benchmarking projects that make -- maybe author. Consider it as resources that may have best practices. Here are a few examples that are out there on the web. The social distancing law assessment projects. So, the CDC and ASTHO did this 20. The project has been posted on both the CDC and ASTHO website. The CDC pulls it together in one page in a little bit more of a neat package, so that is the one that I recommend it.

There is another site that ASTHO also has some useful practices to consider. Another example from the American health lawyers Association, lessons learned from the golf course -- Coast hurricane.

Okay, and bench books. This is the Pennsylvania public health law bench book cover. There are bench books were a number of states besides Pennsylvania that were created, I believe, with CDC funding at some point. When I was putting this together, the lawyers that I talked to said, oh, those are all on the CDC website. I looked and could only find the Pennsylvania one on the CDC website directly. So, I contacted them and the director told me that one of the first things he did when he took over the public health Law program was that he asked for a revision of the website.

So, they have gone through and removed a bunch of things that they will be putting back up at a better kind of organizational scheme, as they go along. So, look for those things there, or you can do a general Internet search. Because many of them are also posted on state websites. Okay, there are also a number of guides for attorneys out there. So, if you need to work with attorneys, that might be something to consider.

Now, as it did the searches for this particular topic, there are a handful of journals that came up over and over again. And so, I am just sharing that with you now. It might be a place you would want to start. For example, the Journal of medical law at six and -- is a key resource. Disaster public preparedness is also brutally published as a spy of security and bioterrorism.

All of them except for American Journal of public health and by security when require a subscription to see all of the issues. Those other two journals are in public medical center with a one-year or two-year embargo, respectively.

Okay, we are going to skip this exercise in the interest of time but it is something they might want to consider on your own. If you are working on a multi-organizational team developing a local pandemic influenza response planning you want to understand the legal and diamond for that within your location, think about what resources are that you might consider consulting for this project and why you would choose them.

Again, that is for your own time. Okay, I mentioned this once before. If you are doing searches in PubMed, disaster related mesh has been nicely pulled together on the [Indiscernible] website for you. And then, all you have to do if you want to do a search that was took me a mesh search

would be to pump in the term tourist -- and that it exploded as all of the things that have to do with law are under that. There is also a subset in doing other searches, legislation and jurist prudence. For a match search, pretty straightforward.

However there are challenges. The first one is considering whether you need to include water and got off. If you're looking for something that has a large legal component to it, it may not be indexed that way. It may discuss the law when you get into the article a little ways, but it may not have that right up front in the abstract or the title.

So, consider the breadth of the search you have to do when you try out different kind of search strategies. One example I have was a project that was published in 2007. What they were interested in was fun getting -- was looking at how the law was affected after getting the Gold Coast hurricanes in 2005. He did a search against LEXIS-NEXIS for hurricane and health and went into the actual results to see whether there was a little moment -- legal component or not.

Okay, you have survived to the final quiz, congratulations. Okay, so I just have a few questions we are going to ask here. The first one, we'll open it up. Under the US system of law, what level of government has the most public health authority?

Okay, it looks like it is open. And people are voting.

[Poll taking place] >> Okay, we are going to go ahead and close the poll now. Let's see here. Okay, so the majority of people said the state level. A few votes for federal and local, and the actual answer is indeed the state level.

Okay, so remember under federalism, anything that is not assigned to the federal government falls to the state. There is no mention of public health within either the Constitution or the Bill of Rights. So, most public health regulation happened at the state level. This is a key thing to keep in mind when we discussed the state of public health today, especially preparedness across borders. Because you are going to be dealing with different legal environment as you cross borders between states. And as we all know, disasters don't respect supporters. That such borders.

Okay, sorry about that. They are testing the fire alarms in the building, I can't turn it off. Okay, while you listen to this fascinating announcement here, we'll just go ahead and do the second poll.

Okay, I am not in wing G, I don't have to leave.

[Background noise] >> Okay, so which of these statements is most true about emergency health public Law and ethics? >> Okay, it looks like we are getting some votes.

[Poll taking place] >> Let's see, I don't know if everybody can see it big enough. I can't see the bottom of D in the poll. There we go. Okay. Let's go ahead and close it. Very good. 100% right. Okay, so the laws attempt to balance the ethically derived rights of individuals and the

community. Okay, very good. Let's go ahead and close that one and I think I have maybe one more here. Okay, disaster planners can benefit more from reading the original text of a law than from reading a summary from their legal counsel on their question. So, true or false for this one?

[Poll taking place] >> Okay, we've got about 22 people voting. Okay, so the majority of people said Vogt -- said false, and I would say that is the correct answer. Think about it this way. If you are a disaster planner, you may not be indexed at interpreting the law. So what you want in order to take action is something that is concise and tells you what you can and cannot do under the law. So, legal counsel plays a key role in making sure that preparedness law is implemented correctly and that people are competent in order to use it by providing it in a more digestible form.

Okay. So, we are coming to the end here. And I just wanted to recommend for you that follow-up on this class. You may want to take some of the other classes in the series, including the one I have mentioned already, the international one coming up in September. And also consider taking some of the classes that are in an archival form that you can view the recording online and you can then get credit for them as well.

On Moodle, I have put a number of documents up. Let me share that with you. Let me show you what that looks like. So, let's share the desktop for that.. Let's see here.

[Pause]

Okay, I hope you can all see that. So, up here we have posted the pre-class readings and the video I talked about with my colleague Elizabeth. And some other documents here . So, this is the bibliography of all of the things that I looked at or found when I was preparing . The PowerPoint in the class, but, document, and then a number of the organizations that we have discussed today. I have links to them appear on the website. Some of the institution of medicine reports, both the crisis and legal topics, and some general legal resources, further training and assistance, the ethical resources that Patti posted are in there as well.

Okay, so let's close that. Okay, and the only thing left in the PowerPoint after that , what I want to be sure to show you are the acknowledgments. All of these people helped me, I'm not going to read all of their names to you right now, but every single one of them provide me with information. I could not have done the whole thing without them. So, great thanks to all of you, you know who you are. Okay, and the rest of the slides I will let you look out on the Moodle site if you are interested. It contains all of the references cited in the PowerPoint and image credits as well.

Are there any questions or anything I can answer right now before we close off for the day?

[Pause] >> Okay, so Deb is mentioning the link to the online evaluationn send through the important information in our sure to fill that out so that you can get credit for having listened to the class. Yes, you should have ongoing access to the Moodle site, I think.

[Pause] >> Okay, to all of those people who want to say thank you, I will say you are very welcome. I appreciate you being here for this class. I enjoyed putting it together for you and I hope that you will continue to use the information they are on. -- Continue to use the information later on.

[Pause]

For the CE, ICU have a question. If you fill out the survey that is in that e-mail that Deb sent out, once you fill out that survey,, and Deb, I don't know if you can get on the phone. Will that actually then send them to a way to put their name in so that they can get the CE credits?

That is correct, Shavonne, once they take the online survey, they will be directed to a webpage on MLA.net where they can download the certificate in print and off.

Okay, thanks.

Who sent it out?

It went out in the informational e-mail that had the link to the class today.

Oh, okay. All right, thank you. Thanks. >> [Pause] >> Okay, I am going to end the meeting. Thanks so much.

Okay, thank you.

Thank you. Have a great weekend, everyone.

Yes, all the rest of you, too.

[Event Concluded]