

# Understanding Laws Governing Foodborne Disease Outbreak Investigations

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# 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

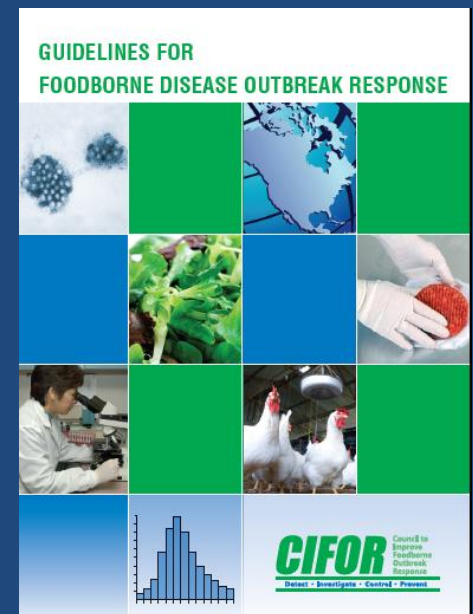
# CIFOR Overview

- 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

## **Food Laws**

A state's law akin to the Federal Food, Drug and Cosmetic Act (FD&C Act).

## **Food Establishment Sanitary Statutes**

State statutes that govern the sale of food through establishments like restaurants, retail food stores, and mobile food service vehicles.

## **Food Code Regulations**

A state adoption of the FDA's Food Code into the state's food code regulations.

## **Product-specific Laws**

Commodity or food product-specific statutes and regulations (e.g., eggs, dairy)



# 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](http://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

Checklist for Organization of Foodborne Disease Surveillance & Response Activities		
Issue/Question	Response	Legal Authority/Citation
<b>Agency Roles</b>		
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.)		
<b>Structures and Interactions</b>		
How do state health agencies interact with other state agencies? Are there any statutory or regulatory provisions that mandate, permit, or prevent interactions?		
How is the relationship between state and local health agencies structured (e.g., centralized, decentralized, shared/mixed)?		
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?		

- 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

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