

Legal Preparedness for Public Health Emergencies in Indian Country

Tina Batra Hershey, JD, MPH

Assistant Professor, Health Policy & Management
Associate Director for Law and Policy, Center for
Public Health Practice
Graduate School of Public Health
Adjunct Professor of Law
University of Pittsburgh

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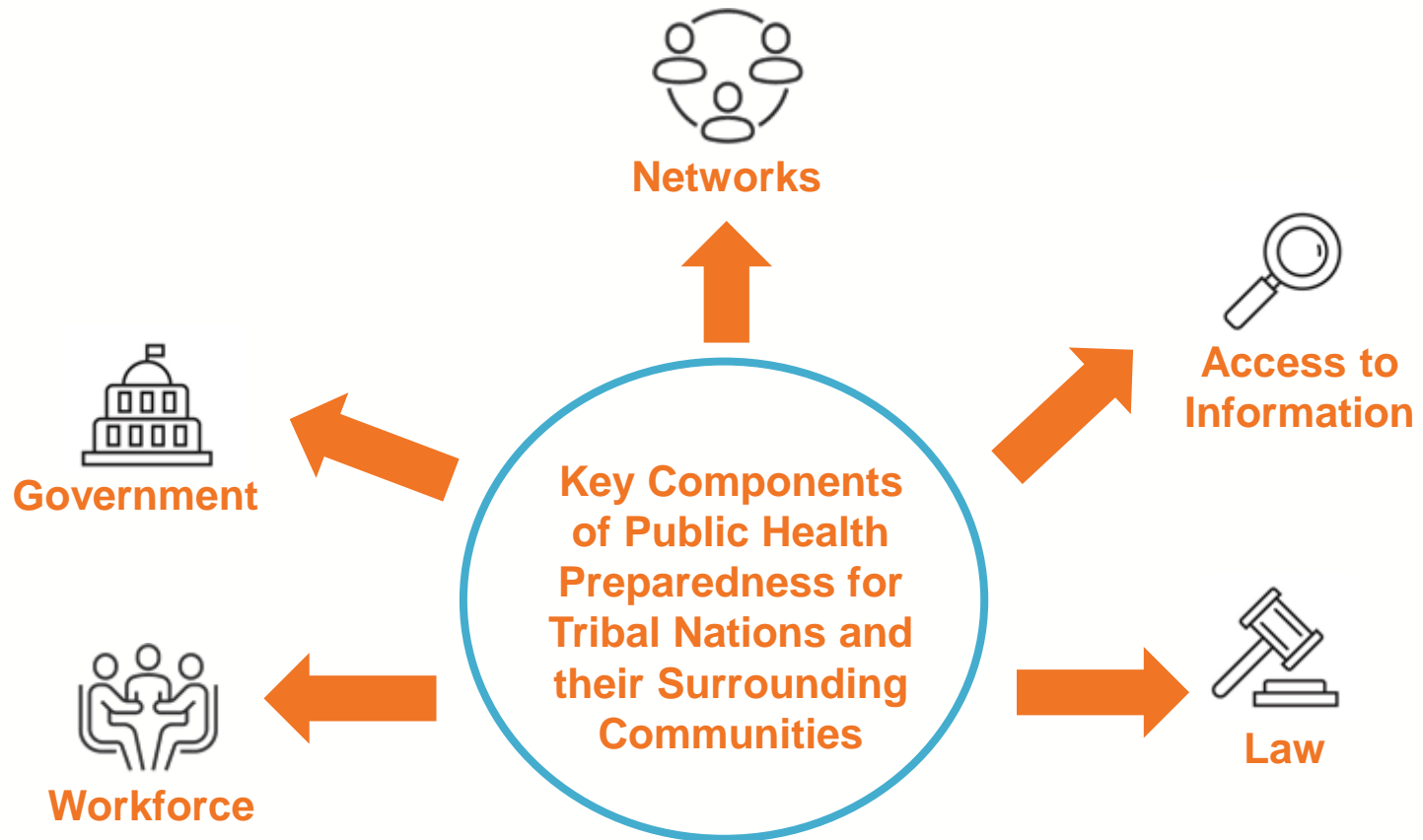
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Learning Objectives

- ✓ Describe the complex nature of public health emergency preparedness in Indian Country and the importance of legal preparedness for Tribal Nations.
- ✓ Describe how the law can be used to enhance cross-jurisdictional collaboration between Tribal Nations and other jurisdictions.

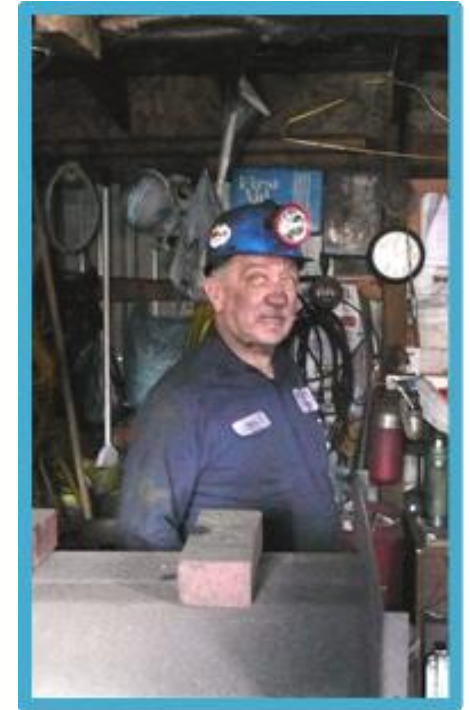
Public Health Preparedness



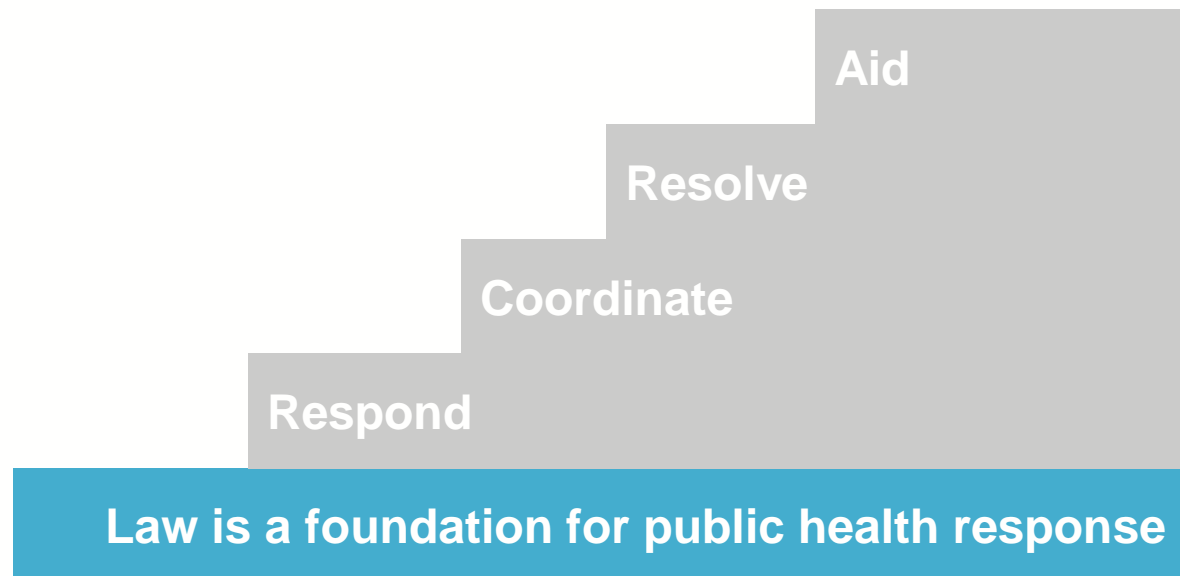
Public Health Law

Laws are structures, norms, and rules that a society uses to resolve disputes, govern itself, and order relations between members of the society

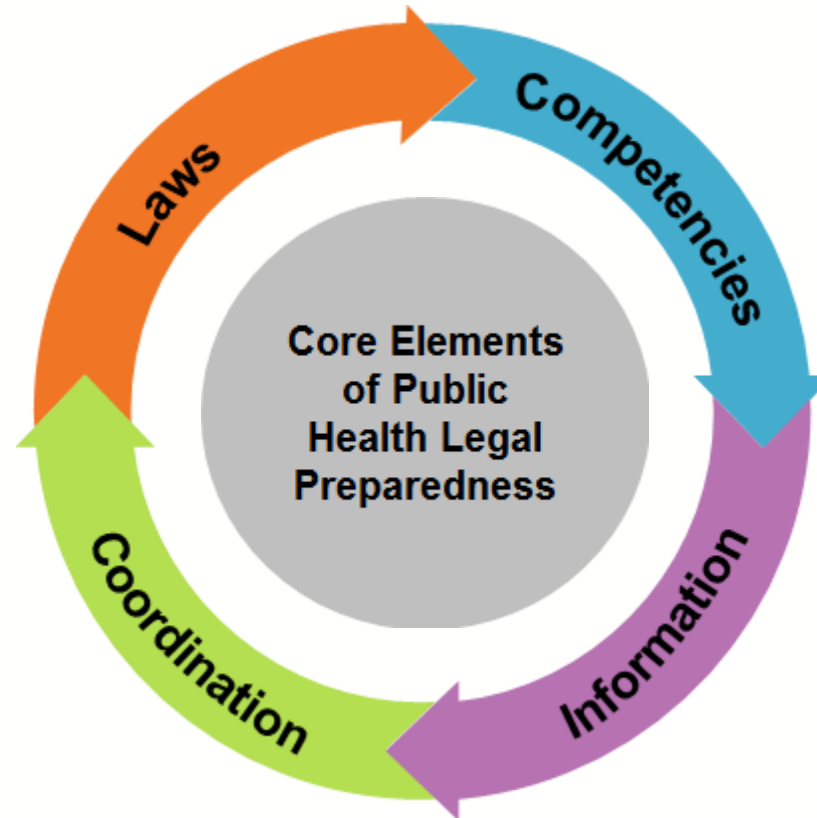
Public Health Law



Legal Preparedness for Public Health Emergencies




Tribal Public Health Legal Preparedness



WHY SHOULD TRIBAL NATIONS BE CONCERNED ABOUT PREPAREDNESS?

Tribal Legal Preparedness: Inherent Authority



Tribal governments have inherent
authority to protect the public
health and welfare of their citizens

Infectious Disease

- Infectious disease emergencies may pose a greater threat to Tribes than to the general American population
 - HIV and Tuberculosis
 - Sexually Transmitted Diseases
 - Pandemic influenza

Epidemiology and Surveillance

- **Epidemiology**
 - A fundamental science of public health
 - Described as the study of the distribution and determinants of disease risk in human populations
- **Surveillance**
 - Is the ongoing, systematic collection, analysis, interpretation, and dissemination of data regarding a health-related event
 - Data are used to reduce morbidity and mortality, as well as to improve health

Surveillance

Public health surveillance can:

- Serve
- Document
- Monitor and clarify

Infectious Disease Epidemiology

The study of epidemics and the dynamic factors involved in the transmission of infectious agents in populations

- How a communicable disease spreads
- How the disease develops in an individual

Isolation and Quarantine

- **Isolation:** the separation of known infected people from non-infected people to prevent or limit the transmission of the infectious agent.
- **Quarantine:** the separation and restriction of movement of people who were exposed to a contagious disease to prevent disease transmission during the incubation period should infection occur.

Example of Tribal Law Related to Infectious Disease Control

- Cherokee Code of the Eastern Band of the Cherokee Nation
 - Deputy Health Officer has power to investigate communicable diseases and exercise quarantine and isolation authority
 - Executive Director has the power to order the abatement of imminent hazards with respect to property

Issues Related to Infectious Disease Control

- Jurisdiction
- Roles and Responsibilities
- Data Sharing
- Cost

Public Health Disasters

Man-Made Disaster



Natural Disaster



Technological Disaster



Specific Examples: How Law Can Help with Tribal Disaster Needs

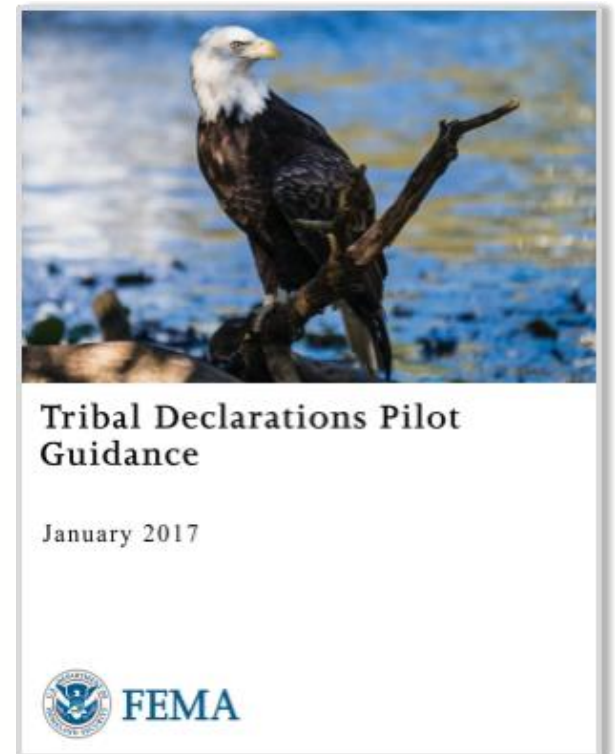
- Policies and procedures
- Memoranda of understanding
- Agreements
- Drafting codes

Disaster Declarations: Sandy Recovery Improvement Act


- Amended the Stafford Disaster Relief and Emergency Assistance Act to provide federally recognized Indian Tribal governments with the option to ***directly request*** a Presidential emergency or major disaster declaration independently of a state
- Tribal Nations have 2 choices
 - Tribal request (direct recipient)
 - State request (sub-recipient)

Final Federal Emergency Management Agency Pilot Guidance

- Published January 2017 following 3 years of Tribal consultation
 - Significant changes made based on comments from Tribal Nations
 - After pilot period, regulations will be issued (timing TBD)
- Describes:
 - The process that Tribal governments will use to request Stafford Act declarations
 - FEMA's criteria for evaluating Tribal declaration requests and make recommendations to the President



Examples of Direct Tribal Declarations Under the Stafford Act



FEMA

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Eastern Band of Cherokee Indians Severe Storms, Flooding, Landslides, and Mudslides (DR-4103)

Incident Period: January 14, 2013 - January 17, 2013
Major Disaster Declaration declared on March 01, 2013

Expand All Sections

- Financial Assistance
- Preliminary Damage Assessment Report
- Related Links


Last updated: 2013-03-01 05:00

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President Donald J. Trump Signs Emergency Declaration for Seminole Tribe of Florida

Release date: September 9, 2017
Release Number: HQ-17-098

WASHINGTON - The U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced that federal emergency aid has been made available to the Seminole Tribe of Florida to supplement the tribe's response efforts due to the emergency conditions in the area affected by Hurricane Irma beginning on September 4, 2017 and continuing.

The President's action authorizes FEMA to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the emergency on the local population, and to provide appropriate assistance for required emergency measures authorized under Title V of the Stafford Act to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe for the Seminole Tribe of Florida and associated lands.

Specifically, FEMA is authorized to identify, mobilize, and provide at its discretion, equipment and resources necessary to alleviate the impacts of the emergency. Debris removal and emergency protective measures, including direct federal assistance, will be provided at 75 percent federal funding.

Justo Hernández has been named as the Federal Coordinating Officer for federal response operations in the affected area. Hernández said additional designations may be made at a later date if requested by the tribe and warranted by the results of further evaluation.

FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain and improve our capability to prepare for, protect against, respond to, recover from and mitigate all hazards.

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The social media links provided are for reference only. FEMA does not endorse any nongovernment websites, companies or applications.



Direct or Sub Recipient Considerations

- Cost sharing
- Impact on neighboring jurisdictions
- Responsibility for application and administration
- Scale of event
- Reimbursement timeline
- Valuation of time and material lost

Tribal Leadership Responsibility

- Tribal leadership decision to be direct or sub-recipient.
- If direct recipient, the Tribal Chief Executive must make a request to the President.

Intergovernmental Agreements in Emergency Preparedness

- Address cross-jurisdictional goals and resolve outstanding differences and legal uncertainties *before* a disaster or emergency occurs
- Leverage collective resources in manpower, funding, equipment, etc.
- Establish and specify roles, responsibilities, and authorities
- Foster increased trust, communication, and an understanding of mutual priorities

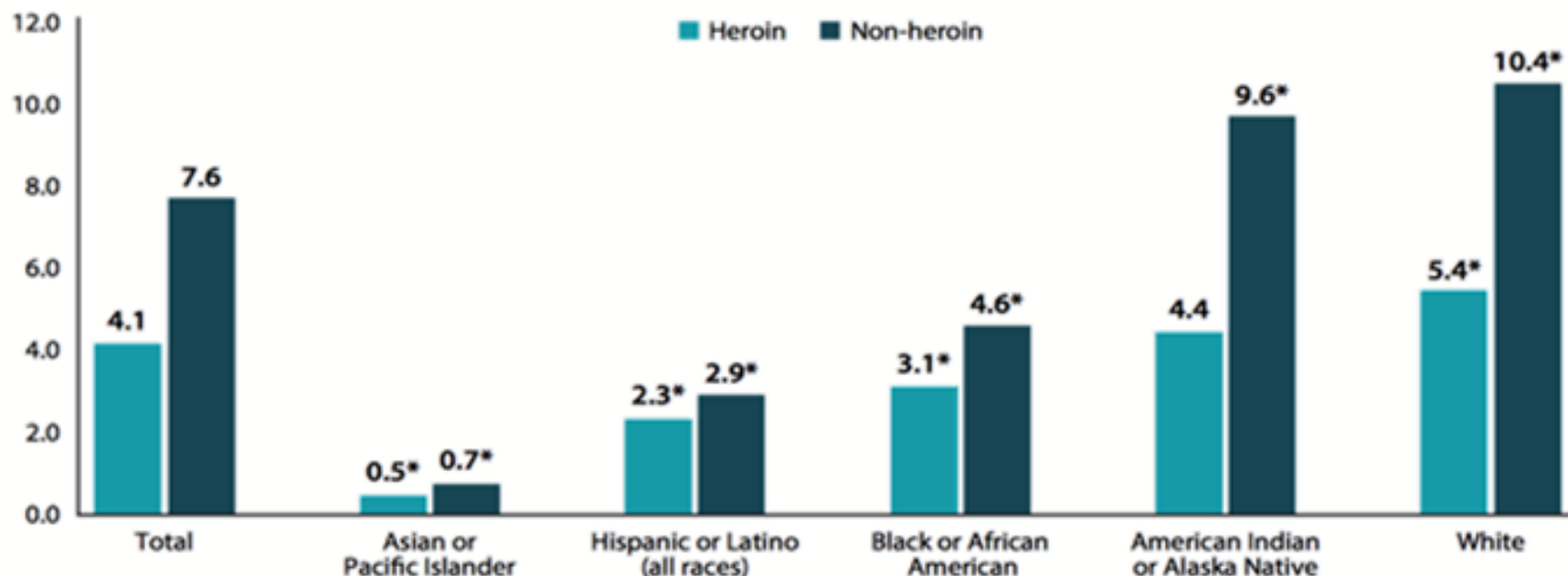
Legal Preparedness Issues to Consider

- Does your Tribal Nation have:
 - Emergency operations plans
 - A public health department
 - A public health code
- Who conducts disease surveillance for your Tribe?
- What types of events does your Tribal Nation face most often?

THE IMPORTANCE OF TRIBAL LEGAL PREPAREDNESS: AN EXAMPLE

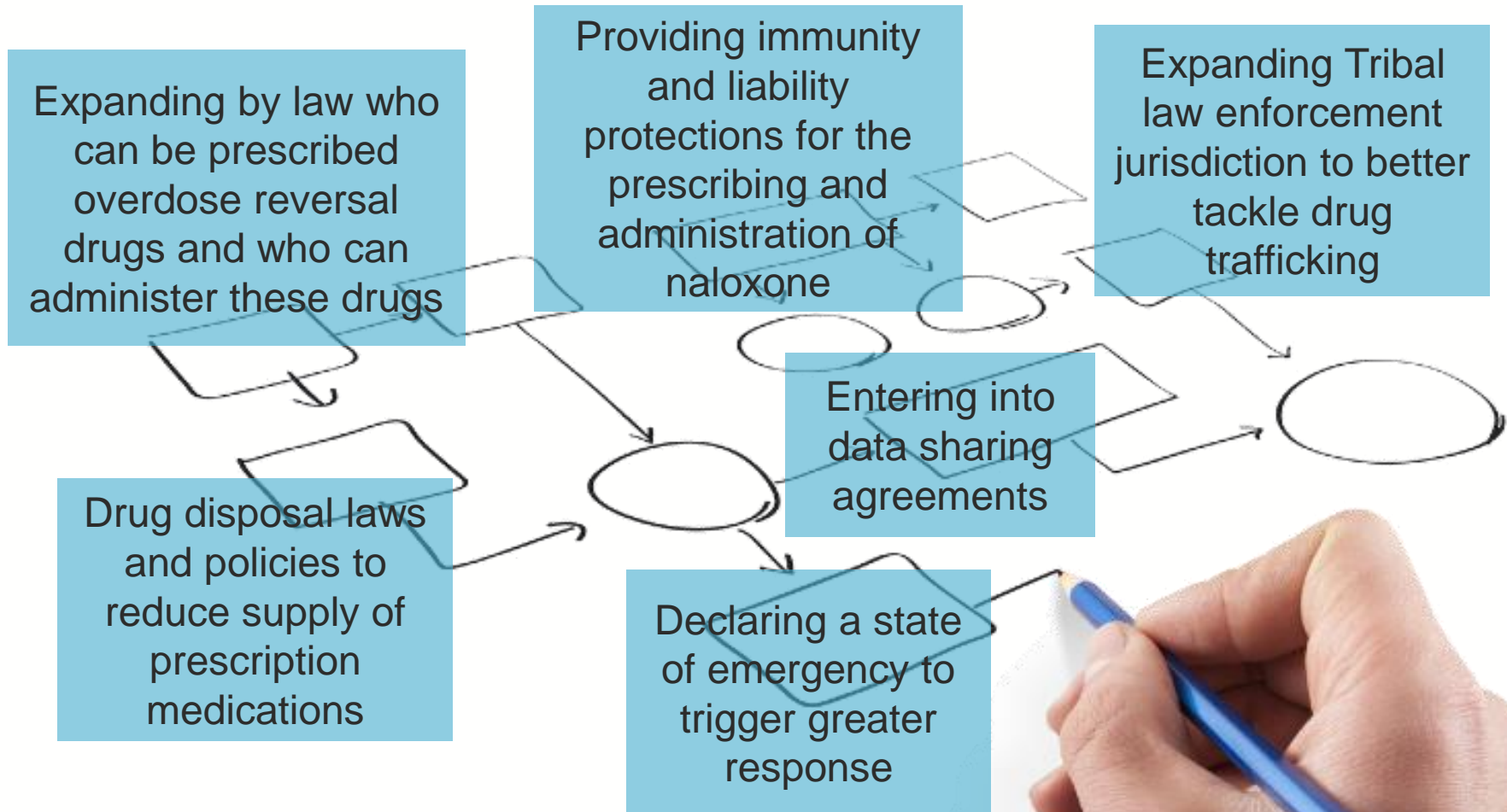
Battling the Opioid Crisis

U.S. Heroin and Non-heroin Opioid death rates per 100,000 people by race/ethnicity, 2015



* Statistically significant difference from total rate at 95% level. Source: SHADAC analysis of vital statistics data from the CDC WONDER system.

Battling the Opioid Crisis: How Can Tribal Legal Preparedness Help?





PREPARING FOR A PUBLIC HEALTH EMERGENCY TRIBAL LEGAL PREPAREDNESS PROJECT

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Welcome to the Tribal Legal Preparedness Project

Public health emergencies, including infectious disease and natural disasters, are issues that every community faces. To address these threats, it is critical for all jurisdictions to understand how law can be used to enhance public health preparedness, as well as improve coordination and collaboration across jurisdictions. As sovereign entities, Tribal governments have the authority to create their own laws and take the necessary steps to prepare for and respond to public health emergencies. Thus, legal preparedness for Tribal governments is crucial to public health response. There are 573 federally recognized Indian Tribes in the United States, each of which is a sovereign entity with authority to create laws. The Tribal Legal Preparedness Project (TLPP) has been established to assist Tribal Nations interested in expanding their legal preparedness capacity.



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Tribal Legal Preparedness Project

A729 Crabtree Hall
130 DeSoto St.
Pittsburgh, PA 15261
Phone: 412-383-2400
Fax: 412-383-2228
E-mail: tlpp@pitt.edu

tlpp.pitt.edu



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Training Modules

Four modules were developed by the TLPP:

- What Is Legal Preparedness And Why Is It Important To Tribal Nations
- Jurisdictional Issues And Using The Law To Enhance Cross Jurisdictional Collaboration
- Disaster Declarations
- Best Practices

The modules provide an introduction to legal preparedness that can be used to educate Tribal leadership, discuss how the law can be used to achieve cross-jurisdictional coordination, and explain the disaster declaration mechanism, including the new direct Tribal disaster declaration process. The last module provides an array of best practices shared by Tribal Nations, including audio and video recordings of Tribal public health/emergency management practitioners, so that Tribal Nations are sharing their success stories and helping other Tribes.

What Is Legal Preparedness And Why Is It Important To Tribal Nations

This first module in the series of modules provides an overview of legal preparedness, discusses the importance of the law to public health emergencies, and describes ways the law can enhance preparedness for Tribal Nations.

Learning objectives

- Define legal preparedness and its importance to public health emergencies;
 - Describe why Tribal Nations should be concerned about preparedness and how laws can enhance preparedness for Tribal Nations; and,
 - Discuss two examples to highlight the importance of legal preparedness for Tribal Nations.
-

Jurisdictional Issues And Using The Law To Enhance Cross Jurisdictional Collaboration

This module describes how the law can assist with collaboration and coordination for emergency preparedness, response, and recovery, as well as how intergovernmental agreements can enhance cross-jurisdictional coordination and provide the opportunity to address issues and resolve disputes in advance before a disaster or emergency occurs. Additionally, this module provides recommendations to ensure successful intergovernmental agreements.

Learning Objectives:

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A729 Crabtree Hall
130 DeSoto St.
Pittsburgh, PA 15261
Phone: 412-383-2400
Fax: 412-383-2228
E-mail: tlpp@pitt.edu

tlpp.pitt.edu



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Articles

Government Documents

Other Documents

Reports

Toolkits

Useful Websites

Sample Plans, Codes, and Regulations

Webinars and Trainings

Tribal Organizations/Groups

Supporting Organizations

Conferences

Resource Library

Public health emergencies, including infectious disease outbreaks and natural disasters, are issues that every community faces. To address these threats, it is critical for all jurisdictions to understand how law can be used to enhance public health preparedness, as well as improve collaboration and coordination across jurisdictions. This Resource Library is designed to provide relevant resources to Tribal Nations seeking to enhance their legal preparedness capacity. While most resources have a Tribal focus, some resources are included that are generally applicable to legal preparedness for public health emergencies and natural disasters.

Articles

Administrative Preparedness Strategies: Expediting Procurement and Contracting Cycle Times During an Emergency

This article describes an assessment of whether administrative preparedness processes that were intended to expedite the acquisition of goods and services during a public health emergency affect estimated procurement and contracting cycle times using data from 2014-2015 applications to the Hospital Preparedness Program and Public Health Emergency Preparedness (HPP-PHEP) cooperative agreements. *Public Health Reports* (2017)

Assessing Cross-sectoral and Cross-jurisdictional Coordination for Public Health Emergency Legal Preparedness

This article highlights the need for coordinated planning and action among jurisdictions when responding to disasters and emergencies. *Journal of Law, Medicine and Ethics* (March 3, 2008)

Assessment of Public Health Workforce Bioterrorism and Emergency Preparedness Readiness Among Tribes in Washington State: a Collaborative Approach Among the Northwest Center for Public Health Practice, the Northwest Portland Area Indian Health Board, and the Washington State Department of Health

This article examines the collaboration, methodology, results, and lessons learned stemming from the experience of a unique university, state, and Tribal collaborative model for public health emergency preparedness assessment

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Summary

- Legal preparedness is important for public health emergencies.
- Intergovernmental agreements can enhance cross-jurisdictional coordination.
- Tribal nations can now directly request a disaster declaration, and the Tribal Chief Executive is responsible for requesting the declaration.
- TLPP resources can assist Tribal Nations interested in enhancing their preparedness capacity.



Questions?

Contact

Tina Batra Hershey, JD, MPH

Assistant Professor, Health Policy & Management

Associate Director for Law and Policy, Center for Public Health Practice

Graduate School of Public Health

Adjunct Professor of Law

University of Pittsburgh

tbh16@pitt.edu

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visit:**

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