

Centers for Disease Control and Prevention



Tribal Public Health: Law, Governance, and Leadership

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Presentation Overview

- Icebreaker
- Background on CDC's Public Health Law Program
- Introduction to Public Health Law
- Introduction to Tribal Public Health Law
 - Tribal Sovereignty and Inherent Tribal Authority
 - Tribal Law
 - Federal Indian Law
- Discussion of the Role of Law, Governance, and Leadership on Tribal Public Health



Icebreaker

The 10 Great Public Health Achievements: The Role of Law

The 10 Great Public Health Achievements

1. Vaccination
2. Motor vehicle safety
3. Safer workplaces
4. Control of infectious disease
5. Decline in deaths from coronary heart disease and stroke
6. Safer and healthier foods
7. Healthier mothers and babies
8. Family planning
9. Fluoridation of drinking water
10. Recognition of tobacco use as a health hazard



Public Health Achievement	Selected Laws/Legal Tools
Vaccination	School vaccination laws; childhood vaccination programs
Motor vehicle safety	Speed limits; alcohol laws; helmet and seatbelt laws; child safety seat laws; graduated driver licensing
Safer workplaces	Authority to inspect for unsafe conditions; inspection of workplace safety/minimum standards, including toxic exposure
Control of infectious disease	Sanitary codes; drinking water standards; quarantine/isolation laws; mosquito/rodent control; food inspection
Decline in heart disease/stroke	Education/information programs; food labeling; bike and walking paths

Public Health Achievement	Selected Laws/Legal Tools
Safer/healthier foods	Inspection/minimum standards for retail food; mandated enrichment of flour; standards for chemicals; school lunch programs
Healthier mothers/babies	Milk pasteurization; drinking water code; education/information programs; Medicaid services and funding; WIC
Family planning	Authorization for birth control services; authority to provide prenatal/postnatal care to indigent mothers
Fluoridation of drinking water	Laws/ordinances authorizing drinking water fluoridation
Recognition of tobacco use as a health hazard	Excise taxes; restriction on sale to minors; smoke-free laws; education/information programs; lawsuits leading to settlement agreements

CDC's Public Health Law Program

CDC's Public Health Law Program

- **What we do**
 - Advance the use of law as a public health tool
- **How we do it**
 - Legal epidemiology: legal mapping and legal evaluation
 - Legal guidance for research: memos, literature reviews, resource navigation, peer review
 - Research innovation: methodology reviews, logic modeling, funding, translation
 - Workforce development: webinars, trainings, training materials, fellowships, internships, and externships



CDC's Public Health Law Program

- Who we serve
 - CDC programs and state, tribal, local, and territorial health departments
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State School and Childcare Vaccination Laws

State school and childcare vaccination laws and polar graph on state school vaccination exemption laws

Emergency Preparedness

Publications & Resources

Introduction to Public Health Law

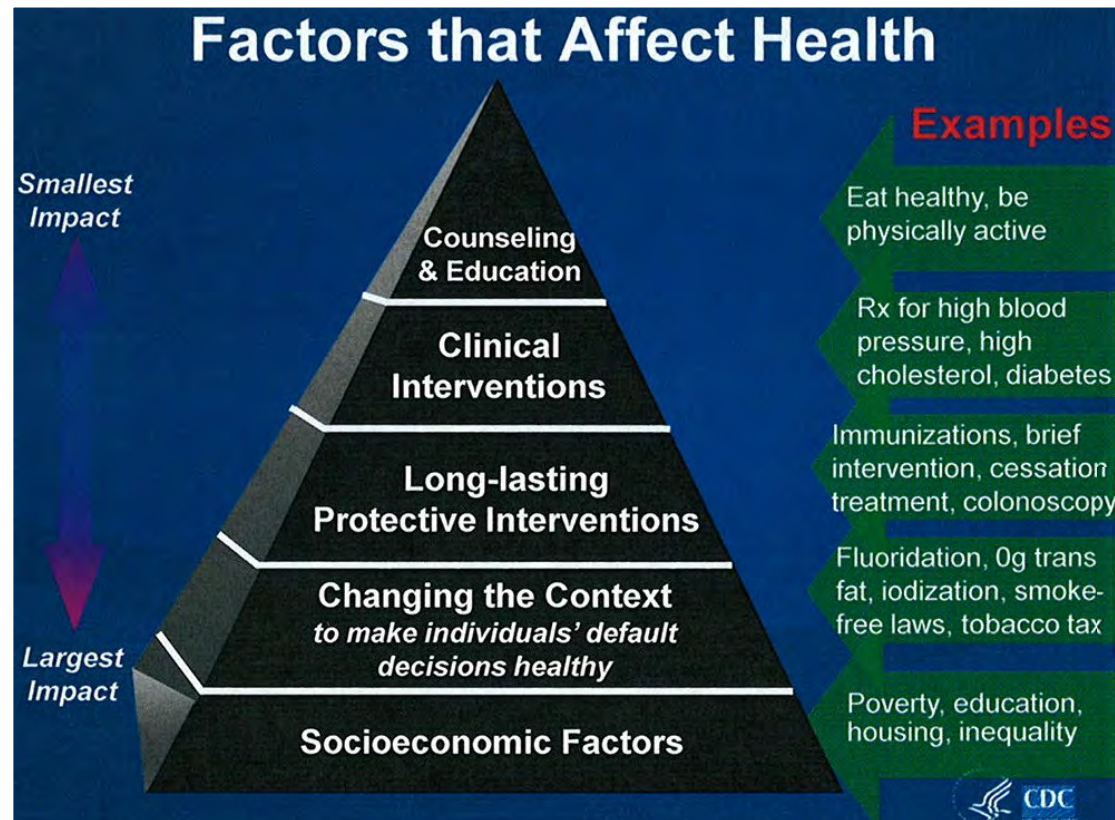
Why Public Health Law?

- Public health law is the *foundation* for governmental public health in the United States.



Why Public Health Law?

- Law is an effective public health *intervention*.



What is Public Health Law?

“The state’s legal powers and duties, in collaboration with its partners, to ensure the conditions for people to be healthy, and the limits on the state’s power to constrain individual rights.”

What is Public Health Law?



Introduction to Tribal Public Health Law

What Is Tribal Public Health Law?

- Tribal Public Health Law refers to any body of law—tribal, federal, state, or other—that can affect the population health of American Indian and Alaska Native communities.
- Tribal Public Health Law is based on three principles:
 - Tribal nations maintain inherent sovereignty.
 - Tribes exercise this sovereignty through tribal law and governance.
 - Federal Indian law affects the relationship between tribes, states, and the federal government.



Tribal Sovereignty and Tribal Inherent Authority

- Tribes have inherent authority as sovereign nations to protect and promote the health and welfare of their citizens using the methods most relevant for their communities.
- Tribal inherent authority is a “plenary and exclusive power over their members and their territory, subject only to limitations imposed by federal law” and includes the power to determine the form of tribal government and the power to legislate and tax, among others.



What Do You Mean by Tribal law?

- Tribal Law
 - Laws of individual tribes, including constitutions, codes, case law, and customary law



Cultural Sovereignty

“Political sovereignty and cultural sovereignty are inextricably linked, because the ultimate goal of political sovereignty is protecting a way of life.”

W. Richard West (Cheyenne-Arapaho)



Cultural Sovereignty

“The concept of cultural sovereignty encompasses the spiritual, emotional, mental, and physical aspects of our lives. Because of this, only Native people can decide what the ultimate contours of Native sovereignty will be.”

Wallace Coffey and Rebecca Tsosie
Former Chairman, Comanche Nation
Professor of Law, University of Arizona



Cultural Sovereignty

“Cultural sovereignty is the heart and soul that you have, and no one has jurisdiction over that but God.”

Wallace Coffey

Former Chairman, Comanche Nation




Constitution of the Standing Rock Sioux Tribe

“The Tribal Council shall exercise the following powers...[t]o promote and protect the health, education and general welfare of the members of the Tribe, and to administer charity and such other services as may contribute to the social and economic advancement of the Tribes and its members.”

Article IV, Section 1(c)

Constitution of the Standing Rock Sioux Tribe, available at www.standingrock.org/data/upfiles/files/Constitution%2012-31-09%20Revised.pdf (last visited Aug. 19, 2016).



Little Traverse Bay Bands of Odawa Indians Waganakising Odawa Tribal Code of Law

6.3003. Creation Of The Department

The Tribal Council hereby approves the creation of the Health Department within the Executive Branch of government.

Little Traverse Bay Bands of Odawa Indians Waganakising Odawa Tribal Code of Law

6.3004. Authority And Duties

A. The Department shall have the following duties under the direction of the Director:

1. Promote, design and implement health programs for each facet of our tribal community.
2. Strive to improve and enhance the understanding of health-related issues within our community and in the greater community.
3. Assist with annual community events that incorporate health and wellbeing.
4. Provide services and programs that increase health and wellbeing.

Little Traverse Bay Bands of Odawa Indians Waganakising Odawa Tribal Code of Law

6.3004. Authority And Duties (cont.)

5. Administer health-based programs, grants and projects that assist our Tribal Citizens with an awareness of the unique needs of our Tribal Citizens.

6. Establish more interactive resources for Tribal citizens that utilize the most current and feasible technologies.

7. Administer all Indian Health Services' health-related programs and funding received by the Tribe, as appropriate.

8. Administer all funds and grants to the Tribe related to health matters, as appropriate.

Little Traverse Bay Bands of Odawa Indians Waganakising Odawa Tribal Code of Law

6.3004. Authority And Duties (cont.)

9. Establish appropriate programs such as health clinic, dental clinic, contract health, healthy start, community outreach, diabetes self-management, substance abuse, mental health and any other applicable health related opportunities.

Klimmek v. Oneida HRD-Benefits

Oneida Tribal Judicial System: Trial Court

Not Reported in Am. Tribal Law, 2005 WL 6425720 (Oneida Trial Ct.)
Only the Westlaw citation is currently available.
Oneida Tribal Judicial System,
Trial Court.

KLIMMEK, Christine, Petitioner

v.

ONEIDA HRD-BENEFITS, Crawford & Co., Respondent.

No. 04-TC-093.

Jan. 12, 2005.

Judicial Officers Winnifred L. Thomas, Janice L. McLester and Leland Wigg-Ninham presiding.

Final Decision

*1 This case has come before the Oneida Appeals Commission.

I. Background

Due to a fall on June 30, 2004, Christine Klimmek sustained injuries to her upper lip, requiring six stitches. Ms. Klimmek strained muscles in her back, neck, shoulders and right arm, Ms. Klimmek also sustained scrapes on forehead, palms and knees. As a result of this Ms. Klimmek has been experiencing headaches. The injury report stated Ms. Klimmek slipped while she was trying to stand on a rock to draw a design of a labyrinth when she fell about three to four feet landing onto crushed rocks.

Navajo Nation Code

Health Commitment Act of 2006

“The Navajo principle of k'é (respect, solidarity, compassion and cooperation) shall be applied at all steps of the civil commitment, evaluation, treatment processes, and reintegration of the afflicted person into the community.”

NAVAJO CODE tit. 13, § 2101 (C) (2009)



What Do You Mean by federal Indian law?

- Federal Indian Law
 - The legal framework governing the rights, responsibilities and relationships between tribes, states, and the federal government



Principles of Federal Indian Law

- Tribal Sovereignty Doctrine
- Plenary Power Doctrine
- Trust Responsibility and the Trust Relationship
- Criminal and Civil Jurisdictional Issues
 - Role of State and Federal Governments
 - Mutual Aid Agreements and Memoranda of Understanding
 - Unique Jurisdictional Structures, i.e., Public Law 280



Federal Law



Public Health Law

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Tribal Epidemiology Centers Designated as Public Health Authorities Under the Health Insurance Portability and Accountability Act

In 2010, Congress enacted the Patient Protection and Affordable Care Act (ACA),¹ which permanently reauthorized the Indian Health Care Improvement Act (IHCIA).² Originally passed in 1976 and subsequently amended, IHCIA declares that “it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.”³ IHCIA established the legal and programmatic structure for providing health services to American Indian and Alaska Native populations (AI/AN).⁴

Federal Law



Public Health Law

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Senators Introduce Bill on Tribal Healing to Wellness Courts

On October 22, 2015, US Senators Jon Tester [D-MT] and Alan “Al” Franken [D-MN] introduced a bill, the Tribal Healing to Wellness Courts Act, to assist tribal nations in establishing Tribal Healing to Wellness Courts.¹ Tribal Healing to Wellness Courts are a form of drug court, adapted to fit the unique culture, history, and community needs of tribal nations.²

**Tribal Public Health:
Law, Governance, and Leadership**

Role of Law, Governance, and Leadership

- Law provides a framework for the relationships between sovereigns.
- Tribal law establishes health departments and provides authority to tribal governments to engage in activities that promote health.
- Tribal law establishes public health interventions.
- Tribal leaders can identify gaps in tribal codes and pass laws that address these gaps.
- Tribal leadership can implement laws and policies and ensure their proper enforcement.



Thank you!

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For more information, contact CDC
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TTY: 1-888-232-6348 www.cdc.gov

The findings and conclusions in this report are those of the authors and do not necessarily represent the official position of the Centers for Disease Control and Prevention.

