

The Prevention Measures Law Project 3.0

**A Practical, Field-Tested Methodology to Assess Your Jurisdiction's
Legal Landscape to Address Communicable Disease Outbreaks
(formerly "The Social Distancing Law Project")**

USER GUIDE

"The Social Distancing Law Project provided a very valuable tool for Michigan to improve its legal preparedness for pandemic influenza. It provided a framework to consolidate legal work we had already completed through a structured and comprehensive assessment. I highly recommend the project to other state health directors." – Janet Olszewski, M.S.W., Director, Michigan Department of Community Health

The Network for Public Health Law and
The Association of State and Territorial Health Officials

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The original Social Distancing Law Project tool was developed in 2007 by Karen Leeb, J.D., M.L.S., Policy Analyst, and Richard Goodman, M.D., J.D., M.P.H., Co-Director, with the Centers for Disease Control and Prevention Public Health Law Program. The tool was updated in 2009-2010 by Sterling Elliott, M.P.H., Director, Preparedness & Clinical Outreach with the Association of State and Territorial Health Officials, and Stacie Kershner, J.D., then a Legal Fellow with the Oak Ridge Institute for Science and Education at the Centers for Disease Control and Prevention Public Health Law Program (now the Office of Public Health Law Services).

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DISCLAIMER

Information contained in this document should not be construed to represent any determination or policy of the Centers for Disease Control and Prevention and does not represent legal advice or guidance. Always seek the advice of a qualified attorney for legal advice and guidance.

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Chapter 1:

IMPLEMENTING THE PREVENTION MEASURES LAW PROJECT

Introduction

The Prevention Measures Law Project (PMLP)¹ is a tool for a state, Tribe, locality, or territory, to assess the jurisdiction's legal landscape for implementing prevention measures in the context of a disease outbreak, such as influenza, COVID-19, or other novel disease threat. The PMLP has two core components:

- The Prevention Measures Legal Assessment
- The Prevention Measures Legal Consultation Meeting

These components can help guide how jurisdictions examine legal authorities and operational issues impacting the use of 10 key disease prevention measures, such as quarantine, school closures, and vaccine distribution. Both components are customizable and flexible, allowing jurisdictions to choose which measures to assess as time, capacity, and institutional priorities allow.

This User Guide is provided as a manual for the Project Lead (defined below) to implement the PMLP. Additional information about the PMLP is available in the accompanying report. The report includes history, context, content development, and supporting information that can be used to better understand the PMLP.

Preparing the Project

Engaging the jurisdiction's leadership is a critical first step in planning the project. The jurisdiction's Chief Health Official should be invested and involved in the PMLP because of its significance to developing comprehensive preparedness for disease outbreaks and because the project can have far-reaching implications for many other government agencies, departments, and private-sector organizations that are involved in the response to a disease outbreak.

Key steps in organizing and planning for the project include:

- *Identifying the Project Lead*
Ideally, the Project Lead is a respected senior staff member who has the support of health department leadership to coordinate the project and keep it moving forward. This person will communicate with subject matter experts and coordinate logistics.
- *Identifying Project Team Members and Forming the Project Team*

¹ The Centers for Disease Control and Prevention Office of Public Health Law Services and the Association of State and Territorial Health Officials conducted earlier versions of this tool, formerly called the Social Distancing Law Project (SDLP) with 24 state and territorial jurisdictions in 2007 and 2009-2010. Together with the Network for Public Health Law, they have updated the tool in 2022-2023 in light of lessons learned from response to COVID-19. In keeping with current public health terminology, this manual uses the term "physical distancing" because, if implemented properly, these measures should not create a barrier to social engagement. The term "prevention measure" is used because both non-pharmaceutical "physical distancing" measures and measures to facilitate access to and increase uptake of pharmaceutical interventions are addressed by this tool.

The Project Lead should work with Public Health Legal Counsel and leadership from agencies and departments who play a role in implementing the prevention measures (e.g., public health, emergency management, education, law enforcement agencies), as well as counterparts in health care and other non-profit and private sectors, to identify and enroll members of the Project Team. Inclusion of representatives from jurisdictions with overlapping legal authority is recommended. Involving a skilled public health/risk communicator is also advised. Ultimately, the agencies, departments, and partners you include will depend on the specific measures you choose to assess.

The Project Lead may wish to also include administrative staff who will be assisting with logistics as part of the Project Team.

- *Developing a Plan for the Project*

Once the Project Team is formed, the Project Lead should arrange a meeting to develop a plan for conducting the Legal Assessment using the Template and Legal Consultation Meeting with the Tabletop Exercise (see Chapters 2 and 3 for more information). The plan should include important components such as a project timeline, a designation of who is responsible for conducting the Legal Assessment, a designation of who is responsible for organizing and conducting the Legal Consultation Meeting, and a designation of who is responsible for preparing reports on the meeting's findings, next steps, and plan for sustainability.

- *Scaling the Project*

The PMLP is designed to be completed as a comprehensive examination of a jurisdiction's legal authorities for the prevention measures. Jurisdictions that conduct all the project components will thoroughly identify and assess their laws and tested them in the hypothetical environment of a tabletop exercise to determine the existence of any gaps or areas of improvement. However, if jurisdictions does not have the time, resources, or personnel to devote to completing the entire PMLP all at once, the project, the Project Team can assess the jurisdiction's capacity and determine whether scaling the project to meet the jurisdiction's needs is appropriate. The tool is intended to be customizable and can be modified in many ways, such as:

- The tool focuses on ten prevention measures. Rather than completing all the measures at once, a jurisdiction may decide to select one or more of the measures to focus on, completing the relevant questions in the assessment template and focusing on the portions of the tabletop most relevant to those measures.
- The jurisdiction could complete one prevention measure per month with a shorter discussion, rather than a full day consultation meeting on all the measures.
- The jurisdiction could host the consultation meeting remotely rather than in person, to reduce the time and expense associated with travel. This could be a full consultation meeting on all the measures or a shorter meeting for one or more measures.
- As noted in the Legal Assessment Template chapter, jurisdictions may consider having a public health practitioner or a law student intern or fellow research and draft an initial response to the template questions, and then have Public Health Legal Counsel review and edit the document.

- o As noted in the Legal Consultation Meeting chapter, jurisdictions may wish to keep the meeting to a few key people and then reach out to others who would be involved in a response after the meeting for further discussion.
- o Jurisdictions who have examined their laws recently could begin with the Legal Consultation Meeting and Tabletop Exercise, and use it to both practice and identify areas to go back over with the Legal Assessment.

These are only a few potential modifications to this tool. The Project Team is encouraged to think of other ways to adapt the tool to work for their jurisdiction.

- *Developing a Budget*

While PMLP can be completed with minimal costs aside from labor, the Project Team may wish to dedicate funds for any or all the following costs:

- Travel/lodging for Legal Consultation Meeting speakers and participants
- Food to be served to Legal Consultation Meeting speakers and participants
- Space reservation fees
- IT/AV support
- Webinar costs for remote participation
- Project organizer or consultant rates
- Salary buy-out for employees focusing extensive time on the project

Funding for these or other project-related costs may be allocated from the public health agency or department budget. Alternatively, the Project Team may wish to seek donations, sponsorships, or grant funding to support this project from local, state, or national public health or philanthropic organizations. The Project Team may also assess whether the PMLP meets the requirements for the Public Health Emergency Preparedness (PHEP) cooperative agreement or other federal programs, and whether funds from these programs may be used.

Chapter 2:

ASSESSING LEGAL AUTHORITY FOR PREVENTION MEASURES

Overview

The Prevention Measures Law Project (PMLP) Legal Assessment involves an analysis of the jurisdiction's laws, regulations, policies, and plans related to disease prevention measures using the provided template. The purpose of the analysis is to identify the full range of all such legal authorities available to the public health agency or department of the jurisdiction, other overlapping jurisdictions, and to the other agencies that would be involved in supporting these prevention measures against a communicable disease outbreak. The jurisdiction's Public Health Legal Counsel should conduct or supervise the completion of the Legal Assessment Template below and drafting of the Legal Assessment Report analyzing the jurisdiction's laws, regulations, policies, and plans related to physical distancing and other disease prevention measures. If capacity is a concern, the jurisdiction may want to consider hiring a temporary attorney, fellow, or law student, or offering an internship, to research and draft initial responses to the Legal Assessment Template, under the supervision of the Public Health Legal Counsel.

Overview of the Legal Assessment Template

The Legal Assessment Template contains a series of questions that are organized to aid the Public Health Legal Counsel in compiling the legal authorities that support key types of non-pharmaceutical and pharmaceutical prevention measures and clarifying critical operational issues associated with those measures. *Jurisdictions can choose to assess all the measures or select one or more measures based on capacity and priorities.*

The prevention measures addressed in the template include:

- I. Restriction on the Movement of Individual Persons
- II. Contact Tracing
- III. Restriction on the Movement of Communities or Groups within or into the Jurisdiction
- IV. Exclusion of Students, Cancellation or Altered Practices of Schools
- V. Closure or Altered Practices of Public Places
- VI. Cancellation or Altered Practices of Mass Gatherings
- VII. Mandates for Masks, Gloves, and Other Personal Protective Equipment
- VIII. Requirement for a Health Screening or Proof of Negative Test
- IX. Vaccine Mandates and Proof of Vaccine Requirements
- X. Distribution of Mass Prophylaxis

Within each of these areas, questions are posed regarding the legal basis for using the prevention measure, who is authorized to use that measure, procedures for implementation, due process and other protections for those subject to the measure, and other related issues. The questions are designed to be asked twice, under two contexts:

- **No emergency order in place** – The first concerns legal authorities to support the prevention measures when there is not an emergency order, and the actions the jurisdiction can take fall under the jurisdiction’s non-emergency, everyday legal authorities.
- **Emergency order in place** – The questions are then repeated for when there is an emergency order in place. These orders tend to expand the availability of options to prevent or control a disease outbreak.

While working through the specific questions in the template, the Public Health Legal Counsel may find there are additional prevention measures not covered by the questions but available to the jurisdiction through existing legal authorities. The template can be customized to address these measures as well.

Additional questions examine interjurisdictional cooperation, whether other jurisdictions may also have concurrent or conflicting authority, whether there are concerns of preemption, and whether mutual aid or other agreements exist.

Public health laws establish the legal authority to act, but rarely provide a clear course of action about whether, when, and how to act. Most decisions are discretionary, relying on professional judgment, subject-matter expertise, and the best currently available information. Decision makers must balance competing interests to avoid acting prematurely without sufficient information or exposing the public to potential harm while obtaining and evaluating evidence that supports a particular course of action. The Network for Public Health Law has developed the Public Health Executive Decision-Making Tool², described in further detail below. While most of the questions in the Legal Assessment Template are designed to examine the sufficiency of the legal authority for the various prevention measures, the template also includes questions to help guide discretionary decision making. The Public Health Legal Counsel should be at the table with other senior leadership when discussing information important to making discretionary decisions, as there can be legal and ethical implications.

Public participation and community engagement processes³ are best practices in public health research and needs assessments. These approaches center the community and involve it in each step of the policy, budgeting, or research process. Using a community engagement process is valuable for working with the community to identify goals and values that citizens in this jurisdiction prioritize should a disease outbreak or other emergency occur. Having structured conversations with different sectors of the community during a non-emergency time can help to inform decision-making during an outbreak. These goals and values should then be clearly articulated to the public in advance of and during an outbreak.

² Chrysler, D. (2020, June 23). *Public health decision-making tool*. Network for Public Health Law. <https://www.networkforphl.org/resources/public-health-decision-making-tool/>

³For helpful information on community engagement generally, see *Community Engagement Guide*. (n.d.). Washington State Department of Health. <https://doh.wa.gov/sites/default/files/legacy/Documents/1000/CommEngageGuide.pdf> and *Principles of Community Engagement*, 2nd Edition. (2015). ATSDR. <https://www.atsdr.cdc.gov/communityengagement/index.html>. For a description of Public Participation specifically, see *Public Participation Guide: Introduction to the Guide*. (2022). U.S. Environmental Protection Agency. <https://www.epa.gov/international-cooperation/public-participation-guide-introduction-guide>. For a description of Community-Based Participatory Approach (CBPA) specifically, see *Community-Based Participatory Approaches*. (n.d.). Virginia Department of Health. <https://www.vdh.virginia.gov/health-equity/community-based-participatory-approaches/#:~:text=A%20Community%2DBased%20Participatory%20Approach,socially%20disadvantaged%20and%20marginalize d%20communities>.

Public Participation seeks community input and support for government policies, while the government works with the community to develop policies using community-based participatory approaches. Both are examples of community engagement.

Another important consideration is whether redundancy is built into the legal authorities. Duplication or overlap within systems or institutions may seem inefficient, conflicting, or confusing. However, when responding to a disease outbreak or other public health emergency, having multiple legal authorities for interventions that may be implemented to achieve the same public health goals can be beneficial. Redundancy can expand capacity, create systemic resilience, and offer alternatives should the original chosen intervention not be possible or be revoked. For example, if the original intervention is preempted by a higher level jurisdiction or struck down by the courts. It is important that any redundant laws or policies be identified, prioritized, and implemented in a transparent and coordinated manner.⁴

The Legal Assessment Report

The Legal Assessment Template can be used by the Public Health Legal Counsel to draft a Legal Assessment Report. This report serves two important purposes:

- **Assessment and Assurance** – The report should describe the sufficiency of the jurisdiction’s legal authorities to support prevention measures in the context of a disease outbreak, as described in the Legal Assessment Template. In addition, the report should highlight actual or potential gaps and ambiguities in those authorities and impediments to their effective implementation. The findings presented in the report may give assurance that the jurisdiction’s legal authorities to respond to a disease outbreak and mitigate spread are sufficient or, alternatively, may indicate that steps should be taken to correct problems identified through the assessment.
- **Reference and Resource** – The report, as an inventory of the relevant public health laws, should be an important resource for the jurisdiction’s Legal Consultation Meeting. That meeting will include presentations and a tabletop exercise (described below) testing the jurisdiction’s ability to implement law-based prevention measures effectively during a communicable disease outbreak. The report will help familiarize participants with the legal authorities for these measures before the Legal Consultation Meeting and serve as a reference during the meeting and when responding to a future disease outbreak.

In the Legal Assessment Report, the responses from the Legal Assessment Template should be captured in a way that is easily shared with others in key response roles. At minimum, the Legal Assessment Report should:

- Specify the legal authority for prevention measures,
- Describe the circumstances under which these measures may be implemented and by whom,
- Examine compliance and enforcement,
- Specify necessary resources, and
- Identify potential disparate impact.

It is recommended that the report also include a “table of authorities” as an appendix that presents citations to all the relevant legal authorities and procedures (including, for example, statutes, regulations, case law, attorney general opinions, and guidance documents), the texts of those authorities and procedures, and

⁴ Gable, L. and Meier, B.M. (2013). *Complementarity in Public Health Systems: Using Redundancy as a Tool of Public Health Governance*. *Annals of Health Law*, 22:224. <https://lawecommons.luc.edu/annals/vol22/iss2/4>.

hyperlinks, if available, to relevant statutes, regulations, court rulings, and other legal resources. The report can also include reference to other legal and policy documents developed for the jurisdiction, such as crisis standards of care, preparedness plans, or bench books for the courts. If these other legal and policy documents are not available in this jurisdiction, the Legal Assessment can lay the groundwork for developing these valuable resources.

DRAFT

Prevention Measures Law Project Legal Assessment for [Jurisdiction]

As of [Date]

Contacts

[Public Health Official
Name, Title, Email]

[Public Health Legal Counsel
Name, Title, Email]

[Research conducted and document prepared by
Name, Title, Email if different than above]

Definitions

- “Contact tracing” means working with a person known or reasonably believed to be infected by or exposed to a communicable disease to identify other people with whom they have had close contact in order to provide information and support to the close contact and to prevent additional exposures to others.
- “Closure of public places” means an instruction or order that has the effect of prohibiting persons from entering a public place.
- “Higher level jurisdiction” means the federal government in respect to a state, or a state in respect to a locality.
- “Legal authority” means any provision of law or policy that carries the force of law, including, for example, statutes, rules and regulations, ordinances, and court rulings.
- “Lower level jurisdiction” means a state in respect to the federal government, or a locality in respect to a state government.
- “Mass gathering” means an assembly or grouping of many people in one place where crowding is likely, whether formal or informal, public or private, and whether for one day or many.
- “Prevention measures,” often referred to as social distancing measures, are measures taken to reduce the spread of disease through a community or population. These are generally non-pharmaceutical

measures; however, for purposes of this document, measures necessary to facilitate access to and increase uptake of pharmaceutical interventions are also included.

- “Procedures” means any procedures established by the jurisdiction relating to the legal question being researched, regardless of whether the procedures have the force of law.
- “Public health emergency” means any acute threat, hazard, or danger to the health of the population of the jurisdiction, whether specific or general, whether or not officially declared.
- “Public place” means a fixed space, enclosure, area, or facility that is usually available for entry by the general public without a specific invitation, whether possessed by government or private parties.
- “Restriction on the movement of communities” means any limit or boundary placed on the free at-will physical movement of all individuals within a particular geographic or other boundary.
- “Restriction on the movement of persons” means any limit or boundary placed on the free at-will physical movement of identifiable individual adult natural persons or a specific group of persons in the jurisdiction.
- [Customize for this jurisdiction by editing definitions above or adding other definitions as needed]

Prevention Measures

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Preliminary Questions

Preliminary Question 1: Goals and Values of the Jurisdiction

In addition to preventing and stemming the spread of communicable disease, what are the goals of the jurisdiction, in order of importance? For example, is preserving ICU capacity a priority? Enabling schools to remain open in person? Keeping all businesses open to the public?

What are the values of this jurisdiction, in order of importance? These may include transparency, autonomy, stewardship of scarce resources, and respect of differences. There are many values that the community may have, which may be competing and require trade-offs.

Jurisdictions should identify goals and values, in advance of a disease outbreak or other public health emergency and through community participatory processes. The goals and values should be clearly articulated to the public before and during an outbreak and used to inform initial decision-making as well as potential changes as the outbreak unfolds.

Preliminary Question 2: Legal Authority for Emergency Declarations

Jurisdictions usually have a broad grant of general public health authority that can be exercised in the absence of or prior to a declaration of public health emergency. Many jurisdictions may have expanded or enhanced authority during a declared public health emergency. Before addressing the prevention measures below, identify the emergency declarations that may be issued in this jurisdiction. For each, describe who may issue the declaration, when and for how long it may be issued, under what circumstances, what emergency powers might it provide, and how it may be renewed or ended. Pay attention to which measures may be available or applicable only under certain declarations. These emergency declarations may include one or more of the following:

- Declaration of an emergency or disaster,
- Declaration of a public health emergency, and
- Declaration of a specific type of emergency that may have public health implications.

Hereinafter, if the jurisdiction has more than one type of emergency declaration, specify which is relevant.

Consider also the declarations available to overlapping jurisdictions that may impact this jurisdiction, such as a state government's ability to issue a declaration that would preempt a local jurisdiction's authority to issue its own declaration. Consider also the declarations available to neighboring jurisdictions, including Tribal jurisdictions. In many cases, consistency and collaboration will be critical.

I. Restrictions on the Movement of Individual Persons and Specified Groups

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. *Legal powers/authorities and procedures to restrict the movement of individual persons or specified groups*

If it becomes necessary to restrict the movement of individual persons or specified groups, what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures (including, but not limited to, police powers for health, safety and welfare; general public health powers; or emergency powers or authorities) that could be used to authorize specific restrictions on movement. (e.g. detention, quarantine, isolation, or separation.) (If there are multiple powers or authorities that can be used to support this same measure, be sure to include responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing the movement restrictions of individual persons or specified groups?
2. Are there any powers or authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed?
5. Who is authorized to declare/order this measure?
6. What are the procedural and due process requirements for this measure?
7. Are court orders needed or are the public health orders self-executing?
8. What is the process for implementing this measure?
 - i. Who is authorized to implement this measure?
 - ii. Are there specific provisions for certain groups of people (e.g., those disembarking from planes or ships, those who are homeless, those in congregate care or prisons)?
 - iii. Where may the measure be implemented and how is this decided?
 - iv. How will the privacy of individuals under this measure be protected?
9. What is the process for ensuring compliance and enforcing this measure?

- i. Which department or agency is responsible for investigating or monitoring compliance with this measure?
 - ii. Which department or agency is responsible for enforcement of this measure?
 - a. Is a traditional law enforcement agency (e.g., police, sheriff, etc.) responsible for enforcement?
 - b. Do any laws prohibit or inhibit traditional law enforcement agencies from enforcement of this measure?
 - iii. May enforcement be shifted to non-public health, non-law enforcement personnel (e.g., healthcare, businesses, transportation operators, school employees)? What may they be authorized to do and how will this be implemented and enforced?
 - iv. May compensation, services, or other incentives be offered to facilitate or encourage compliance with this measure? If yes, what kind and what is the process for providing it?
 - v. What, if any, are the penalties for non-compliance?
10. How long can this measure be in place?
11. Can this measure be changed, renewed, or extended? If yes, who has the authority, what is the process for review, is notice required, and what criteria should be considered?
12. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
13. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to restrict movement of individual persons or specified groups

Assess the sufficiency of the existing legal basis to restrict the movement of individual persons or specified groups and identify any potential gaps or uncertainties in those powers and authorities.

- 1. Are there potential gaps in those legal authorities?
- 2. Are there potential uncertainties about those legal authorities?
- 3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to restrict the movement of persons not otherwise listed above?

C. Interjurisdictional cooperation on restricting the movement of individual persons or specified groups

Consider higher and lower level jurisdictions with additional or concurrent authority to restrict the movement of persons and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or a traditional law enforcement agency have legal authority to assist with executing an isolation or quarantine order issued by the federal government? Enforce an isolation or quarantine order issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal isolation or quarantine order? Enforce a federal isolation or quarantine order?

Consider neighboring or other jurisdictions' authority to restrict the movement of persons and respond to the following questions:

9. What agreements are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional Considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to restrict movement of individual persons or specified groups. (Note, all questions may not be applicable.)

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel available, or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Does the use of a mandate, as opposed to a recommendation, allow individuals and entities to access resources to mitigate social and economic costs (e.g., unemployment benefits, business interruption insurance, etc.)?
10. Is the action politically feasible?
11. Is this the best timing?
12. What challenges might there be to compliance and enforcement?
13. How will action or inaction be communicated to the public?
14. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
15. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
16. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

II. Contact Tracing

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. *Legal powers/authorities and procedures to implement contact tracing*

If it becomes necessary to implement contact tracing, what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures, including, but not limited to, police powers for health, safety and welfare; general public health powers; or emergency powers or authorities that could be used to authorize, prohibit or limit testing requirements. (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing the implementation of contact tracing for disease?
2. Are there any powers or authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed?
5. Who is authorized to declare/order this measure?
6. Who is authorized to implement this measure?
7. What is the process for implementing this measure?
 - i. How is the privacy of the infected or exposed person protected when communicating to people identified as close contacts?
 - ii. Who is able to access information collected through contact tracing?
8. What is the process for ensuring compliance and enforcing this measure?
 - i. Which department or agency is responsible for investigating or monitoring compliance with this measure?
 - ii. Which department or agency is responsible for enforcement of this measure?
 1. Is a traditional law enforcement agency (e.g., police, sheriff, etc.) responsible for enforcement?
 2. Do any laws prohibit or inhibit traditional law enforcement agencies from enforcement of this measure?
 - iii. May enforcement be shifted to non-public health, non-law enforcement personnel (e.g., healthcare, businesses, transportation operators, school

- employees)? What may they be authorized to do and how will this be implemented and enforced (e.g., loss of licensure, fines, etc.)?
- iv. May compensation, services, or other incentives be offered to facilitate or encourage compliance with this measure? If yes, what kind and what is the process for providing it?
 - v. What, if any, are the penalties for non-compliance?
9. What are the procedural and due process requirements for this measure?
 10. How long can this measure be in place?
 11. Can this measure be changed, renewed, or extended? If yes, who has authority, what is the process for review, is notice required, and what criteria should be considered?
 12. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
 13. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to implement contact tracing

Assess the sufficiency of the existing legal basis to implement contact tracing and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there potential gaps in those legal authorities?
2. Are there potential uncertainties about those legal authorities?
3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to require proof of a negative test not otherwise listed above?

C. Interjurisdictional cooperation to implement contact tracing

Consider higher and lower level jurisdictions with additional or concurrent authority to implement contact tracing and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?

5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or traditional law enforcement agency have legal authority to assist with executing an order issued by the federal government? Enforce an order issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal order? Enforce a federal order?

Consider neighboring or other jurisdictions' authority to implement contact tracing and respond to the following questions:

9. What agreements are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise conducting contact tracing that includes other jurisdictions or requires working with other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to implement contact tracing (all questions may not be applicable).

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?

8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?
12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

III. Restriction on the Movement of Communities or Groups within or into the Jurisdiction

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. Legal powers/authorities and procedures to restrict movement of communities or groups within or into the jurisdiction

If it becomes necessary to restrict the movement of communities or groups within or into the jurisdiction, what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures (including, but not limited to, police powers for health, safety and welfare; general public health powers; or emergency powers or authorities) that could be used to authorize specific restrictions on movement. (e.g. stay-at-home orders, geographic area quarantine or cordon sanitaire, other travel restrictions or requirements.) (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing the restricted movement of communities or groups within or into a jurisdiction?
2. Are there any powers or authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed?
5. Who is authorized to declare/order this measure?
6. What are the procedural and due process requirements for this measure?
7. Are court orders needed or are the public health orders self-executing?
8. What is the process for implementing this measure?
 - i. Who is authorized to implement this measure?
 - ii. Are there specific provisions for certain groups of people (e.g. those disembarking from planes or ships, those who are homeless, those in congregate care or prisons)?
 - iii. Where may the measure be implemented and how is this decided?
9. What is the process for ensuring compliance and enforcing this measure?
 - i. Which department or agency is responsible for investigating or monitoring compliance with this measure?
 - ii. Which department or agency is responsible for enforcement of this measure?
 - a. Is a traditional law enforcement agency (e.g., police, sheriff, etc.) responsible for enforcement?
 - b. Do any laws prohibit or inhibit traditional law enforcement agencies from enforcement of this measure?
 - iii. May enforcement be shifted to non-public health, non-law enforcement personnel (e.g., healthcare, businesses, transportation operators, school employees)? What may they be authorized to do and how will this be implemented and enforced?
 - iv. May compensation, services, or other incentives be offered to facilitate or encourage compliance with this measure? If yes, what kind and what is the process for providing it?
 - v. What, if any, are the penalties for non-compliance?
10. How long can this measure be in place?
11. Can this measure be changed, renewed, or extended? If yes, who has authority, what is the process for review, is notice required, and what criteria should be considered?

12. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
13. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to restrict movement of communities or groups within or into the jurisdiction

Assess the sufficiency of the existing legal basis to restrict the movement of communities or groups within or into the jurisdiction and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there potential gaps in those legal authorities?
2. Are there potential uncertainties about those legal authorities?
3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to restrict the movement of communities or groups not otherwise listed above?

C. Interjurisdictional cooperation on restricting the movement of communities or groups within or into the jurisdiction

Consider higher and lower level jurisdictions with additional or concurrent authority to restrict the movement of communities or groups within or into the jurisdiction and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or traditional law enforcement agency have legal authority to assist with executing an order restricting movement of groups issued by the federal

government? Enforce an order restricting movement of groups issued by the federal government?

8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal order restricting movement of groups? Enforce a federal order restricting movement of groups?

Consider neighboring or other jurisdictions' authority to restrict the movement of communities or groups and respond to the following questions:

9. What agreements are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional Considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to restrict movement of communities or groups within or into the jurisdiction.

(Note, all questions may not be applicable.)

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?

12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

IV. Exclusion of Students and Closure or Altered Practices of Schools

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. Legal powers/authorities and procedures to close schools, exclude students, or otherwise alter school practices or operations

If it becomes necessary to close schools, exclude students, or otherwise alter school practices or operations (including public, private, K-12, preschool, childcare, colleges and universities, etc.), what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures including, but not limited to, police powers for health, safety and welfare; general public health powers; or emergency powers or authorities that could be used to authorize, prohibit, or limit closure of schools, exclusion of students, or alteration of practices or operations. (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing closure of schools, exclusion of students, or altering school practices or operations?
2. Are there any powers and authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed?
5. Who is authorized to declare/order this measure?

6. Which schools can be included in this measure? (e.g. public/private, K-12, preschool/childcare, colleges and universities, etc.) Is this defined broadly or narrowly?
7. Are any schools exempt from this measure, and how are they defined?
8. What is the process for implementing this measure?
 - i. Who is authorized to implement this measure?
 - ii. Are there plans in place for continuing school remotely?
 1. Is remote learning available in the event of complete closure of school?
 2. Is remote learning available for individual students excluded from school?
 3. Is remote learning available in a synchronous or asynchronous format?
 4. Are there plans in place to ensure all students have access to broadband, devices, and IT support for continuing school remotely?
 - iii. Are there plans in place to continue reduced and free lunches to students who receive those services while schools are open?
 - iv. Are there plans in place to consider continuity of services for students with disabilities served under the federal Individuals with Disabilities Education Act ?
 - v. Are there plans in place for communicating with families for whom English is a second language?
 - vi. Are there plans in place to use school facilities and/or school employees for other functions/services while classes are not in session?
 - vii. To what extent will the privacy of students be protected?
9. What are the procedural and due process requirements for this measure?
10. How long can a school closure or altered policies last? How long can an exclusion of individual students from school last?
11. Can this measure be changed, renewed, or extended? If yes, who has authority, what is the process for review, is notice required, and what criteria should be considered?
12. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
13. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to close schools, exclude students, or otherwise alter school practices or operations

Assess the sufficiency of the existing legal basis to close schools, exclude students, or otherwise alter school practices or operations and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there potential gaps in those legal authorities?
2. Are there potential uncertainties about those legal authorities?
3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to close schools, exclude individual students, or otherwise alter practices or operations of school not otherwise listed above?

C. *Interjurisdictional cooperation to close schools, exclude students, or otherwise alter school practices or operations*

Consider higher and lower level jurisdictions with additional or concurrent authority to close schools, exclude students, or otherwise alter practices or operations of schools and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department, school system, or traditional law enforcement agency have legal authority to assist with executing an order related to schools issued by the federal government? Enforce an order related to schools issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department, school system, or traditional law enforcement agency to help execute a federal order related to schools? Enforce a federal order related to schools?

Consider neighboring or other jurisdictions' authority to close schools, exclude students, or otherwise alter practices or operations of schools and respond to the following questions:

9. What agreements are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to close schools, dismiss students, or otherwise alter practices or operations of schools. (Note, all questions may not be applicable.)

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?
12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

V. Closure or Altered Practices of Public Places

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. Legal powers/authorities and procedures to close or restrict access to public places

If it becomes necessary to order the closure of, limit the capacity of, or restrict access to public places (e.g., public and private facilities and businesses open to the public), or require the physical alteration of such places, what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures including, but not limited to, police powers for health, safety and welfare; general public health powers; or emergency powers or authorities that could be used to authorize the closure of public places. (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing closure of, limiting the capacity of, or restricting access to public places, or requiring the physical alteration of such places?
2. Are there any powers or authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed?
5. Who is authorized to declare/order this measure?
6. Which public places are included in this measure? Are these defined broadly or narrowly? (e.g. government facilities, businesses open to the public, outdoor spaces such as parks, churches, etc.)
7. Are any public places exempt from these measures, such as essential businesses or religious buildings, and how are they defined?
8. What is the process for implementing this measure?
9. Who is authorized to implement this measure?
10. What is the process for ensuring compliance and enforcing this measure?

- i. Which department or agency is responsible for investigating or monitoring compliance with this measure?
 - ii. Which department or agency is responsible for enforcement of this measure?
 - 1. Is a traditional law enforcement agency (e.g., police, sheriff, etc.) responsible for enforcement?
 - 2. Do any laws prohibit or inhibit traditional law enforcement agencies from enforcement of this measure?
 - iii. May enforcement be shifted to non-public health, non-law enforcement personnel (e.g., healthcare, businesses, transportation operators, school employees)? What may they be authorized to do and how will this be implemented and enforced (e.g., loss of licensure, fines, etc.)?
 - iv. May compensation, services, or other incentives be offered to facilitate or encourage compliance with this measure? If yes, what kind and what is the process for providing it?
 - v. What, if any, are the penalties for non-compliance?
11. What are the procedural and due process requirements for this measure?
 12. What first amendment rights might be implicated, including religious freedoms, or free speech?
 13. How long can this measure be in place?
 14. Can this measure be changed, renewed, or extended? If yes, who has authority, what is the process for review, is notice required, and what criteria should be considered?
 15. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
 16. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to close or restrict access to public places

Assess the sufficiency of the existing legal basis to close public places and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there potential gaps in those legal authorities?
2. Are there potential uncertainties about those legal authorities?
3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to close public places not otherwise listed above?

C. Interjurisdictional cooperation to close or restrict access to public places

Consider higher and lower level jurisdictions with additional or concurrent authority to close or restrict access to public places and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or a traditional law enforcement agency have legal authority to assist with executing an order issued by the federal government? Enforce an order issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal order? Enforce a federal order?

Consider neighboring or other jurisdictions' authority to restrict the movement of communities or groups and respond to the following questions:

9. What agreements are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional Considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to close or restrict access to public places. (All questions may not be applicable)

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?
12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

VI. Cancellation or Altered Practices of Mass Gatherings

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. *Legal powers/authorities and procedures to cancel, postpone, suspend or otherwise limit or restrict mass gatherings*

If it becomes necessary to order the cancellation, postponement (determined before a gathering has begun), or suspension (determined after a gathering has begun) of a mass gathering, or to otherwise place limitations or restrictions (such as specifying maximum attendance) on mass gatherings (including city-wide events, public holiday celebrations, large sporting events, large trade shows, conferences, large religious gatherings, funerals, weddings, etc.), what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures, including, but not limited to, police powers for health, safety and welfare; general public health powers; or emergency powers or authorities that could be used to authorize, prohibit, or limit cancellation of mass gatherings. (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing the cancellation, postponement, suspension, or otherwise limiting or restricting mass gatherings?
2. Are there any powers or authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed? Is the measure dependent on characteristics such as the total number of people expected in attendance, square footage, disease transmission, etc.?
5. Who is authorized to declare/order this measure?
6. What is the process for implementing this measure?
7. Who is authorized to implement this measure?
8. What type of mass gatherings may be included in this measure? (e.g. city-wide events, public holiday celebrations, large sporting events, large trade shows, conferences, large religious gatherings, funerals, weddings, etc.) Is this defined broadly or narrowly?
9. Are any mass gatherings exempt from cancellation, if so, how are these defined?
10. What is the process for ensuring compliance and enforcing this measure?
 - i. Which department or agency is responsible for investigating or monitoring compliance with this measure?
 - ii. Which department or agency is responsible for enforcement of this measure?
 - a. Is a traditional law enforcement agency (e.g., police, sheriff, etc.) responsible for enforcement?
 - b. Do any laws prohibit or inhibit traditional law enforcement agencies from enforcement of this measure?

- iii. May enforcement be shifted to non-public health, non-law enforcement personnel (e.g., healthcare, businesses, transportation operators, school employees)? What may they be authorized to do and how will this be implemented and enforced (e.g., loss of licensure, fines, etc.)?
 - iv. May compensation, services, or other incentives be offered to facilitate or encourage compliance with this measure? If yes, what kind and what is the process for providing it?
 - v. What, if any, are the penalties for non-compliance?
11. What are the procedural and due process requirements for this measure?
 12. What first amendment rights might be implicated, including religious freedoms, or free speech?
 13. How long can this measure be in place?
 14. Can this measure be changed, renewed, or extended? If yes, who has authority, what is the process for review, is notice required, and what criteria should be considered?
 15. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
 16. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to cancel, postpone, suspend or otherwise limit or restrict mass gatherings

Assess the sufficiency of the existing legal basis to cancel or limit mass gatherings and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there potential gaps in those legal authorities?
2. Are there potential uncertainties about those legal authorities?
3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to cancel or limit mass gatherings not otherwise listed above?

C. Interjurisdictional cooperation to cancel, postpone, suspend or otherwise limit or restrict mass gatherings

Consider higher and lower level jurisdictions with additional or concurrent authority to cancel, postpone, suspend or otherwise limit or restrict mass gatherings and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?

2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or traditional law enforcement agency have legal authority to assist with executing an order issued by the federal government? Enforce an order issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal order? Enforce a federal order?

Consider neighboring or other jurisdictions' authority to cancel, postpone, suspend or otherwise limit or restrict mass gatherings and respond to the following questions:

9. What agreements are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional Considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to cancel, postpone, suspend or otherwise limit or restrict mass gatherings. (All questions may not be applicable.)

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?

5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?
12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

VII. Mandates for Masks, Gloves, and Other Personal Protective Equipment

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. Legal powers/authorities and procedures to mandate masks, gloves, or other personal protective equipment (PPE)

If it becomes necessary to mandate the use of masks, gloves, or other PPE, what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures, including, but not limited to, police powers of health, safety and welfare; general public health powers; or emergency

powers or authorities that could be used to authorize, prohibit or limit PPE mandates. (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing a mandate for the use of masks, gloves, or other PPE?
2. Are there any powers and authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed?
5. Who is authorized to declare/order this measure?
6. Who is authorized to implement this measure?
7. What is the process for implementing this measure?
8. What is the process for distributing PPE? What if resources are scarce?
9. What is the process for ensuring compliance and enforcing this measure?
 - i. Which department or agency is responsible for investigating or monitoring compliance with this measure?
 - ii. Which department or agency is responsible for enforcement of this measure?
 - a. Is a traditional law enforcement agency (e.g., police, sheriff, etc.) responsible for enforcement?
 - b. Do any laws prohibit or inhibit traditional law enforcement agencies from enforcement of this measure?
 - iii. May enforcement be shifted to non-public health, non-law enforcement personnel (e.g., healthcare, businesses, transportation operators, school employees)? What may they be authorized to do and how will this be implemented and enforced (e.g., loss of licensure, fines, etc.)?
 - iv. May compensation, services, or other incentives be offered to facilitate or encourage compliance with this measure? If yes, what kind and what is the process for providing it?
 - v. What, if any, are the penalties for non-compliance?
10. What are the procedural and due process requirements for this measure?
11. Will medical or non-medical exemptions to PPE mandates be allowed? What procedures are in place to approve medical or non-medical exemptions?
12. How long can this measure be in place?
13. Can this measure be changed, renewed, or extended? If yes, who has authority, what is the process for review, is notice required, and what criteria should be considered?

14. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
15. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. *Sufficiency of legal powers/authorities and procedures to mandate masks, gloves, or other PPE*

Assess the sufficiency of the existing legal basis to mandate PPE and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there potential gaps in those legal authorities?
2. Are there potential uncertainties about those legal authorities?
3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to mandate PPE not otherwise listed above?

C. *Interjurisdictional cooperation to mandate masks, gloves, or other PPE*

Consider higher and lower level jurisdictions with additional or concurrent authority to mandate masks, gloves, or other PPE and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or traditional law enforcement agency have legal authority to assist with executing an order issued by the federal government? Enforce an order issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal order? Enforce a federal order?

Consider neighboring or other jurisdictions' authority to mandate masks, gloves, or other PPE and respond to the following questions:

9. What agreements are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional Considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to mandate masks, gloves, or other PPE (all questions may not be applicable).

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?
12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?

14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

VIII. Health Screening or Testing Requirements

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. Legal powers/authorities and procedures to require a health screening or proof of a negative test for disease

If it becomes necessary to require a health screening (e.g. series of questions about recent contact or travel, temperature check, etc.) or proof of a negative test for disease prior to entry and/or participation in school, entry to public places, attendance at mass gatherings, etc., what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures, including, but not limited to, police powers for health, safety and welfare; general public health powers; or emergency powers or authorities that could be used to authorize, prohibit or limit testing requirements. (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing the requirement of a health screening or proof of a negative test for disease?
2. Are there any powers or authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed?
5. Who is authorized to declare/order this measure?
6. Who is authorized to implement this measure?
7. What is the process for implementing this measure?
8. What is the process for ensuring compliance and enforcing this measure?

- i. Which department or agency is responsible for investigating or monitoring compliance with this measure?
 - ii. Which department or agency is responsible for enforcement of this measure?
 - 1. Is a traditional law enforcement agency (e.g., police, sheriff, etc.) responsible for enforcement?
 - 2. Do any laws prohibit or inhibit traditional law enforcement agencies from enforcement of this measure?
 - iii. May enforcement be shifted to non-public health, non-law enforcement personnel (e.g., healthcare, businesses, transportation operators, school employees)? What may they be authorized to do and how will this be implemented and enforced (e.g., loss of licensure, fines, etc.)?
 - iv. May compensation, services, or other incentives be offered to facilitate or encourage compliance with this measure? If yes, what kind and what is the process for providing it?
 - v. What, if any, are the penalties for non-compliance?
- 9. What are the procedural and due process requirements for this measure?
 - 10. How long can this measure be in place?
 - 11. Can this measure be changed, renewed, or extended? If yes, who has authority, what is the process for review, is notice required, and what criteria should be considered?
 - 12. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
 - 13. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to require a health screening or proof of a negative test

Assess the sufficiency of the existing legal basis to require a health screening or proof of a negative test and identify any potential gaps or uncertainties in those powers and authorities.

- 1. Are there potential gaps in those legal authorities?
- 2. Are there potential uncertainties about those legal authorities?
- 3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to require proof of a negative test not otherwise listed above?

C. Interjurisdictional cooperation to require a health screening or proof of a negative test

Consider higher and lower level jurisdictions with additional or concurrent authority to require a health screening or proof of a negative test and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or traditional law enforcement agency have legal authority to assist with executing an order issued by the federal government? Enforce an order issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal order? Enforce a federal order?

Consider neighboring or other jurisdictions' authority to require a health screening or proof of a negative test and respond to the following questions:

9. What agreements, including data sharing agreements or agreements for access to data systems, are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions, including but not limited to exchanging test results of residents of other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to require a health screening or proof of a negative test (all questions may not be applicable).

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?
12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

IX. Vaccine Mandates and Proof of Vaccine Requirements

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. Legal powers/authorities and procedures to require vaccination or proof of vaccination

If it becomes necessary to mandate vaccination or require proof of vaccination, what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures, including, but not limited to, police powers of health, safety and welfare; general public health powers; or emergency powers or authorities that could be used to authorize, prohibit or limit vaccine mandates. (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing a vaccine mandate or requirement to provide proof of vaccination?
2. Are there any powers or authorities explicitly prohibiting this measure?
3. Must a vaccine have traditional FDA approval or is approval via Emergency Use Authorization sufficient for a vaccine mandate or requirement of proof of vaccination?
4. Who is authorized to determine if this measure is needed?
5. What criteria should be considered to determine if this measure is needed?
6. Who is authorized to declare/order this measure?
7. Who is authorized to implement this measure?
8. What is the process for implementing this measure?
9. What is the process for ensuring compliance and enforcing this measure?
 - A. Which department or agency is responsible for investigating or monitoring compliance with this measure?
 - B. Which department or agency is responsible for enforcement of this measure?
 1. Is a traditional law enforcement agency (e.g., police, sheriff, etc.) responsible for enforcement?
 2. Do any laws prohibit or inhibit traditional law enforcement agencies from enforcement of this measure?
 - C. May enforcement be shifted to non-public health, non-law enforcement personnel (e.g., healthcare, businesses, transportation operators, school employees)? What may they be authorized to do and how will this be implemented and enforced (e.g., loss of licensure, fines, etc.)?
 - D. May compensation, services, or other incentives be offered to facilitate or encourage compliance with this measure? If yes, what kind and what is the process for providing it?
 - E. What, if any, are the penalties for non-compliance?

10. What are the procedural and due process requirements for this measure?
11. What first amendment rights might be implicated, including religious freedoms?
12. What procedures are in place to approve medical exemptions for individuals for whom the vaccine is medically contraindicated?
13. Are non-medical (e.g. religious, personal belief, etc.) exemptions available? What criteria must be met for individuals to be eligible for an exemption? What procedures are in place to approve non-medical exemptions for individuals who may qualify?
14. Under what circumstances must reasonable accommodations (e.g. working away from others, working remotely, testing, temperature checks, mask wearing, etc.) be taken for individuals who have an approved exemption from vaccination?
15. Are the above alternatives available as alternatives to providing proof of vaccination without an approved exemption?
16. How long can this measure be in place?
17. Can this measure be changed, renewed, or extended? If yes, who has authority, what is the process for review, is notice required, and what criteria should be considered?
18. How can this measure be ended? Who has authority to end this measure, what is the process, is notice required, and what criteria should be considered?
19. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to require vaccination or proof of vaccination

Assess the sufficiency of the existing legal basis to mandate vaccination or require proof of vaccination and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there potential gaps in those legal authorities?
2. Are there potential uncertainties about those legal authorities?
3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to mandate vaccination or require proof of vaccination not otherwise listed above?

C. Interjurisdictional cooperation to mandate vaccination or require proof of vaccination

Consider higher and lower level jurisdictions with additional or concurrent authority to mandate vaccination or require proof of vaccination and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or traditional law enforcement agency have legal authority to assist with executing an order issued by the federal government? Enforce an order issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal order? Enforce a federal order?

Consider neighboring or other jurisdictions' authority to require vaccination or proof of vaccination and respond to the following questions:

9. What agreements, including data sharing agreements or agreements for access to data systems, are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions, including but not limited to exchanging vaccination status of residents of other jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to require vaccination or proof of vaccination. (All questions may not be applicable)

1. What characteristics of the disease should be considered before triggering this measure?

2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?
12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

X. Distribution of Mass Prophylaxis

For the following questions, respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency.

A. Legal powers/authorities and procedures to issue blanket prescriptions and otherwise facilitate distribution of, access to, and use of mass prophylaxis

If it becomes necessary to facilitate the distribution of mass prophylaxis (including vaccines, treatments, PPE, and other countermeasures) through issuing blanket prescriptions or other measures, what legal authorities and procedures would enable, support, authorize, or otherwise provide a legal basis for doing so? List all legal powers, authorities, and procedures, including, but not limited to, police powers for health, safety and welfare; general public health powers; or emergency powers or authorities that could be used to authorize, prohibit or limit facilitation of mass prophylaxis distribution. (If there are multiple powers or authorities that can be used to support this same measure, be sure to include the responses for each.)

For each of the identified powers and authorities, determine:

1. What are the powers and authorities authorizing a blanket prescription or other measures that facilitate the distribution of mass prophylaxis (e.g. vaccines, treatments, PPE, and other countermeasures)?
2. Are there any powers or authorities explicitly prohibiting this measure?
3. Who is authorized to determine if this measure is needed?
4. What criteria should be considered to determine if this measure is needed?
5. Who is authorized to declare/order this measure?
6. Who is authorized to implement this measure?
7. What is the process for implementing this measure?
8. What is the process for distributing mass prophylaxis? What if resources are scarce? Who can determine priority groups and distribution areas?
9. Can any entity or person be held liable, or can liability be waived or limited for any entity or person ordering, implementing, enforcing, or ending this measure?

B. Sufficiency of legal powers/authorities and procedures to issue blanket prescriptions and otherwise facilitate distribution of, access to, and use of mass prophylaxis

Assess the sufficiency of the existing legal basis to issue blanket prescriptions and otherwise facilitate distribution of mass prophylaxis and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there potential gaps in those legal authorities?
2. Are there potential uncertainties about those legal authorities?
3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's legal authority to issue blanket prescriptions and otherwise facilitate distribution of mass prophylaxis?

C. Interjurisdictional cooperation to facilitate distribution of mass prophylaxis

Consider higher and lower level jurisdictions with additional or concurrent authority to issue blanket prescriptions and otherwise facilitate distribution of mass prophylaxis and respond to the following questions:

1. Do any higher levels of government have additional or concurrent authority? Are any of this jurisdiction's measures preempted by a higher level of government, limiting this jurisdiction's ability to respond?
2. Do any lower levels of government, if applicable, have additional or concurrent authority? Do any of this jurisdiction's measures preempt the lower level of government, limiting its ability to respond?
3. What provisions or procedures govern the relationships between this jurisdiction and higher or lower levels of government?
4. Are there any gaps or uncertainties regarding which jurisdiction has authority?
5. Are there any legal provisions or procedures in place for interjurisdictional cooperation with jurisdictions having concurrent authority?
6. What is the legal authority of this jurisdiction to accept, utilize, or make use of federal assistance?
7. Does the health department or traditional law enforcement agency have legal authority to assist with executing an order issued by the federal government? Enforce an order issued by the federal government?
8. Do any specific legal authorities prohibit or inhibit the use of the health department or traditional law enforcement agency to help execute a federal order? Enforce a federal order?

Consider neighboring or other jurisdictions' authority to issue blanket prescriptions and otherwise facilitate distribution of mass prophylaxis and respond to the following questions:

9. What agreements are in place for interjurisdictional cooperation between this jurisdiction and neighboring or other jurisdictions?
10. What provisions or procedures apply to giving and receiving of assistance and otherwise working with other jurisdictions, including distribution of prophylaxis to Tribal jurisdictions?
11. Are there additional important considerations for state and local jurisdictions bordering Tribal jurisdictions?

D. Additional considerations

Identify other factors that should be considered when exercising legal powers/authorities and procedures to issue blanket prescriptions and otherwise facilitate distribution of, access to, and use of mass prophylaxis. (All questions may not be applicable)

1. What characteristics of the disease should be considered before triggering this measure?
2. How should the jurisdiction exercise discretionary authority?
3. What are the potential consequences of action or inaction?
4. Are there ethical or policy implications to be considered?
5. Is the action potentially biased, arbitrary or capricious?
6. Might the action exacerbate existing health disparities of certain communities, and what are the ways to mitigate these burdens?
7. Are resources, including funds, equipment and personnel, available or can they be obtained?
8. Is the action in the best interest of other individuals, businesses, and communities? Are the social and economic costs of this measure greater than the costs of unchecked disease spread on individuals and businesses?
9. Is the action politically feasible?
10. Is this the best timing?
11. What challenges might there be to compliance and enforcement?
12. How will action or inaction be communicated to the public?
13. If multiple legal authorities exist providing authority for this measure or multiple interventions exist that can be used to achieve this public health goal, what factors will be used to determine how to proceed? How will these be prioritized?
14. Will this measure support the jurisdiction's values and advance the jurisdiction's goals as determined through community participation and input?
15. [Customize by adding other considerations important to this jurisdiction.]

Reminder, for the above questions, be sure to respond first in the absence of or prior to an emergency declaration, then repeat for during a declared emergency, if authorized. If more than one type of emergency declaration is available in the jurisdiction, be sure to clarify which declaration is applicable, or, if more than one is applicable, if there are differences between the declared emergencies.

XI. Other

[Customize by adding prevention measures relevant to this jurisdiction]

DRAFT

Chapter 3:

HOSTING THE LEGAL CONSULTATION MEETING

Overview

At the Legal Consultation Meeting, participants will review the jurisdiction's legal authority and test the capacity of the jurisdiction to coordinate the implementation of the prevention measures based on the legal authorities identified using the Legal Assessment. Jurisdictions can choose to conduct all or part of the exercise, depending on the measures selected for the Legal Assessment and the availability and capacity of agency staff and partner organizations.

Objectives

The objectives of the Legal Consultation Meeting are to:

- Convene participants in key communicable disease outbreak response roles;
- Using the "Disease Outbreak" tabletop exercise, explore the participants' understanding of the jurisdiction's legal authority for prevention measures, their sufficiency to support implementation of these measures, and the capacity of the involved entities to coordinate in their implementation across jurisdictions, agencies, and sectors;
- Facilitate relationship-building and networking among colleagues and across jurisdictions, agencies, and sectors;
- Identify any ambiguities or gaps in the jurisdiction's communicable disease control authorities and/or implementation;
- Examine potential disparate impacts and discuss potential efforts to mitigate them;
- Develop next steps for resolving gaps and/or ambiguities identified and for mitigating any disparities that the measures might exacerbate or cause; and
- Plan for continued learning for participants and onboarding of new people into relevant roles.

Leading the Meeting

This meeting should be led by the Project Lead or other respected senior public health staff member skilled in meeting facilitation. Ideally, the Chief Health Officer should provide opening remarks and participate throughout the day while having the Project Lead or other skilled staff member moderate the sessions and keep the meeting moving forward. To be successful, it is critical that the Chief Health Officer and Public Health Legal Counsel model the importance of active engagement throughout the meeting.

Participants

Representatives of jurisdictions, agencies, and sectors that play significant roles during response to a communicable disease outbreak should be invited to participate in the Legal Consultation Meeting. Both senior leadership as decision-makers and frontline staff as those implementing the decisions may also be invited. If not completing the full PMLP, participation may depend on which measures the jurisdiction chooses to focus on.

Participants:

- State, Tribal, territorial, and local health and emergency management officials, including representatives from public health preparedness and disease control programs;
- Legal counsel for the public health and emergency management offices;
- Counterparts with emergency preparedness roles from other agencies such as law enforcement, homeland security, education, transportation, and corrections, etc.;
- Judges and court administrators;
- Elected officials from the executive and legislative branches, department leads, and their legal counsel;
- Representatives from the private sector, including businesses and non-profit organizations;
- Legal counsel and other leadership of hospitals and other health care facilities;
- Representatives of community organizations;
- Representatives of other entities critical to successful implementation of prevention measures in the jurisdiction;
- Representatives from higher or lower-level jurisdictions with additional or concurrent authority for public health emergency response, and from neighboring jurisdictions with cooperative authority (such as through agreements); and
- Public health and/or risk management communicators.

Location

The location of the Legal Consultation Meeting will be dependent on several factors, including availability and accessibility of space, number of participants, and cost. If it is possible to host the meeting at a location that is relevant for emergency response, this can help to center or ground the discussion. For example, a state or territory may want to host their meeting at a quarantine station if there is one in their state or at an airport. A state or local jurisdiction may want to host their meeting at an emergency operations center. Alternatives that may be cost-effective include space at a health care facility or at a university.

All jurisdictions will want to consider whether to serve food, such as providing breakfast or lunch. Larger jurisdictions will also want to consider the travel needs of attendees, such as whether overnight accommodations are required.

Alternatively, jurisdictions may adapt the Legal Consultation Meeting to be held online. Online participants should be focused, fully involved, and free from other responsibilities for the day. A hybrid option with training in advance online, whether offered synchronous or asynchronous, and the tabletop exercise in person may be another option for jurisdictions to consider.

Developing an Agenda

A full day is recommended for this meeting, including training and tabletop exercise. However, this suggested agenda is an outline and does not include specific times - it is scalable to the time allocated and customizable to the jurisdiction. The agenda should reflect the goals, content, and participants in the meeting. The agenda should be organized to take advantage of the expertise of the meeting participants, to maximize opportunities for active participation, and to ensure in-depth dialogue about the sufficiency of the jurisdiction's legal landscape for preventing and responding to a disease outbreak. Be sure to include issues identified during the COVID-19 pandemic response and other public health emergency response debriefs and after-action reports when developing content for the agenda.

Sample Agenda:

- Check-in and breakfast
- Welcome and introductions of the Project Team and participants (5 minutes)
- Introductory remarks, discussion of purpose and goals of the meeting (10 minutes)
- Training/presentation by the Public Health Legal Counsel on the laws related to implementing prevention measures in this jurisdiction, a summary of findings from the Legal Assessment, goals and values as determined through community participatory processes, and relevant information from the jurisdiction's other COVID-19 debriefs or other reports, and the resources available, such as crisis standards of care, preparedness plans or bench books used by the courts (90 minutes)
- Training/presentation by attorneys representing other agencies with a role in responding to disease outbreaks and/or from jurisdictions with overlapping authorities (60 minutes)
- Lunch break and networking (60 minutes)
- Explanation of the methodology of the tabletop exercise (15 minutes)
- Tabletop exercise presenting a chronological fact pattern on an emerging disease outbreak with discussion questions posed at each stage (180 minutes)
- Identify any action items to address following the meeting, the individuals responsible and timeframe; schedule a follow-up meeting, or regular meeting to assess progress (60 minutes)
- Adjourn

Training/Presentations

In addition to sharing results of the Legal Assessment Template, jurisdictions may choose to use an existing public health law emergency training, customized for the jurisdiction, such as the Centers for Disease Control

Office of Public Health Law Service's Public Health Emergency Law Training.⁵ Another training resource can be a health law faculty member from a nearby law school.

Offering continuing legal education (CLE) and continuing education (CE) for public health and other professionals can help to maximize attendance and provide additional value to speakers and attendees.

The Tabletop Exercise

The methodology of the tabletop exercise involves presenting the Legal Consultation Meeting participants with a chronological fact pattern about an emerging disease outbreak. The questions from the Legal Assessment can then be posed where relevant at each stage for the participants to discuss, giving them the opportunity to choose available and appropriate communicable disease prevention measures, assess the legal authorities supporting these measures, explore feasibility of implementing them through coordination across jurisdictions, agencies, and sectors, and identify issues they may want to address following the meeting.

Several different approaches to conducting the exercise may be adopted, for example, having participants interact as one body, or, alternatively, dividing them into groups to discuss specific legal authorities and then reporting back to the full body. The scope of the meeting discussion should generally cover the same topics and areas of inquiry that appear in the Legal Assessment and be framed to address the use of the relevant legal authorities both in the absence of or prior to an emergency declaration and during a declared emergency in response to a communicable disease outbreak.

Prior to the Legal Consultation Meeting, the tabletop exercise should be customized to the jurisdiction. In addition to filling in the names of specific officials, agencies, or places throughout the hypothetical scenario, the tabletop exercise can include additional events or details specific to the jurisdiction. Further, prevention measures considered and/or implemented during the response to the COVID-19 pandemic, or other disease outbreaks, can be specifically included and any issues that may have arisen during the response discussed. Participants should be encouraged to consider how to prevent, address or mitigate these issues moving forward, rather than spending time dwelling on what could or should have taken place in the past.

Decision-Making Considerations

As part of the discussion in response to the scenario presented in the tabletop exercise, participants should keep in mind important decision-making considerations. During a communicable disease outbreak, health and emergency management officials and their legal counsel, along with leadership from other agencies, sectors and jurisdictions, must continually make difficult decisions to protect the public. Lawyers must have a solid understanding of the legal environment, both without and with an emergency declaration, and practice legal triage. "Practicing legal triage entails:

- Identification of legal issues that may facilitate or impede public health efforts;
- Assessing and monitoring changing legal norms;
- Crafting innovative, legally-sound solutions to known or purported barriers to public health responses;

⁵Centers for Disease Control and Prevention Public Health Law Program. (2019). *Public Health Emergency Law Online Training*. <https://www.cdc.gov/phlp/publications/topic/trainings/ph-emergencylaw.html>

- Explicating legal conclusions through effective, tailored communications; and
- Regularly revisiting the utility and efficacy of legal guidance to improve public health outcomes.”⁶

The responses to questions in sections A, B, and C of the Legal Assessment for each of the prevention measures provide the legal authority needed to respond to an emergency in a concise, accessible format and help to identify any gaps in legal authority to address. The tabletop exercise helps to test the sufficiency of the laws against issues that may arise during the outbreak and assess solutions in the hypothetical environment in order to make the necessary decisions while practicing legal triage in a real emergency.

Public health laws establish the legal authority to act, but rarely provide a clear course of action about whether, when, and how to act. Most decisions are discretionary, relying on professional judgment, subject-matter expertise, and the best currently available information. Decision makers must balance competing interests to avoid acting prematurely without sufficient information or exposing the public to potential harm while obtaining and evaluating evidence that supports a particular course of action. These additional considerations are captured in section D of the Legal Assessment for each of the prevention measures.

To assist with the decision making process, the Network for Public Health Law has developed the Public Health Executive Decision-Making Tool, a helpful framework based on three critical questions:⁷

- **Can I?** Does the jurisdiction have the legal authority to act, and if so, in what way(s)? What authority is granted in statutory or regulatory provisions? How are measures implemented and enforced? Is there overlapping authority within different agencies in the jurisdiction? Is the authority preempted (a higher level of government having superseding authority, such as federal over state or state over local), limiting the jurisdiction’s ability to act?
- **Must I?** Is the jurisdiction legally mandated to take specific action? Are there restrictions or limitations dictating how a jurisdiction may not act? What discretion does a jurisdiction have in fulfilling its obligations?
- **Should I?** How should the jurisdiction exercise discretionary authority? What are the potential consequences of this action, alternative actions, or inaction? Does this action further the community’s stated goals and values? Are there ethical or policy implications to be considered? Is the action potentially biased, arbitrary or capricious? Might the action exacerbate existing health disparities of certain communities, and can these burdens be mitigated in some way? Are resources, including funds, equipment and personnel, available or can they be obtained? Is the action in the best interest of other individuals, businesses, and communities? Are social and economic costs of prevention measures greater than the costs of unchecked disease spread on individuals and businesses? Is the action politically feasible? Is this the best timing? What is the risk of liability for action or inaction? How should the action be carried out? What challenges will there be to compliance and enforcement? How will action or inaction be communicated to the public?

⁶ Hodge, J. (2021, Nov. 8). *Public Health Law in a Nutshell*, 4th edition. West Academic Publishing, summarizing Hodge, J and Anderson, E. (2008). Principles and practice of legal triage during public health emergencies. *New York University Annual Survey of American Law* 64(2), 249-292.

⁷ Chrysler, D. (2020, June 23). *Public health decision-making tool*. Network for Public Health Law. <https://www.networkforphl.org/resources/public-health-decision-making-tool/>

As every communicable disease outbreak is different, the emergency response may differ; however, to the degree possible, tabletop participants should try to identify the parameters of the law considered under “Can I?” and “Must I?” Jurisdictions can also develop plans and guidance in advance that address the question of “Should I?” (the other considerations in the Legal Assessment) while recognizing that information may develop over the course of a disease outbreak that might cause health and emergency management officials to take different courses of action. Clear communication and transparency in the decision-making process is essential when exercising and implementing discretionary authority.

Legal Consultation Meeting Sample Save the Date and Invitation Language

Save the Date (Casual)

Mark your calendars! On [MONTH DAY, YEAR], from [START TIME] to [END TIME] at [LOCATION], [HOST DEPARTMENT] will host a prevention measure law training and tabletop exercise.

This day-long session will focus on the legal authority for various non-pharmaceutical measures intended to stop or slow the spread of communicable disease, [SUCH AS EXAMPLES, OR INCLUDING SPECIFIC MEASURES], or for measures that facilitate distribution and uptake of personal protective equipment or mass prophylaxis [SUCH AS EXAMPLES, OR INCLUDING SPECIFIC MEASURES] both during a declared emergency and in the absence of an emergency.

[PEOPLE OR DEPARTMENTS OR AGENCIES] play an important role in response to a public health emergency. This session will be an opportunity to better understand the legal authority for disease prevention and control measures; to discuss timely, effective, and coordinated response; and to enhance communication among partners and community representatives. You are encouraged to attend this event!

Register at [WEBSITE] by [RSVP DATE]. Contact [NAME, HOST DEPARTMENT] at [EMAIL] for questions.

[AGENDA]

This event is adapted from the Prevention Measures Law Project, a resource developed by the Centers for Disease Control and Prevention Office of Public Health Law Services in collaboration with the Association of State and Territorial Health Officials and the Network for Public Health Law.

Invitation (Formal)

Dear [NAME]:

On behalf of [HOST DEPARTMENT], you are invited to participate in a training and tabletop exercise on disease prevention measures. This event is adapted from the Prevention Measures Law Project (PMLP), a resource developed by the Centers for Disease Control and Prevention Office of Public Health Law Services in collaboration with the Association of State and Territorial Health Officials and the Network for Public Health Law. This event will take place on [MONTH DAY, YEAR] from [START TIME] to [END TIME] at [LOCATION].

During the COVID-19 pandemic, our jurisdiction had to implement a variety of disease control measures to stem the spread of the disease, flatten the curve, and reduce the burden on our health care system and resources. Reflecting on COVID-19 provides a unique opportunity to assess our legal authority for these measures, and other disease control measures, that can be taken to prevent or stem disease outbreaks.

The PMLP tool is a resource we are using to examine our public health emergency laws for implementing various disease control measures effectively, both during a declared emergency and in the absence of an emergency. Prior to the training, [PUBLIC HEALTH LEGAL COUNSEL NAME/TITLE] will complete a legal assessment and draft a report on the legal authority for implementation, and enforcement of disease control measures, as well as ways to mitigate burden on communities that may be disparately impacted by use of these measures. Event participants will receive a summary of the legal authorities and the report.

The PMLP also includes training on the law, hypothetical scenario, and an after-action review session designed to provide insight into the legal authority for disease prevention measures available to our jurisdiction during an outbreak, specifically [MEASURES TO BE INCLUDED]. Your office, [DEPARTMENT OR AGENCY], plays an important role in response in a public health emergency. This session will be an opportunity to better understand the legal authority for disease prevention and control measures; to discuss timely, effective, and coordinated response; and to enhance communication among partners and community representatives. Your presence and participation is important.

The schedule of events is as follows:
[AGENDA]

Please register at [WEBSITE] by [RSVP DATE]. If you have any questions, please don't hesitate to reach out to [NAME, TITLE] at [DEPARTMENT] at [EMAIL].

Sincerely,
[HOST SIGNATURE]

Consultation Meeting Sample Evaluation

Thank you for attending the Prevention Measures Law Project Legal Consultation Meeting. Please complete and submit the following brief evaluation. Your responses help us to assess and improve our trainings and determine topics for future coverage.

1. Which of the following best describes your role? [OPTIONS BASED ON INVITEES' ROLES]

2. Rate the training: [REPEAT QUESTION IF MULTIPLE SPEAKERS/SESSIONS]

	Poor	Fair	Adequate	Good	Excellent
Speakers					
Content					
Discussion					
Materials/Resources					
Technology					
Event Space					
Food					

3. Rate the tabletop exercise:

	Poor	Fair	Adequate	Good	Excellent
Attendance by leadership and participants who will be involved in a communicable disease response					
Relevance to my role and responsibilities					
Participants' involvement in discussion					
Plausibility of communicable disease scenario					
Ability of scenario to draw out legal issues for discussion					
Usefulness of legal assessment report to respond to the issues in the scenario					

4. Rate your level of agreement with the following statement:

The Prevention Measures Law Project training and tabletop exercise increased my knowledge and understanding of the legal authority for the following communicable disease measures.

	Strongly disagree	Disagree	Neutral	Agree	Strongly Agree
Restriction on the Movement of Individual Persons					
Contract Tracing					
Restriction on the Movement of Communities or Groups within or into the Jurisdiction					
Exclusion of Students, Cancellation or Altered Practices of Schools					
Closure or Altered Practices of Public Places					
Cancellation or Altered Practices of Mass Gatherings					
Mandates for Masks, Gloves, and Other Personal Protective Equipment					
Requirement for a Health Screening or Proof of Negative Test					
Vaccine Mandates and Proof of Vaccine Requirements					
Distribution of Mass Prophylaxis					
Other					

5. Rate your level of agreement with the following statements:

The training and tabletop exercise improved my knowledge and understanding of...

	Strongly disagree	Disagree	Neutral	Agree	Strongly Agree

...the goals and values of my jurisdiction.					
...the difference between public health legal authority without and with an emergency declaration.					
...interjurisdictional cooperation, including additional or overlapping authorities.					
...there are legal authorities that can be improved in this jurisdiction.					
...additional considerations for whether disease prevention measures should be implemented.					
Other					

6. Provide feedback on what was successful and what could be improved about the training and tabletop exercise for future:

Thank you for your attendance, participation, and evaluation.

Tabletop Exercise: “[Disease] Outbreak”

for [Jurisdiction]

Held On [Date]

Context

The facts and events in this hypothetical scenario are specific to [Jurisdiction].

Caveat

While your jurisdiction’s response to COVID-19 and other recent public health emergencies may help to guide your decision making and planning, the intent of this hypothetical exercise is to test the sufficiency of your jurisdiction’s legal authorities for prevention measures and ability to coordinate across multiple agencies, departments, and sectors in a future outbreak of a known or not-yet-known communicable disease.

The fact pattern is fictional and is not intended to depict actual people or events; however, it is based on actual and potential disease outbreaks. The details of the scenario may not reflect exactly how an outbreak will unfold or what characteristics the disease might have. Further, as in a real outbreak, what is known about the disease may change and evolve over time. Jurisdictions responding to an outbreak must make decisions based on what is known and plan for what potentially could happen. For the sake of this tabletop scenario, assume the science is correct and do not spend time challenging the science for the purpose of assessing the response. If additional or alternative facts would help determine an appropriate course of action, acknowledge this and identify how it would impact potential decisions.

Be sure to consider not just public health, but other public agencies, departments, and sectors that may be involved in the response (e.g. emergency management, law enforcement, transportation, education, etc.), as well as private organizations and businesses. Also, be sure to consider the legal authorities supporting a public health emergency response for your jurisdiction, as well as for higher or lower levels or other jurisdictions with overlapping or additional authority.

Terms and Titles

The scenario below includes [blanks] to be filled in based on your jurisdiction. Use the terms and titles of individuals in these roles as applicable. Adapt the definitions as needed as well.

- “[Chief Executive Officer]” is the lead elected government official in your jurisdiction (e.g. Governor, Mayor, Tribal leader etc.). In some jurisdictions and in some instances, this may be another position designated by the Chief Executive Officer - customize as appropriate in your jurisdiction.

- “[Disease]” is the example communicable illness that you are using to test the sufficiency of your jurisdiction’s legal authorities. The characteristics of the disease outbreak are specific to the disease you choose to use for this tabletop scenario.
- “[Facilitator]” is the Project Lead or other staff member skilled with keeping the discussion on track and narrating portions of the tabletop scenario.
- “[Health Department Official]” is the lead health or public health department official in your jurisdiction.
- “[Incident Command Center]” is the team that is comprised of multiple agencies/departments and sectors who coordinate to respond to a public health emergency.
- “[Legal Counsel]” are the attorneys for the health or public health department and/or representing the jurisdiction.
- “[Legislative Body]” is the elected body in your jurisdiction (e.g. state congress, Tribal council, city council, county board of commissioners, etc.).
- “[Preparedness Plan]” refers to the protocol or guidance developed in your jurisdiction that outlines the plan for responding to a public health disease outbreak.
- “[Surveillance Unit]” is the department receiving reports or notifications of cases of disease from health care and/or health or public health entities within your jurisdiction.
- “[Day 0]” is the date the outbreak has been first confirmed by the WHO and CDC. All other dates are referred to as [Day +#], meaning the date for Day 0 plus that number of days. For example if [Day 0] is May 1, [Day 4] is May 5 and [Day +30] is May 31. You may find that it is helpful to plan for [Day 0] to be near a recognized holiday, season, or important event in your jurisdiction.

Scenario

[Fill in Month and Date of Day 0]

Facilitator: Over the past thirty days, the World Health Organization (WHO), the U.S. Centers for Disease Control and Prevention (CDC), and other agencies have confirmed the isolation of a novel and highly virulent and more deadly strain of [Disease] from clinical specimens obtained from persons on several continents. On [Day +30], CDC announced confirmation of isolation of the same strain from ill persons in several U.S. states, even though the strain had not yet been isolated from any persons in [State or State This Jurisdiction Is In].

[Jurisdiction’s Health Department Official]: Preliminary findings from epidemiological investigations indicate the following:

- [Disease] typically presents with [Typical Symptoms].

- In approximately [Percent] of cases, the [Disease] presents with [Severe Symptoms].
- It appears that [Disease] is transmitted by [Mode of Transmission].
- Populations at increased risk include [Populations at Increased Risk]. Groups burdened by systemic disparities are at even greater risk including people from some racial and ethnic minority groups, low-income communities, and rural communities with decreased access to health care, persons with disabilities, and persons living in congregate care (e.g. nursing homes, dorms, shelters, jails or prisons, etc.). Persons with decreased ability to fight illness due to weakened immune systems, such as persons with HIV or cancer or who are taking immunosuppressive medications are also at greater risk.
- The average incubation period (i.e., time from patient's exposure to a contagious person to the time of onset of initial symptoms) is approximately [Incubation Period].
- For every one person with [Disease], it is estimated that [R0] will become infected.
- No current vaccines appear to be effective against this strain of [Disease], and preliminary evaluation indicates that mass prophylaxis (medical countermeasures) administered both pre- and post-exposure are only marginally effective in preventing or attenuating severity of illness. Development of potential vaccines and more effective treatments are underway but will take time.

Facilitator: On [Day +31], following CDC's announcement of the confirmation of the circulation of the [Disease] strain in the United States, [Jurisdiction]'s [Surveillance Unit] fully activated its plan for intensified morbidity, virological, and mortality surveillance for [Disease], including active daily surveillance for confirmed or suspected cases of [Disease] diagnosed in all hospital emergency rooms, selected urgent-care outpatient facilities, and in sentinel providers' offices located throughout the jurisdiction.

Overnight and early this morning ([Day +35]), the [Surveillance Unit] received reports of six suspected cases of [Disease] in the [Heavily Populated Area in Jurisdiction]. The [Surveillance Unit] meets with the [Jurisdiction's Health Department Official] who consults with [Legal Counsel] and the [Chief Executive Officer].

[Jurisdiction's Health Department Official]: Our surveillance systems have identified the following:

- Six suspected cases of [Disease] have been reported among a small number of persons of all age groups who live in the same neighborhood in [Heavily populated area in Jurisdiction].
- One individual who has symptoms has recently returned from a country known to have confirmed cases of [Disease].
- A college student who knows and was in contact with the individual who just returned is also exhibiting symptoms. This student has likely exposed their roommate. The roommate is not currently exhibiting symptoms but is planning to leave tomorrow for a school break, returning to [Another State], their home state.
- The other suspected cases of [Disease] are four members of the same family. They may live near the first individual and may have crossed paths at the corner store or park or other public place in the neighborhood over the last few days. Two of the family members are children who attend the local (or Tribal) elementary school.

[Chief Executive Officer]: What measures are available to restrict the movement of these individuals to prevent spread of the [Disease] in [Jurisdiction]? Who is needed and what is involved in determining which measures to order and how to implement and enforce them? Can the children and their classmates be excluded from school? Can the neighborhood be placed under area quarantine (cordon sanitaire)?

[Jurisdiction's Health Department Official] and [Legal Counsel]: [Provide response to these questions based on the jurisdiction's legal authorities and decision-making considerations. Note, Jurisdiction may want to focus discussion on quarantine and isolation of individuals, quarantine of geographic area, and exclusion of children from school. Is an emergency declaration in place? What are the authorities depending on whether or not there is an emergency declaration? Remember, Can I? Must I? Should I?]

[Pause for group discussion]

[Day +49]

Facilitator: Over the next two weeks, the [Surveillance Unit] has received several more reports of confirmed or suspected cases of [Disease] among persons visiting emergency rooms, urgent care facilities, and sentinel providers' offices located primarily in the [Heavily Populated Area in Jurisdiction] but also in scattered places elsewhere in [Jurisdiction]. Reports appear to be increasing. The [Surveillance Unit] immediately informed [Jurisdiction]'s [Health Department Official] who then, according to [Jurisdiction]'s [Preparedness Plan], notified the office of the [Chief Executive Officer]. Within a short time, [Health Department Official] convened [Jurisdiction]'s [Incident Command Center], comprising representatives from [Jurisdiction]'s [List other relevant agencies, sectors, and roles, including homeland security task force, health department, attorney general's/legal counsel's office, law enforcement, civil defense, emergency management, education, transportation, and court administrator's offices], as well as leaders from the jurisdiction [Legislative Body].

[Incident Command Center Lead]: [Share organizational chart if available and describe structure and roles generally.]

[Jurisdiction's Health Department Official]: The [Chief Executive Officer] wants a status update on [Disease] reported from throughout [Jurisdiction] and other potentially relevant information. The [Surveillance Unit] reports the following information, which is based on calls to local (or Tribal) public health units and to the network of health care facilities comprising [State or State This Jurisdiction Is In]'s public health surveillance system, as well as additional reports [Surveillance Unit] has received since the [Chief Executive Officer] was first informed about these developments only a short time earlier.

- Confirmed or suspected cases of [Disease] have been reported among a small number of persons of all age groups who live in [Heavily Populated Area in Jurisdiction].
- A cluster of cases of [Disease] has occurred among residents and staff of [Large Congregate Care Facility] in that area. The [Large Congregate Care Facility] is affiliated with two acute-care hospitals and each day transfers some patients to the hospitals for management of intercurrent problems.
- A cluster of cases of [Disease] has occurred among students, as well as teachers and other staff, at one middle school in [Heavily populated area in Jurisdiction].
- A small cluster of cases of [Disease] also has been reported among city (or Tribal) transportation drivers and other transit workers who together just completed in-service training a few days earlier.

- Only within the past 30 minutes, the CDC Quarantine Station, located at the [International Airport] situated [In or Near Jurisdiction], has contacted the [Surveillance Unit] and the coordinator of the [Incident Command Center] to report that the captains of two inbound flights have radioed ahead that a small number of persons on board each plane are experiencing symptoms that appear similar to [Disease].
 - The first is a transoceanic flight and has been airborne for over 12 hours. It originated in a country in which this new strain of [Disease] had been isolated among residents.
 - The second flight is a four hour flight from [Another State], which has not yet reported suspected cases of [Disease].

[Incident Command Center]: There are several major events known to be planned throughout [Jurisdiction] for the next two weeks ([Days 50-65]) that are being monitored. At a minimum, these include:

- [Jurisdiction]-wide pre-[Upcoming Holiday] school celebrations.
- [Traditional Holiday] family and community gatherings.
- A sold-out [Professional Sporting Event] at [Stadium/Ball Park/Arena].
- The opening of a new, nationally promoted blockbuster film.
- Kickoff of [Traditional Holiday] sales and promotions at [Mall(s)].
- Several funerals at two different houses of worship of victims of a recent disaster, including two first responders.
- Multi-denominational candlelight vigil to be held in memory of the victims of the recent flood disaster, to be held on the front steps of the [Jurisdiction's Seat of Government].
- A multi-day international trade fair with informal activities preceding the formal convention beginning in one week.

Facilitator: Given this information, the [Chief Executive Officer] has asked members of the [Incident Command Center] to assess the situation and offer opinions on the merits of declaring a public health emergency. As part of this deliberation, the [Chief Executive Officer] is asking the [Legal Counsel] for key agencies—including the health department, public safety, and emergency management—to confirm the status and sufficiency of authorities for the spectrum of measures that the [Jurisdiction's Health Department Official] or [Chief Executive Officer] might need to order into effect imminently.

[Pause for group discussion: Note, Jurisdiction may want to focus discussion on authority for and relevant decisions related to closure or alternate practice of schools, alternate practices of congregate care facilities, quarantine of a group of individuals, cancellation or of mass gatherings and closure of businesses or altered practices. Is an emergency declaration in place? What are the authorities depending on whether or not there is an emergency declaration? Remember, Can I? Must I? Should I?]

Facilitator: The [Chief Executive Officer] knows this is an election year and wants to try to avoid as much negative press as possible while still mitigating this outbreak, including closing in-person schools all together,

closing businesses, canceling mass gatherings, or requiring masks. The [Chief Executive Officer] has asked that the [Incident Command Center] and [Legal Counsel] also examine and assess any additional legal, policy, or ethical concerns, as well as political or financial concerns. The [Public Health Official] is particularly interested in preventing additional burden to communities that have been traditionally underserved and wants to assess the potential impact as well.

[Pause for group discussion: Remember, Can I? Must I? Should I? Also consider involving a crisis communications expert in this discussion.]

[Day +90]

[Jurisdiction's Health Department Official]: Despite [Jurisdiction]'s best efforts, [Disease] continues to spread. The [Chief Executive Officer] wants another status briefing from [Surveillance Unit] and [Incident Command Center]. The following is an update:

- Confirmed or suspected cases are now found throughout [Jurisdiction].
- Hospitals, urgent cares, primary care doctors and other health care providers are becoming overwhelmed. Resources are limited and in some cases are having to be rationed.
- Schools have been closed to in person learning, mass gatherings have been canceled, and many non-essential public places have been closed for the past two weeks.
- Testing sites have been opened around [Jurisdiction].

Facilitator: The [Chief Executive Officer] is eager to begin reopening schools, public places, and businesses, and to begin allowing mass gatherings and events again. The [Chief Executive Officer] has asked that the [Incident Command Center] and [Legal Counsel] explore whether requiring proof of negative tests for [Disease] may provide an avenue for this.

[Pause for group discussion: Note, Jurisdiction may want to focus discussion on authority for and relevant decisions related to requiring proof of negative tests. Is an emergency declaration in place? What are the authorities depending on whether or not there is an emergency declaration? Remember, Can I? Must I? Should I?]

[Day +180]

Facilitator: The [Chief Executive Officer] wants a status briefing from [Surveillance Unit] and [Incident Command Center]. They share that a Vaccine is underway and appears promising.

[Chief Executive Officer]: How should the Vaccine be distributed? Who will receive it first? Is it voluntary or mandated? Will proof of vaccination be required before entry to schools, public places and businesses, or to participate in mass gatherings?

[Jurisdiction's Health Department Official] and [Legal Counsel]: [Provide response to these questions based on the jurisdiction's legal authorities and decision-making considerations.]

[Pause for group discussion]: Note, Jurisdiction may want to focus discussion on authority for and relevant decisions related to distribution of mass prophylaxis, resource allocation, voluntary versus mandatory vaccination, and requirement to provide proof of vaccination. Is an emergency declaration in place? What are the authorities depending on whether or not there is an emergency declaration? Remember, Can I? Must I? Should I?]

[Day +240]

Facilitator: [Legal Counsel] has just learned that [Jurisdiction]'s measures [choose one: move to remote schooling, closure of businesses, suspension of mass gatherings, or vaccine mandates] has been [preempted by a higher level jurisdiction OR overturned by the courts]. The [Chief Executive Officer] has questions about these threats to public health legal authority.

[Chief Executive Officer]: Are these measures still needed? Are there other legal authorities that could support these measures and allow them to continue? What is the legal risk should the measures be continued? Should [Jurisdiction] fight these threats in court? Are there alternative measures that would achieve the same or similar results?

[Jurisdiction's Health Department Official] and [Legal Counsel]: [Provide response to these questions based on the jurisdiction's legal authorities and decision-making considerations.]

[Pause for group discussion]

[Day +365]

Facilitator: The WHO and CDC have just announced that spread of the [Disease] is slowing and some prevention measures may be loosened or no longer be needed in places with decreased transmission. [Jurisdiction] begins the process of winding down from the outbreak. What public health criteria would demonstrate measures are no longer needed? Who has the authority to end these measures? Is this different depending on whether there is an emergency order in place?

[Pause for group discussion]

[Chief Executive Officer]: Good job, everyone! Our public health professionals and attorneys and partners are dedicated to prevention and control of communicable diseases, improving health outcomes, and to achieving health equity. Thank you for your commitment.

Facilitator: Before we go, no tabletop exercise ends without a debriefing. Let's discuss some of the lessons learned, action items, and a plan for next steps before we face the next pandemic.

[Pause for final group discussion]

DRAFT

Slides for Use with Tabletop Exercise

Disease Outbreak!

Jurisdiction
Tabletop Exercise
Date

1

Objectives

- Explore understanding of the jurisdiction's legal authority for prevention measures, sufficiency to support implementation of these measures, and capacity to coordinate implementation across jurisdictions, agencies, and sectors;
- Facilitate relationship-building and networking among colleagues and across jurisdictions, agencies, and sectors;
- Identify any ambiguities or gaps in the jurisdiction's disease control authorities and/or implementation; and
- Develop next steps for resolving gaps and/or ambiguities identified and for mitigating any disparities that the measures might exacerbate or cause.

2

Decision Making

- Can I?
- Must I?
- Should I?

3

Tabletop Rules

- Don't fight the scenario!
 - The scenario is fictional – not depicting actual people or events – but treat it as though it is a real scenario.
 - A disease outbreak may unfold differently or have different characteristics.
 - Assume the science is correct – focus on the relevant law, policy, and ethical decision-making process.
- Be inclusive.
 - Consider the authority and response of other agencies, departments and sectors.
 - Consider the authority and response of neighboring jurisdictions (including Tribes).
 - Consider the authority and response of higher or lower jurisdictions.

4

[DAY 30]

- WHO confirmed isolation of [disease]
 - Over past month
 - Novel, virulent strain
 - On multiple continents
- CDC confirmed isolation of [disease]
 - In several other states
 - Not yet in [this State or State this Jurisdiction is in]

5

Preliminary Disease Characteristics

- Typical Symptoms
 - [list]
- Severe Symptoms – [Percent]
 - [list]
- [Mode of Transmission]
- Populations at Risk
 - [list]
- Incubation Period – [Number of days]
- [R0]
- No effective vaccines.
- Countermeasures only minimally effective.

6

[Day 30+1]

- [Jurisdiction]'s response – surveillance
 - Six cases reported in [Heavily populated area in Jurisdiction]
 - Varying ages
 - Patient 1 recently returned from a country known to have confirmed cases
 - Patient 2 is a college student likely exposed their roommate who just returned
 - Roommate is not currently exhibiting symptoms but planning to leave tomorrow for [Another State] for school break
 - Patients 3-6 are members of same family who live near Patient 1. Two are children attending [nearby elementary school]

7

- What measures are available to restrict the movement of these individuals to prevent spread of the [Disease] in [Jurisdiction]? Can/must/should any or all of these individuals' movement be restricted?
- Who is needed and what is involved in determining which measures are appropriate and how to implement and enforce them?
- Can/must/should the children and their classmates be excluded from school?
- Can/must/should the neighborhood be placed under area quarantine (cordon sanitaire)?

PAUSE FOR DISCUSSION

8

[Day +49]

- Reports of [Disease]
 - Mostly in [Heavily Populated Area in Jurisdiction] but also scattered elsewhere in [Jurisdiction]
 - Cluster of residents and staff of [Large Congregate Care Facility]
 - Cluster of students, teachers and other staff at [Middle School]
 - Small cluster of transportation workers who attended same training
- [Incident Command Center] Stood Up
 - [discuss structure and list representatives]

9

INCIDENT COMMAND CENTER

- [INSERT ORGANIZATIONAL CHART]

10

[Day +49]

- Two incoming flights now with passengers suspected of having [Disease]
 - First – 12 hour international flight, originated in a country in which a new strain of [Disease] has been isolated among residents.
 - Second – 4 hour flight from [Another State], which has not yet reported suspected cases
- Upcoming events
 - [Jurisdiction]-wide pre-[Upcoming Holiday] school celebrations.
 - [Traditional Holiday] family and community gatherings.
 - A sold-out [Professional Sporting Event] at [Stadium/Ball Park/Arena].
 - The opening of a new, nationally promoted blockbuster film.
 - Kickoff of [Traditional Holiday] sales and promotions at [Mall(s)].
 - Several funerals at two different houses of worship of victims of a recent flood disaster, including two first responders.
 - Multi-denominational candlelight vigil to be held in memory of the victims of the recent flood disaster, to be held on the front steps of the [Jurisdiction's Seat of Government].
 - A multi-day international trade fair with informal activities preceding the formal convention beginning in one week.

11

- What measures are available to address spread of [Disease] in [Jurisdiction] related to the flights? Can/must/should the ill passengers' movement be restricted? Can/must/should any or all of the other passengers' movement be restricted?
- What measures should be taken in relation to altering practices, postponing, or cancelling schools, businesses, or mass gatherings?
- What, if any, other legal, policy, or ethical concerns, as well as political or financial concerns exist?
- What are the potential implications for health equity on different members of this community?
- Should crisis communicators be involved? When?

PAUSE FOR DISCUSSION

12

[Day +90]

- Reports of [Disease]
 - Confirmed or suspected cases are now found throughout [Jurisdiction].
 - Hospitals, urgent cares, primary care doctors and other health care providers are becoming overwhelmed. Resources are limited and in some cases are having to be rationed.
 - Schools have been closed to in person learning, mass gatherings have been canceled, and many non-essential public places have been closed for the past two weeks.
 - Testing sites have been opened around [Jurisdiction].

13

- How can measures related to altering practices, postponing, or cancelling schools, businesses, or mass gatherings be discontinued?
- Can measures such as requiring proof of negative testing be required? If so, how?
- What differences are there depending on whether an emergency order is or is not in place?

PAUSE FOR DISCUSSION

14

[Day +180]

- Reports of [Disease]
 - Vaccines are underway and appear promising. Plans must be made for distribution.

15

- What plans will be made for distribution of mass prophylaxis?
- How shall vaccine distribution be prioritized?
- What circumstances would lead to mandatory vaccination versus voluntary vaccination?
- Does this differ depending on whether there is an emergency order in place?

PAUSE FOR DISCUSSION

16

[Day +240]

- [Measure] has been [preempted by a higher jurisdiction or overturned by the court].

17

- Are these measures still necessary to prevent disease spread? Are alternative measures available?
- Are there redundant/alternative legal authorities that can be relied upon instead?
- Should the [preemption or court decision] be challenged further?
- How should this legal information be communicated to the public?

PAUSE FOR DISCUSSION

18

[Day +365]

- Good news! [Disease] spread has significantly decreased in the U.S. and [Measures] may no longer be needed.

19

- What public health criteria would demonstrate measures are no longer needed?
- Who has the authority to end these measures?
- Is this different depending on whether there is an emergency order in place?

PAUSE FOR DISCUSSION

20

Debrief

21

Diseases

Select a novel, more contagious, deadlier strain of disease (facts are exaggerated for sake of exercise) from the chart below to insert into the spaces in the tabletop scenario above.

Disease	Respiratory Virus	Infectious Tuberculosis	Rubeola	Poxvirus	Viral Hemorrhagic Fever	Customize
Typical Symptoms	abrupt onset of fever, malaise, myalgia (muscle aches), cough, and runny nose	cough that last several weeks, coughing up blood or mucus, chest pain, fatigue, loss of appetite, fever and chills, night sweats	initially very high fever, cough, runny nose and watery eyes, then 2-3 days later white spots in the mouth, then 3-5 days later red spots beginning on the face and spreading over the body	generally fever and chills, headache, muscle aches, fatigue, loss of appetite, and swollen lymph nodes occur first, followed by severe blisters on the face, hands, feet, or genitals and spreading over the body; however, some have no signs until the rash appears	progresses from fever, headache, muscle and joint pain, and fatigue to abdominal pain diarrhea and vomiting, as well as unexplained bleeding and bruising;	Customize by 1) choosing a disease not listed in this chart and filling in the requested information; 2) inventing a novel disease with a mix of characteristics 3) rolling out the information available to

Disease	Respiratory Virus	Infectious Tuberculosis	Rubeola	Poxvirus	Viral Hemorrhagic Fever	Customize
						public health more slowly than what is described above
Percent of Total Cases Severe if Untreated	20	50	5	12	50	Determine severity
Severe Symptoms	rapidly progresses to a primary viral pneumonia, acute respiratory distress syndrome, and death	causes bacterial infection in the bloodstream, spreading throughout the body, damaging multiple organs, and often causing death	leads to blindness, encephalitis, pneumonia, and death	scarring, pneumonia, encephalitis and brain damage, bacterial infection, sepsis, and death	those who survive are likely to have memory loss, vision and hearing problems, inflammation of the heart, and/or PTSD	List severe symptoms

Disease	Respiratory Virus	Infectious Tuberculosis	Rubeola	Poxvirus	Viral Hemorrhagic Fever	Customize
Transmission Mode	respiratory droplets spread through the air when a nearby infected person coughs, sneezes	droplets spread through the air when a person infected with TB coughs or speaks and another person breaths this in	respiratory droplets spread through the air when a nearby infected person coughs or sneezes and someone breaths this in or touches a contaminated surface and then touches their eyes, nose or mouth	direct contact with an the rash or scabs of infected person or prolonged contact with their respiratory droplets or bodily fluids	spread through contact with the blood, urine, sweat, feces, vomit, semen, or other bodily fluids of infected individuals, including after death, or contaminated objects such as bedding, clothes or medical equipment or surfaces	Describe how transmitted
Populations at Increased Risk	persons in all age groups regardless of their previous health (i.e., includes	persons who have been traveling, close household	young children, older adults and pregnant women	persons caring for sick individuals, close household members or sexual partners	persons caring for sick individuals or preparing bodies for burial, people	Describe any groups at increased risk

Disease	Respiratory Virus	Infectious Tuberculosis	Rubeola	Poxvirus	Viral Hemorrhagic Fever	Customize
	persons who previously have been in good health, as well as those who with pre-existing chronic disease conditions)	members of others with TB		of sick individuals, breastfeeding infants with infected mothers	eating bushmeat, breastfeeding infants with infected mothers, sexual partners of infected men	
Incubation Period	36-48 hours	3-9 weeks	7-21 days	6-13 days	2-21 days	State incubation period
R0 Or Re or Rt	6	2	30	4	6	State R0

Chapter 4:

IDENTIFYING ACTION STEPS AND PLANNING FOR SUSTAINABILITY

Overview

Participating in the PMLP is an opportunity for a jurisdiction to assess its legal landscape for a disease outbreak. In this context, the legal landscape is the jurisdiction's laws to support disease prevention measures and, in addition, to the capacity of the involved agencies to implement those prevention measures in a coordinated and highly effective manner.

The two core components of a jurisdiction's project – the Legal Assessment using the template and the Legal Consultation Meeting with the tabletop exercise – likely generated new, in-depth information about legal sufficiency and coordinated implementation. These components may also have helped to uncover gaps or ambiguities in the existing disease control laws or led to the discovery that roles and responsibilities in coordinating implementation of these measures need to be clarified.

The final step of the project is to use the results and findings to identify the opportunities for strengthening the legal landscape for implementing prevention measures. This is an integral part of the project. Senior public health officials and legal counsel in the participating jurisdictions, together with leadership from other agencies (e.g., emergency management, education, law enforcement, transportation) that have a role in responding to a disease outbreak, should review findings from both project components, identify opportunities for improvement, commit to taking the appropriate action steps, and develop plans for sustainability and future review.

At least six types of actions may be considered for the purpose of translating lessons learned from the project into improved legal preparedness for disease outbreaks:

- Action steps to improve the sufficiency of the laws and legal authorities that support prevention measures;
- Action steps to improve coordinated implementation of prevention measures across agencies, sectors, and jurisdictional boundaries;
- Action steps to increase compliance and enforcement of prevention measures;
- Action steps to improve communication with the public about prevention measures;
- Action steps to reduce potential disparities on already burdened individuals, businesses, and communities that may be exacerbated by implementing these prevention measures;
- Action steps to establish at least annual review, update, and practice of legal authorities for prevention measures.

The action steps, who is responsible for them, and the timeline to implementation, can be compiled into a final report and circulated among those who have roles and responsibilities during a disease outbreak. For maximum results, the Lead Governmental Health Attorney can follow-up to assess whether the action steps have been addressed or what remains to be done. An Action Steps Planning Worksheet is available below to help capture and implement the action items.

Effective outbreak response hinges on the presence of sufficient legal authorities; their appropriate use; close coordination with other jurisdictions, agencies, departments and sectors; consistent and fair compliance and enforcement; clear communication with the public; and the consideration of health equity. The selected action steps may also improve the response to emergencies other than communicable disease outbreaks such as anthrax attacks, non-communicable infectious disease outbreaks, or natural and human-made disasters, including chemical and radiologic incidents.

As they identify these opportunities, public health officials and their partners have access to many resources they can use to deliver law-related training in public health emergency preparedness, improve coordination across public health, law enforcement, corrections, and the judiciary, develop mutual aid agreements across state, Tribal, local, and international boundaries, and learn about emerging issues and developments in public health law. These and additional relevant resources are accessible on the websites of the Centers for Disease Control's Office of Public Health Law Services <https://www.cdc.gov/phlp/publications/topic/emergency.html>, the Association of State and Territorial Health Officials <https://www.astho.org/topic/preparedness>, and the Network for Public Health Law <https://www.networkforphl.org/resources/legal-emergency-preparedness-resources>. In addition, the Network is also able to respond to requests from jurisdictions for legal technical assistance.

Action Steps Planning Worksheet

Prepared by [Name]

Category	Action Steps	Responsible Party	Deadline	Potential Challenges	Results
Action steps to improve the sufficiency of the laws and legal authorities that support prevention measures					

Category	Action Steps	Responsible Party	Deadline	Potential Challenges	Results
Action steps to improve coordinated implementation of prevention measures across agencies, sectors, and jurisdictional boundaries					

Category	Action Steps	Responsible Party	Deadline	Potential Challenges	Results
<i>Action steps to increase compliance and enforcement of prevention measures</i>					

Category	Action Steps	Responsible Party	Deadline	Potential Challenges	Results
<i>Action steps to improve communication with the public about prevention measures</i>					

Category	Action Steps	Responsible Party	Deadline	Potential Challenges	Results
Action steps to reduce potential disparities on already burdened individuals, businesses, and communities that may be exacerbated by implementing these prevention measures					

Category	Action Steps	Responsible Party	Deadline	Potential Challenges	Results
<i>Action steps to establish at least annual review, update, and practice of legal authorities for prevention measures</i>					

A FINAL NOTE FROM THE SPONSORS

The Association of State and Territorial Health Officials (ASTHO) and the Network for Public Health Law (Network), as sponsors of the Prevention Measures Law Project (PMLP), look forward to states, territories, Tribes, and localities using this tool to strengthen the legal landscape to address communicable disease outbreaks.

For any questions or comments about this PMLP resource, contact ASTHO at StateHealthPolicy@astho.org.