

## Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority

### Facilitator's Guide



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## Who Should Use Our Facilitator’s Guides?

Our facilitator’s guides are intended for anyone who needs to provide training to public health practitioners about our legal system and its role in improving population outcomes. Public health practitioners may include health department staff, public health lawyers, public health nurses, public health educators, public health advocates, and public health faculty and students in graduate and undergraduate programs. To access facilitator’s guides for our other trainings, visit [publichealthlawacademy.org](http://publichealthlawacademy.org).

## Training Overview

### About This Training

Public health law plays a central role in keeping Americans safe and healthy in times of crisis, from natural disasters to communicable disease outbreaks and pandemics. However, the US Constitution requires that public health responses – such as social distancing, isolation and quarantine, and mandatory examination and treatment – take into account the rights of individuals affected by emergencies. This training uses examples from real-life scenarios to introduce the constitutional principles and doctrines that protect individual civil liberties from government overreach. The course explains what responders need to know about the law and health equity when preparing for and responding to public health emergencies.

### Target Audience

This training was developed for public health practitioners, including policy analysts, public health lawyers, educators, nurses, and students. No legal background is necessary.

### Learning Objectives

- Describe how emergency preparedness relates to health equity
- Describe the role of law in emergency preparedness and response
- Explain the powers and limits that the US Constitution assigns to public health authorities in regard to disease control
- Understand the need to balance collective actions for the common good against individual freedoms

### Materials

- Facilitator's Guide: This document can be adapted to provide a training that is customized for your audience.
- Slide Presentation & Script: The slides and script are separate files that can be modified to reflect your audience, training content, and speakers.
- Facilitator's Checklist: The checklist is a separate file that will help you prepare to deliver any training offered by the [Public Health Law Academy](https://www.publichealthlawacademy.org).

### Equipment

- Computer
- Projector

## Instructions for Facilitators

Before you start, we recommend that you download the [Facilitator's Checklist](#), which is intended to help you prepare to deliver any training offered by the [Public Health Law Academy](#). In this section, we have identified options for tailoring this training, [Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority](#), for your audience and venue.

### Prepare for the Presentation

As the facilitator, you should first go through the materials to familiarize yourself with the content. We recommend that you watch the entire training: [Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority](#). Once you are familiar with the material, you can modify the content and length to suit your audience, available time, and venue.

### Before Starting the Presentation

We suggest that you have participants complete the following:

- *The Q&A handout found on pp. 17-18 of this guide.* The Q&A handout will help participants assess their knowledge before and after the training. An answer key is provided on pp. 19-21.
- *The pre-training survey included in this guide on page 23.* The pre-training survey will provide information to help you evaluate the overall quality of the session.

If you are not giving the presentation in person, you can distribute these handouts electronically prior to the training (and distribute the answer sheet electronically after the training).

### During the Presentation

You'll want to decide how to use the Q&A handout to engage participants in the training, depending on the length of your presentation. Two options are outlined here. These approaches not only re-emphasize key points but also create a more interactive experience for participants.

- *Option 1: Poll the Room*  
One approach is to weave the questions throughout the presentation. You can stop after each question and ask the audience to answer it before moving to the next slide. The slide deck is set up to support this option.
- *Option 2: Discussion Activity*  
You can move all the question-and-answer slides to the end of the presentation and create an opportunity for a longer discussion after you've covered all of the content. Depending on the number of people attending your training, this discussion activity can be done as a full group or in small groups. The Training Agenda item "Q&A Discussion" provides additional details on when to include this activity if you select this option.

Lastly, our sample agenda suggests allowing 10 minutes at the end of the presentation for final remarks, acknowledgments, and general questions. Of course, this time can be adjusted to suit the needs of the presentation setting and your audience.

### After the Presentation

When the presentation is complete, participants should fill out the post-training survey on pages 24-25.

Finally, we are interested in your experience with using this curriculum. Please let us know at [PHLAcademy@changelabsolutions.org](mailto:PHLAcademy@changelabsolutions.org) if you have any questions or feedback on how to improve these materials.

## Training Agenda

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### Pre-Training Survey & Q&A Handout

10 minutes\*

#### Objectives

- Have participants complete the pre-training survey and answer the questions in the Q&A handout

#### Resources

- Pre-training survey (p. 23 of this guide)
- Q&A handout (pp. 17-18 of this guide)

#### Public Health Emergency Law Competency Addressed

- [Public Health Emergency Law \(PHEL\) Competency Model](#), Domain 3
- 

### Introduction & Presentation Overview

5 minutes\*

#### Objectives

- Introduce presentation topic and presenter(s)
- Provide any necessary disclaimers and introductory comments
- Provide a roadmap for the rest of the presentation

#### Resource

- Slide presentation (slides 1-5)
- 

### How does emergency preparedness relate to health equity?

5 minutes\*

#### Objectives

- Define health equity
- Identify the five drivers of health inequities
- Connect equity-forward approaches with emergency response

#### Resource

- Slide presentation (slides 6-10)

#### Public Health Emergency Law Competency Addressed

- [Public Health Emergency Law \(PHEL\) Competency Model](#), Domain 3

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## Why public health law?

5 minutes\*

### Objectives

- Discuss the connections between law and public health
- Introduce measles scenario and public health practitioner Wendy

### Resource

- Slide presentation (slides 11-15)

### Public Health Emergency Law Competency Addressed

- [Public Health Emergency Law \(PHEL\) Competency Model](#), Domain 3

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## What are the major sources & limits of public health authority?

15 minutes\*

### Objectives

- Summarize the authority granted to public health departments by the US Constitution and the court system
- Provide an overview of the limits placed on public health departments by the US Constitution and the court system
- Provide a content warning, review why understanding the history of public health law is critical to the practice of public health, and then summarize *Souvannarath v. Hadden*
- Review the constitutional right to free exercise of religion and discuss when the government may infringe on the free exercise of religion
- Introduce the right to equal protection of the law under the Fifth and Fourteenth Amendments, describe the *Jew Ho v. Williamson* case, and discuss connections to health equity when balancing public health authority and individual liberty

### Resource

- Slide presentation (slides 16-48)

### Public Health Emergency Law Competency Addressed

- [Public Health Emergency Law \(PHEL\) Competency Model](#), Domain 3

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## What do responders need to know?

20 minutes\*

### Objectives

- Summarize social distancing measures that can be taken by public health departments
- Discuss isolation and quarantine, their constitutional implications, equitable implementation, and obligations to those confined by such orders
- Provide an overview of mandatory examination and treatment required by government entities
- Discuss in depth the concept of mandatory treatment – who has the authority to require it, when it is permitted, and how it applies to children
- Discuss religious exemptions to vaccination, implications of the verdict in *Prince v. Massachusetts*, and how state and federal laws relate to these exemptions

### Resource

- Slide presentation (slides 49-89)

### Public Health Emergency Law Competency Addressed

- [Public Health Emergency Law \(PHEL\) Competency Model](#), Domain 3

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## Q&A Discussion (optional)

20 minutes\*

### Objectives

- If you chose not to weave the questions from the Q&A handout throughout the presentation, have participants discuss the answers to the questions as a full group or in small groups
- Provide the answers to the Q&A handout

### Resource

- Q&A handout answer key (pp. 19-21 in this guide)

### Public Health Emergency Law Competency Addressed

- [Public Health Emergency Law \(PHEL\) Competency Model](#), Domain 3



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## Final Takeaways & Acknowledgments

10 minutes\*

### Objectives

- Summarize the topics discussed and provide concluding remarks
- Direct participants to more resources, should they wish to delve more deeply into the legal issues covered in the training
- Allow participants to ask general questions
- Have participants complete the post-training survey

### Resources

- Slide presentation (slides 90-95)
- Post-training survey (pp. 24-25 in this guide)

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*\*All times are approximate; total training time is about 1 hour, 30 minutes.*

## Additional Resources

As you prepare to tailor content from [Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority](#), we recommend familiarizing yourself with the resources listed in this section. These resources informed the development of the content of this training and can provide background information as you prepare to tailor the content of your presentation. Finally, as questions from audience members arise during and after the training, you can refer them to these resources for additional information.

## Organizations

### CDC, Public Health Law Program

[cdc.gov/phlp](https://cdc.gov/phlp)

The Public Health Law Program – part of the CDC’s Center for State, Tribal, Local, and Territorial Support – works to improve the health of the public by developing law-related tools and providing legal technical assistance to public health practitioners and policymakers.

### ChangeLab Solutions

[changelabsolutions.org](https://changelabsolutions.org)

ChangeLab Solutions is a national organization whose mission is to create healthier communities for all through equitable laws and policies. Their multidisciplinary team of public health lawyers, policy analysts, planners, and other professionals works with state, tribal, local, and territorial health departments; other government agencies; public health organizations; and anchor institutions to create thriving communities.

## Background Reading & References

For additional information on the concepts discussed in this training, see the following resources:

- Adler S, Kappagoda M, Johnson R, Glass P. Isolation & quarantine: what public health leaders need to know about the legal issues. ChangeLab Solutions website: [changelabsolutions.org/blog/isolation-quarantine](https://changelabsolutions.org/blog/isolation-quarantine). May 6, 2020.
- Bingham S, Calhoun S, Case A, et al. *Paying More for Being Poor: Bias and Disparity in California’s Traffic Court System*. San Francisco, CA: Lawyers’ Committee for Civil Rights of the San Francisco Bay Area; May 2017. [lccrsf.org/wp-content/uploads/LCCR-Report-Paying-More-for-Being-Poor-May-2017.pdf](https://lccrsf.org/wp-content/uploads/LCCR-Report-Paying-More-for-Being-Poor-May-2017.pdf). Accessed March 25, 2020.
- *A Blueprint for Changemakers: Achieving Health Equity Through Law & Policy*. Oakland, CA: ChangeLab Solutions; 2019. [changelabsolutions.org/product/blueprint-changemakers](https://changelabsolutions.org/product/blueprint-changemakers).
- Braveman P. A new definition of health equity to guide future efforts and measure progress. *Health Affairs*. June 22, 2017. [healthaffairs.org/doi/10.1377/hblog20170622.060710/full/](https://www.healthaffairs.org/doi/10.1377/hblog20170622.060710/full/). Accessed February 2, 2021.
- Braveman P. What are health disparities and health equity? we need to be clear. *Public Health Rep*. 2014;129(1\_Suppl 2):5-8. doi:10.1177/00333549141291S203.

- Braveman P, Arkin E, Orleans T, Proctor D, Plough A. What is health equity? Robert Wood Johnson Foundation website: [rwjf.org/en/library/research/2017/05/what-is-health-equity-.html](http://rwjf.org/en/library/research/2017/05/what-is-health-equity-.html). May 1, 2017.
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- Brennan Ramirez LK, Baker EA, Metzler M. *Promoting Health Equity: A Resource to Help Communities Address Social Determinants of Health*. Atlanta, GA: Centers for Disease Control and Prevention, US Department of Health and Human Services; 2008. [cdc.gov/nccdphp/dch/programs/healthycommunitiesprogram/tools/pdf/SDOH-workbook.pdf](http://cdc.gov/nccdphp/dch/programs/healthycommunitiesprogram/tools/pdf/SDOH-workbook.pdf).
- *Equitable Enforcement to Achieve Health Equity: An Introductory Guide for Policymakers and Practitioners*. Oakland, CA: ChangeLab Solutions; 2020:7,14. [changelabsolutions.org/product/equitable-enforcement-achieve-health-equity](http://changelabsolutions.org/product/equitable-enforcement-achieve-health-equity).
- *Investigation of the Ferguson Police Department*. Washington, DC: Civil Rights Division, US Department of Justice; March 4, 2015. [justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf).
- Kappagoda M, Adler S, Johnson R, Glass P. Social distancing: what decisionmakers need to know. ChangeLab Solutions website: [changelabsolutions.org/blog/social-distancing](http://changelabsolutions.org/blog/social-distancing). March 27, 2020; updated April 3, 2020.
- Kelto A. When a court ordered kids vaccinated – against parents’ will. KQED website: [blogs.kqed.org/stateofhealth/2015/02/19/when-a-court-once-ordered-kids-vaccinated-against-parents-will/](http://blogs.kqed.org/stateofhealth/2015/02/19/when-a-court-once-ordered-kids-vaccinated-against-parents-will/). February 19, 2015.
- Office of Disease Prevention and Health Promotion, US Department of Health and Human Services. Disparities. Healthy People website: [healthypeople.gov/2020/about/foundation-health-measures/Disparities](http://healthypeople.gov/2020/about/foundation-health-measures/Disparities).
- State information: exemptions permitted for state immunization requirements. Immunization Action Coalition website: [immunize.org/laws/exemptions.asp](http://immunize.org/laws/exemptions.asp). Reviewed May 28, 2019.
- Sweet E, Nandi A, Adam EK, McDade TW. The high price of debt: household financial debt and its impact on mental and physical health. *Soc Sci Med*. 2013;91:94-100. doi:10.1016/j.socscimed.2013.05.009.
- *Targeted Fines and Fees Against Communities of Color: Civil Rights & Constitutional Implications*. Briefing report. Washington, DC: US Commission on Civil Rights; 2017. [usccr.gov/pubs/2017/Statutory\\_Enforcement\\_Report2017.pdf](http://usccr.gov/pubs/2017/Statutory_Enforcement_Report2017.pdf).
- Visualizing health equity: one size does not fit all infographic. Robert Wood Johnson Foundation website: [rwjf.org/en/library/infographics/visualizing-health-equity.html](http://rwjf.org/en/library/infographics/visualizing-health-equity.html). June 30, 2017.
- Wildeman C, Wang EA. Mass incarceration, public health, and widening inequality in the USA. *Lancet*. 2017;389(10077):1464-1474. doi:10.1016/S0140-6736(17)30259-3.
- Wiley LF, Vladeck S. Why carefully designed public vaccination mandates can – and should – withstand constitutional challenge. Lawfare website: [lawfareblog.com/Designed-Public-Vaccination-Mandates](http://lawfareblog.com/Designed-Public-Vaccination-Mandates). August 12, 2021.
- Wolkin A. Mission possible: preparing and responding to disasters through a health equity lens. Centers for Disease Control and Prevention website: [blogs.cdc.gov/healthequity/2018/09/06/disasters/](http://blogs.cdc.gov/healthequity/2018/09/06/disasters/). September 6, 2018.

## Relevant Cases

### MANDATORY TREATMENT & VACCINATION

#### [Jacobson v. Massachusetts, 197 U.S. 11 \(1905\)](#)

**SUMMARY:** During an outbreak of smallpox in 1902, Pastor Henning Jacobson refused to comply with Cambridge, MA's order for all adults to be vaccinated. He refused to pay the \$5 fine and challenged the constitutionality of the law in court.

The US Supreme Court upheld the mandatory vaccination law, asserting that “there are manifold restraints to which every person is necessarily subject for the common good.” It explained that police power embraces “reasonable regulations” to protect public health and safety.

**TAKEAWAY:** This landmark decision on the constitutionality of mandatory public health control measures is still relevant today. While the decision pertains to mandatory vaccination, it articulates the principles and authority behind the basic use of government police power in other public health control situations – such as quarantine, isolation, and closure of facilities – during emergencies.

One of the most important takeaways from this case is that the government must always balance collective actions for the common good against individual liberty rights.

### RELIGIOUS RIGHTS & PROTECTION OF HEALTH

#### [Prince v. Massachusetts, 321 U.S. 158 \(1944\)](#)

**SUMMARY:** Sarah Prince, who was a Jehovah's Witness, was convicted for violating Massachusetts' child labor laws when she permitted her 9-year-old niece, of whom she was guardian, to sell religious pamphlets on the streets in the evening.

The child labor laws she was charged with violating prohibited boys under the age of 12 and girls under the age of 18 from selling literature or other goods on public thoroughfares. The question before the Supreme Court was whether a statute prohibiting child labor violates free exercise or equal protection guarantees when applied to proscribe a child's distribution of religious pamphlets.

The court recognized both the child's and the guardian's religious freedom in the context of a family but held that free exercise guarantees do not preclude regulation of family practices in order to protect a child's well-being.

The court specifically recognized that “acting to guard the general interest in youth's well being, the state as *parens patrie* may restrict the parent's control by requiring [many things].... [A parent] cannot claim freedom from compulsory vaccination for the child more than for himself on religious grounds.”

**TAKEAWAY:** Although the facts of the case pertained to a violation of child labor laws, the court's decision has important implications for the Free Exercise Clause in the context of public health. This case, coupled with *Jacobson*, provides precedent for the prevailing rule in vaccination cases that parents' religious freedom must give way to the state's interest in protecting public health and individual children.<sup>1</sup>

<sup>1</sup> Aspinwall TJ. Religious exemptions to childhood immunization statutes: reaching for a more optimal balance between religious freedom and public health. *Loyola Univ Chicago Law J.* 1997;29(1):109-139.

### Employment Division v. Smith, 494 U.S. 872 (1990)

**SUMMARY:** Two men in Oregon were fired for using peyote for sacramental purposes during a ceremony at a Native American church to which they belonged.

The men were then denied unemployment benefits because they had been discharged for “misconduct,” and the law prohibited benefits in that situation. They challenged that denial of benefits, claiming a violation of their First Amendment rights to practice their religion.

The issue before the Supreme Court was whether the First Amendment required Oregon to exempt sacramental peyote from categorization as a controlled substance, the possession of which is a felony.

The court found that the Constitution did not require Oregon to exempt sacramental peyote use. While it acknowledged the First Amendment rights of the two men, it emphasized that people cannot ignore laws of general applicability because they go against their religious beliefs.

The court drew a line between religious beliefs and actions taken in accordance with those beliefs, finding *in this case* that the government has the power to regulate actions even if the regulation would impinge on some religious beliefs.

It is important to note that this ruling doesn’t mean that the state *couldn’t* exempt sacramental peyote use, just that the First Amendment does not require it to do so.

**TAKEAWAY:** Although the facts of this case have little to do with emergency preparedness, its holdings are instructive in regard to the tension between religious rights and protection of public health. It is worth noting that, as of August 2021, this area of law is rapidly evolving, making it an area to monitor. We recommend seeking the advice of an attorney or other qualified professional on questions related to religious beliefs and public health mandates.

### QUARANTINE & ISOLATION

#### Jew Ho v. Williamson, 103 F.10 (C.C.N.D. Cal. 1900)

**SUMMARY:** In response to an outbreak of bubonic plague in San Francisco, CA, in 1900, the city’s Board of Health issued a quarantine covering 12 city blocks in the Chinatown district, prohibiting movement into or out of the area.

At issue was whether the quarantine was, first, racially motivated and, second, effective to stop the spread of the disease.

The federal district court overturned the quarantine on the following grounds:

- The quarantine was not a reasonable regulation for preventing the spread of the disease. The confinement of people not yet affected by the plague but in close proximity to the afflicted was more likely to increase the spread of the disease than reduce it.
- The administration of law “with an evil eye and an unequal hand,” the judge said, is not permissible. Many of the restrictions were imposed on and enforced against only the Chinese American residents within the district, violating their Fourteenth Amendment right to equal protection. As the court said, “The evidence is clear here that this [quarantine] is made to operate against the Chinese population only, and the reason given for it is that the Chinese may communicate the disease from one to the other. That

explanation, in the judgment of the court, is not sufficient. It is, in effect, a discrimination, and it is the discrimination that has frequently been called to the attention of federal courts where matters of this character have arisen with respect to Chinese.”

**TAKEAWAY:** Government police power to control disease is not unlimited. Quarantines must be reasonable (i.e., effective in preventing the spread of disease) and cannot unduly infringe on individual constitutional liberties. Here, the court looked at both reasonableness and discrimination. The reasonableness determination factored into whether there had been discrimination in issuing and enforcing the quarantine order. This case – like *Souvannarath* (discussed next) – is a disturbing example of how marginalized communities have been disproportionately harmed by abuse of public health powers.

### **Souvannarath v. Hadden, 95 Cal.App.4th 1115 (2002)**

**SUMMARY:** Fresno County, CA, had a policy that any person infected with a communicable disease who resisted treatment and became a public health hazard could be detained in the Fresno County jail.

Hongkham Souvannarath was a Laotian refugee living in California’s Central Valley. She was found to have multi-drug resistant tuberculosis (TB), which required the administration of medication and treatment at the chest clinic. When she refused to comply with the program, Fresno County served her with a Notice and Order for Examination – in English, a language she barely spoke – and told her she was required to appear at the chest clinic or risk being detained for continued noncompliance.

The order did not state any specific reason for the detention, nor did it state her rights under the TB control laws to request release, a hearing, and court-appointed counsel.

When Souvannarath failed to appear at the clinic, she was taken at gunpoint to the county jail after being told she was being taken to the hospital.

When Souvannarath saw and recognized the jail, she refused to get out of the county van until she was told she would be forcibly carried in if she did not submit voluntarily. She was crying, as were her two daughters who had ridden in the van with her. At the jail, she was forced to undress and was strip-searched.

For the first three days, she was housed in a cell without water, heat, light, a bed, or a toilet. Thereafter, she was housed in the infirmary, where she was expected to clean up after the other inmates. Some of those inmates threatened her.

She was subject to the same restrictions as those imposed on all jailed inmates. Thus, she was allowed only limited visits from family; she could make only collect, surcharged phone calls; she was handcuffed and shackled at her wrists, ankles, and waist whenever she was taken to outside locations such as the clinic or hospital; and she was chained to the bed when she was in the hospital.

After hearing an account of these events, the California Court of Appeals ruled in favor of Souvannarath and found that jailing noncompliant TB patients was a violation of California law.

**TAKEAWAY:** This case is important for several reasons. First, it underscores why limitations on public health police powers are so critical: to protect individuals. While the facts of this case may seem like an extreme example or something that is hard to imagine happening in modern times, these events occurred in 1998 and 1999.

Second, limitations on public health authority are especially important in protecting communities – including Black people, Indigenous people, other communities of color, immigrant communities, people with disabilities, and people who identify as LGBTQ+ – who have been disproportionately harmed by abuse of public health police powers for generations.

**Best v. Bellevue Hospital, 115 Fed. Appx. 459 (2d 2004)**

**SUMMARY:** A patient with tuberculosis was confined when he sought to leave the hospital and refused to cooperate with treatment even though he was living communally and thus could spread the illness to many others. In response, he filed a lawsuit against the city, the city hospital, and the city health department.

The issue before the court was whether the patient (1) was dangerous to himself and the community and (2) whether he had an adequate right to hearing.

The patient was held while the case was being reviewed. After four hearings and seven administrative, state, and federal judicial orders over a span of two years, the city, health department, and hospital ultimately prevailed. The court found that procedures were followed and that there were adequate grounds for confinement.

**TAKEAWAY:** While this New York case is somewhat unusual in the number of procedural hearings and orders issued, it is an example of how the courts support public health officials when procedures are followed and the substantive grounds for the control measure are sound.

## Welcome Activity: Q&A Handout

**Expected time:** 30 minutes total (approximately 10 minutes before the presentation and 20 minutes during or after the presentation)

### Instructions for Facilitators

- Welcome the participants and introduce yourself
- Explain housekeeping items, such as estimated length of the training, break times, and restroom locations
- Ask participants to complete the Q&A handout
- Remind participants that they are not expected to know all of the answers
- Encourage participants to do their best, and explain that the answers to some of the questions will be addressed throughout the presentation
- Where applicable, the answer key (found on pp. 19-21) references the slides in the presentation where relevant concepts are expressly addressed or implied.
- Review answers to the questions in the Q&A handout by either
  - Weaving the questions throughout the presentation (this is how the slide deck is currently structured) and stopping after each question to ask the audience for the answer before moving to the next slide; or
  - Moving all the questions in the slide deck to the end of the presentation and holding time then to have participants discuss the questions as a full group or in small groups



# Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority

## Q&A HANDOUT

Instructions: As an individual, answer the following questions.

1. What constitutional amendment(s) guarantee the right to due process?
  - A. First Amendment
  - B. Fifth Amendment
  - C. Fourteenth Amendment
  - D. First & Fourteenth Amendments
  - E. Fifth & Fourteenth Amendments
  
2. Which of the following government actions violate due process?
  - A. Providing a Notice and Order for Examination
  - B. Issuing an Order of Quarantine and Isolation that does not state a specific reason for detention
  - C. A & B
  - D. None of the above
  
3. Which of the following actions are violations of procedural due process?
  - A. Failing to provide proper notice for detention
  - B. Detaining the patient at gunpoint
  - C. Quarantining the patient in a jail cell without water, heat, light, a bed, or a toilet
  - D. A & B
  - E. A, B, & C
  
4. **TRUE or FALSE?** Country X is experiencing an outbreak of a viral respiratory disease that kills 40% of the people infected. The US government may issue a quarantine order exclusively for citizens of Country X who come to the United States.
  
5. What five requirements usually constitute due process for isolation and quarantine? List your answers:
  1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_
  4. \_\_\_\_\_
  5. \_\_\_\_\_

6. **TRUE or FALSE?** Whether a detention has a reasonable basis can depend on the science.
7. **TRUE or FALSE?** When possible, a person subject to isolation or quarantine should be given the choice of confinement in their own home.
8. **TRUE or FALSE?** The right to counsel means that you can have an attorney present during legal proceedings.
9. **TRUE or FALSE?** It is a violation of due process to detain someone before they are given a fair hearing.
10. **TRUE or FALSE?** Children can be required to be vaccinated in order to attend school, regardless of their parents' wishes.

# Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority

## Q&A HANDOUT

### ANSWER KEY

1. What constitutional amendment(s) guarantee the right to due process?

- A. First Amendment
- B. Fifth Amendment
- C. Fourteenth Amendment
- D. First & Fourteenth Amendments

**E. Fifth & Fourteenth Amendments – CORRECT ANSWER**

**Answer:** If you picked E, you're correct. The Fifth and Fourteenth Amendments guarantee the right to due process.

➤ This content is discussed on slides 27-30.

2. Which of the following government actions violate due process?

A. Providing a Notice and Order for Examination

**B. Issuing an Order of Quarantine and Isolation that does not state a specific reason for detention – CORRECT ANSWER**

C. A & B

D. None of the above

**Answer:** If you picked B, that's correct. An Order of Quarantine and Isolation must state a reason for detention, as well as other information about the patient's rights.

➤ This content is discussed on slides 32-38.

3. Which of the following actions are violations of procedural due process?

**A. Failing to provide proper notice for detention – CORRECT ANSWER**

B. Detaining the patient at gunpoint

C. Quarantining the patient in a jail cell without water, heat, light, a bed, or a toilet

D. A & B

E. A, B, & C

**Answer:** If you picked A (failing to provide proper notice for detention), that's correct. While answer choices B and C are both egregious violations of substantive due process, remember that procedural due process relates to certain procedural things that must happen before interfering with someone's life, liberty, or property – for example, providing proper notice, notifying an individual of their right to counsel, or providing access to a fair hearing.

➤ This content is discussed on slides 31-40.

4. **TRUE or FALSE?** Country X is experiencing an outbreak of a viral respiratory disease that kills 40% of the people infected. The US government may issue a quarantine order exclusively for citizens of Country X who come to the United States.

**Answer: False.** Equal protection prohibits discrimination against someone because that person belongs to a particular group. The government must have a valid justification for treating people differently based on certain protected categories, such as race or national origin. Because anyone traveling to or living in Country X during the outbreak is equally likely to have contracted the virus, regardless of race or national origin, the quarantine cannot single out only citizens of Country X.

➤ This content is discussed on slide 47.

5. What five requirements usually constitute due process for isolation and quarantine? List your answers:

1. Reasonable basis for detention
2. Least restrictive means
3. Written notice
4. Notification of right to counsel
5. Hearing upon request

➤ This content is discussed on slides 58-67.

6. **TRUE or FALSE?** Whether a detention has a reasonable basis can depend on the science.

**Answer: True.** The government must be able to show that scientific facts (for example, the disease's communicability) support the actions taken.

➤ This content is discussed on slide 69.

7. **TRUE or FALSE?** When possible, a person subject to isolation or quarantine should be given the choice of confinement in their own home.

**Answer: True.** Often, the least restrictive means of accomplishing isolation or quarantine is confinement in a person's own residence.

➤ This content is discussed on slide 71.

8. **TRUE or FALSE?** The right to counsel means that you can have an attorney present during legal proceedings.

**Answer: True.** Having the right to counsel means that you can have an attorney represent you if you decide to contest the government's decision to place you in isolation or quarantine.

➤ This content is discussed on slide 73.

9. **TRUE or FALSE?** It is a violation of due process to detain someone before they are given a fair hearing.

**Answer: False.** If public health is jeopardized, state laws generally allow detainment prior to the hearing. However, this does not negate the right to a timely hearing.

➤ This content is discussed on slide 75.

10. **TRUE or FALSE?** Children can be required to be vaccinated in order to attend school, regardless of their parents' wishes.

**Answer: True.** Even in the face of opposing religious beliefs, the government can require children to be vaccinated in order to attend school.

➤ This content is discussed on slide 88.

## Pre- and Post-Training Surveys

### Instructions for Facilitators

- Pages 23-25 contain two sample surveys (pre- and post-training evaluation tools) that you can use to gather feedback on the content and quality of your presentation.\*
- Depending on the format of your presentation (in person or online), you can provide hard copies of the surveys at the presentation or make the surveys available electronically.

\* Before asking participants to complete the pre- and post-training surveys, please note that the Paperwork Reduction Act has specific requirements for federal agencies in regard to collection and housing of data. You may need permission from the Office of Management and Budget if you are collecting information from 10 or more members of the public.

# Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority

## PRE-TRAINING SURVEY

**Thank you for completing the following survey!**

### Learning Objectives

Please indicate your current confidence level for each of the following learning objectives:

1. I can describe how emergency preparedness relates to health equity.
  - a. Not confident
  - b. Somewhat confident
  - c. Confident
  - d. Very confident
  
2. I can describe the role of law in emergency preparedness and response.
  - a. Not confident
  - b. Somewhat confident
  - c. Confident
  - d. Very confident
  
3. I can explain the powers and limits that the US Constitution assigns to public health authorities in regard to disease control.
  - a. Not confident
  - b. Somewhat confident
  - c. Confident
  - d. Very confident
  
4. I can discuss the need to balance collective actions for the common good against individual freedoms.
  - a. Not confident
  - b. Somewhat confident
  - c. Confident
  - d. Very confident

### Additional Feedback

5. What questions do you have about public health threats and the US Constitution?

**Thank you for your feedback!**

# Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority

## POST-TRAINING SURVEY

Thank you for completing the following survey!

### Learning Objectives

As a result of attending the session **Public Health Threats & the US Constitution: What Responders Need to Know About Equity, Law, and Public Health Authority**, please indicate your current confidence level for each of the following learning objectives of the course:

1. I can describe how emergency preparedness relates to health equity.
  - a. Not confident
  - b. Somewhat confident
  - c. Confident
  - d. Very confident
  
2. I can describe the role of law in emergency preparedness and response.
  - a. Not confident
  - b. Somewhat confident
  - c. Confident
  - d. Very confident
  
3. I can explain the powers and limits that the US Constitution assigns to public health authorities in regard to disease control.
  - a. Not confident
  - b. Somewhat confident
  - c. Confident
  - d. Very confident
  
4. I can discuss the need to balance collective actions for the common good against individual freedoms.
  - a. Not confident
  - b. Somewhat confident
  - c. Confident
  - d. Very confident



## Overall Impression

5. How would you rate the overall session?

- a. Poor
- b. Fair
- c. Good
- d. Very good
- e. Excellent

6. I would recommend this session to others.

- a. Disagree
- b. Somewhat disagree
- c. Neither agree nor disagree
- d. Somewhat agree
- e. Agree

## Additional Feedback

7. What was the most valuable part of the session?

8. How could this session have been improved?

9. What topics would you like to see addressed in future sessions on public health law?

**Thank you for your feedback!**