



# Media and Public Health Law

**SAFER • HEALTHIER • PEOPLE™**

AL • CHRONIC DISEASE PREVENTION • INFECTIOUS DISEASE PROTECTION • IMMUNIZATION • INJURY PREVENTION • PRI  
CHILD HEALTH • GLOBAL PARTNERSHIPS • MINORITY OUTREACH • MONITORING HEALTH • COMMUNITY PARTNERSHIPS  
SAFER • HEALTHIER • PEOPLE • SAFER • HEALTHIER • PEOPLE • SAFER • HEALTHIER • PEOPLE • SAFER • HEA  
HEALTH EDUCATION • EPIDEMIOLOGY • WORKPLACE HEALTH • IMMUNIZATION • WORKPLACE SAFETY • TRAINING • C  
LTH • PREVENTION RESEARCH • PRIVATE SECTOR PARTNERSHIPS • PUBLIC HEALTH WORKFORCE • WOMEN'S HEALTH

# Law of Defamation

- Defamation
  - Exposes an individual or an organization to hatred or contempt.
  - Lowers an individual in the esteem of others.
  - Causes an individual to be shunned.
  - Injures an individual in business.
- Slander is spoken.
- Libel is published.

# Copyright

- Copyright is the right of a writer, etc., to own, control, and profit from the reproduction of his work.
- Work created by employees of the U.S. government are considered “work of the U.S. government,” and copyright protection is not available.

# Right To Know Versus Need To Know

- Releasing information from the government means weighing the public's right to know against the need for national security and individual privacy.



# Right To Know Versus Need To Know

## CDC principles of communication

CDC will make available timely and accurate information so public, Congress, and the media can access and understand health information and CDC programs.

Specific principles include:

- Final reports, information, and recommendations will be fully and readily available.
- Communication will be open, honest, accurate, and based on sound science.



# Right To Know Versus Need To Know

## CDC principles of communication

- Information will not be withheld to protect CDC or Government from criticism or embarrassment.
- Information will be released according to FOIA.
- Prevention messages will be based on scientific data and behavioral and communication research.
- Targeted health messages will be sensitive to language and cultural differences and community norms.





# FOIA

- All records that are in a federal agency's possession that are not already in the public domain are subject to FOIA.
- No FOIA forms are required.
- FOIA has nine exemptions.
- “Classified to be kept secret in the interest of national defense or foreign policy.”
- “Personnel and medical records.”

# Privacy Act

- Do not disclose facts about an individual without permission. However, newsworthiness can be a defense if the media prints embarrassing private information.
- Meant to prevent the government from releasing personal data about employees and others.





# Privacy Act

- In most instances, you may not release the following:
  - Age or date of birth
  - Marital status and dependents
  - Race
  - Sex
  - Legal proceedings
- The act usually protects medical records and pay records.

# Public Health Agencies

- Authority at the state and local levels is exercised by boards of health and public health agencies.
- All 50 states, D.C., and territories have a health agency, which is directed by a health commissioner or a secretary of health.
- There are about 2,900 local health departments in the U.S., either centralized at the state level or autonomous units that receive consultation from the state.



# Public Health Laws

- Must balance between the social needs of the community and the liberty of the individual. Traditionally, courts have been hesitant to invalidate public health laws.
- Example: 1905 case of *Jacobson v. Massachusetts*.



# Taking of Private Property

- Many public health laws prohibit or ban the possession of hazardous materials. The fifth amendment requires the government to compensate persons whose private property rights are affected by public health law.

# Privacy Rights

- Some say immunization requirements, compulsory HIV testing, and seat-belt laws infringe on individual rights and violate the “right to privacy.”
- The right to privacy has been limited to intimate areas of life.

# Responsibility

Statutes authorize public health officials to protect and enhance the public's health and safety. Some are mandatory, and others are discretionary.

Examples:

## Mandatory

- Maintain vital records.
- Regulate air pollution.
- Hold open or public meetings.

## Discretionary

- Create a waste disposal site.
- Inspect social services.



# Liability

- Liability laws covering state and local health departments and employees vary considerably across the country.
- Individual health officers have “qualified immunity” from liability—a suit against an individual in his official capacity means the plaintiff is seeking recovery from the governmental entity.

# Liability

- Generally, when you perform your public health duties in good faith and in a reasonable fashion, you are not personally liable for damages that may result from your acts.

# Interstate Quarantine

The CDC director may take measures to prevent the spread of disease.

- Can restrict travel.
- Limit access to public transportation.
- Separate provisions for military.



# Foreign Quarantine

- Ship and aircraft personnel must report ill persons and onboard deaths.
- The CDC director may require detention.

# All Quarantine

- The CDC director may require isolation and surveillance.