

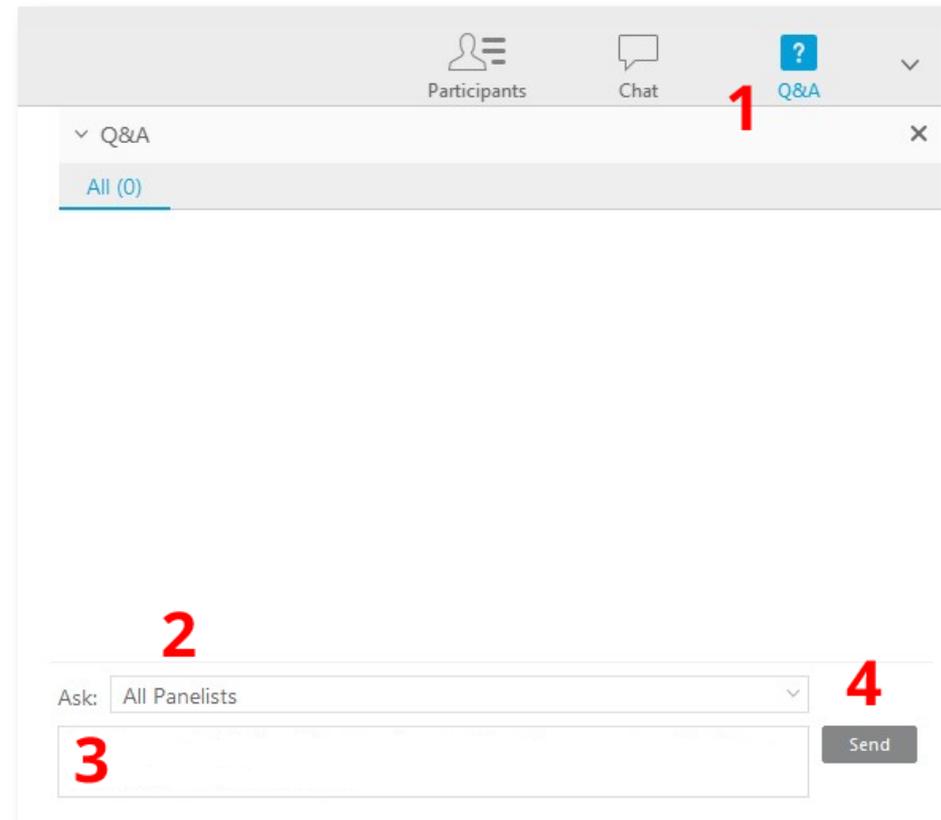
Webinar Series: Crafting Richer Public Health Messages — Gaining Broad Policy Support in Politically Polarized Times

Today's Webinar: Messaging and the 5 Essential Public Health Law Services

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Moderator



Gene Matthews, J.D., Director, Network for Public Health Law Southeastern Region Office; Senior Fellow, North Carolina Institute for Public Health Gillings School of Global Public Health, UNC Chapel Hill

- J.D., University of North Carolina Chapel Hill
- Research interests/areas of expertise:
 - Public Health Messaging
 - Advocacy & Lobbying
 - Public health agency structure
 - Organization and accreditation

Presenter



Scott Burris, Director, Center for Public Health Law Research, Professor, Temple University Beasley School of Law

- A.B., Washington University in St. Louis
- J.D., Yale Law School
- Research interests/areas of expertise:
 - Public health messaging
 - Public health law evaluation
 - Social determinants of health
 - Global health governance
 - Health effects of criminal law and drug policy

Presenter



Benjamin D. Winig, JD, MPA, Vice President, Law & Policy, ChangeLab Solutions, Oakland, CA

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 - Advancing health equity
 - Active living and healthy planning strategies
 - Municipal law and public health agency practice
 - Advises elected officials, public agency staff and CBO's

Presenter



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- J.D., Yale Law School
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 - Chronic disease prevention
 - Tobacco control
 - Business regulation
 - Federalism
 - Global public health

Overview of Five Essential Public Health Law Services (**Scott Burris**)

Preemption, Health Equity & The Search for Local Solutions (**Ben Winig**)

Improving Quality in Family Child Care (**Doug Blanke**)

Assess the National Effort to Improve Enforcement of Healthy Housing Standards (**Scott Burris**)

These Ideas Have Emerged from Ongoing Collaboration



Robert Wood Johnson Foundation

Better Health Faster: The Five Essential Public Health Services As a Tool for Using Law More Effectively in Public Health

Scott Burris
scott.burris@temple.edu



For a Deeper Dive

The Management Moment

Column Editor: Edward L. Baker, MD, MPH

Crafting Richer Public Health Messages for A Turbulent Political Environment

Gene Matthews, JD; Scott Burris, JD; Sue Lynn Ledford, DrPH, MPA, BSN, RN; Gary Gunderson, DMin, DDiv; Edward L. Baker, MD, MPH

Public health leaders are now probing to find better ways to convey our messages in this turbulent political environment. In a prior Management Moment column,¹ we introduced the idea of using some of the framing concepts of Moral Foundations Theory (MFT) to craft richer stories for public health leaders to appeal to broader audiences. In this article, we return to this topic in light of recent events and in the hope that we might enhance our ability to focus our attention to the needs of those communities in despair that are being left behind by economic stagnation and a government that seeks to serve them.²

From a Political Lens to a Public Health Focus

It is easy for public health leaders to become consumed with the ongoing political and resource shifts within the public care. However, it is also clear that public health at all levels is simultaneously wanting to engage more deeply and meaningfully with our communities of all ethnicity and socioeconomic status who are burdened by low-ranking determinants of health. This commentary is not directed toward the overheated media froth of political acrimony. Rather, we advocate for a deeper conversation about how public health can better reach out with richer messages to our communities (and policy makers) in order to accomplish meaningful law and policy change that addresses the palpable pain and despair that is at hand.

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Commentary

Better Health Faster: The 5 Essential Public Health Law Services

Scott Burris, JD^{1,2}, Marice Ashe, JD, MPH³, Doug Blanke, JD⁴, Jennifer Ibrahim, PhD, MPH^{1,2}, Donna E. Levin, JD⁵, Gene Matthews, JD⁶, Matthew Penn, JD, MLIS⁷, and Martha Katz, MPA⁸

Keywords

law, evidence-based policy, translation, public health law research, metrics, legal epidemiology, public health law practice

It is easy to identify health laws that have helped Americans live longer, healthier lives. Indeed, most of the greatest public health accomplishments of the last century depended on legal action. The coordination of research, policy development, public education, and advocacy in the tobacco control movement shows that success is attainable even in the face of powerful industry opposition.¹ The development of automobile safety laws during the past 30 years shows how well-conducted, properly diffused research can instigate policy cascades and guide policy refinement over time.² These examples of “interventional health law”—using law as a tool of intervention—also illustrate that developing, enacting, evaluating, and spreading health laws is not just the work of lawyers. In these and many examples like them, health advocates, researchers, public health practitioners, and lawyers work in strategic partnership to improve population health through law and policy.

Consistent with the literature on the art and science of evidence translation,^{3,4} these efforts were built on effective practices, such as cultivating partnerships among diverse stakeholders. These partnerships promote (1) research that is targeted at the most strategically relevant questions; (2) the development of model laws based on the best available science; (3) sophisticated community education and advocacy campaigns to win, defend, and enforce effective policies; and (4) enforcement to ensure that improved public health outcomes are achieved and sustained.^{5,6} The starting point for this commentary is that public health law is not just the work of lawyers but must also be owned by the range of public health disciplines as a transdisciplinary activity.⁷

Knowing how to translate what we have learned from research and experience into effective public health law interventions is not the problem. The problem is that the public health system, writ large, does not deploy well-recognized best practices consistently or strategically across topics. Legal interventions affecting millions of Americans are often not scaled or evaluated for years, if

at all. Innovations that show promise in research or practice do not spread, or they spread too slowly.^{8,9} The pace can be even slower when innovations are faced with organized ideological or industry opposition.¹⁰ Success requires investment in the same legal infrastructure that was created for tobacco control and alcohol policy and is newly underway in obesity prevention.

“Legal infrastructure” refers to the people, methods, and tools needed to move a policy from conception to widespread implementation. The first step in establishing this infrastructure is defining its elements. After publication of the 1988 Institute of Medicine (IOM) report *The Future of Public Health*,¹¹ public health as a field embarked on an effort to define, measure, and improve the public health system.^{14,15} Yes, despite its key role, law largely escaped that systematic treatment. Two of the 10 essential public health services explicitly concern legal and policy work: (1) “develop policies and plans that support individual and community health efforts” and (2) “enforce laws and regulations that protect health and ensure safety.”¹⁶ A recent review, however, found

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A Transdisciplinary Approach to Public Health Law: The Emerging Practice of Legal Epidemiology

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Keywords

policy surveillance, legal epidemiology, public health practice, public health law, public health law research

Abstract

Public health law has roots in both law and science. For more than a century, lawyers have helped develop and implement health laws, over the past 50 years, scientific evaluation of the health effects of laws and legal practices has achieved high levels of rigor and influence. We describe an emerging model of public health law that unites these two traditions. This transdisciplinary model adds scientific practices to the lawyerly functions of normative and doctrinal research, counseling, and representation. These practices include policy surveillance and empirical public health law research on the efficacy of legal interventions and the impacts of laws and legal practices on health and health system operation. A transdisciplinary model of public health law, melding its legal and scientific facets, can help break down enduring cultural, disciplinary, and resource barriers that have prevented the full recognition and optimal role of law in public health.

Burris, S., Ashe, M., Blanke, D., Ibrahim, J., Levin, D. E., Matthews, G., . . . Katz, M. (2016). Better Health Faster: The 5 Essential Public Health Law Services. *Public Health Reports*, 131(6), 747-753.

Burris, S., Ashe, M., Levin, D., Penn, M., & Larkin, M. (2016). A Transdisciplinary Approach to Public Health Law: The Emerging Practice of Legal Epidemiology. *Annual Review of Public Health*, 37(1), 135-148.

The Context: Promoting a Culture of Health in a Time of Discord

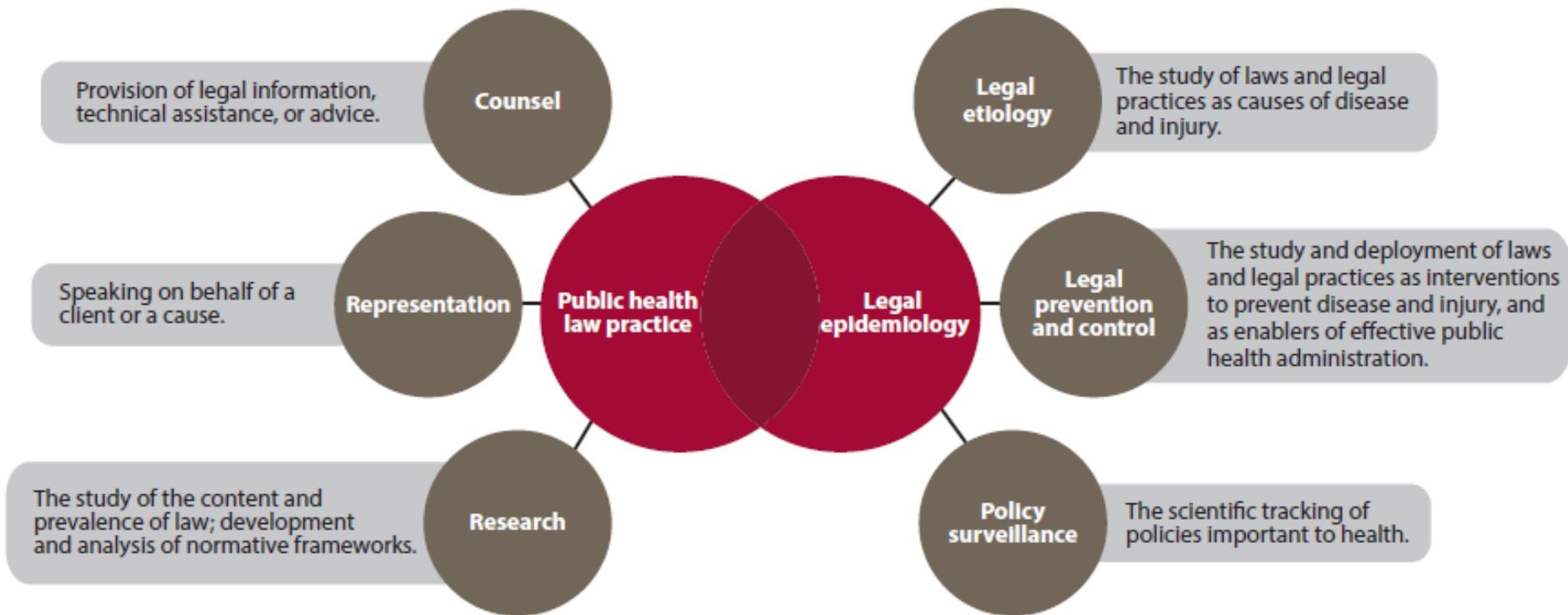
Three
Webinars on
the Theme of
Better
Persuasion and
Advocacy in
Public Health
Law and Policy

1: Crafting Richer Messages:
Insights from Moral Foundations
Theory

2: A Public Health Approach to
Strengthening Public Health Norm
Change Campaigns

3: Empathy and Relationships as
Foundations of Effective Advocacy

Public Health Law is not just for lawyers: a transdisciplinary model



The Framework

The 5 Essential Public Health Law Services



Building good policy ideas



Access to
Evidence and
Expertise

- Assess evidence and best practices
- Build equity into decision making and goals
- Access expert and community knowledge and experience
- Assess historic use of law for intentional inequities
- Assess political climate, including allies and opponents
- Assess readiness of the community to take on a campaign
- Identify potential policy targets

Finding the strongest legal approach

Expertise in
Designing Legal
Solutions

- Assess authority to act
- Compare legal options (statute, regulation, executive order)
- Ensure evidentiary justification for expected level of scrutiny
- Issue-spot potential problems
- Link legal strategies with community priorities
- Design winnable strategy
- Consider enforcement and accountability at outset

Getting good ideas into law



- Educate and inform
- Build coalitions
- Organize communities
- Participate in public processes
- Strategic communications
- Lobby
- Ensure financing for putting the policy into practice and evaluating its impact

Implementation and enforcement



Implementing,
Enforcing, and
Defending Legal
Solutions

- Develop and nurture regulatory capacity
- Educate the public and the targets
- Regulate responsively
- Be prepared to defend the law if challenged
 - in court or
 - the political arena

Learning and diffusing what works



- Create data to evaluate laws
- Measure progress of legal campaigns
- Measure outcomes/success/unintended consequences
- Make legal information publicly accessible
- Spread success through policy surveillance

We Can Use This Framework

- To assess the availability of services for specific campaigns at the local, state and national level → *OUR RESULTS TODAY*
- To develop measures of the *quality* of services to guide capacity building → *Public Health Law Center Team's equity tool*
- To teach public health stakeholders to better design and implement law reform campaigns → *Trainings piloted with the Association of Schools of Public Health in the European Region (ASPHER)*
- To achieve *BETTER HEALTH FOR ALL FASTER*

Preemption, Health Equity & The Search for Local Solutions



ChangeLab Solutions

Law & policy innovation for the common good.

Healthy communities for
all through better *laws*
& *policies*



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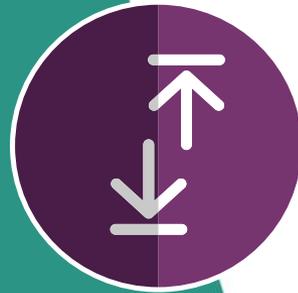
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What we'll DISCUSS:



What is Preemption?

Federal, State & Local Authority



Preemption in Action

Consequences on Health Equity



Local Solutions

Proposals for the Field

Federalism & Police Power



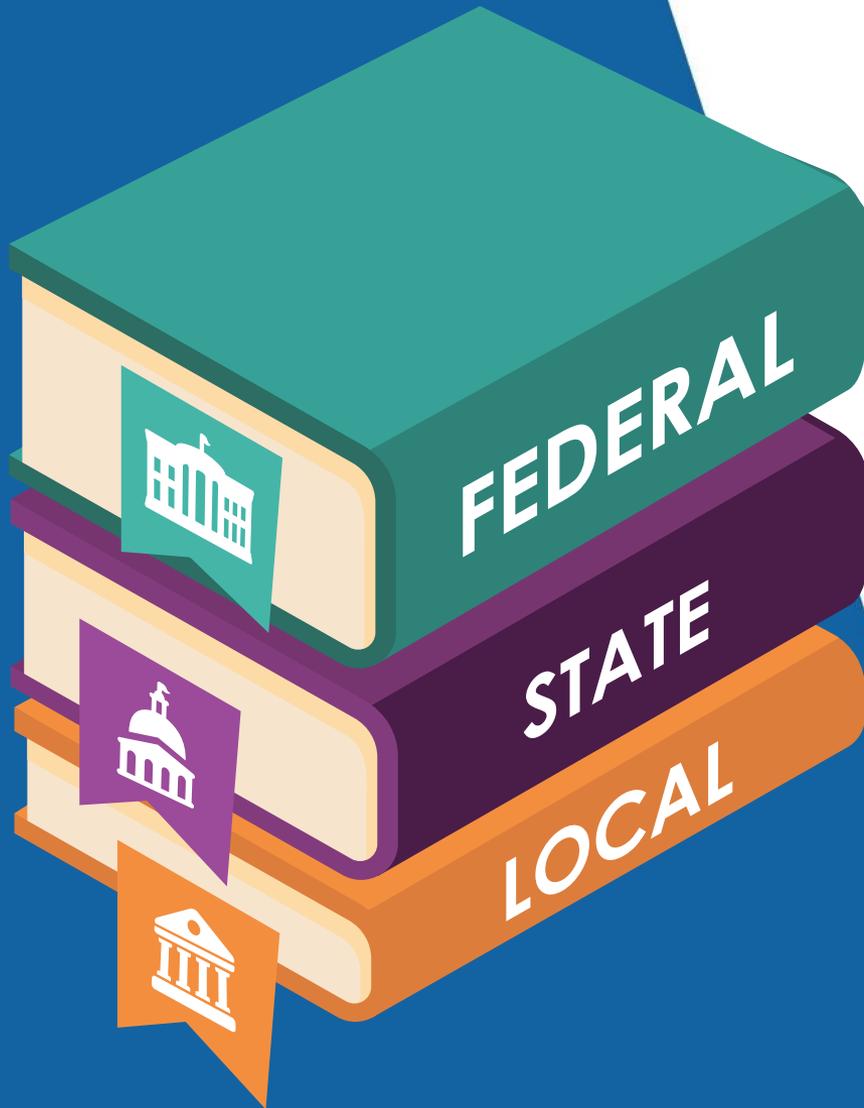
FEDERAL



STATE



LOCAL



What is preemption?

When the law of a higher level of government invalidates the law of a lower level of government



**When you consider
preemption, do
you think it is
generally:**

- Good**
- Bad**
- Neutral**



When you consider health equity, do you think that preemption generally advances or inhibits health equity?

- Preemption generally advances health equity
- Preemption generally inhibits health equity



Preemption isn't
inherently *partisan*
or *universally*
negative

How preemption affects health equity depends on the type of preemption and how it's used



*Safe,
Affordable
Housing*



Civil Rights



Bill of Rights
United States
Congress OF THE
held at the City of New York, on
the first day of September, one thousand seven hundred and eighty nine
At the time of their adopting the Constitution
it be added: And as extended
UNITED STATES
of America



Minimum Wage and Paid Leave

Preemption has

**CONSEQUENCES
ON HEALTH AND EQUITY**



Compare Mississippi and New York

- In 1980, the difference in life expectancy at birth in these states was only 1.6 years.
- By 2014, this difference **more than tripled** to 5.5 years.

What Changed?

It's complicated,
but, in part...

“New York has ... not preempted local governments from implementing **health promoting legislation** such as **paid sick days**, a **higher minimum wage**, stricter **firearm regulations**, or requiring that **calorie counts** be posted.

In sharp contrast, **Mississippi has ... preempted local laws in all four areas** listed previously.”





*The Five Essential Public Health Law
Services*



FINDINGS



Focus on Health Equity



Build Capacity



Increase Coordination



Identify Research

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Improving Quality in Family Child Care

Doug Blanke, JD; Natasha Frost, JD; Julie Ralston Aoki, JD; Anna Ayers Looby, MPH

The Issue



Our Questions

- What services, resources, and process, are in place to define, assess and improve quality standards for family child care?
- What are the key underlying issues?
- Who is addressing them; how is it working, and what's missing?



The Method of Inquiry

- An audit using the Five Essential Public Health Law Services Framework.
- Adapted methods to ensure an equity focus.
- Analysis included literature search, environmental scan and mapping, and key informant interviews.





Main Finding:

Let's re-frame "quality" using an equity lens, a holistic approach, and providers' perspectives.

More Findings:

- Models and assumptions designed for child care centers are not readily transferable to family care.
- Regulation is complex and often overwhelming.
- Extreme variability in definitions and approaches impedes research and policy improvement.



Recommendation: Support development of quality standards tailored to family care and grounded in the perspectives of providers.



Recommendation: Support child care providers through professional development and training, wage equity and public messaging.

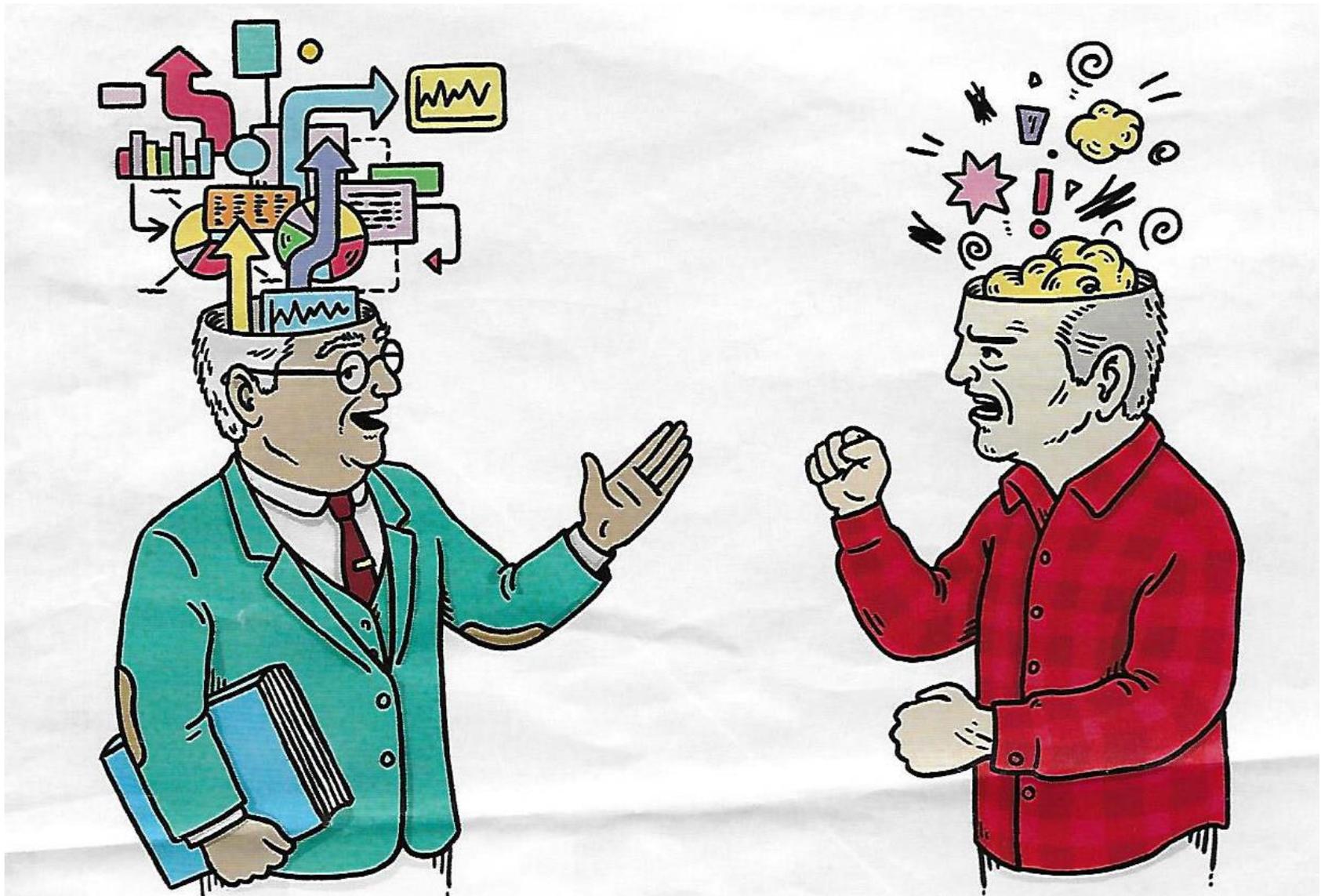


Recommendation:

Build an integrated support system for quality improvement, including a national research program and wide-ranging technical assistance.



“Better persuasion and advocacy in public health policy?”



“Better persuasion and advocacy in public health policy?”

- **Approach the issue through the lived experience of those who are most affected.**

“Better persuasion and advocacy in public health policy?”

- Approach the issue through the lived experience of those who are most affected.
- “Nothing about us, without us.”

“Better persuasion and advocacy in public health policy?”

- **Approach the issue through the lived experience of those who are most affected.**
- **“Nothing about us, without us.”**
- **Get over ourselves. Listen up. Lose our self-aggrandizing jargon.**

“Better persuasion and advocacy in public health policy?”

- Approach the issue through the lived experience of those who are most affected.
- “Nothing about us, without us.”
- Get over ourselves. Listen up. Lose our self-aggrandizing jargon.
- Respect the deep moral values of those affected.

“Empathy and relationships as foundations of effective advocacy.”





KEEP
CALM
AND
CHANGE
THE LAW

Using the Five Essential Public Health Law Services Framework to Assess the National Effort to Improve Enforcement of Healthy Housing Standards

Scott Burris, JD, Abraham Gutman, MA and Katie McCabe, JD
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The Problem

- According to the CDC, almost 2,000,000 children in America have elevated blood lead levels ($>5 \mu\text{g}/\text{dL}$)
- According to HUD a total of 6,689,000 houses are inadequate for living (5.6% of houses)



Our Questions

- Housing code enforcement has failed poor renters for decades.
- **Why?**
- **What can public health and housing advocates do to improve code enforcement?**



The Method of Inquiry

- To answer these questions we conducted an audit using the Five Essential Public Health Law Services framework.
- Our methods included desk scans and key informant interviews.

Main Finding

- Code enforcement has been an orphan cause for decades
 - There is no robust, self-conscious national effort to improve code enforcement
 - There has never been a sustained effort to define, test, refine and diffuse an efficient, effective model for codes and enforcement.

Crucial Service Gap 1



Policy
Surveillance and
Evaluation

- “Conventional wisdom” → enforcing codes drives units out of the market and hurts tenants.
- But this has been “A debate without evidence” (Desmond & Bell, 2015): the literature on the effects of housing code enforcement is old, thin and weak.
- Recent work suggests that enforcement can be “pro-poor” or at least neutral.

The Important Question

- It is plausible to believe (though not proven) that strict enforcement of every requirement in detailed housing codes in communities with older housing stock would lead to landlords abandoning their properties or raising rents beyond the ability of low income tenants to pay.
- **The important question, however, is whether it is possible to devise an approach to enforcement that can protect tenants without significant market impact, within a broader effort to improve access to affordable housing.**

Crucial Service Gap 1

Implementing,
Enforcing, and
Defending Legal
Solutions

- Enforcement training resources are available but license and inspection department are understaffed and underfunded.
- Enforcement efforts are challenged in the courts.



VAD Academies

Vacant, Abandoned, and Deteriorated
Properties Training Academies

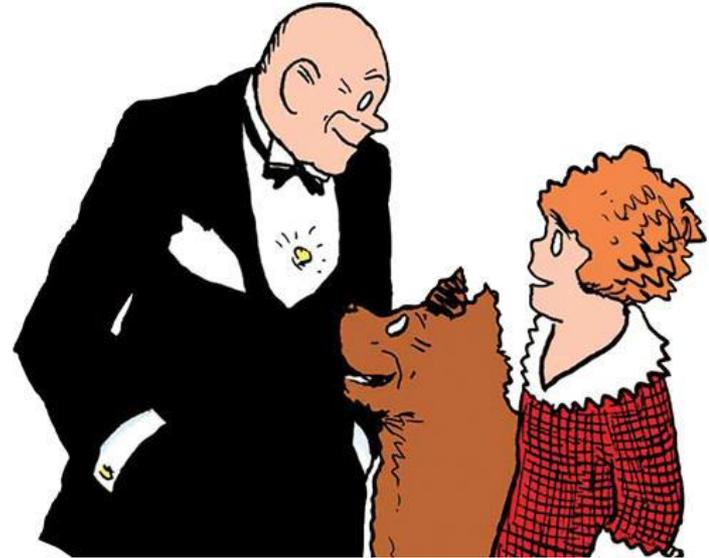


May 31-June 1, 2017
at the Conrad Indianapolis
Indianapolis, Indiana

November 6-7, 2017
at the Hilton Hartford
Hartford, Connecticut

Should Someone Adopt Code Enforcement as an Issue?

- Yes:
 - No good evidence it can't be done and recent evidence suggesting it can.
 - There is enormous scope to develop and test modern approaches to enforcement
 - It is morally repugnant to put poor people in a position of choosing homelessness or a dangerous home.



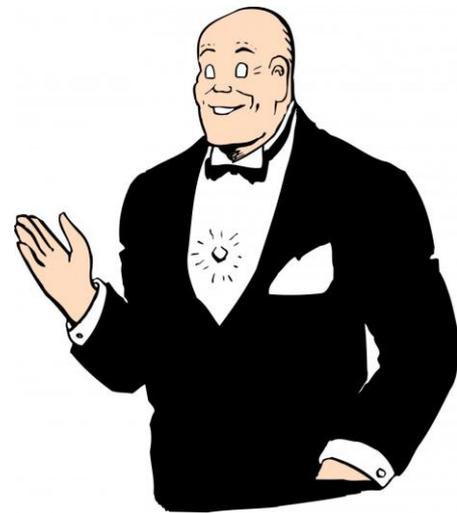
Should Someone Adopt Code Enforcement as an Issue?

- No:
- Code enforcement problems are a symptom of multiple deeper ills in broken housing markets:
 - Stock not worth maintaining
 - The shortage of affordable housing
 - Tenant poverty
- Resources would be better invested in more funding for affordable housing, vouchers and affirmatively furthering fair housing



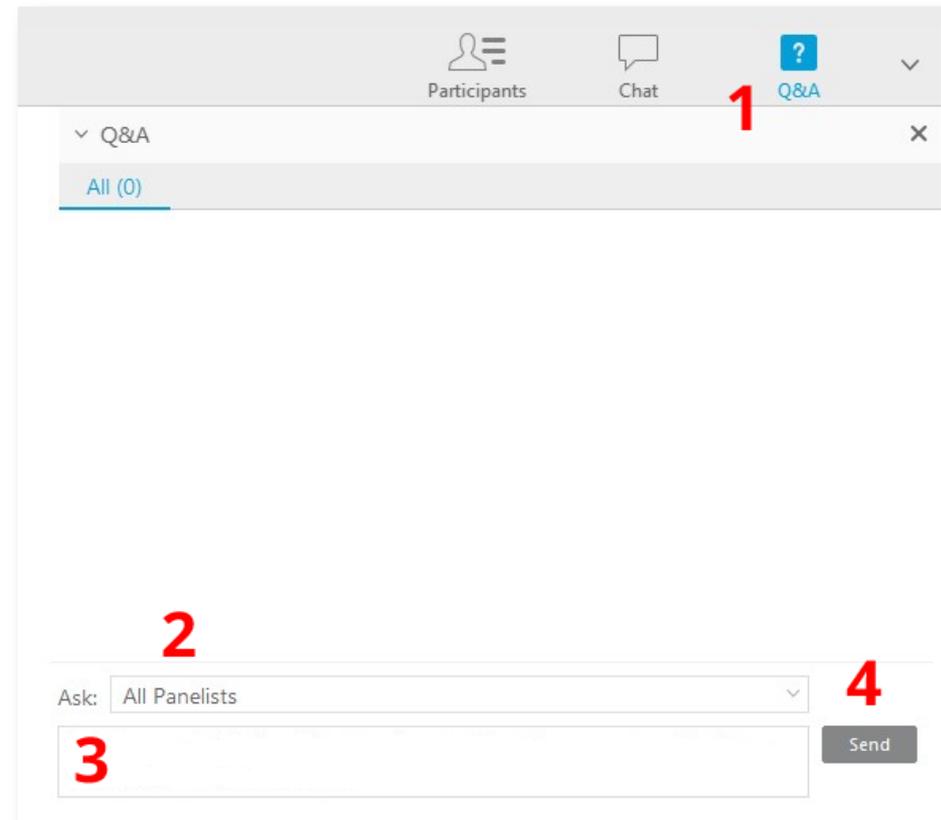
If Yes, We Recommend Trying the Five Services Approach

- Sustained support (>5 years) for a network of cities, researchers, tenants, landlords and community-based organizations to
 - Develop promising approaches
 - Craft model code enforcement provisions
 - Enact them into law
 - Enforce them vigorously
 - Evaluate the impact and refine the model



How to Use Webex Q & A

1. Open the Q&A panel
2. Select “All Panelists”
3. Type your question
4. Click “Send”



Webinar Series: Crafting Richer Public Health Messages — Gaining Broad Policy Support in Politically Polarized Times

Webinar One: October 26, 1 - 2:30 EST
Crafting Richer Public Health Messages using Moral Foundations Theory

Webinar Two: November 30, 1 - 2:30 EST
Crafting Richer Public Health Messages: Messaging and the 5 Essential Public Health Law Services

Webinar Three: December 14, 1 - 2:30 EST
Crafting Richer Public Health Messages: Lessons and Examples for State and Local Advocacy



Thank you for attending

Please join us December 14 for **Crafting Richer Public Health Messages: Lessons and Examples for State and Local Advocacy**

For a recording of this webinar and information about future webinars, please visit networkforphl.org/webinars

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