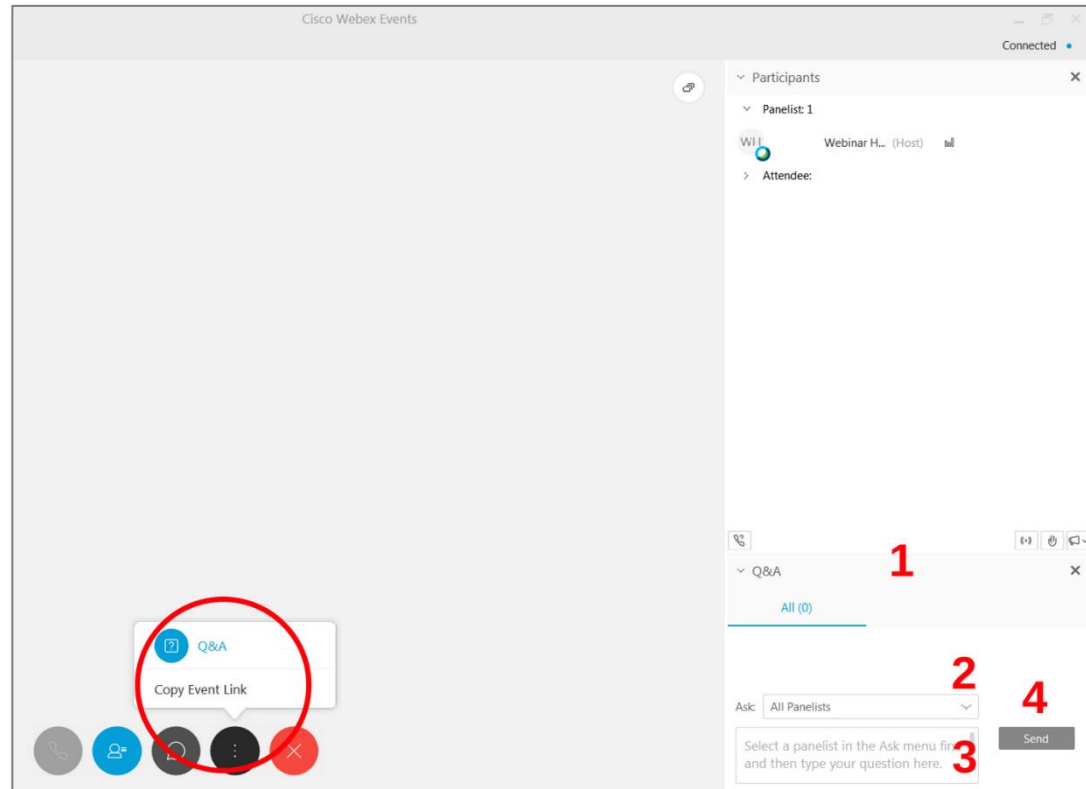


COVID-19: Navigating Public Health Emergency Legal Responses Underlying Re-opening State/Local Economies

1:00 – 2:00 p.m. EST | May 28, 2020

How to Use WebEx Q & A

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



Moderator



Emily Carey, Legal Researcher, Network for Public Health Law — Western Region Office and Center for Public Health Law and Policy at Arizona State University

- J.D. Candidate, ASU Sandra Day O'Connor College of Law
- Research interests/areas of expertise:
 - Reproductive rights
 - Opioid crisis
 - Vaccination policy

Presenter



James G. Hodge, Jr., Director, Network for Public Health Law - Western Region; the Peter Kiewit Foundation Professor of Law and Director, Center for Public Health Law and Policy, ASU Sandra Day O'Connor College of Law

- J.D., Salmon P. Chase College of Law (KY)
- LL.M., Georgetown University Law Center
- Research interests/areas of expertise:
 - Emergency Legal Preparedness & Response
 - Vaccinations
 - Preemption
 - Emerging Infectious Diseases
 - Constitutional Rights and Structural Principles

Presenter



Sarah Wetter, Consultant, Network for Public Health Law—Western Region; Fellow, O’Neill Institute for National and Global Health Law at Georgetown University

- J.D., ASU Sandra Day O’Connor College of Law
- M.P.H., Johns Hopkins Bloomberg School of Public Health
- Research interests/areas of expertise:
 - Emergency legal preparedness
 - Health information exchange
 - Obesity prevention and control
 - Health data sharing
 - Public health preemption

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Law Fellow, O'Neill Institute
Georgetown University Law Center
Consultant, Network - Western Region Office

- **COVID-19 Pandemic – Quick Glimpse of Social Distancing Efforts**
- **Emerging Re-opening Efforts Among States, Tribes, & Localities**
- **Legal and Policy Controversies, Cases & Issues**
- **Potential Actions & Resolutions in Promotion of the Public's Health**
- **Questions/comments**

Acknowledgements



**Michelle Notrica,
PharmD, JD, MPH**



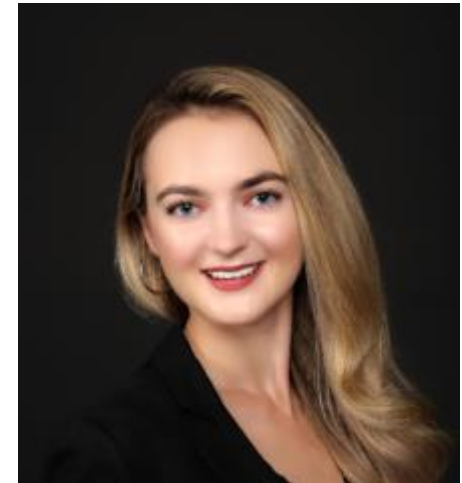
**Emily Carey,
ASU JD Candidate**



**Elyse Pendergrass,
ASU JD Candidate**



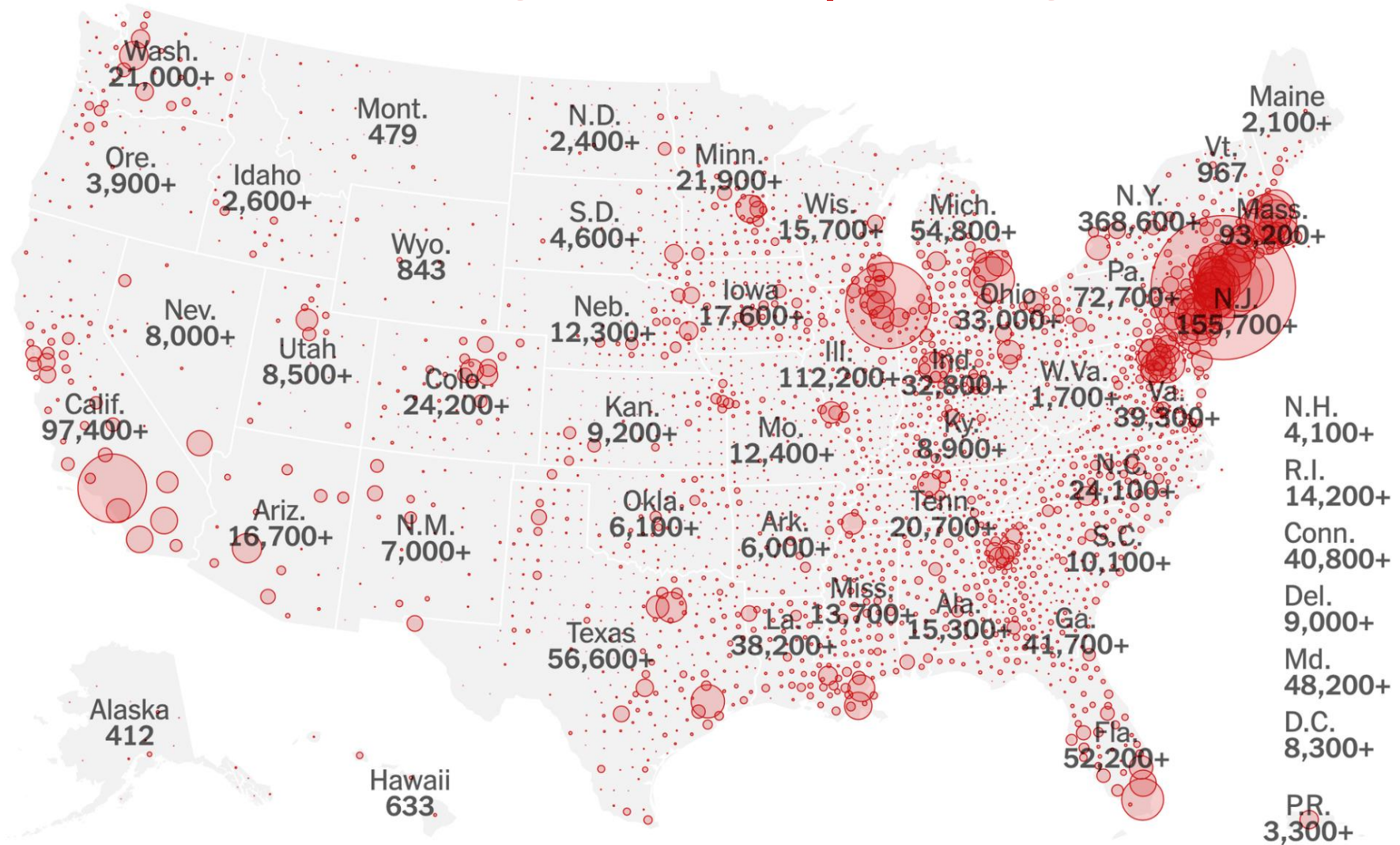
**Hanna Reinke,
ASU JD Candidate**



**Claudia Reeves,
ASU JD Candidate**

COVID-19 Confirmed Cases & Deaths

U.S. Stats: 31% all global cases | 29% all global deaths



Source: <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>

"All the News
That's Fit to Print"

The New York Times

Late Edition

Today, morning clouds giving way to sunshine by the afternoon, high 65. Tonight, cloudy, low 54. Tomorrow, clouds giving way to sunshine, high 70. Weather map is on Page 23.

VOL. CLXIX ... No. 58,703

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NEW YORK, SUNDAY, MAY 24, 2020

\$6.00

U.S. DEATHS NEAR 100,000, AN INCALCULABLE LOSS

They Were Not Simply Names on a List. They Were Us.

Numbers alone cannot possibly measure the impact of the coronavirus on America, whether it is the number of patients treated, jobs interrupted or lives cut short. As the country nears a grim milestone of 100,000 deaths attributed to the virus, The New York Times scoured obituaries and death notices of the victims. The 1,000 people here reflect just 1 percent of the toll. None were mere numbers.

Patricia Dowd, 78, San Jose, Calif., auditor in Silicon Valley • **Marion Krueger**, 85, Kirkland, Wash., great-grandmother of famous actor **Jackie Kennedy** • **Jermaine Ferro**, 77, Lee County, Fla., wife with little time to enjoy a new marriage • **Cornelius Lawyer**, 84, Bellevue, Wash., shaver-cropper's son • **Loretta Mendoza Dionisio**, 68, Los Angeles, cancer survivor born in the Philippines • **Patricia Frieson**, 61, Chicago, former nurse • **Luis Juarez**, 54, Romeoville, Ill., traveled often in the United States and Mexico • **Merle C. Dry**, 55, Tulsa, Okla., ordained minister • **Alan Lund**, 81, Washington, conductor with "the most amazing ear" • **Black N. Mild**, 44, New Orleans, bounce D.J. and radio personality • **Michael Mika**, 73, Chicago, Vietnam veteran • **John Cofrancesco**, 52, New Jersey, administrator at nursing facility • **Donald Raymond Haws**, 88, Jacksonville, Fla., administered Holy Eucharist to hospital patients • **Fred Walter Gray**, 75, Benton County, Wash., liked his bacon and hash browns crispy • **JoAnn Stokes-Smith**, 87, Charleston, S.C., loved to travel and covered much of the globe • **Ronald W. Lewis**, 68, New Orleans, preserver of that city's performance traditions • **John Sebastian Laird-Hammond**, 59, Washington, D.C., member of a Franciscan monastery • **Carl Redd**, 62, Chicago, squeezed in every moment he could with his only grandchild • **Larry Rathgeb**, 90, West Bloomfield Hills, Mich., engineer behind the first 200-m.p.h. stock car • **Alvin Elton**, 56, Chicago, followed in his father's footsteps as a pipefitter • **Arnold Obey**, 73, San Juan, Puerto Rico, educator and marathón • **Donald J. Horsfall**, 72, Rydal, Pa., co-wrote

real jokster • **Michael Sorlin**, 71, New York City, champion of social justice through architecture • **George Valentine**, 66, Washington, D.C., lawyer who mentored others • **James Quigley**, 77, Chicago, rebel of the family • **Sherman Pittman**, 61, Chicago, dedicated his life to his church and his neighborhood • **Susan McPherson Gottsegen**, 74, Palm Beach, Fla., loyal and generous friend to many • **Andreas Koutsoudakis**, 59, New York City, trailblazer for TriBeCa • **Bob Barnum**, 84, St. Petersburg, Fla., leader in Florida Pride events • **Noel Sinkat**, 64, Olney, Md., nurse planning for retirement • **Thomas E. Anglin**, 85, Cumming, Ga., created many wonderful memories for his family • **Robert Manley Argo Jr.**, 75, South Bay, Calif., member of Del Amo Flyers • **Michael McKinnell**, 84, Beverly, Mass., architect of Boston's monumental City Hall • **Huguette Dorsey**, 94, Somerville, N.J., coached several championship junior high girls basketball teams • **Lynne Sierra**, 68, Roselle, Ill., grandmother who was always full of ideas • **Louvenia Henderson**, 44, Tonawanda, N.Y., proud single mother of three • **Carol Sue Rubin**, 69, West Bloomfield, Mich., loved travel, mahjong and crossword puzzles • **Marion Lucille Kujda**, 92, Royal Oak, Mich., would use chalk and oil paints to capture family portraits • **Alice Chaudhrian**, 92, Michigan, loving, generous and adventurous spirit • **Bassey Offiong**, 25, Michigan, saw friends at their worst but brought out their best • **Bobby Joseph Hebert**, 81, Cut Off, La., a 33-year career with the Louisiana Department of Transportation • **Minette Goff Cooper**, 79, Louisiana, loved big and told people she loved them all the time • **Jessica Beatriz Cortez**, 32, Los Angeles, immigrated to the United States three years ago • **Marie Carolla**, 84, Inwood, N.Y., iconic figure in the Inwood community • **April Dunn**, 33, Baton Rouge, La., advocate for disability rights • **Cedric Dixon**, 48, New York City, police detective in Harlem with a gift for interrogation • **William Helmech**, 74, Great Neck, N.Y., sociologist who walked New York City • **Harvey Bayard**, 88, New York, grew up directly across the street from the old Yankee Stadium • **Maxwell M. Mozel**, 90, Syracuse, N.Y., founded the Association for Chemoreception Sciences • **Timothy J. Liszewski**, 60, Columbia, S.C., active member of the South Carolina Progressive Network • **Eastern Stewart**, 81, San Francisco, veteran with a gift for peacemaking • **Freda Ocran**,

jazz trumpet virtuoso • **Cristina**, 64, New York City, downtown New York singer with a cult following • **Robert H. Westphal**, 75, Fond du Lac, Wis., statesman in the construction industry • **Claire Dunlap**, 89, Washington, pilot still teaching people to fly at 88 • **Marylou Armer**, 43, Sonoma Valley, Calif., veteran police detective • **Regina D. Cullen**, 81, Shrewsbury, Mass., small in stature but strong in spirit • **Sandra Santos-Vizcaino**, 54, New York City, beloved public school teacher • **Frank Gabrin**, 60, New York City, emergency room doctor who died in husband's arms • **Sterling E. Matthews**, 60, Midlothian, Va., cancer survivor who served as a deacon • **Alby Kass**, 89, California, lead singer of a Yiddish folk group • **Roger Eckart**, 78, Indiana, retired firefighter and old-school barber • **Martin Douglas**, 71, New York City, maestro of a steel-pan band • **Daniel Specter**, 68, Memphis, mentor to other champions • **Mary Ann**, 91, Oak Lawn, Ill., sign-language interpreter • **Salomon S. Podgursky**, 84, Morristown, N.J., loved to figure out how things worked • **Dale E. Thurmond**, 65, Lexington, Ky., tailor known for his exacting work and strong opinions • **Ellis Marsalis**, 85, New Orleans, jazz pianist and patriarch of a family of musicians • **Richard Passman**, 94, Silver Spring, Md., rocket engineer in the early days of supersonic flight • **David Driskell**, 88, Hyattsville, Md., champion of African-American art • **Bucky Pizzarelli**, 84, Saddle River, N.J., master of jazz guitar • **Tarlach MacNiallais**, 57, New York City, Belfast-born fighter for L.B.G.T. and disability rights • **Antonio Checo**, 57, New York City, social worker • **Albert Petrocilli**, 73, New York City, fire chief who answered the call on 9/11 • **Adam Schlesinger**, 52, Poughkeepsie, N.Y., songwriter for rock, film and the stage • **Frederick Brown Starr**, 87, Greensboro, N.C., liked the mental challenges of business • **Douglas Al-an Roberts**, 69, Vancouver, Wash., authority on aviation • **Muriel M. Going**, 92, Cedarburg, Wis., taught her girls sheephead and canasta • **Beverly Collins**, 83, Portland, Maine, longtime registered nurse and hospital volunteer • **Scott Meltzer**, 60, Wyoming, worked as a team engineer with Comcast • **Florencia Almazo Morán**, 65, New York City, one-man army • **Jennifer Robin Arnold**, 67, New York City, Broadway costume dresser • **John Nakawatase**, 62, Lincolnwood, Ill., coach and soccer leader • **Jesus Ben Melendez**, 49, New York, famous in

ballroom, 72, Dennisport, Mass., true outdoorsman • **Vinif Darukhanawala**, 77, Hoffman Estates, Ill., worker at O'Hare International Airport • **Chester Dwalet**, 68, Burlington, Mass., proud Union Ironworker of Local 7 for 45 years • **John Timothy Barr**, 76, Rochester Hills, Mich., trustee for the Retired Detroit Police and Firefighters Association • **Julie Butler**, 62, New York City, veterinarian who served Harlem • **Lila A. Fenwick**, 87, New York City, first black woman to graduate from Harvard Law School • **Vincent Lioni**, 60, New York City, Met Opera violinist and youth orchestra conductor • **Ann Youngerman Smoler**, 87, New York City, had a passion for social justice • **Thomas Waters**, 56, New York City, armed the affordable housing movement with data and analysis • **Luke Workoff**, 33, Huntington, N.Y., his relentless passion was for his family and friends • **José Díaz-Ayala**, 38, Palm Beach, Fla., worked with the Palm Beach County Sheriff's Office for 14 years • **Antonio Nieves**, 73, Chicago, always seemed to be busy with some home project • **Jeanne Hammond Byrnes**, 97, Danbury, Conn., received numerous awards for her accounting skills • **Alice Coopersmith Furst**, 87, Kentfield, Calif., in the first class of girls admitted to the Bronx High School of Science • **Bobby Lee Hatch**, 72, Chicago, first in her family to graduate college • **Thomas A. Amavich**, 78, Sheboygan, Wis., especially proud of his Lithuanian heritage • **Kyra Swartz**, 33, New York, volunteered for pet rescue organizations • **Rhonda Hatch**, 72, Chicago, first in her family to graduate college • **Regina Dix-Parsons**, 75, Schenectady, N.Y., stalwart church gospel singer • **Lakisha Willis White**, 45, Orlando, Fla., was helping to raise some of her dozen grandchildren • **Barbara Yarbuck Vethacke**, 74, St. Clair Shores, Mich., she was known to many as Babs • **June Beverly Hill**, 85, Sacramento, no one made creamed potatoes or fried sweet corn the way she did • **Kimarie Nguyen**, 33, Everett, Mass., writer who inspired her Brooklyn high school students • **Kamal Ahmed**, 69, New York City, hotel banquet worker and Bangladeshi leader • **Raymond Cope**, 46, New York City, teacher and union worker living his fullest days • **Israel Sauz**, 22, Broken Arrow, Okla., new father • **Lester Eber**, 82, New York City, worked for over six decades in the wine and liquor industry • **Harry P. Mishos**, 87, San Francisco, grew up in Calif., loved the ocean and enjoyed

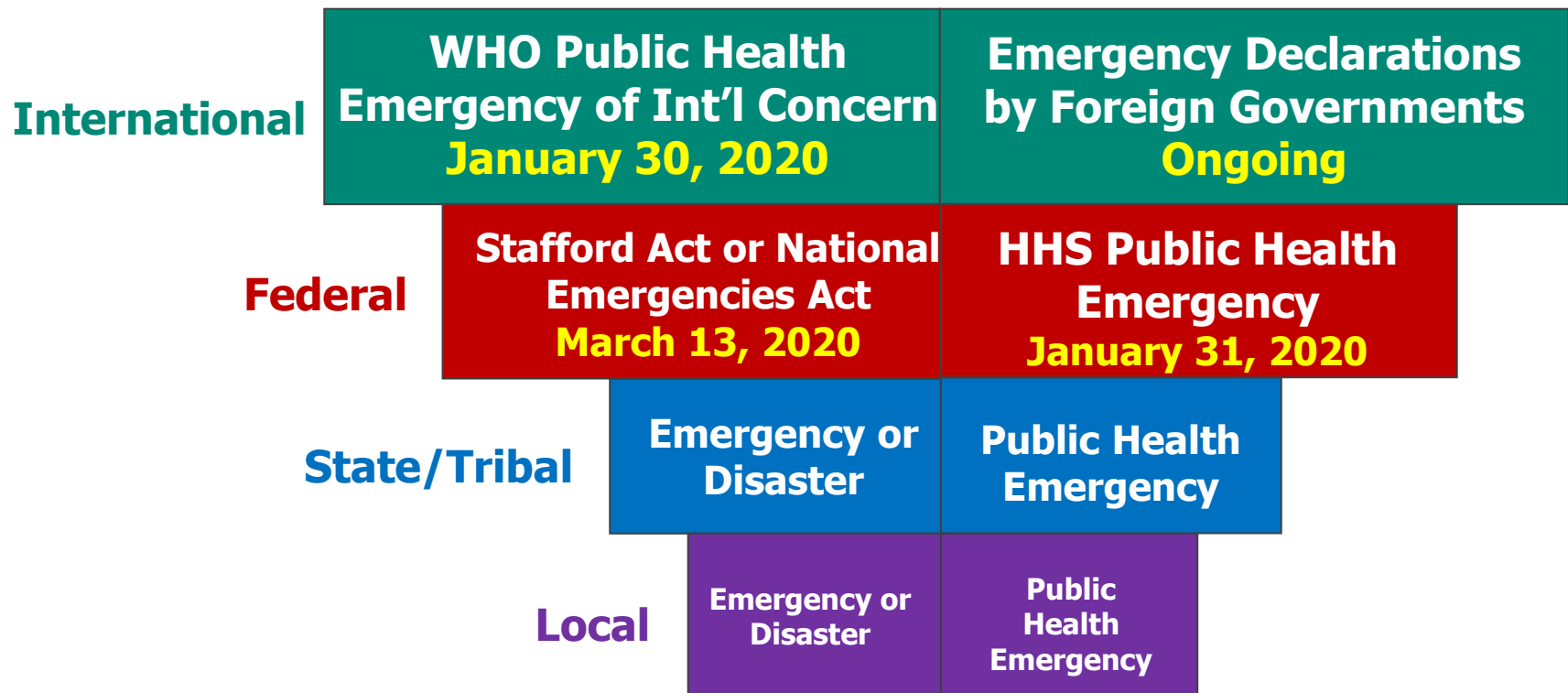
spirit • **Jack Butler**, 78, Indiana, lived in the house he grew up in • **Susan Grey Hopp Crofoot**, 97, Westwood, N.J., took great joy in writing little ditties under her pen name, Penelope Pen-wiper • **James David Gewirtzman**, 72, New City, N.Y., spent some of his happiest hours hiking in the Adirondacks • **Henry F. Graff**, 98, Greenwich, Conn., Columbia University historian of U.S. presidents • **Mari Jo Davitto**, 82, Thornton, Ill., people were her hobby • **Yakov Perlow**, 89, New York City, leader of the Novominskler Hasidic dynasty • **Joseph E. Kelly**, 81, New York City, did two tours through the Panama Canal to Antarctica • **John Prine**, 73, Nashville, country-folk singer who was a favorite of Bob Dylan • **Perry Buchalter**, 63, Florida, quiet hero • **Monica Maley**, 74, Rehoboth Beach, Del., loved animals, had dogs and cats, and rode horses • **Thomas Tarbell Russell**, 83, Longmeadow, Mass., mentored by the computer science pioneer Grace Hopper • **Ruth Skapinok**, 85, Roseville, Calif., backyard birds were known to eat from her hand • **Faryllyn Havir**, 92, Minnesota, her favorite thing was meeting new people • **Torin Jamal Howard**, 26, Waterbury, Conn., gentle giant, athlete and musician • **James O'Brien Johnson**, 74, Joplin, Mo., pastor of Mt. Sinai Church of God in Christ • **Joseph W. Hammond**, 64, Chicago, stopped working to look after his aging parents • **Morris Loeb**, 90, Northbrook, Ill., endlessly curious, never really finished • **Dante Dennis Flagello**, 62, Rome, Ga., his greatest accomplishment was his relationship with his wife • **Tommy Adams**, 71, Chicago, moved antiques for more than 25 years • **Myra Helen Robinson**, 57, Detroit, more adept than many knew • **Roger McKinney-Wagner**, 73, Lowell, Mass., professor at the Saltzer School • **Sean Christian Keville**, 47, New Providence, N.J., enjoyed talking sports with family • **John Herman Clomax Jr.**, 62, Newark, one of the few African-American corporate bond traders on Wall Street • **Jose Torres**, 73, New York City, restaurateur favored by salsa music's stars • **Stuart Cohen**, 73, New York City, Brooklyn cabbie who found a home in Buddhism • **Johnnie D. Vesley**, 76, County, Ohio, taught every morning • **Fernando Miteff**, 60, New York City, graffiti artist with a generous spirit • **John Watson**, 73, Philadelphia, anywhere he went, he took pictures • **Joyce Posson Winston**, 93, North Bergen, N.J., editor of *Volley Stream* • **N.Y.**, first responder during the 9/11 attacks • **Chil**,

Il, 69, Fremont, Ohio, known throughout Ohio for his knowledge of local history • **Harley E. Acker**, 79, Troupsburg, N.Y., discovered his true calling when he started driving a school bus • **Ar-lola Rawls**, 81, Chicago, caretaker of her neighborhood • **Roger Liddell**, 65, Flint, Mich., brought smiles to everyone he interacted with • **Luther Coleman**, 108, Evergreen Park, Ill., man who seemed to know everything • **Dennis Camille Buzcek**, 72, Bristol, Conn., loved riting birthday and holiday cards, poems and lists • **Charles Constantino**, 86, Menlo Park, N.J., worked 40 years for The New York Times • **Ben Doherty**, 83, Boston, stockbroker who founded Doherty Financial Services • **John Horton Conway**, 82, New Brunswick, N.J., mathematician known as the "magical genius" • **Stanley Chera**, 77, New York City, developer and friend of the president • **Robby Browne**, 72, New York City, Realtor • **Philippe de Broca**, 87, New York City, celebrities • **Wynn Handman**, 97, New York City, acting teacher and a founder of the American Place Theater • **Adam Kovacs**, 72, New York City, cartoonist and an expert on musicals • **Ben Brown**, 53, New Jersey, manager of the S.W. Brown & Son Funeral Home • **Irene Gasior**, 94, Pennsylvania, great-grandmother with a flair for pizzelles • **Stanley L. Morse**, 88, Stark County, Ohio, barnyard who once turned down an offer to join Duke Ellington's orchestra • **Margaret Laughlin**, 91, Massachusetts, had a mystic's direct sense of wonder and oneness • **Cynthia Whiting**, 66, La Plata, Md., retired every morning • **Franklin daughter** • **Steve Jolitt**, 75, Rockville, Md., I.T. manager with "an eye for beautiful and unusual things" • **Gerard Glenn**, 66, Richmond, Va., police officer turned pastor • **Maclear Jacoby Jr.**, 83, Washington, D.C., inspiring math teacher • **Doris Mae Burkhardt Kale**, 98, Pennsylvania, excelled in the kitchen • **Josephine Ponsanski**, 98, New Jersey, loved to dance • **Phil Langley**, 83, Frankfurt, Ill., member of Harness Racing Hall of Fame • **Vinton Timely Mason**, 86, Beaumont, Mich., co-owned the Bark-and-All logging company • **Maria Garcia-Rodolo**, 52, Nevada, would walk her children every morning • **Fernando Miteff**, 60, New York City, graffiti artist with a generous spirit • **John Watson**, 73, Philadelphia, anywhere he went, he took pictures • **Joyce Posson Winston**, 93, North Bergen, N.J., editor of *Volley Stream* • **N.Y.**, first responder during the 9/11 attacks • **Chil**,

Multi-level Emergencies

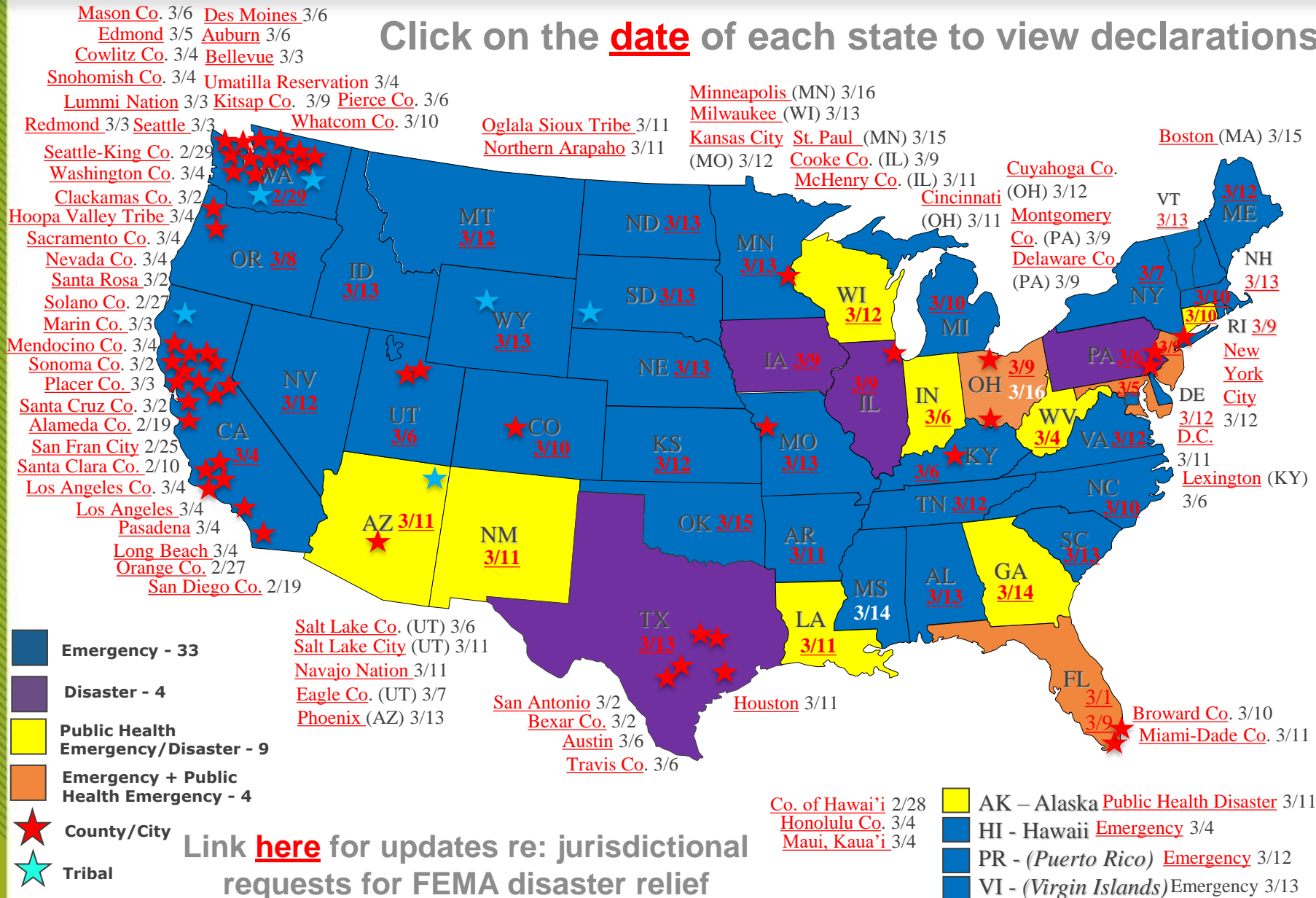
UNPRECEDENTED RESPONSES

Public health authorities and powers vary depending on the type of emergency declared at every level of government

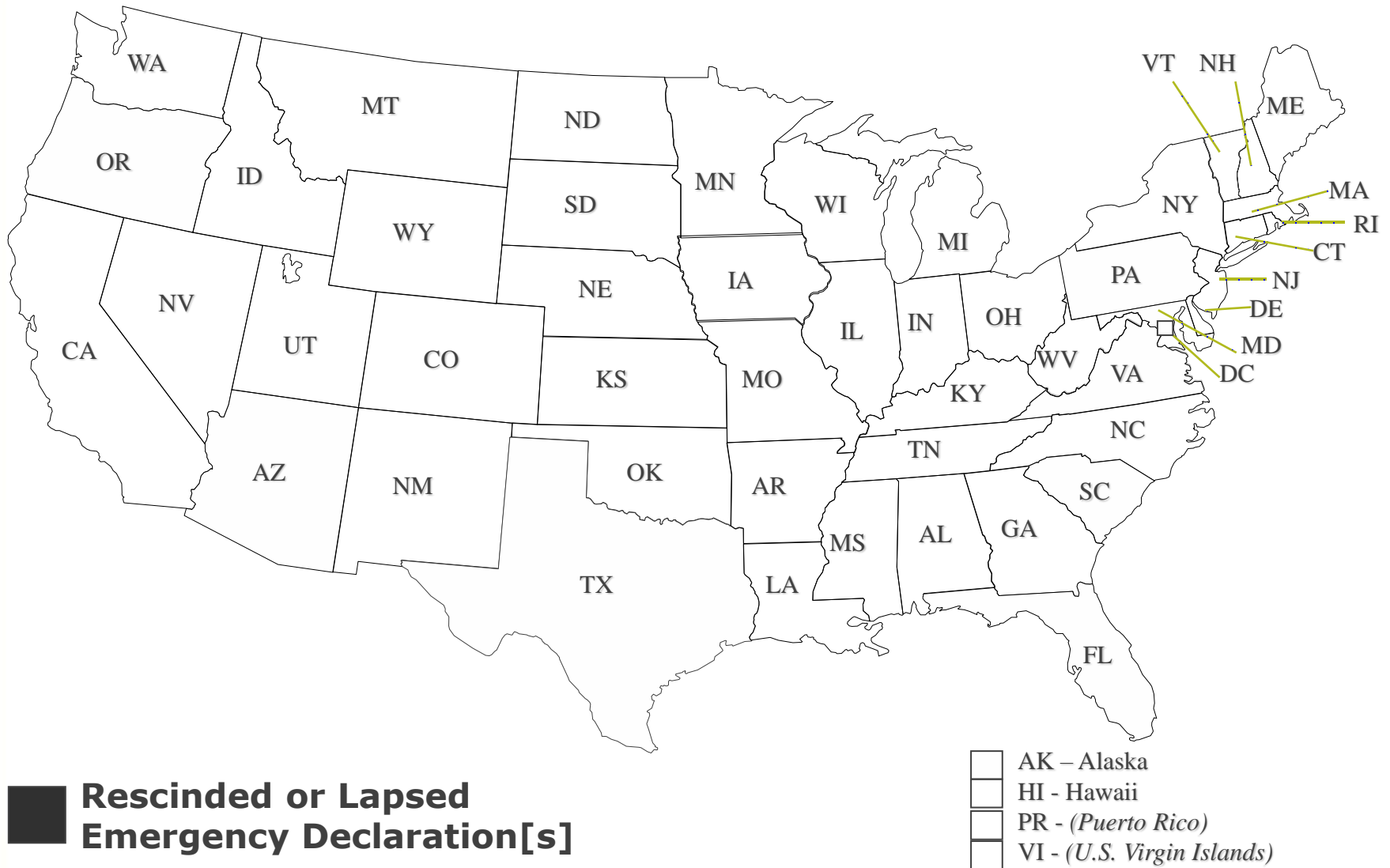


COVID State & Select Tribal/Local Declarations of Emergency

Click on the **date** of each state to view declarations

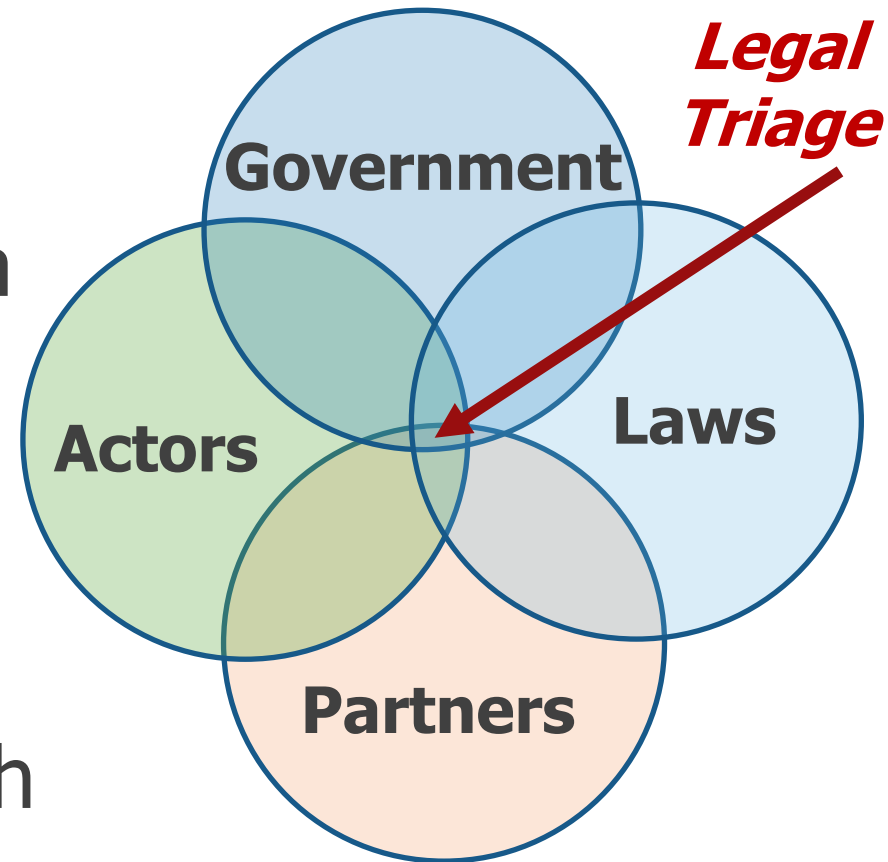


COVID State & Select Tribal/Local Rescissions of Emergency Declarations

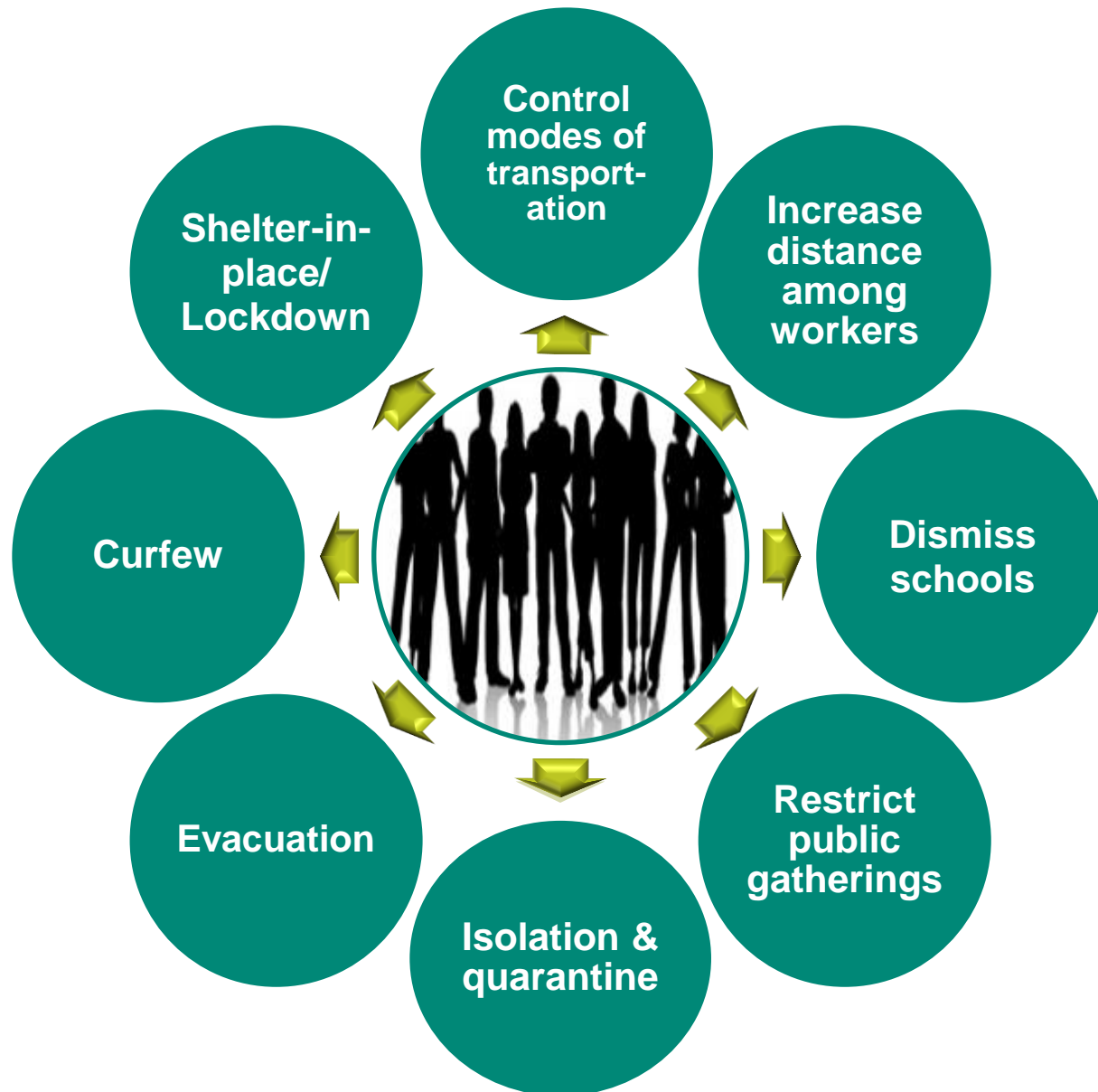


Legal Triage In Emergencies

Legal Triage: efforts of legal actors & others during declared emergencies to build a favorable legal environment by prioritizing issues & solutions facilitating legitimate public health responses



Social Distancing Measures



Select Social Distancing Measures



Quarantine



Isolation



Curfews



Travel Restrictions



Assemblies



Evacuations

Closures & Cancellations



Places of Worship



Employers



Universities



Events



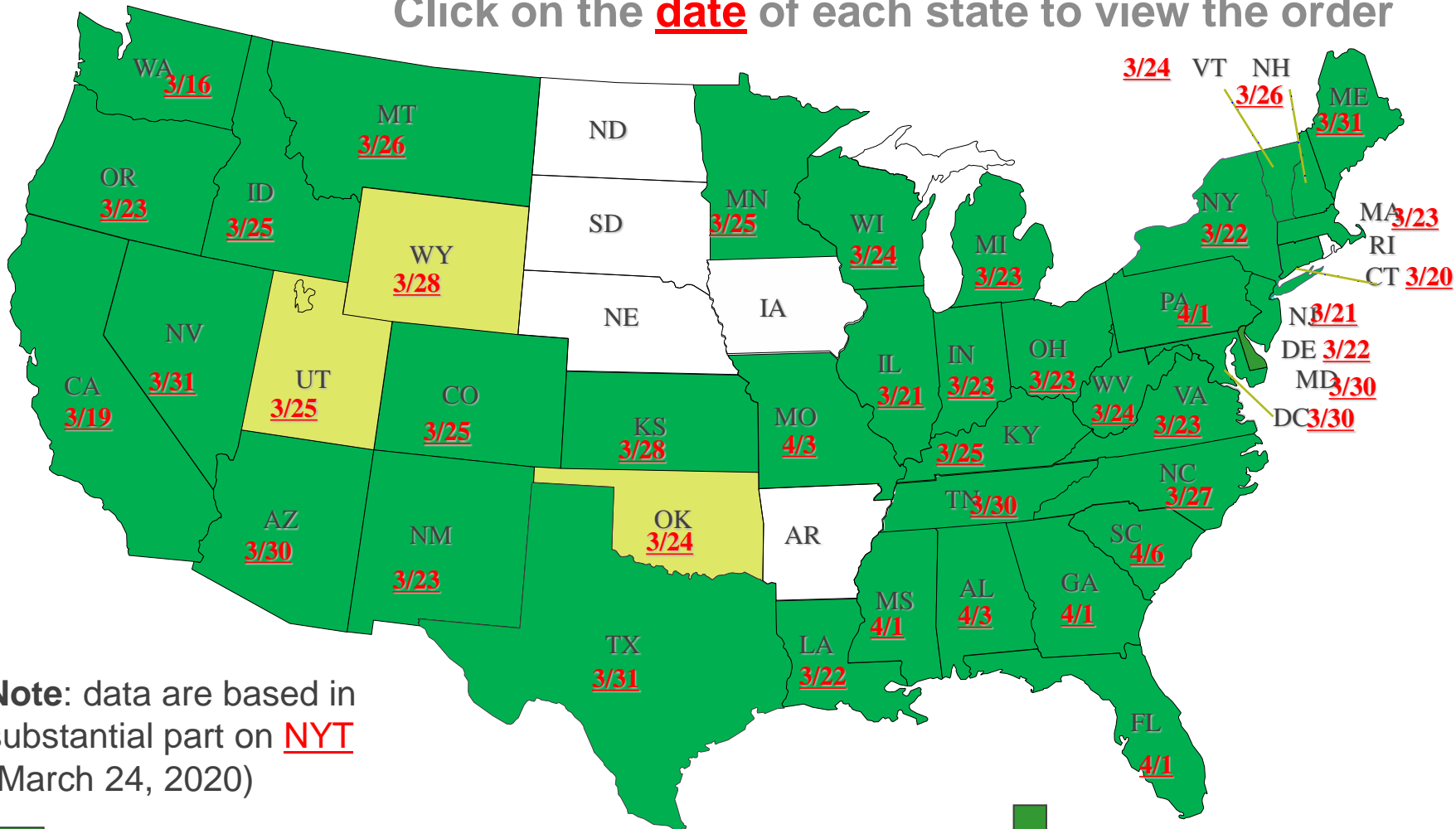
Sports





Schools

State Shelter-In-Place or Stay Home Orders

Click on the [date](#) of each state to view the order



Note: data are based in substantial part on [NYT](#) (March 24, 2020)

-  Shelter-in-Place or Stay Home Orders – **42 states**
-  Shelter-in-Place or Stay Home Orders – **3 partial states**

AK – Alaska [4/1](#)
HI – Hawaii [3/23](#)
PR – (Puerto Rico)
VI – (U.S. Virgin Islands)

“Essential” v. “Non-essential” Businesses

“Essential Businesses” Typically Include:	“Non-essential Businesses” Typically Include:	Exceptions Allowing for Continued Operations:
Healthcare providers	Theaters	Religious institutions (KS)
Food providers/grocers	Salons/Barbers	Gun shops (PA)
Food cultivation/agriculture	Gyms	Golf courses (AZ)
Social services/Daycare	Casinos	Construction (WA)
Veterinary clinics/pet stores	Concert venues	Federal critical infrastructure (HI)
Media	Shopping malls	Inventory companies (MI)
Pharmacies	Museums	Takeout restaurants (WV)
Convenience stores	Bowling alleys	Marijuana dispensaries (PA)
Sanitation	Racetracks	Liquor stores (NY)
Home/hardware stores	Sporting venues	Blood drives (AZ)
Educational institutions	Spas	
Transportation/gas stations	Recreation centers	
Warehousing/storage	Tattoo parlors	
Post offices/shipping	Community pools	

Justifying Social Distancing



Assess Epi



Assure Mobilization



Acquire PPE



Find Treatments



Develop Vaccines



Save Lives

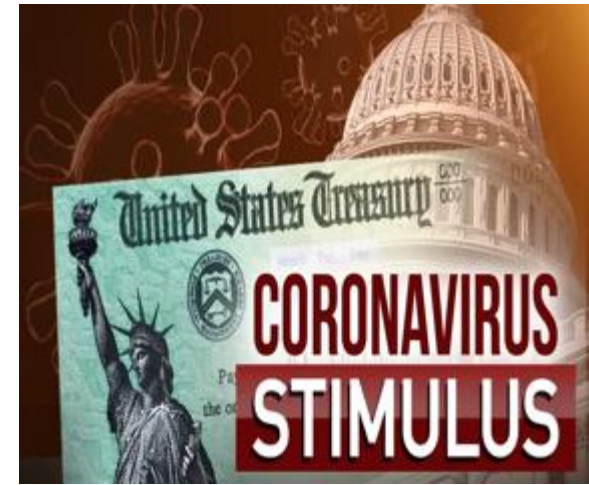
Assessing the Consequences



Unemployment



Business Failures



Government Bailouts



Active Protests



Mental Health



Lost Lives

Where We Stand Nationally



**Public Health
& Safety**

**Economic
Interests**



April 16: White House releases guidelines for state/local officials to consider in re-opening based on **regional gating criteria:**

- Downward trend of COVID illnesses w/in 14 days
- Downward trajectory of cases or positive tests w/in 14 days
- Hospitals must treat all patients outside CSC or implementation of a “robust reporting system”

Re-opening Phases

Phase 1

- Vulnerable individuals shelter-in-place
- Practice social distancing and avoid socializing in groups >10
- Employers should encourage telework and most businesses remain closed

Phase 2

- Resume non-essential travel
- Schools, gyms, and bars may re-open

Phase 3

- Vulnerable individuals may resume public interactions, with social distancing
- Large venues may reopen

Re-opening Efforts



Essential Businesses



Light Retail



Salons & Barbers



Bars



Gyms



Restaurants

Legal Controversies



Federal v. State



State v. Local



Employee
v.
Employer



State v. Tribal



Public v. Private Sector

Array of Constitutional Issues



Separation of Powers



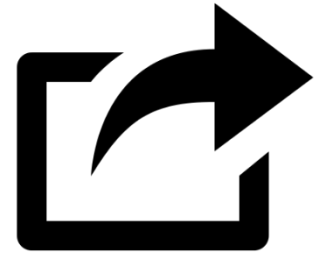
Federalism



Supremacy



Preemption



Judicial Deference



Freedom of Expression



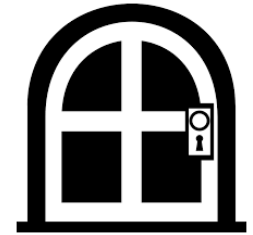
Freedom of Assembly



Freedom of Religion



Due Process



Right to Privacy



Equal Protection



Right to Travel



Right to Bear Arms



Cruel & Unusual Punishment



Takings



Federal v. State



- **Liberate PA!**

- President Trump claims Gov. Wolf is making “no effort” to reopen the economy

- **My state, my decision**

- NY Gov. Cuomo rebukes the President’s claim of “total authority”



- **MI Attorney General’s Letter to President Trump**

- In a visit, the President blatantly disregards MI’s mask policy

- **Houses of worship are “essential”**

- President Trump threatens to “override” governors if they do not immediately open houses of worship



- ***Bailey v. Pritzker***

- DOJ submits statement of interest, accusing IL Gov. Pritzker's stay home order extension as an unconstitutional overreach of state emergency powers



May 19: A high ranking DOJ official sent a letter to California Governor Newsom, threatening to intervene if CA does not alter its stay home order and re-opening policy.

- While restaurants and malls can open in phase 2, religious entities cannot do so until phase 3.
- DOJ characterizes this deferential treatment as unconstitutional pursuant to *Lukumi v. City of Hialeah*.
- Houses of worship may now open in limited capacity after being classified “essential” by President Trump.



Financial Feuds

- PA Governor Wolf threatened leaders across several counties that moved to reopen as the state maintained its stay home orders with denial of discretionary federal funds and various sanctions for offending businesses

Face Mask Requirements

- TX Lieutenant Governor Dan Patrick denounced a local official's executive order requiring Harris County constituents to wear face masks, calling the order "the ultimate government overreach."

Reopening Entertainment & Recreation

- NV Governor condemns Las Vegas Mayor Carolyn Goodman for her plans to reopen the city, claiming residents must not be "used as a control group."

Battle over Nonessential Businesses

- NM Supreme Court ruled against a local mayor seeking to re-open non-essential businesses.

Constituent Health Concerns

- Georgia mayors speak out against Governor Kemp's preemptive order allowing businesses to reopen, fearing for their constituents' safety.

Wisconsin Supreme Court Rejects Stay-Home Order | Mayors Refuse to Comply



Mayor of Madison ✓
@MayorOfMadison

BREAKING: "Safer at Home" guidelines will remain in effect in [#Madison](#) & [#DaneCounty](#). Public Health Madison & Dane County [@PublicHealthMDC](#) has issued a local public health order to keep it in place until May 26th. [#COVID19](#)

3:56 PM · May 13, 2020 · [Twitter Web App](#)

- Madison Mayor Satya Rhodes-Conway refused to comply with the WI Supreme Court's ruling that the state's stay-home order is unconstitutional on procedural grounds.
- Milwaukee Mayor Tom Barrett ordered the stay-home order to remain in effect.



Reopening Communities

- NM Gov. Michelle Lujan Grisham invoked emergency powers to lock down the City of Gallup to stop tribal members (largely from Navajo Nation) from spreading COVID to state residents.
- St. Regis Mohawk Tribe in NY remains closed with a curfew as the region around it reopens, preventing visitors from entering the community.

Restricting Travel

- SD Gov. Kristi Noem ordered checkpoints on state highways to be removed and requested Pres. Trump for federal assistance when tribes refused.

Reopening Casinos

- CT Gov. Ned Lamont recognized the Mashantucket Pequot and Mohegan Tribes' sovereignty over reopening decisions but warned of impacts of reopening casinos on state and tribal partnerships, as well as public health.

Michigan Warns Tribal Casinos of Reopening Penalties



- Island Resort & Casino, owned by Hannahville Indian Community (HIC), planned to reopen May 16, before Gov. Whitmer's stay at home order expires on May 28.
- MI AG Dana Nessel threatened civil and criminal penalties pursuant to state executive orders for casino employees and patrons who are not tribal members and remain subject to state law.
- HIC set a new tentative reopening date for June 1



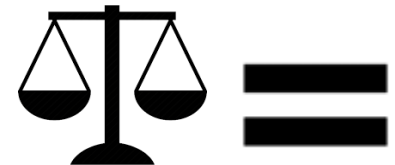
*Friends of Danny DeVito
v. Wolf*



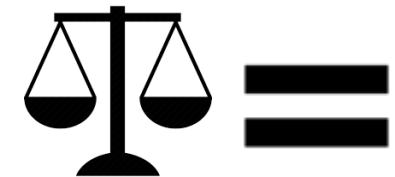
*Poopy's Pub & Grub
v. J.R. Pritzker*



*Tesla Inc. v. Alameda
County*



*House of Pain Gym v.
St. Louis County*



*Open Our Oregon v.
Kate Brown*





thegymhd It's only the 3rd day of opening The Gym and the response has been overwhelming with love and support from people, gym owners, business owners all over the country. As of today, from what we know, there are over 200 businesses that are taking a stand with us and opening their doors. Many of them are also hanging the American flag 🇺🇸 and posting the Constitution outside their buildings. "We the People" was founded on the fact that WE are the ones in control and WE have the right to stand up against crooked politicians and overthrow a bad Governor aka @gavinnewsom We are STRONGER together! 🙌🙌🙌 🇺🇸🇺🇸🇺🇸 #UNITEDWESTAND #gym



"The Gym" (Victorville, California) reopened May 1 against CA Governor Newsom's executive order, and was cited 2 days later. The owners have no plans of shutting down and are willing to risk it all to stand on their constitutional rights. "We the People," they assert, "was founded on the fact that WE are the ones in control..."



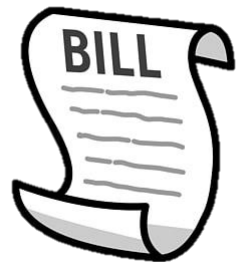
Potential legal claims for employees:

- **Workers compensation** - typical and often exclusive remedy for workplace injuries
- **Wrongful termination** - e.g., employee faces adverse action for seeking protections
- **Discrimination** - e.g., persons are fired/discriminated against on basis of age, parenthood, health status, or other protected characteristics
- **Public nuisance** - e.g., *Rural Community Workers Alliance v. Smithfield Foods, Inc. (Missouri)*
- **Negligence & intentional torts** - e.g., if employer fails to implement CDC/OSHA safety measures



May 19, 2020: McDonald's employees filed a class action in an Illinois circuit court against the fast food chain as it prepares to reopen certain dining rooms. Plaintiffs seek injunctive relief, alleging McDonald's breached its duties to provide employees with masks, hand sanitizer, and gloves, and to inform employees when staff tested positive for COVID-19.

- **Forthcoming litigation could redefine civil liberties during emergencies**
- **Preemption issues could shape governmental emergency roles**
- **Officials may seek to address inequities tied to reopening**
- **Legislation to immunize businesses from COVID claims could place employees at risk**

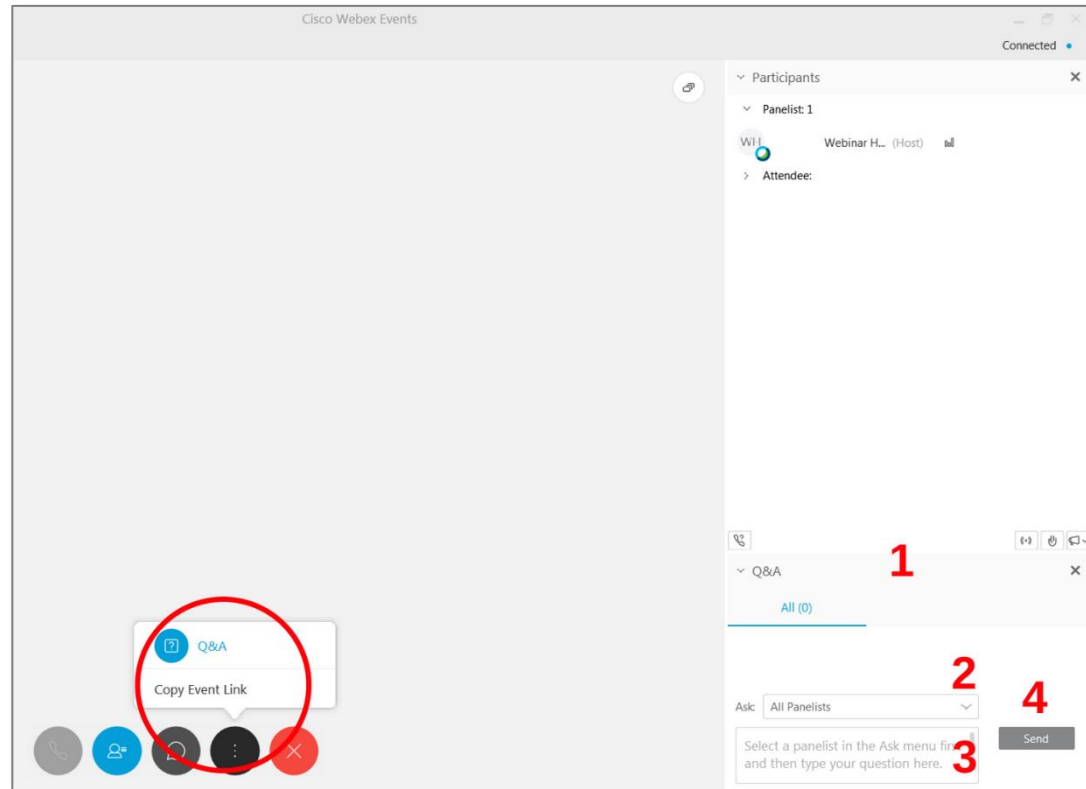




- Please share your questions/comments via the “**Chat**” function
- james.hodge.1@asu.edu | @jghodgejr
- swetter@asu.edu
- For more information & ongoing updates, check out the COVID-19 legal information at the [Network for Public Health Law](#)

How to Use WebEx Q & A

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



Thank you for attending

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

COVID-19: Innovations in Nutrition Programming to Address Food Insecurity

1:00 – 2:00pm EST | June 4

COVID-19: Real-Time Guidance, Resources and Information

View resources & request assistance at networkforphl.org/covid19

