

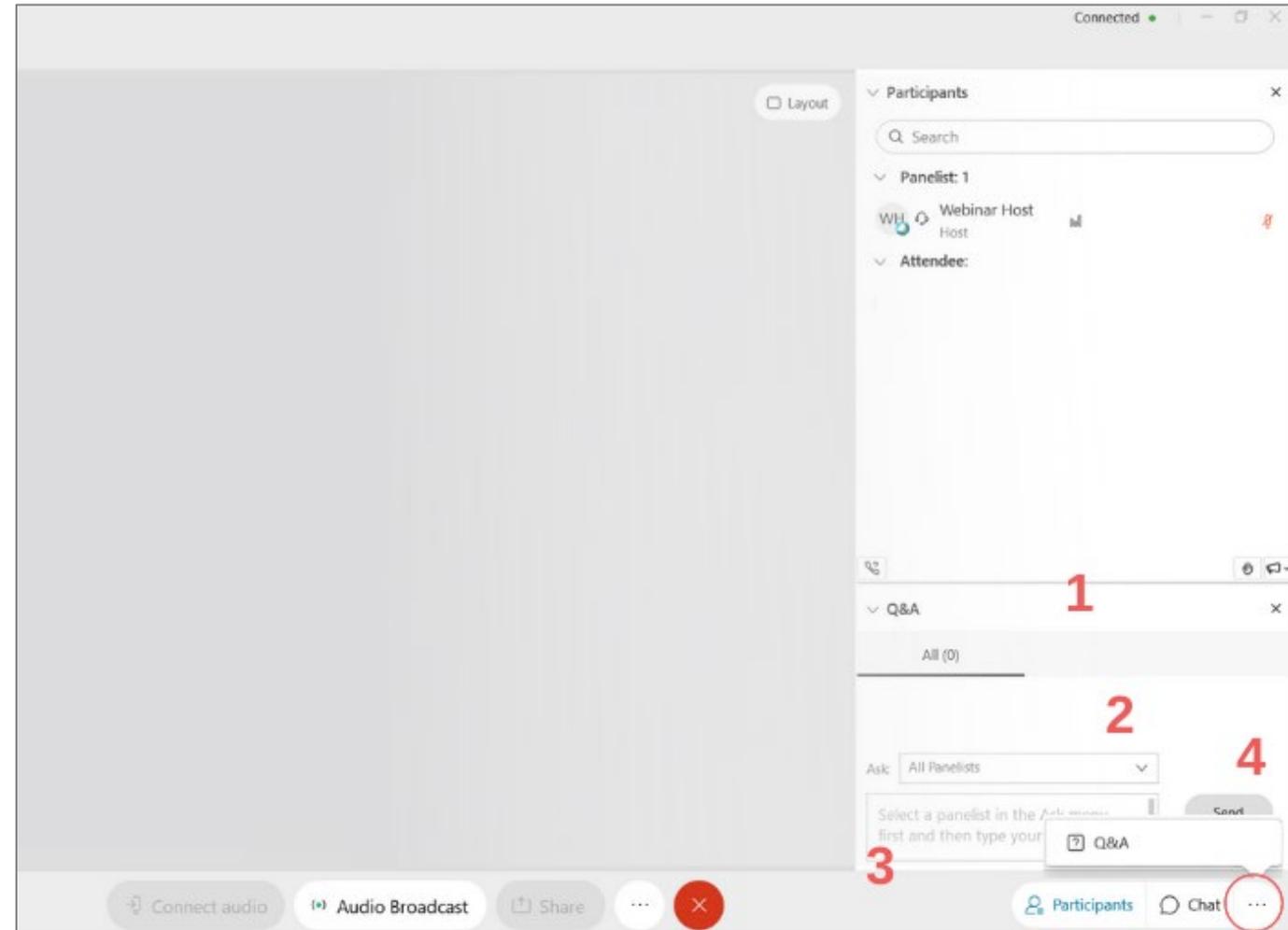
Public Health Under Threat: An Examination of State Laws Protecting Public Health Officials from Harassment

June 24, 2021



How to Use WebEx Q & A

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



Kathi Hoke, J.D., Director, Network for Public Health Law - Eastern Region Office and Professor and Director, Legal Resource Center for Public Health Policy, University of Maryland Carey School of Law

Presenter



Beth Resnick, DrPH, MPH Assistant Dean
for Public Health Practice and Director,
MSPH in Health Policy, Johns Hopkins
University



Presenter



Brooke Torton, JD, Senior Staff Attorney,
Network for Public Health Law—Eastern
Region Office



Presenter



Meenakshi G. Brewster, MD, MPH,
FAAFP, Health Officer, St. Mary County,
Maryland

Threats, departures, and a strained workforce: Unpacking the public health practitioner experience in the COVID-19 Pandemic



JOHNS HOPKINS
BLOOMBERG SCHOOL
of PUBLIC HEALTH

It's been a challenging year

Essential and in Danger: Coronavirus Sickens, Even Kills Public Health Workers

By Laura Ungar • JULY 22, 2020 • KHN ORIGINAL

COVID-19 Variants Further Strain Public Health Agencies

STATELINE ARTICLE February 8, 2021 By: Michael Ollove Topics: Health Read time: 5 min

August 10, 2020 03:36 PM

Health officials are quitting or getting fired amid outbreak

Associated Press

Here's Why Distribution of the Vaccine Is Taking Longer Than Expected

Health officials and hospitals are struggling with a lack of resources. Holiday staffing and saving doses for nursing homes are also contributing to delays.

Pandemic Backlash Jeopardizes Public Health Powers, Leaders

By Anna Maria Barry-Jester and Hannah Recht and Michelle R. Smith, The Associated Press and Lauren Weber • DECEMBER 15, 2020 • KHN ORIGINAL

Public Health Experts Worry About Boom-Bust Cycle of Support

By Michelle R. Smith, The Associated Press and Lauren Weber and Hannah Recht • APRIL 19, 2021 • KHN ORIGINAL

Congress has poured tens of billions of dollars into public health since last year. While health



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Departures, Harassment & Threats

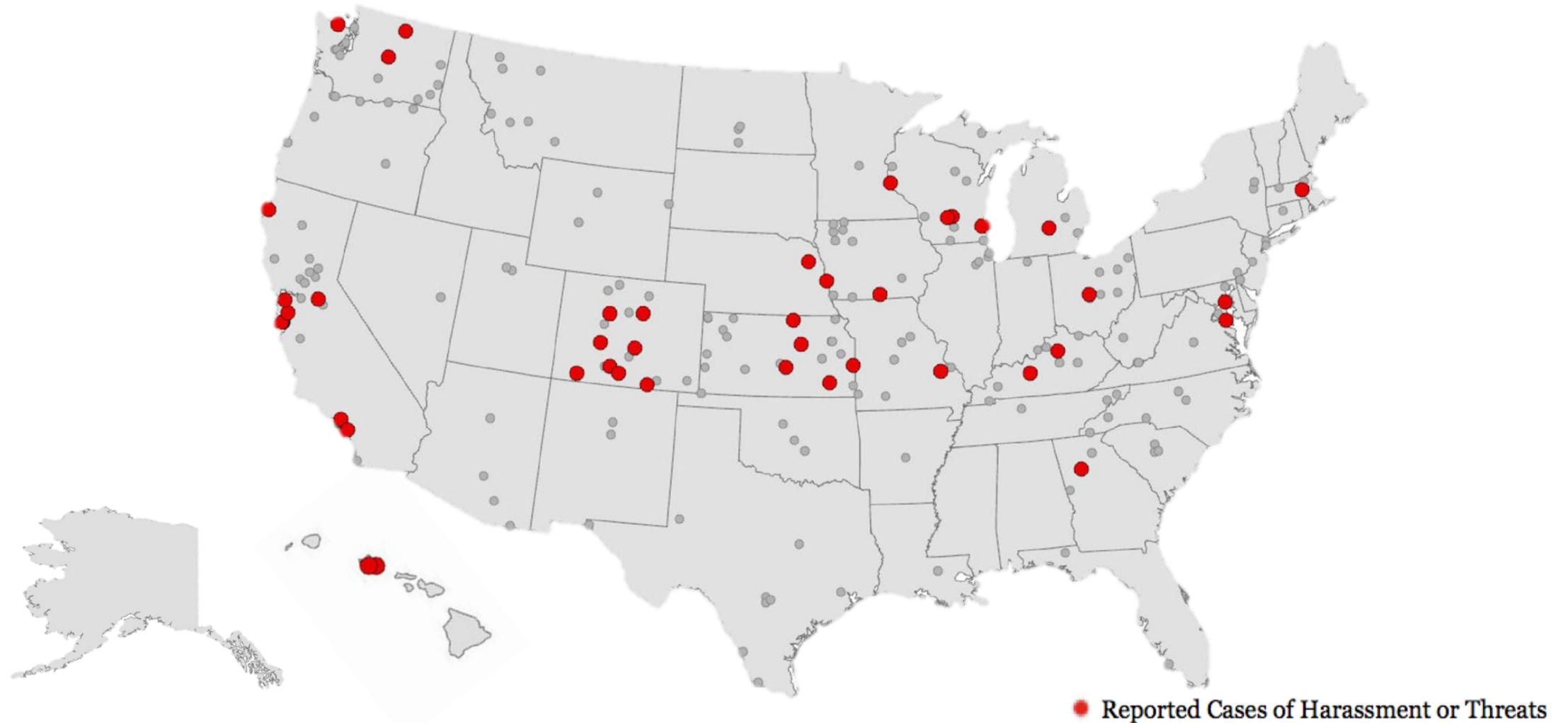
Exodus of State and Local Public Health Leaders

March 2020 - January 2021



Reported Harassment and Threats of Public Health Officials

March 2020 - January 2021



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The Full Story

The Lived Experience...



“I am sad. I am tired. ...There is an ugliness and cruelty in our national rhetoric that is reaching a fevered pitch here at home, and that should worry us all.”

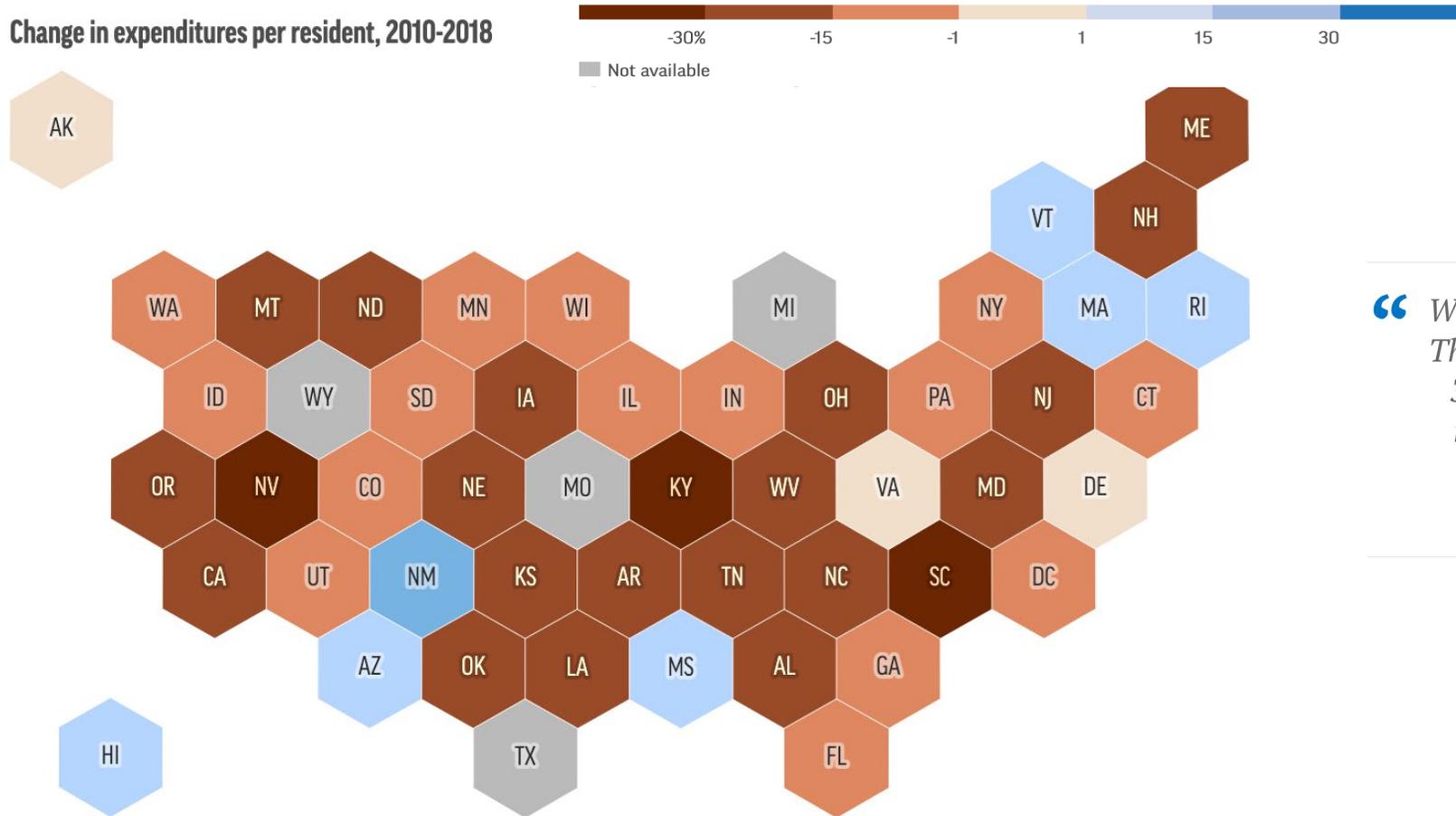
“The political gamesmanship has empowered some County Supervisors to demand retraction of evidence-based public health guidance. It has encouraged and rewarded political allies to rail against science and data-driven measures to protect our neighbors. It has emboldened others to think it is appropriate to treat public health professionals with disrespect and disdain when they are just trying to do their jobs with skill and grace.”

“Our staff, and particularly our female staff, are met with hostility at a level that we had never seen before, and frankly, it’s not acceptable. They are doing their job; they’re doing what we’ve asked them to do.”



Disinvestment in Public Health

Change in expenditures per resident, 2010-2018



“ We don’t say to the fire department, ‘Oh, I’m sorry. There were no fires last year, so we’re going to take 30% of your budget away.’ That would be crazy, right? But we do that with public health, day in and day out.

- DR. GIANFRANCO PEZZINO, HEALTH OFFICER IN SHAWNEE COUNTY, KANSAS

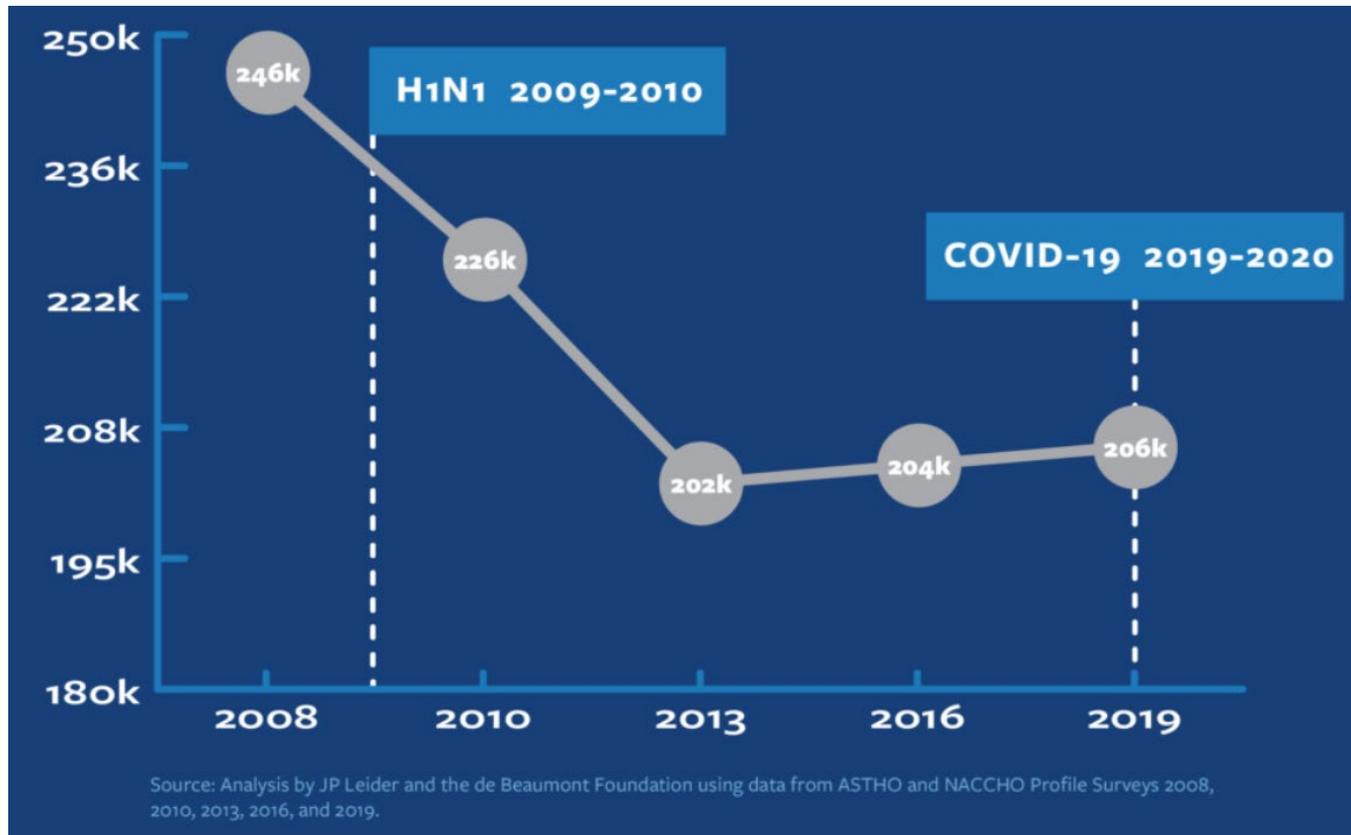
. Expenditures are inflation-adjusted to constant 2019 dollars

Source: Association of State and Territory Health Officials Graphics: Hannah Recht/KHN, Francois Duckett/AP / Map data: [Tilegrams/NPR](#)  



A Diminishing Public Health Workforce

Number of Workers in the Public Health Workforce, 2008-2019



"People need to take a step back and take a deep breath and try to look at this from the health officers' and the healthcare workers' standpoint. ...We are all overworked, overwhelmed, exhausted, mentally and physically."

- Dr. Brian Holmes
Health Officer, Dickinson County
KS



Outdated Data Systems and Technology

“The nation’s public health data systems are antiquated and in dire need of security upgrades – paper records, phone calls, spreadsheets and faxes requiring manual data entry are still in widespread use and have significant consequences including delayed detection and response, lost time, missed opportunities, and lost lives.”

— Janet Hamilton,
Director of Science and Policy,
Council of State and Territorial Epidemiologists



Siloed Systems



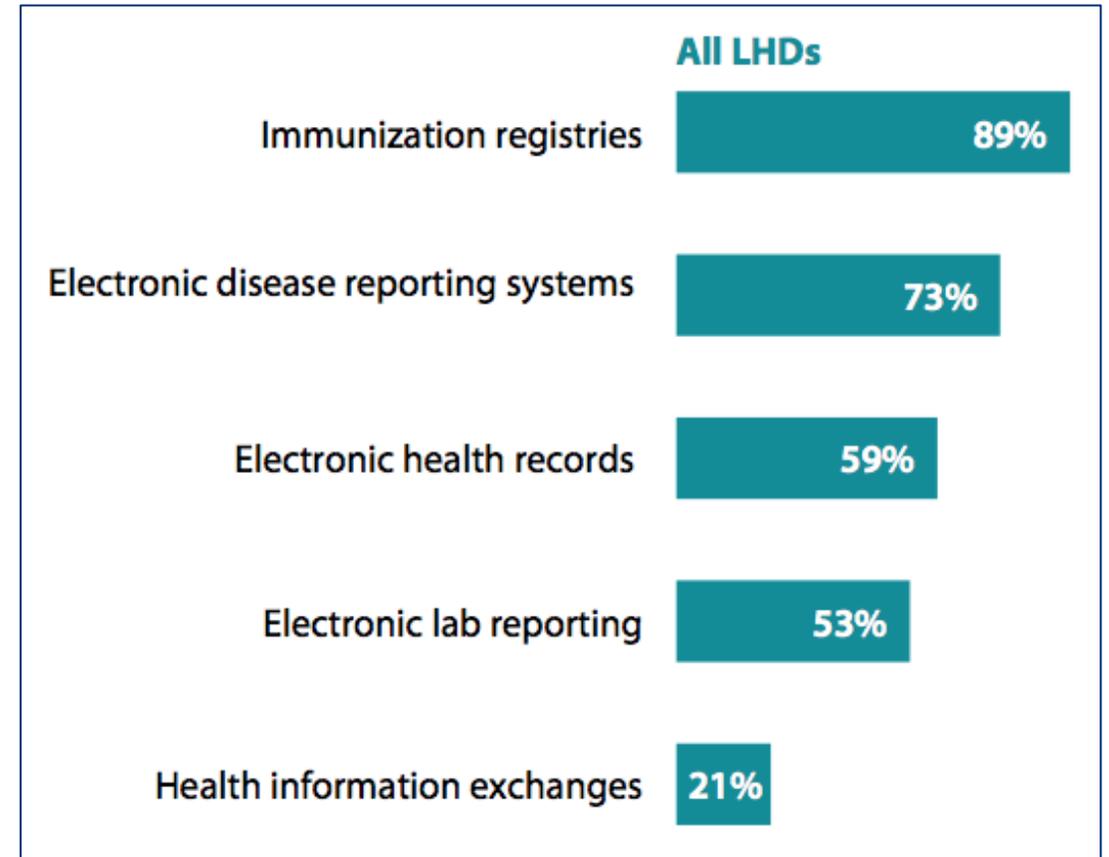
**Paper-based Protocols;
Outdated Technology**



**Inefficient
Resource Usage**

Source: CDC Data Modernization Initiative

Percent of LHDs that have implemented technology



Source: NACCHO 2019 National Profile



“We’re all left scrambling at the local and state level to extract resources and improvise solutions ... in a fractured health care system, in an under-resourced public health system.”

Dr. Matt Willis, Marin County Health Officer, CA



Public Health Under Threat: An Examination of State Laws Protecting Public Health Officials from Harassment

Brooke Torton, JD
June 24, 2021



Overview

- **Legal Landscape: Criminal Offenses Against Public Health Officials**
 - **4 Protective Statutes**
 - **Summaries**
- **Utilizing State Statutes**
 - **Fact Sheets**
 - **Template Responses**
- **2021 Legislative Solutions**
- **Discussion**



Legal Landscape: Overview

35 states and D.C. have a criminal statute:

- » **Alabama, Arizona, Arkansas, California, Colorado, D.C., Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Washington, West Virginia**
- » **Of these, all but 2 (Louisiana and Oklahoma) apply to state *and* local officials**

15 do not:

- » **Alaska, Connecticut, Florida, Georgia, Illinois, Maryland, Massachusetts, North Carolina, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Wisconsin, Wyoming**



Legal Landscape: Criminal Statutes

- 1. Obstructing Government Operations/Public Administration**
- 2. Threatening, Harassing, or Intimidating Public Officials/Public servants**
- 3. Disturbing, Disrupting, or Interfering with Public Officials/Public Servants and/or the Conduct of Public Business/Discharge of Duties**
- 4. Obstructing Person Enforcing Health Law/ Health Officer in Performance of Duty**



Terminology

“Government” means any state, county, municipality, or other political subdivision, branch, department, agency, or subdivision of any of the foregoing, and any corporation or other entity established by law to carry out any governmental function.

“Governmental function” means any activity which a public servant is legally authorized to undertake on behalf of a government.

“Public servant” or **“public official”** means any officer or employee of government, whether elected or appointed, performing a government function.



Obstructing Government Operations/Public Administration: Summary

Summary: A person must obstruct, impair, impede, or hinder a public official/public servant's official duties by means of intimidation, physical force, or attempted, threatened, or actual violence

Criminal Actions: Intimidation, physical force, or attempted, threatened, or actual violence

Criminal Impact: Obstructed, impaired, impeded, or hindered a public official/public servant/public employee's official duties

States: Alabama, Arizona, Arkansas, Colorado, Hawaii, Iowa, Kentucky, Maine, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Oregon, Pennsylvania, South Dakota, Utah



Obstructing Government Operations/Public Administration: Statute

A person commits the crime of obstructing governmental operations if, by means of intimidation, obstacle, violence or threatening to use violence or physical force, or by any other independently unlawful act, he/she:

- (1) Intentionally obstructs, impairs or hinders the administration of law or other governmental function; or**
- (2) Intentionally prevents a public servant/public official from performing a governmental function.**



Obstructing Government Operations/Public Administration: Enforcement

Misdemeanor or Felony:

Misdemeanor

Incarceration:

30 days-2 years (most common penalty- 1 year)

Fines:

\$50-\$6,000 (most common penalty- \$1,000)

Case Law:

Police officers, county utility employees, sheriffs, city clerks, clerk of court, Attorney General, fish and game officer, county tax assessor, state school representatives, game warden



Threatening, Harassing, or Intimidating Public Officials/Public servants: Summary

Summary: A person threatens, harasses, or intimidates a public official/public servant/public employee because of his/her employment OR with the purpose of influencing his/her position

Criminal Actions: Threatening, harassing, or intimidating

Criminal Impact: Need not influence a public official/ public servant decision

States: California, D.C., Delaware, Louisiana, Minnesota, Indiana, Washington, Ohio, Idaho



Threatening, Harassing, or Intimidating Public Officials/Public servants: Statute

A person is guilty of a misdemeanor when he/she knowingly and willingly harasses, intimidates, threatens the life of or serious bodily harm to, a public official/public servant because of his/her employment and/or with the purpose of influencing his/her performance of a government function.



Threatening, Harassing, or Intimidating Public Officials/Public Servants: Enforcement

Misdemeanor or Felony:

Felony

Incarceration:

6 months- 10 years (most common penalty- 1 year)

Fines:

\$1,000-\$10,000 (most common penalty- \$5,000)

Case Law:

corrections officers, Deputy Public Defender, Assistant District Attorney, judges, police officers



Disturbing, Disrupting, or Interfering with Public Officials/Public Servants and/or the Conduct of Public Business/Discharge of Duties: Summary

Summary: A person interferes, disturbs, or disrupts government administration at or in a government owned building or property

Criminal Actions and Impact: Restricting freedom of movement to/from government owned premises, impeding performance of duties or proceedings, refusing or failing to leave premises

States: Kansas, New Mexico, Oklahoma



Disturbing, Disrupting, or Interfering with Public Officials/Public Servants and/or the Conduct of Public Business/Discharge of Duties: Statute

Disturbance, disruption, or interference with public officials/public servants or the conduct of public business is:

(1) Conduct at or in any public building owned, operated or controlled by the government, so as to knowingly deny to any public official/public servant or any invitee on such premises, the lawful rights to enter, use, or leave the facilities;

(2) knowingly impeding any public official/public servant in performance of a government function through the use of abduction, coercion, threats, intimidation, violence or threat of violence, or physical force; or

(3) knowingly refusing or failing to leave any such public building upon being requested to do so by a lawful custodian or designee, if the person is committing, threatens to commit or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful mission, processes, procedures or functions of the property, building or facility.



Disturbing, Disrupting, or Interfering with Public Officials/Public Servants and/or the Conduct of Public Business/Discharge of Duties: Enforcement

Misdemeanor or Felony:

Misdemeanor

Incarceration:

6 months- 1 year

Fines:

\$500-\$2,500

Case Law:

state university buildings, public grade schools, museums



Obstructing Person Enforcing Health Law/ Health Officer in Performance of Duty: Summary

Summary: A person obstructs or interferes with a health officer/person enforcing health laws/measures.

Criminal Actions: Targeted at health officer/person charged with enforcement of health laws/measures

Criminal Impact: Obstructed or interfered with the person enforcing the health laws/measures

States: Michigan, New York, Texas, West Virginia



Obstructing Person Enforcing Health Law/ Health Officer in Performance of Duty: Statute

A person shall not willfully oppose, obstruct, interrupt, disrupt, impede, or otherwise interfere with a health department representative/designee, health officer, or other person charged with the enforcement of a health law in the performance of that person's legal duty.



Obstructing Person Enforcing Health Law/ Health Officer in Performance of Duty: Enforcement

Misdemeanor or Felony:

Misdemeanor

Incarceration:

90 days- 1 year

Fines:

\$200-\$2,000

Case Law:

Police officers enforcing the state Health Code



Fact Sheet Sample

State Fact Sheet

Statute Text and Citation

Relevant Definitions

Penalties

Summary

Interpretation and Use

Template Response to Violators



Template Response

Maine Criminal Code, Title 17-A, § 751, prohibits [insert crime—for example: interference with a public official by force, violence, or intimidation.] [insert here a description of the conduct with a date—for example: On August 28, 2020, you sent an email to Dr. X, the Secretary of Health for Maine, threatening to come to her home and show your opposition to the State’s mask requirement.] This may constitute a violation of §751. If convicted, you face a fine of up to \$2,000 and imprisonment up to 1 year.

If the conduct is extreme, add: We have notified the [insert proper law enforcement agency] of this conduct.

If the conduct does not rise to the level of reporting, add: Should you continue with this conduct, we may report the matter to [insert law enforcement agency].



2021 Legislative Session

Passed	Failed/Dead
Utah	Maryland
Oklahoma	South Carolina
Colorado	Alabama
Oregon	



Utah, SB 22, Public Official and State Capitol Protection Amendments

- Amended the Public Safety Code to require the Department of Public Safety to provide for the security and protection of public officials.
- “Public officials” include public health officials who are elected to positions in the executive branch of government OR are appointed to/employed in the executive branch and engage in policymaking, drafting legislation/makes rules, or partaking in adjudicative decisions.



Oklahoma, HB1876, Open records; personnel records; public employees; emergency

- Public bodies shall keep confidential personal information of current and former employees including: home address, home phone numbers, private email address, private mobile phone number.
- The previous statute did not include mobile numbers or email addresses.



Colorado, HB21-1107, Protections for Public Health Workers

- This bill makes it a criminal misdemeanor to disseminate personal information of public health workers if dissemination poses an “imminent and serious” threat to the official's or worker's safety or their families.
- Public health worker includes employees or contractors of the Department of Public Health and Environment engaged in public health duties, employees or contractors of a county or district public health agency, and members of a county or district board of health (not including elected county commissioners).
- Previously this only applied to law enforcement officials and their family members and victims of domestic violence, sexual assault, and stalking.



Oregon, HB3047, Relating to disclosure of personal information; and declaring an emergency.

- Creates a civil cause of action for persons whose personal information was shared online with the intent to harass, humiliate or injure.
- Personal information includes home address, personal email address, personal phone number, social security number, contact information for employer, contact information for a family member, photographs of children, identification of school that children attend.
- Applies to ALL persons.



Maryland, HB1380/SB957, Criminal Law, Threats Against Public Health Officials

- Criminally penalizes those who “knowingly or willfully make or send” a threat to a public health official with the intent to intimidate, interfere with, or impede their official duties.
- Specific to public health officials only.



South Carolina, H.3728, Threatening to kill or inflict bodily harm, offense created

- This bill makes it a criminal offense to threaten to kill or inflict bodily harm on a public official, public employee, or a member of their immediate families.
- “Public employee” includes state and local officials.
- “Public official” means state and local elected or appointed officials.



Alabama, HB403, Doxing, Crime, Penalties

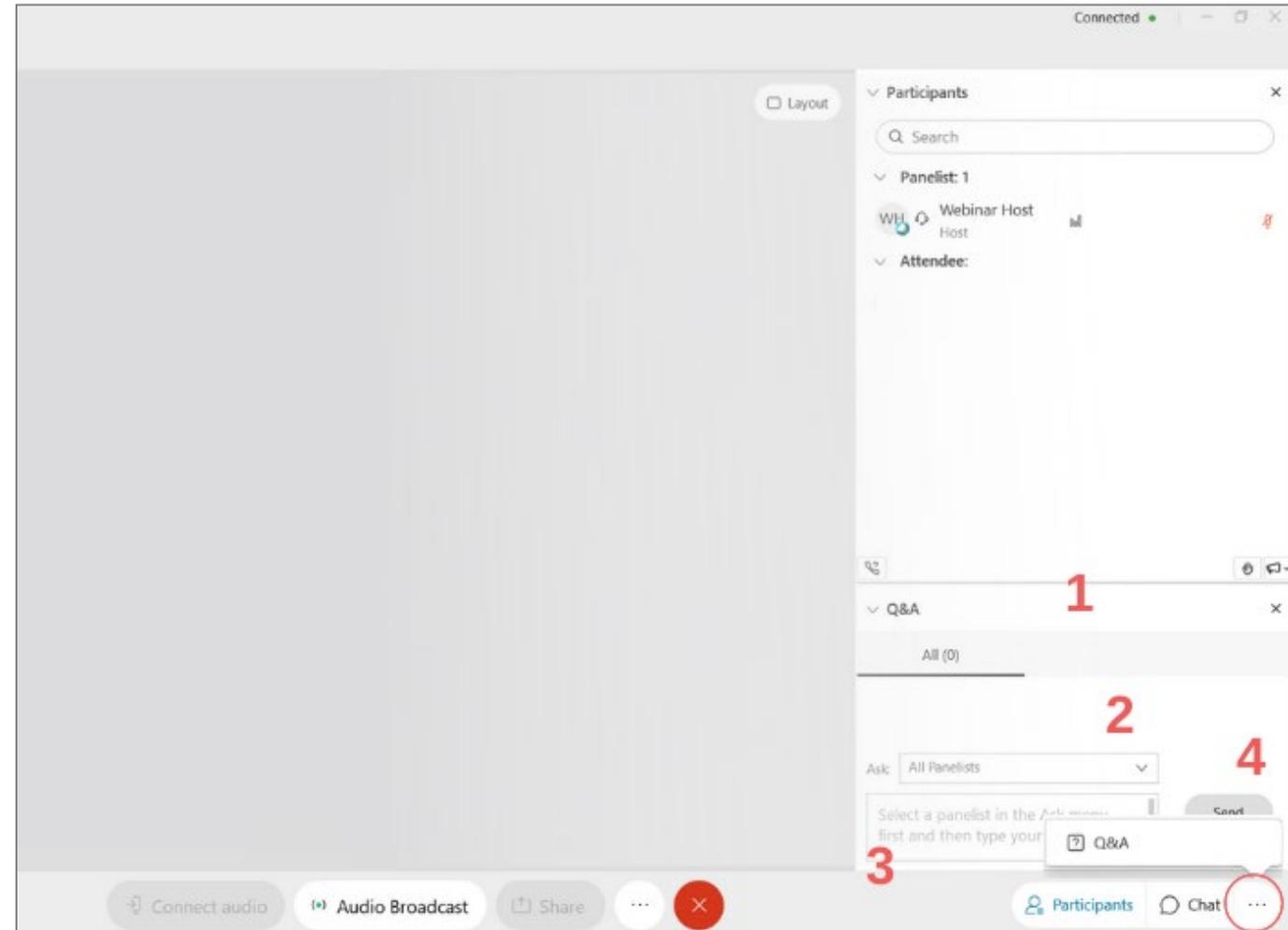
- Would have established “doxing” as a crime, and would have penalized a person for publishing personal identifying information of a public servant with the intent to annoy, harass, or impede the duties of that person.
- Public servant includes any officer or employee of government.

Q&A with Dr. Meenakshi Brewster



How to Use WebEx Q & A

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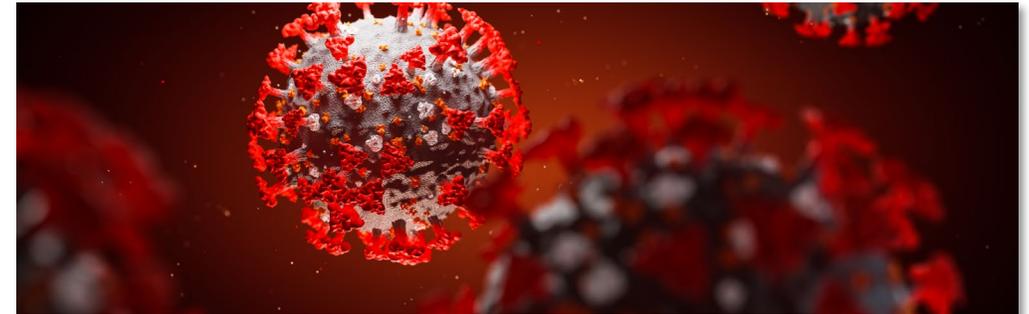


Thank you for attending

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

Upcoming Events:

**2021 Public Health Law Conference:
Building and Supporting Healthy Communities for All**
September 21 – 23, 2021 | Baltimore, MD



Resources



Upcoming Webinar
COVID-19 Real-Time Legal Responses: Local Governments on the Frontlines

Emergency Legal Preparedness and Response

COVID-19

[Read More →](#)



Fact Sheet
U.S. Social Distancing Measures for COVID-19

COVID-19

Emergency Legal Preparedness and Response

[Read More →](#)



FAQs
FAQs: COVID-19 and Health Data Privacy

COVID-19

Emergency Legal Preparedness and Response

Health Information and Data Sharing

[Read More →](#)