

Welcome to “Preparing for a Pandemic”



**Hon. Charles C.
LaVerdiere**
Chief Judge
Maine District Court

Purpose of this Presentation

- To Use the Maine experience to let everyone know how important it is to have a plan and be prepared!
 - Share the Kaci Hickox story as an example of why we all need to be prepared.
- To introduce “Preparing for a Pandemic: An Emergency Response Benchbook and Operational Guidebook for State Court Judges and Administrators”

Background

- **Pandemics are not new**
 - Middle Ages — Black Plague
 - World population was approximately 450 Million — 75 million died — 1/2 of the population of Europe
 - 1918 — Spanish Flu
 - U.S., Europe, and Asia — 75 million died in 9 months
 - 2013-2014 — Ebola
 - West Africa — 28,000 cases — 11,300 deaths

Background *cont'd*

- **Other Pandemics in 20th and 21st Century**
 - Bird Flu — affected millions
 - Cholera — killed millions in multiple epidemics
 - Asian Flu — 2 million died
 - HIV/Aids — 30 million died
 - Dengue Fever — Thousands affected
 - Zika

Background *cont'd*

- **The World is a Smaller Place**
 - Over 100,000 international, commercial flights each day.

Setting the Stage

- **Oct. 30, 2014**
- **Height of Ebola Crisis**
 - Thousands dying in West Africa
 - Several people in U.S. being isolated and treated
 - Every news cycle was focused on epidemic
 - Maine teacher story

Setting the Stage *cont'd*

- **Election in 6 days**
 - Governor
 - Legislature
 - Congress

Setting the Stage *cont'd*

- **General public was confused and frightened**

Kaci Hickox



The Most Important Lesson Learned

**You need to be prepared for this
type of matter BEFORE it hits!!!**

Need for Immediate Decision

Fast & Unexpected

- Normal day shattered and forced to make life or death decisions immediately
- Immediate decision was crucial
 - Respondent was planning to go into general population that night
 - No decision was in fact a decision with potentially deadly consequences
- Interim hearing necessary

Four Major Areas of Concern

1. Logistics
2. Media
3. Substantive Law
4. Public Opinion and Politics

Logistics

Do not underestimate time and work dealing with logistics

- **Location:** Presents special issues
 - Fort Kent is a small Town on Canadian border
 - 4.5-5 hours from Augusta
 - Nearest commercial airport —Bangor, 3.5 hours
 - Courtroom holds 25 people
 - Judge 1 or 2 days/week & a total of 1.5 clerks

Logistics *cont'd*

- **Parties**
 - 2 Attorneys in New York
 - 1 Attorney in Portland
 - AGs in Augusta
 - Media from all over the world
 - Respondent in Fort Kent

Logistics *cont'd*

- **Parties *cont'd***
 - Testify by video? How?
 - Filings/Service/Recordings
 - Clerks and marshals reluctant

Media

- First words from one attorney —
“We want media present for everything!”
- In Maine, as in many states, statute calls for confidentiality
 - Needed release — from defendant or Attorney — **in writing**

Media *cont'd*

- **Media was in frenzy**
 - Dumpster diving
 - Calling court posing as others
 - Thousands of calls to 1.5 clerks
- **Parties feeding media in violation of Court orders**

Media *cont'd*

- **Used our “High Profile Case Protocol”**
 - Website with all public documents, schedules, and information

Substantive Law

It took hours of research to determine:

- Maine Statutes were confusing and contradictory
- No Maine cases on point
- Burden of proof issues
- National cases were old and not on point

Public Opinion/Politics

- **Be ready for consequences**
 - Protests
 - Death threats/mail
 - Political fallout

Pandemic and Emergency Response Task Force

Hon. Jean Hofer Toal

*Chief Justice
Supreme Court of South Carolina
Task Force Chair*

Hon. Jonathan Lippman

*Chief Judge
New York State Unified Court System*

Hon. Michael G. Heavican

*Chief Justice
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*Chief Justice
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Preparing for a Pandemic: An Emergency Response Benchbook and Operational Guidebook for State Court Judges and Administrators



The *Guide's* Contents

Part I. Introduction and Purpose

Part II. Legal Issues Arising During a Pandemic: A Guide to Developing a Pandemic Benchbook

- Chapter 1: Jurisdiction of Public Health Issues
- Chapter 2: Executive Branch Authority in a Public Health Emergency
- Chapter 3: Searches, Seizures and Other Government Actions to Ensure Public Health
- Chapter 4: Proceedings Regarding Limitations on Individual Liberties and the Rights of Petitioners
- Chapter 5: Model Orders and Court Rules
- Appendices

Part III. Operating the Courts During a Pandemic

Part IV. Planning and Implementation

Part IV. Resources



Call to Action

- Develop a pandemic benchbook.
- Update existing pandemic benchbooks and other pandemic preparedness resources.
- Collaborate with executive branch on pandemic preparedness planning.
- Collaborate with legislative branch to update public health code and identify statutory gaps.
- Regular training of judges and court staff.

Resources

The Preparing for a Pandemic: An Emergency Response Benchbook and Operational Guidebook for State Court Judges and Administrators

is available at: <http://ncsc.contentdm.oclc.org/cdm/ref/collection/facilities/id/194>



Questions?