
Lawyers, Guns, and Money: A Plenary Presentation from the Conference “Using Law, Policy, and Research to Improve the Public’s Health”

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On behalf of the Robert Wood Johnson Foundation (RWJF), I want to thank the Public Health Law Association and the American Society of Law, Medicine & Ethics for your leadership and the work that both you and the Centers for Disease Control and Prevention (CDC) have done to grow this field. RWJF is pleased to co-sponsor this conference.

The music that opened this talk is a clip from Warren Zevon, who encouraged us musically to “send lawyers, guns and money.”¹ Zevon was a singer/songwriter and social critic whose songs often took a jaundiced, somewhat cynical point of view. Even so, I know that I am probably stretching his meaning when I think of this song. I see “lawyers, guns and money” as his take on the major drivers of how change happens in a society.

The goal of public health is to change society so that people are healthier and that the health disparities that exist between subgroups of our population or between communities are diminished. In considering Zevon’s song, I know that public health would *clearly* never have the brute force behind it that is implied in the guns element. And the money behind public health is likely never to rival the money behind prod-

ucts like tobacco, alcohol, or less healthy food items. So we are left with lawyers — with law as the means to make changes to improve health.

Some of you probably had come to that conclusion already (i.e., building a healthier nation was going to require harnessing the tools of policy and law). Maybe it takes public health practitioners and scientists a little longer to come to this conclusion. But I suspect most in our field do not have legal and policy solutions at the top of their minds as the central drivers of sustained change for better health. When I say laws, I also mean regulations and policies and even non-governmental policy. I tend to use these terms interchangeably.

So while my opening was, of course, meant to be a little humorous, it was also meant seriously. You have been the vanguard of this movement to have our national, state, and local laws support health, understanding law as the way public health will solve our major health problems. For that I thank you. In this talk, I am going to present RWJF’s views on how public health will have to lead in the future and the central role that law and policy play in that leadership. I will also discuss what we are doing to help fuel this effort.

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I would like to start with two examples that help to show what we think public health needs to be successful in the future. Chip Johnson is the mayor of Hernando, Mississippi, a community of 15,000, near the Tennessee border. He was invited to speak at First Lady Michelle Obama's launch of the *Let's Move* campaign to fight childhood obesity this past February 2010. Johnson had a simple message. He said reversing the obesity epidemic is all about mayors and policymakers working with health departments and education. He touted the power of policy change, saying: as mayors, we "are not going to be here forever.... The policies are what stay though."² Johnson framed change this way. He said that public health departments have the knowledge but do not know how to get it to the people. Policymakers know how to get to the people. As a political leader, he gets how change happens and is sustained.

I also want to be clear that *some* public health leaders understand this as well. Bill Foege, the former director of CDC and past president of the American Public Health Association, said that every public health decision and every resource decision is really a political decision. But public health officials tend to be scientists at heart, many of whom have an innate aversion to politics. Yet, those officials are the only ones who can make public health's case in the political arena. That is why public health officials cannot stay out of politics. Foege was not talking about waging partisan battles but leveraging their stature as leaders to get the policy-making system to work for health.

The views of these two leaders frame this discussion. In the future, public health will need to approach its mission and work with a new deeply felt recognition that the serious public health problems of our time will not be solved by public health alone. Rather, the actions of leaders in other sectors of our society will be crucial. Public health must help the leaders in education, transportation, housing, and the private sector to incorporate health into the decisions — where they have authority in policy and in implementation — even if at first glance those leaders did not see their role as having all that much to do with health.

To solve our nation's big health problems, I see four overlapping but distinct directions in which public health will need to go.

1. Public health will have to embrace a different style of leadership.
2. Public health's success will depend on how it engages in and harnesses policy change and advocacy, including overtly linking science to policy discussions.

3. Public health must embrace law as a crucial action, especially laws and policies that are outside of the agencies' direct authority.
4. Public health must also embrace accountability and use the health of its community as a central part of that accountability.

Leadership

Public health must lead the nation, states, and communities to an understanding of where health comes from in the first place. There are so many examples of this need for public health science to guide policymaking. One is agriculture: the food itself and its nutrients; the biologic or chemical safety of the food; or what specific foods are subsidized and thus become relatively cheaper than other food.³ Other examples include whether transportation policy supports or inhibits activity like walking and cycling,⁴ or tobacco where taxation affects youth initiation;⁵ or neighborhood safety⁶ and exposure to lead paint or mold in homes.⁷

There are many possible examples. Much of the understanding about their relation to health comes, at least in part, from public health science, although the actual solutions may come from architecture or urban planning, or schools, or public safety agencies, or automotive engineering. In general, our policymakers and the public have not been nearly as aware that *how* our society is organized, *what* our policies foster or inhibit, and *what* our communities encourage and our institutions support are equally as fundamental causes of good or ill health as are the biologic ones, warranting study and action about these non-biologic factors' impact on health.

If our societal forces are not in alignment, then new scientific advances stall, and the value realized is a meager fraction of its potential. It is research that turns disease and injury from fate's misfortune, or bad luck or accident, into biologic understanding and potential control. But that research then turns its understanding over to society, and it is the policies and laws that must transform that understanding into impact on disease, like how much is prevented or treated. It is often this translation of science into practical, feasible policy solutions that has been missing.

These societal causes are often so badly misaligned for different groups, and this misalignment leads to large and persistent health disparities. It is the policies that will help determine if disparity will be diminished through targeting solutions to those in greatest need or if disparity will widen because solutions are provided to those people with greater financial means than health needs. The achievement of science is to convert fate into a societal choice. But it is societal policy and

action that determine the ultimate impact and value of that scientific investment. Thus, the laws become part of the causal chain, directly related perhaps to the disease or injury, but certainly related to the current population rate and distribution of that disease or injury. Improving the health of all and reducing disparity comprise the core purposes of public health. So the field of public health is where the biologic, societal, and political forces affecting health converge.

There are more examples. School entry immunization laws require that children be immunized as they enter school.⁸ Seatbelts⁹ and airbags¹⁰ are required equipment in cars. Fines for failure to use seatbelts further increase their use and hence further decrease crash injuries.¹¹ Clean indoor air laws require public work places, even restaurants and bars, to be smoke free,¹² when the science showed that exposure to other peoples' smoke caused higher rates of heart attacks¹³ and respiratory illness among workers.¹⁴ Provisions of the Affordable Care Act call for restaurant menu labeling of calories.¹⁵

Public health leadership in practice increasingly involves much more than doing a good job managing the official agency's programs or addressing specific public health issues. The health agency must be the convener, who brings the urgency of an important health issue to the attention of its community leaders in the public, private, and non-profit sectors. Public health will also have an important role in identifying what actions could be most effective and in assessing effectiveness and progress caused by actions taken.

Reversing the childhood obesity epidemic is a good example because it will require changing community environments and public policies so that, for example, schools become healthy places for our children by providing nutritious food and helping children be active. It is important for communities to provide safe, attractive places for kids and families to be active in their neighborhoods and ready access to fresh fruit and vegetables. Making these things happen will require actions of leaders from a variety of sectors, including education, agriculture, food manufacture and retail, city planning, parks and recreation. None of these actions is the direct responsibility of the public health agency.

This new way of leading also means that leadership development, which has become increasingly important for large companies, will also be important for public health, especially learning how to lead when one has little or no actual authority. The need for this kind of leadership has gotten a lot of attention in the field of preparedness — where rapid coordination and decision making must occur together by organizations with different leaders and core purposes (e.g., police,

fire, transit, education, public health, the private sector), but it is equally important if the issue is obesity, or violence, or the problems of aging.

Policy Change and Advocacy

This vision of public health leadership also makes clear that policy change and advocacy in sectors outside of health and medical care are central to real progress in health. At its core, public policy is the way a society frames what it wishes to become. Policy does not have to be federal legislation or regulation. It can be local or state or even corporate. But an organization, a field, or groups of individuals that are about social change will find they are often about influencing public policy. This means that public health will also have to be more aggressive about projecting and assessing the health impacts of major public policy decisions. We need to overtly link the science about what causes good or ill health to policy decisions under consideration.

Although Bill Foege said that every public health decision was a political one, I think his comment can be taken even further based on the examples I have mentioned. We can say that nearly every major political decision is actually also a public health decision because many of those decisions will affect health, either improving or damaging it. It is a big challenge to make those effects visible and to ensure that policy debates take into account the health impacts of those decisions.

One way might be the use of Health Impact Assessments (HIAs), an approach that has received a lot of attention lately from many sources, including a prominent commentary in *JAMA*.¹⁶ HIAs are getting increased application in Europe, where the mantra is about putting "Health in All Policies," assessing all major policies for their health impact.¹⁷ We have established, with the Pew Charitable Trusts, a Center on Health Impact, through which we are supporting the Institute of Medicine at the National Academy of Science to outline the best methods for this work.¹⁸ We are also funding a series of HIAs, some looking at national policy like the potential provisions in the children's nutrition act reauthorization.¹⁹ We will support state or local assessments as well. We believe that future public health leaders will need to know how to apply HIAs in their communities and states to assess implications of potential policies. And we have a very good opportunity in the Community Transformation grants funded under the Affordable Care Act.²⁰ As an example, a recent study in the *American Journal of Preventive Medicine* showed that the users of the light rail system in Charlotte, North Carolina lost about six to seven pounds.²¹ This health effect probably was not

identified in policy discussions leading to the creation of that system.

Law

So this new approach to leadership and the more central role of advocacy and policy makes it clear that one of the most important tools for impact in public health is law. RWJF funds the *Tobacco Control Legal Consortium*,²² a network to examine legal approaches to tobacco control, and the *National Policy & Legal Analysis Network to Prevent Childhood Obesity* (NPLAN) to work on childhood obesity.²³ But we came to feel that these networks seemed to be viewed as one-offs — that is, as unique situations where law was a valuable adjunct instead of specific examples of the application of a fundamental approach to improve health. We believe that the time has come to build this field of law and public health more broadly and highlight its central relevance to almost all important health issues.

So I am pleased to share the news of the newly launched Public Health Law Network (PHLN) (www.publichealthlawnetwork.org), which will provide support and answers to public health and legal professionals, advocates, policymakers, and others around the country grappling with public health challenges where legal and policy solutions could be very important.²⁴ The Network aims to increase the visibility, use, and effectiveness of public health laws in protecting, promoting and improving people's health by delivering technical assistance, connecting and supporting those in this field, and providing education and training focused on applying the law to improve public health. Our long term goal is to build a robust public health law field that will transform not just how effectively law and policy are used to improve people's health but how frequently, how routinely, and even how creatively these tools can be used.

While I have the pleasure of announcing the Network today, we know that this Network is really being built on the shoulders of all of you in the field. Initially, people from the institutions that we are funding will form a core group of Network leaders, but all of us hope to connect rapidly to you and to an ever wider range of existing and new partners and practitioners. PHLN also will connect with our other programs that explore and support policy and legal solutions to health problems, including the Public Health Law Research (PHLR) Program RWJF launched last year.²⁵ Housed at Temple University's Beasley School of Law, the PHLR Program is dedicated to building the evidence base for laws that improve health. The program makes grants to researchers, public health practitioners, and legal scholars to help point the way to regulatory, legal, and policy solutions that can

improve people's health. I have addressed how public health leadership will need to operate in the future if we are to make the kind of progress needed to improve the health of the public. These leaders will need to employ advocacy and policy strategies and use HIAs and laws to promote social change for health.

Accountability

I now want to spend a little time putting the three issues of leadership, advocacy, and law in the context of accountability for health of a community. Explicit ranking of quality is becoming increasingly common in much of our society. We can see this increasingly in medical care where comparing mortality rates or infection rates in hospitals is becoming common. We are all aware that when people are deciding where to live, they often ask, How good are the schools? They assess the schools using measures like average Scholastic Aptitude Test (SAT) scores, Advanced Placement (AP) courses, teacher/pupil ratios, or percent passing state or federal performance standards. Maybe these measures are crude; but, everyone expects information about the quality of schools to be publicly available, and the school leadership is being held accountable for these outcomes. Well, how many people, when moving to a new neighborhood, ask, How healthy is this as a place to live? How would we answer that?

We have to embrace the impetus behind the question and harness this energy in formulating an answer, while helping the public understand our work. Public health has to be responsive to community members interested in learning and improving upon the health of their county, city, or state. We can help focus that interest on the most important measures. RWJF believes there are at least three issues to address.

First we have to establish a standard method of measurement. You may have heard about the County Health Rankings that were released in February 2010.²⁶ This scorecard ranks the health of nearly every county in the United States based on an approach that the University of Wisconsin Population Health Institute has employed for the last several years. The County Health Rankings summarize the current health of each county according to a few outcome measures. The first measures years of life lost — think of this as, Are people dying too young in our county? The second summary measure is the proportion of the people who state their health is only poor or fair. Think of that as, Are there too many people here who just don't feel good? Infant mortality is also reported. Wisconsin also uses a limited set of health determinants. Think of these as predictors of a county's *future* health, drawn from health care quality, personal health behaviors, environmental quality, and broader factors

like education, employment and poverty. Now people anywhere can know how healthy their county is as a place to live. They can also compare their county to every other county in their state. The public is interested when the information is made understandable and meaningful to them. The County Health Rankings zoomed to number one in Google searches when it was released, with over 150,000 web hits in the first two hours and many hundreds of media stories. These rankings will be conducted again in 2011.

But our goal is to move the public and decision-makers from interest in the ranking to the actions needed to create improvement. What gets measured gets done is a mantra in public health. Measures taken to improve public health may take the form of laws and policies. When asked, How healthy is this county as a place to live?, we might give an overall assessment of its health. In addition, evidence that a county is concerned about health will come from policies implemented and actions taken. These steps include the adoption of clean indoor air laws, the construction of sidewalks and bike paths, and schools' commitments to serving only healthy foods to students.

Second, public health is one of the few parts of the health system that is not accredited. Hospitals, nursing schools, public health schools, and clinics all have accrediting standards. Accreditation is something that policymakers often understand and support. Perhaps most importantly, when done well an accreditation process can tie to good and improving service. As many of you know, RWJF and CDC are supporting the development of a national accreditation system for all public health agencies, large and small.²⁷ The organization set up to run this — the Public Health Accreditation Board — is developing standards that link closely to improved health outcomes and are structured to assess quality improvement over time. Thirty state and local health departments are doing a beta test of those standards in 2010 as preparation for real accreditation, which begins in late 2011.

The third issue is that our field has no scientific equivalent of health services research (HSR) to help the practice leaders know how to improve the effectiveness and the efficiency of their systems so that quality programs are delivered more often and to more people. In medical care, HSR has led to quality of care research with agreed-to standards like Healthcare Effectiveness Data and Information Set (HEDIS) measures.²⁸ Public health needs this kind of science base. We are working to build this field of Public Health Services and Systems Research (PHSSR).²⁹ RWJF has funded around \$34 million in projects in this field, and CDC funds this kind of research for preparedness issues. We believe this kind of transparent accountability can

lead to a type of credibility and integrity in dealing with the public that public health has to have to get community and political support.

I tried to spend my time on how public health can lead and become a stronger force for societal change. And while Warren Zevon might have a good list in his song "Lawyers, Guns and Money,"³⁰ the one tool that is likely to be the most important for the public's health is law.

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References

1. W. Zevon, "Lawyers, Guns and Money," *Excitable Boy*, 1978, Asylum.
2. C. Johnson, speech at *Let's Move* press conference, the White House, Washington, D.C., February 9, 2010, trans. D. Bowman Simon and C. Gustowarow, Massachusetts and Mississippi Mayors bring "Eat Smart Play Hard Live Well" and "Healthy Eating and Active Living" to Let's Move!, TheWhoFarm, The White House Organic Farm Project, February 21, 2010, *available at* <<http://www.thewhofarm.org/2010/02/21/massachusetts-and-mississippi-mayors-bring-eat-smart-play-hard-live-well-and-healthy-eating-and-active-living-to-lets-move/>> (last visited November 9, 2010).
3. R. J. Jackson et al., "Agriculture Policy Is Health Policy," *Journal of Hunger & Environmental Nutrition* 4, nos. 3 & 4, Supplement (December 15, 2009): 393-408, *available at* <<http://www.rwjf.org/pr/product.jsp?id=53228>> (last visited November 9, 2010).
4. B. McCann, "Active Living Research: Designing for Active Transportation," Active Living Research, San Diego State University, San Diego, CA, February 2005, *available at* <<http://www.rwjf.org/pr/product.jsp?id=38413>> (last visited November 9, 2010).
5. H. Ross and F. J. Chaloupka, "The Effects of Cigarette Prices on Youth Smoking," *Health Economics* 12 (May 2002): 217-230, *available at* <<http://www.rwjf.org/pr/product.jsp?id=14332>> (last visited November 9, 2010).
6. CeaseFire: The Chicago Project for Violence Prevention, *available at* <<http://www.ceasefirechicago.org/>> (last visited November 9, 2010).
7. "Improving the Health of All Americans Through Safe and Healthy Housing," Robert Wood Johnson Foundation Commission to Build a Healthier America, July 14, 2009, *available at* <<http://www.rwjf.org/files/research/commissionhomefact-sheet.pdf>> (last visited November 9, 2010).
8. *State Vaccine Requirements for School Entry* (2010), National Network for Immunization Information, *available at* <<http://www.immunizationinfo.org/vaccines/state-requirements>> (last visited November 9, 2010).
9. 49 C.F.R. § 571, 585, 586, 589, 590, 596, and 597 (2005).
10. 49 C.F.R. § 552, 571, 585, and 595 (2000).
11. *Map of All States' Seat Belt Enforcement Laws* (2010), Insurance Institute for Highway Safety, Highway Loss Data Institute, *available at* <<http://www.iihs.org/laws/SafetyBeltUse.aspx>> (last visited November 9, 2010).
12. *Interactive Tobacco Map Provides Latest Data on State Smoking Laws* (March 2010), Robert Wood Johnson Foundation, *available at* <<http://www.rwjf.org/publichealth/product.jsp?id=56548>> (last visited November 11, 2010).
13. Committee on Secondhand Smoke Exposure and Acute Coronary Events, Board on Population Health and Public Health Practice, Institute of Medicine of the National Academies, *Sec-*

- ondhand Smoke Exposure and Cardiovascular Effects: Making Sense of the Evidence* (Washington, D.C.: National Academies Press, 2010): at 204.
14. D. Menzies et al., "Respiratory Symptoms, Pulmonary Function, and Markers of Inflammation Among Bar Workers Before and After a Legislative Ban on Smoking in Public Places," *JAMA* 296 (2006): 1742-1748.
 15. Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 573 (2010), § 4205 (b)(H)(ii)(I)(aa).
 16. J. Collins and J. P. Koplan, "Health Impact Assessment: A Step Toward Health in All Policies," *JAMA* 302, no. 3 (2009): 315-317.
 17. *Council Conclusions on Health in All Policies (HiAP)*, 2767th Employment, Social Policy, Health and Consumer Affairs Council Meeting, Brussels, Belgium, November 30 and December 1, 2006, available at <http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/lisa/91929.pdf> (last visited November 11, 2010).
 18. Health Impact Project, A Collaboration of the Robert Wood Johnson Foundation and the Pew Charitable Trusts, available at <<http://www.healthimpactproject.org>> (last visited November 11, 2010).
 19. Healthy, Hunger-Free Kids Act of 2010, S. 3307, 111th Cong. (2010).
 20. Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 564 (2010), 42 U.S.C. § 300u-13.
 21. J. M. MacDonald et al., "The Effect of Light Rail Transit on Body Mass Index and Physical Activity," *American Journal of Preventive Medicine* 39, no. 2 (2010): 105-112, at 110.
 22. Tobacco Control Legal Consortium, Public Health Law Center at William Mitchell College of Law, available at <<http://publichealthlawcenter.org/programs/tobacco-control-legal-consortium>> (last visited November 11, 2010).
 23. NPLAN, National Policy & Legal Analysis Network to Prevent Childhood Obesity, available at <<http://www.nplanonline.org/>> (last visited November 11, 2010).
 24. Public Health Law Network, Robert Wood Johnson Foundation, available at <<http://publichealthlawnetwork.org/about-the-network>> (last visited November 11, 2010).
 25. Public Health Law Research, Robert Wood Johnson Foundation program at Temple University, available at <<http://publichealthlawresearch.org/about-us>> (last visited November 11, 2010).
 26. County Health Rankings, Mobilizing Action Toward Community Health, Robert Wood Johnson Foundation and the University of Wisconsin Population Health Institute, available at <<http://www.countyhealthrankings.org/>> (last visited November 11, 2010).
 27. *Draft National Voluntary Accreditation Standards for Public Health Accreditation*, Public Health Accreditation Board, available at <http://www.phaboard.org/index.php/beta_test/standards> (last visited November 11, 2010).
 28. Healthcare Effectiveness Data and Information Set, HEDIS & Quality Measurement National Committee for Quality Assurance, available at <<http://www.ncqa.org/tabid/59/default.aspx>> (last visited November 11, 2010).
 29. Public Health Systems & Services Research, Center for Public Health Systems & Services Research, available at <<http://www.publichealthsystems.org>> (last visited November 11, 2010).
 30. See Zevon, *supra* note 1.