

PREPARING FOR A PUBLIC HEALTH EMERGENCY
TRIBAL LEGAL PREPAREDNESS PROJECT
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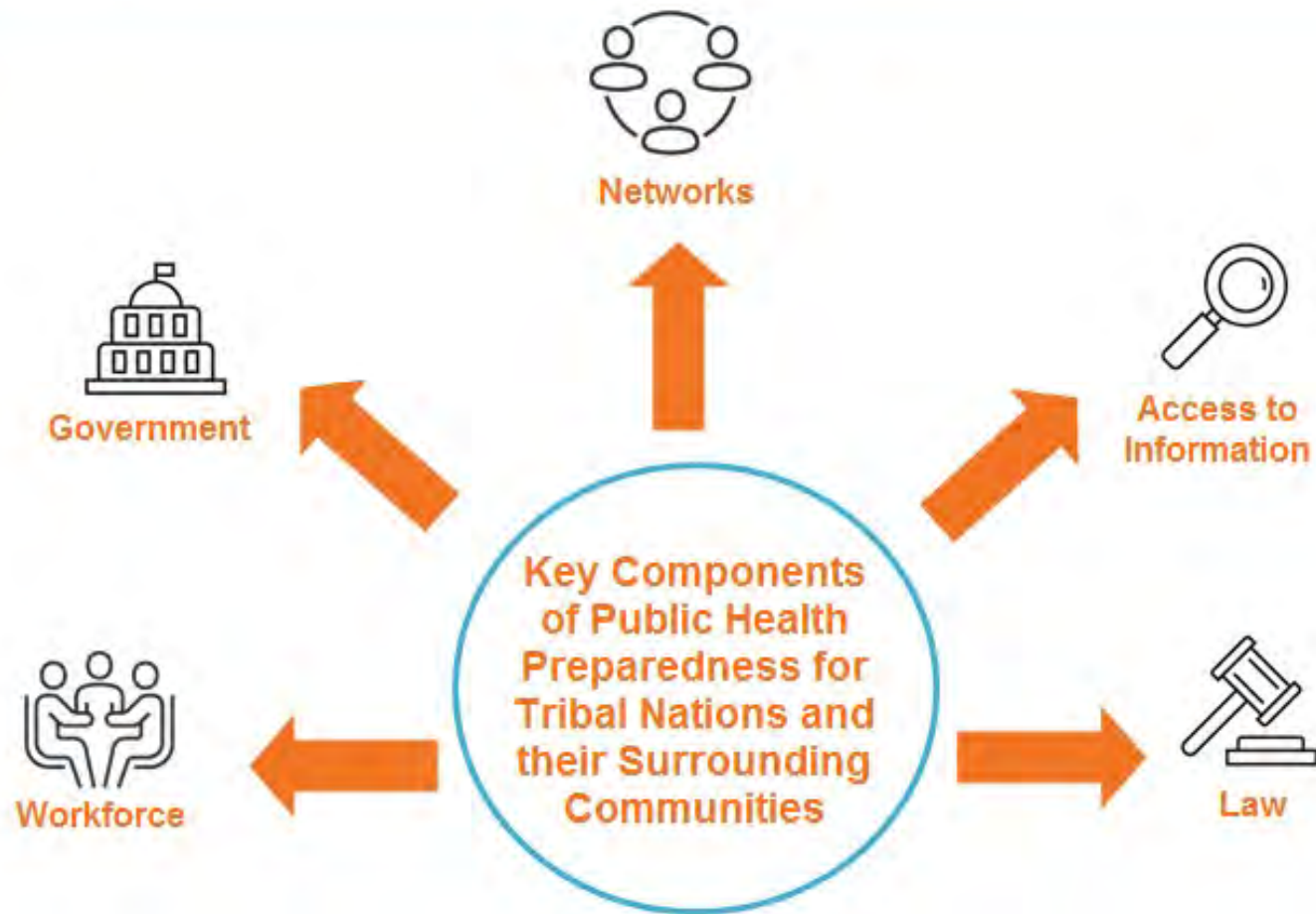
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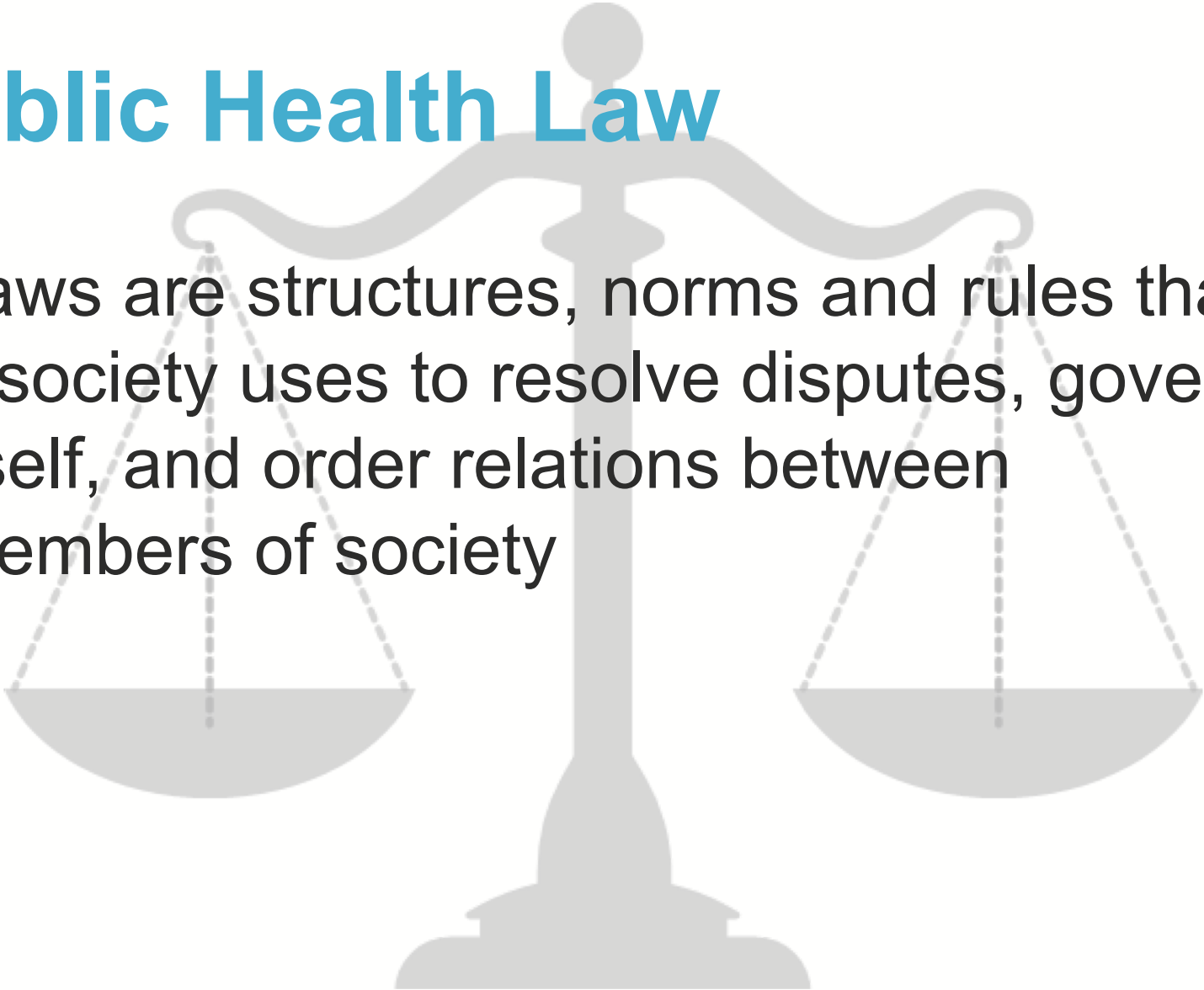


PREPARING FOR A PUBLIC HEALTH EMERGENCY TRIBAL LEGAL PREPAREDNESS PROJECT

Public Health Preparedness



Public Health Law



- Laws are structures, norms and rules that a society uses to resolve disputes, govern itself, and order relations between members of society

Public Health Law

- Law is a tool for protecting and promoting the health of the public
- Law has been critical in attaining public health goals, serving as a foundation for governmental public health activities
- Many of public health's greatest successes have relied heavily on law



Legal Preparedness for Public Health Emergencies

- Law is a foundation for public health response
- Legal preparedness requires effective authority to
 - Respond to the crisis
 - Coordinate public health response across jurisdictions
 - Resolve disputes
 - Aid recovery post-crisis



Does Your Tribal Nation Have:

- An emergency operations plan?
- A public health code?
- A public health department?

WHY SHOULD TRIBAL NATIONS BE CONCERNED ABOUT PREPAREDNESS?

Tribal Legal Preparedness: Inherent Authority

- Tribes have inherent authority to protect the public health and welfare of their citizens
- This includes taking steps to prepare for and manage public health emergencies for their communities.



Infectious Disease

- Infectious disease emergencies may pose a greater threat to Tribes than to the general American Population
- 1918-1919 influenza pandemic and the 2009 H1N1 influenza event
 - Mortality rate among Indians in the US was roughly four times that of other groups

Epidemiology and Surveillance

- **Epidemiology**

- A fundamental science of public health
- Described as the study of the distribution and determinants of disease risk in human populations

- **Surveillance**

- Is the ongoing, systematic collection, analysis, interpretation, and dissemination of data regarding a health-related event
- Data is used to reduce morbidity and mortality, as well as to improve health

Surveillance

- Public health surveillance can:
 - Serve as an early warning system for impending public health emergencies
 - Document the impact of an intervention or track progress towards specified goals
 - Monitor and clarify the epidemiology of health problems, to allow priorities to be set and to inform public health policy and strategies

Who conducts your disease surveillance?

Infectious Disease Epidemiology

- The study of epidemics and the dynamic factors involved in the transmission of infectious agents in populations.
 - How a communicable disease spreads
 - How the disease develops in an individual

Isolation and Quarantine

- **Isolation:** the separation of known infected people from non-infected people to prevent or limit the transmission of the infectious agent.
- **Quarantine:** the separation and restriction of movement of people who were exposed to a contagious disease to prevent disease transmission during the incubation period should infection occur.

Example of Tribal Law Related to Infectious Disease Control

- Cherokee Code of the Eastern Band of the Cherokee Nation
 - Deputy Health Officer has power to investigate communicable diseases and exercise quarantine and isolation authority
 - Executive Director has power to order the abatement of imminent hazards with respect to property

Issues Related to Infectious Disease Control

- Jurisdiction
- Roles and responsibilities
- Data sharing
- Cost

Public Health Disasters



What Types of Emergencies Does Your Tribal Nation Face?

- Natural disaster?
- Infectious disease?
- Other?

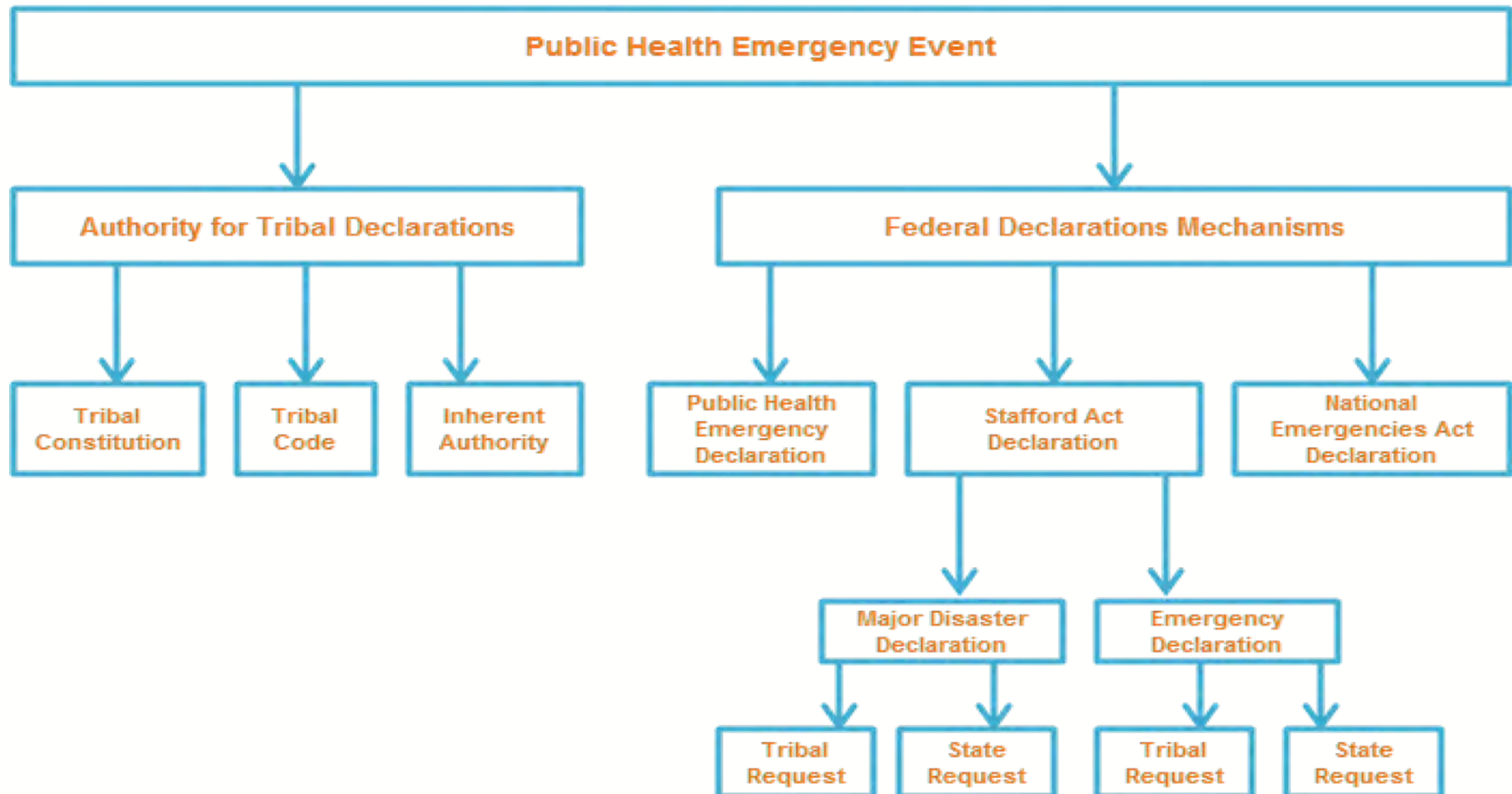
Specific Examples: How Law Can Help with Tribal Disaster Needs

- Policies and procedures to transit elders to safety or help them shelter in place during emergencies (e.g., ice storms, flooding)
- Memoranda of Understanding to administer vaccines or establish points of dispensing during an influenza epidemic
- Agreements with first responders (e.g., fire) to provide services on Tribal land
- Drafting food and/or public health codes

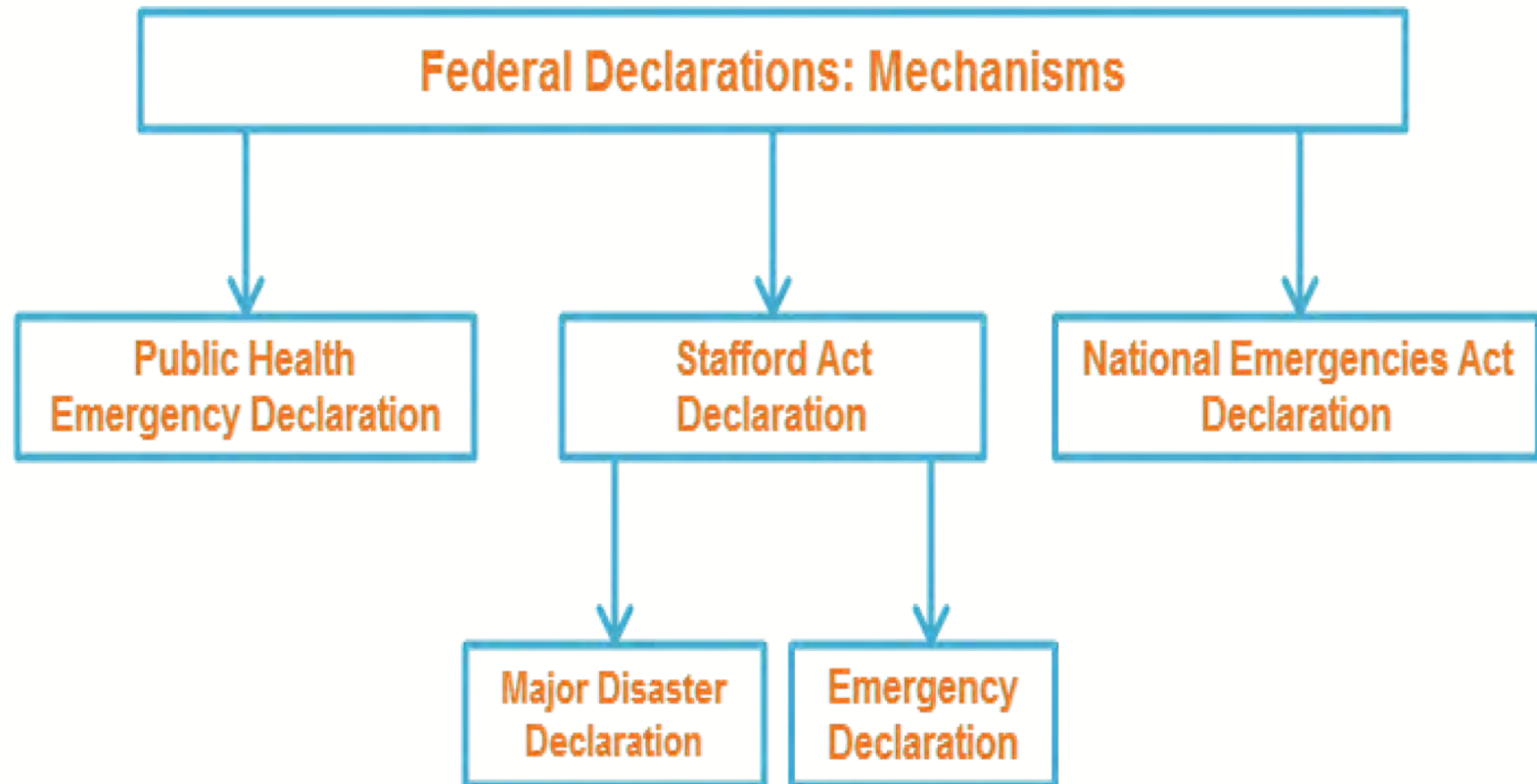
Federal – Tribal Relationship: Government-to-Government

- The federal government has a trust obligation to tribal nations
 - US government agencies assist and support Tribal Nations in emergency preparedness, response, and recovery
- The U.S. recognizes a nation-to-nation relationship with tribal governments

Disaster Declarations



Emergency Declarations: Federal Framework



Disaster Declarations: Sandy Recovery Improvement Act

- Amended the Stafford Disaster Relief and Emergency Assistance Act to provide federally recognized Indian tribal governments with the option to ***directly request*** a Presidential emergency or major disaster declaration independently of a state
- Tribal Nations have 2 choices
 - Tribal request (direct recipient)
 - State request (sub-recipient)

Final Federal Emergency Management Agency Tribal Declarations Pilot Guidance

- Published January 2017 following 3 years of Tribal consultation
 - Significant changes made based on comments from Tribal Nations
 - After pilot period, regulations will be issued (timing TBD)
- Describes
 - The process that Tribal governments will use to request Stafford Act declarations
 - FEMA's criteria for evaluating Tribal declaration requests and making recommendations to the President



Tribal Declarations Pilot Guidance

January 2017



Examples of Direct Tribal Declarations under the Stafford Act



Direct or Sub Recipient Considerations

- Cost sharing
- Impact on neighboring jurisdictions
- Responsibility for application and administration
- Scale of event
- Reimbursement timeline
- Valuation of time and material lost

**WHICH OF THESE CONSIDERATIONS
IS MOST IMPORTANT TO YOUR
TRIBAL NATION?**

Tribal Leadership Responsibility

- Tribal leadership decision to be direct or sub-recipient.
- If direct recipient, the Tribal Chief Executive must make a request to the President.

State – Tribal Relationship: Government-to-Government

- Generally speaking, state governments do not have regulatory authority on tribal lands
- Tribes and states often partner and work together → collaboration
- Poor tribal-state relationships can negatively affect disaster operations

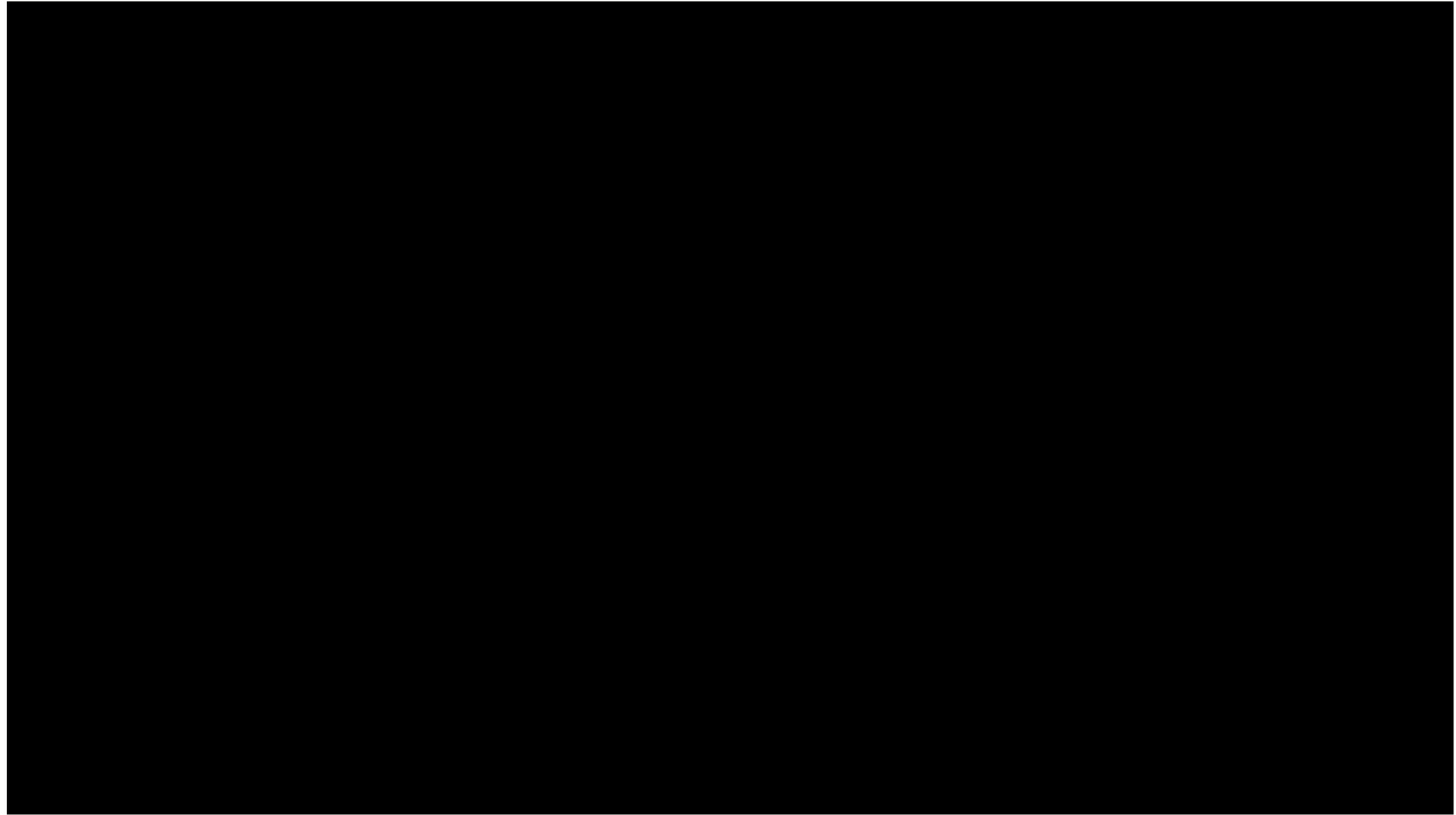
Collaboration and Coordination



Reasons to Enter into Intergovernmental Agreements

- Address cross-jurisdictional goals and resolve outstanding differences and legal uncertainties *before* a disaster or emergency occurs
- Leverage collective resources in manpower, funding, equipment, etc.
- Establish and specify roles, responsibilities, and authorities
- Foster increased trust, communication, and an understanding of mutual priorities

Collaboration to Update Tribal Emergency Operations Plans



PLANNING **TIMELINE**

- **December 28, 2016 – received original EOP dated October 2000**
- **EOP edits between January 2017 and April 2017**
- **April 10, 2017- first safety committee/EOP meeting**
- **July 20, 2017- second safety committee/EOP meeting**
- **August 8, 2017- third safety committee/EOP meeting**

PLANNING **TIMELINE**

- **September 12, 2017- fourth safety committee/EOP meeting**
- **October 10, 2017- fifth safety committee/EOP meeting final draft sent to Governor and tabletop timeline set. EOP approved on October 26, 2017**
- **November 14, 2017- Taos Pueblo EOP tabletop exercise: 10:00a to 2:00p**







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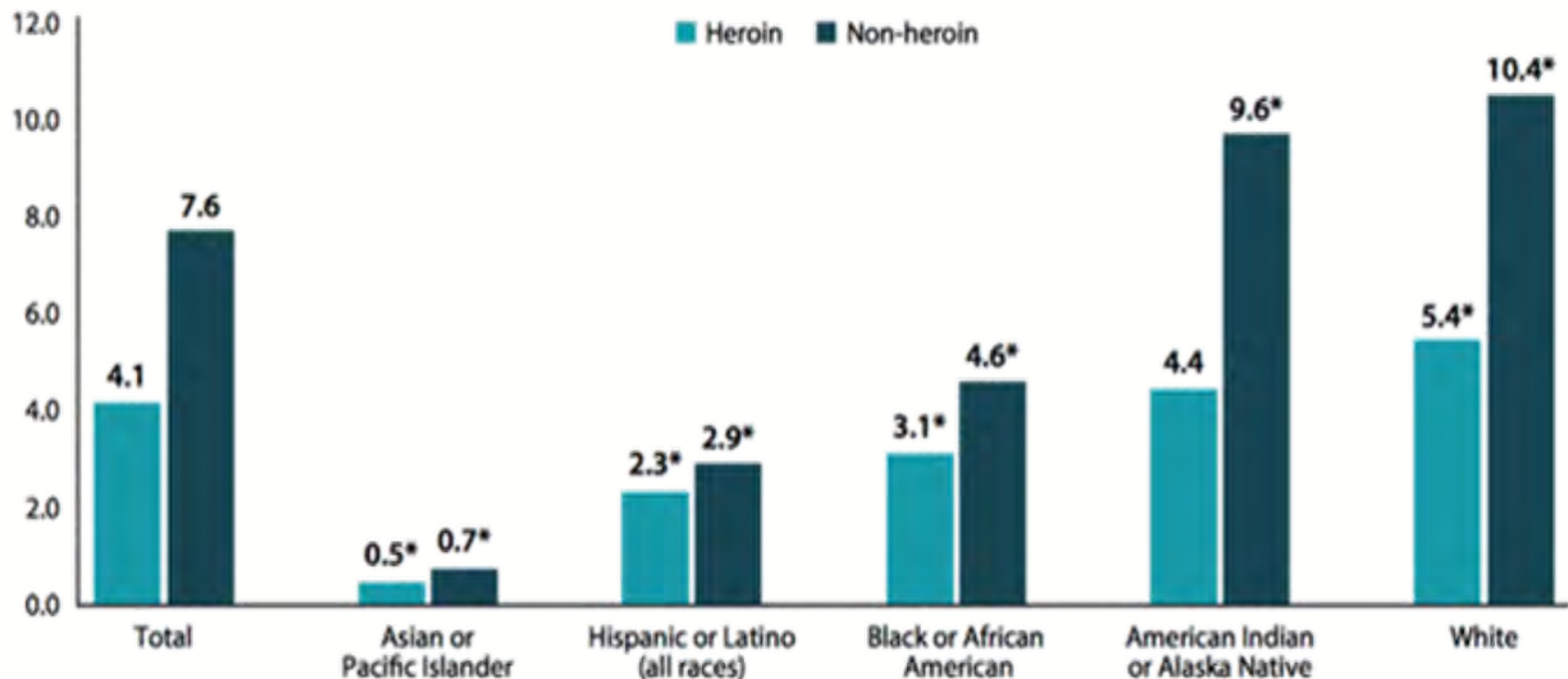


The background of the slide is a photograph of a landscape. The sky is filled with large, dark, blue-grey clouds, with some lighter patches where the sun might be breaking through. Below the sky, there are rolling hills or mountains. The foreground hills are dark, almost black, while the middle ground hills are a warm, golden-brown color, suggesting they are being lit by a low sun. The overall mood is dramatic and somewhat somber.

The Importance of Tribal Legal Preparedness: An Example

Battling the Opioid Crisis

U.S. Heroin and Non-Heroin Opioid death rates per 100,000 people by race/ethnicity, 2015



* Statistically significant difference from total rate at 95% level. Source: SHADAC analysis of vital statistics data from the CDC WONDER system.

Battling the Opioid Crisis: How Can Tribal Legal Preparedness Help?

- Declaring a state of emergency to trigger additional authority to respond to overdoses and drug trafficking
- Expanding by law who can administer naloxone
- Providing immunity and liability protections for the prescribing and administering of naloxone
- Enacting new or enforcing current drug disposal laws and policies to reduce the supply of prescription drugs
- Entering into data sharing agreements among jurisdictions to address drug trafficking and overdose deaths



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Perspectives from a Tribal Emergency Manager



Questions?

THANK YOU!

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Welcome to the Tribal Legal Preparedness Project

Public health emergencies, including infectious disease and natural disasters, are issues that every community faces. To address these threats, it is critical for all jurisdictions to understand how law can be used to enhance public health preparedness, as well as improve coordination and collaboration across jurisdictions. As sovereign entities, Tribal governments have the authority to create their own laws and take the necessary steps to prepare for and respond to public health emergencies. Thus, legal preparedness for Tribal governments is crucial to public health response. There are 573 federally recognized Indian Tribes in the United States, each of which is a sovereign entity with authority to create laws. The Tribal Legal Preparedness Project (TLPP) has been established to assist Tribal Nations interested in expanding their legal preparedness capacity.



Tribal Legal Preparedness Project

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Training Modules

Four modules were developed by the TLPP:

- What Is Legal Preparedness And Why Is It Important To Tribal Nations
- Jurisdictional Issues And Using The Law To Enhance Cross Jurisdictional Collaboration
- Disaster Declarations
- Best Practices

The modules provide an introduction to legal preparedness that can be used to educate Tribal leadership, discuss how the law can be used to achieve cross-jurisdictional coordination, and explain the disaster declaration mechanism, including the new direct Tribal disaster declaration process. The last module provides an array of best practices shared by Tribal Nations, including audio and video recordings of Tribal public health/emergency management practitioners, so that Tribal Nations are sharing their success stories and helping other Tribes.

What Is Legal Preparedness And Why Is It Important To Tribal Nations

This first module in the series of modules provides an overview of legal preparedness, discusses the importance of the law to public health emergencies, and describes ways the law can enhance preparedness for Tribal Nations.

Learning objectives

- Define legal preparedness and its importance to public health emergencies;
 - Describe why Tribal Nations should be concerned about preparedness and how laws can enhance preparedness for Tribal Nations; and,
 - Discuss two examples to highlight the importance of legal preparedness for Tribal Nations.
-

Jurisdictional Issues And Using The Law To Enhance Cross Jurisdictional Collaboration

This module describes how the law can assist with collaboration and coordination for emergency preparedness, response, and recovery, as well as how intergovernmental agreements can enhance cross-jurisdictional coordination and provide the opportunity to address issues and resolve disputes in advance before a disaster or emergency occurs. Additionally, this module provides recommendations to ensure successful intergovernmental agreements.

Learning Objectives:

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Resource Library

Public health emergencies, including infectious disease outbreaks and natural disasters, are issues that every community faces. To address these threats, it is critical for all jurisdictions to understand how law can be used to enhance public health preparedness, as well as improve collaboration and coordination across jurisdictions. This Resource Library is designed to provide relevant resources to Tribal Nations seeking to enhance their legal preparedness capacity. While most resources have a Tribal focus, some resources are included that are generally applicable to legal preparedness for public health emergencies and natural disasters.

Articles

Administrative Preparedness Strategies: Expediting Procurement and Contracting Cycle Times During an Emergency

This article describes an assessment of whether administrative preparedness processes that were intended to expedite the acquisition of goods and services during a public health emergency affect estimated procurement and contracting cycle times using data from 2014-2015 applications to the Hospital Preparedness Program and Public Health Emergency Preparedness (HPP-PHEP) cooperative agreements. *Public Health Reports* (2017)

Assessing Cross-sectoral and Cross-jurisdictional Coordination for Public Health Emergency Legal Preparedness

This article highlights the need for coordinated planning and action among jurisdictions when responding to disasters and emergencies. *Journal of Law, Medicine and Ethics* (March 3, 2008)

Assessment of Public Health Workforce Bioterrorism and Emergency Preparedness Readiness Among Tribes in Washington State: a Collaborative Approach Among the Northwest Center for Public Health Practice, the Northwest Portland Area Indian Health Board, and the Washington State Department of Health

This article examines the collaboration, methodology, results, and lessons learned stemming from the experience of a unique university, state, and Tribal collaborative model for public health emergency preparedness assessment

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