



**Report to the Joint Standing Committee
Of the Connecticut General Assembly
Having Cognizance of Matters Relating to Public Health**

**Foodborne Disease Outbreaks Originating from Public
Eating Places**

Public Act 15-242 Section 33

**Raul Pino, MD, MPH
Commissioner
Connecticut Department of Public Health**

July 1, 2016

Report for Public Act 15-242 Section 33

I. INTRODUCTION

In June 2015, the Connecticut General Assembly passed Public Act 15-242 “An Act Concerning Various Revisions to the Public Health Statutes.” As stated below, P.A. 15-242 §33 requires the State of Connecticut Department of Public (“DPH”) to study issues concerning foodborne disease outbreaks in public eating places and report to the Joint Standing Committee having cognizance of public health matters regarding the study.

(a) For purposes of this section, “food-borne disease outbreak” means an incident in which two or more persons experience a similar illness resulting from the ingestion of food or beverage that originated from a common source and is contaminated with chemicals or infectious agents.

(b) The Department of Public Health shall study issues concerning food-borne disease outbreaks originating from public eating places, as defined in section 22-127 of the general statutes, including, but not limited to, the type of information that is communicated to members of the public after a food-borne disease outbreak is confirmed and the manner of such communication. Not later than July 1, 2016, the Commissioner of Public Health shall report, in accordance with the provisions of section 11-4a of the general statutes, regarding such study to the joint standing committee of the General Assembly having cognizance of matters relating to public health.

P.A. 15-242 §33

DPH’s Commissioner (the “Commissioner”) hereby respectfully submits this report pursuant to P.A. 15-242 §33.

II. BACKGROUND

Public health officials investigate foodborne outbreaks to control them, prevent additional illnesses, and learn how to prevent similar outbreaks from happening in the future.¹

In Connecticut, a “foodborne outbreak” is an “illness in two or more individuals acquired through the ingestion of common-source food or water contaminated with chemicals, infectious agents or their toxic products. Foodborne outbreaks include, but are not limited to, illness due to heavy metal intoxications, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, Clostridium perfringens intoxication and hepatitis A.” Conn. Agencies Regs. §19a-36-A1(p).

A foodborne outbreak and a strong suspicion of a foodborne outbreak are each a “reportable disease” under Conn. Gen. Stat. §19a-215. A “reportable disease” is “a communicable disease, disease outbreak, or other condition of public health significance required to be reported to the department and local health directors.” Conn. Agencies Regs. §19a-36-A1(dd). Each year, the Commissioner publishes a reportable disease list pursuant to Conn. Gen. Stat. §19a-2a(9). The Commissioner’s reportable disease list specifically includes foodborne outbreaks and requires telephone reporting of foodborne outbreaks upon recognition or strong suspicion thereof. See Connecticut Epidemiologist, Vol. 35, No. 1 (Jan. 2016).

“All information, records of interviews, written reports, statements, notes, memoranda or other data...” that DPH obtains in connection with a foodborne outbreak investigation is confidential

and can only be used by DPH and local health directors for disease prevention and control and medical or scientific research. Conn. Gen. Stat. §19a-25. The terms “all” and “only” in the statute prohibit DPH from disclosing any information whatsoever unless the disclosure is for said research or disease prevention and control purposes. The corresponding regulations further clarify that the confidentiality requirement applies to information obtained from individuals and businesses and information about individuals and businesses. See Conn. Agencies Regs. §19a-25-1(6), (7), (11). In light of these legal requirements, DPH cannot divulge the name of a restaurant, client, witness or any other information that it acquires during the course of an investigation of a foodborne outbreak unless disclosure is required for disease prevention and control or medical or scientific research. In addition, when confidential information disclosure is permitted, DPH must limit the disclosure of identifiable health data to the minimum amount that is necessary to accomplish the public health purpose.

A foodborne outbreak investigation is also a study of morbidity and mortality and is conducted for the purpose of reducing the morbidity or mortality from any cause or condition and preventing the spread of infectious diseases. A study of morbidity and mortality involves the collection, application, and maintenance of health data on:

- (A) The extent, nature, and impact of illness and disability on the population of the state or any portion thereof;
- (B) The determinants of health and health hazards, including but limited to,
 - (i) Infectious agents of disease,
 - (ii) Environmental toxins or hazards,
 - (iii) Health resources, including the extent of available manpower and resources, or
 - (iv) The supply, cost, financing, or utilization of health care services;
- (C) Diseases on the commissioner's list of reportable diseases and laboratory findings pursuant to section 19a-215 of the Connecticut General Statutes; or
- (D) Similar health or health related matters as determined by the commissioner.

Conn. Agencies Regs. §19a-25-1(12)

All information obtained in connection with such morbidity and mortality studies is confidential and can only be used for medical or scientific research and disease prevention and control. See Conn. Gen. Stat. §19a-25; Conn. Agencies Regs. §19a-25-3(a)(2).

In Connecticut, DPH and local health departments (“LHDs”) have joint responsibility for the investigation and control of reportable diseases. If a foodborne outbreak occurs within a town (i.e., exposure location and ill people are completely or principally located within one town) with a fulltime LHD, the LHD will lead the outbreak investigation with DPH assistance. If an outbreak is multi-jurisdictional (i.e., the exposure location or ill residents are located within multiple towns), DPH leads the outbreak investigation and LHDs assist.

If an outbreak investigation reveals an ongoing public health risk and the public's health can be protected by taking specific action, DPH, the involved LHD or DPH and said LHD will notify the public of the relevant details. Examples of such notification can be found at the following:

http://classaction.findlaw.com/recall/drug/fda1/files/2001/cheese5_01.html

<http://www.ct.gov/dph/cwp/view.asp?A=4820&Q=578480>

Since 2001, all foodborne outbreaks in Connecticut have been reported to CDC via the Electronic Foodborne Outbreak Reporting System (EFORS/NORS). From 2011 to 2015, a total of 100 foodborne outbreaks were reported to CDC (annual average of 20 per year).

Of the 100 reported outbreaks, 76, occurred in a “public eating place” (“PEP”), as defined by Conn. Gen. Stat. §22-127(12). In each of the PEP outbreaks, LHDs implemented control measures. Such control measures may include, among other things, identifying and excluding ill food workers, embargoing or discarding suspect food products, restricting or modifying menu items, modifying food preparation and service methods, requiring onsite monitoring of food preparation by qualified food operators or local food inspectors, requiring sanitizing and cleaning of food establishments or closing the PEP at issue. Neither DPH nor LHD public health officials notified the public about the place being investigated in any of these PEP outbreaks; however, in one case the academic institution where the outbreak occurred notified the public.

Currently, DPH provides LHDs with two manuals containing reportable disease and outbreak investigation guidance: Foodborne Outbreak Investigations: A Practical Guide for Local Health Departments, which is available from DPH's Food Protection Program²; and Reportable Infectious Diseases Reference Manual: Routine Reportable Infectious Disease Follow-up for the State and Local Health Departments, which is available from DPH's Infectious Diseases Section.³ Both manuals address confidentiality and the release of identifiable health information for disease prevention and control purposes. Neither one of these manuals provides specific guidance about the type of information that should be communicated to the public after a foodborne disease outbreak is confirmed or the manner of such communication.

III. METHODOLOGY

For this study, DPH staff reviewed the CDC and the Council to Improve Foodborne Outbreak Response (“CIFOR”) guidelines regarding public communication during foodborne outbreak investigations.^{4,5} DPH staff also reviewed the Iowa Department of Health guidelines, which the CIFOR guidelines referenced.⁶

In the spring of 2016, DPH staff contacted the state health departments for our neighboring northeastern states (PA, NJ, NY, MA, RI, VT, NH, and ME) and the states that, like Connecticut, are part of the CDC's Emerging Infections Program Network (CA, CO, GA, MD, MN, NM, NY, OR and TN) and the health departments for Boston and New York City and asked the following:

- Does your Department have any written guidance on the type of information that is communicated to members of the public after a foodborne disease outbreak is confirmed and the manner of such communication that you can share with me?

- The following is from the CIFOR guidelines: Adopt a standard format for reporting risk information to the public. (6.5.3) Decide in advance how to communicate the naming of implicated establishments based on local legal guidelines and whether risk of transmission is ongoing. Do you have the authority to communicate the naming of implicated establishments based on state law and whether risk of transmission is ongoing?

IV. FINDINGS

A. Federal Guidance

The CDC's guidance is as follows:

When investigating outbreaks of infectious disease, public health investigators sometimes find that the way people get sick involves a commercial entity (e.g., a store or restaurant they patronized), an institution or company (e.g., a hotel or hospital they stayed at), or a particular product they bought.

CDC has a long-standing practice of regularly disclosing names of commercial entities implicated in infectious disease outbreaks in order to protect public health. These disclosures have helped the public reduce their health risks and have helped commercial entities improve the safety of their practices and products. As each situation is unique, it is important that CDC programs evaluate whether to identify an implicated entity on a case-by-case basis, working in partnership with affected states and other partners.

Timing matters. Early in an ongoing investigation, releasing the name of a "suspected" source may interfere with the investigative process. Once a specific source is implicated in an infectious disease outbreak, CDC routinely provides information during an ongoing investigation if there are actions that individuals can take to protect their health. When an outbreak is over and the investigation has been completed, CDC usually provides specific information when there is conclusive evidence regarding the root cause of contamination.

Generally, the decision to disclose names of commercial entities should be made with the involved state or states. Long after the outbreak is controlled, in publications that add to the body of knowledge on public health topics, CDC typically refers to implicated entities anonymously (e.g., "Restaurant A" or "Supplier B") rather than by name, as the specific implications have little relevance for public health in the longer term. In some situations, Federal law will dictate whether CDC may disclose or must protect the identity of commercial entities, for example a requirement to protect commercial confidential information.

Identifying Commercial Entities during Outbreak Investigations. Centers for Disease Control and Prevention.

<http://www.cdc.gov/foodsafety/outbreaks/investigating-outbreaks/identify-commercial.html> (accessed June 15, 2016).⁴

During the November 19, 2015 Integrated Foodborne Outbreak Response and Management (InFORM) Conference in Phoenix, Arizona, speakers from the CDC Outbreak Response and Prevention Branch, the US Department of Agriculture, Food Safety and Inspection Service and the US Food and Drug Administration (FDA) presented during the “Communication Challenges during Foodborne Outbreaks” session.⁷ The presentation included questions that must be answered during a foodborne outbreak investigation to determine whether to communicate with the public during an investigation. The answers, which must be analyzed on a case-by-case basis, are dependent on the epidemiologic, traceback and food and environmental testing data that is obtained during an investigation. The questions are:

- Is the pathogen causing severe illness?
- Are there a large number of cases?
- Is the outbreak ongoing?
- Is the food vehicle novel?
- Does the product have a long shelf life?
- Is a large group of people potentially exposed?
- Can the public take specific actions to protect themselves?

Burnworth L et al. Communication Challenges during Foodborne Outbreaks. Presentation at the Integrated Foodborne Outbreak Response and Management (InFORM) Conference. Phoenix, Arizona on November 19, 2015 (presentation accessed on 6/14/2016):

<http://www.afpl.org/conferences/proceedings/InFORM%20Conferences/InFORM%202015/032-Burnworth-et-al.pdf>⁷

The [Council to Improve Foodborne Outbreak Response \(CIFOR\)](#) is a multidisciplinary working group convened to increase collaboration across the country and across relevant areas of expertise to reduce the burden of foodborne illness in the United States. The Council of State and Territorial Epidemiologists (CSTE) and the National Association of County and City Health Officials (NACCHO) co-chair CIFOR with CDC and FDA support. CIFOR’s purpose is to identify barriers to the rapid recognition of and response to foodborne illness outbreaks and to promote prevention strategies.

CIFOR’s [Guidelines for Foodborne Disease Outbreak Response](#), Section 3.6 Communications, provides model practices to improve the effectiveness of the communications process for agencies involved in a foodborne outbreak investigation.⁵ Said guidance focuses on the communications process rather than the type of information that is communicated to members of the public after a food-borne disease outbreak is confirmed, except as follows:

- Adopt a standard format for reporting risk information to the public. (Section 6.5.3). Decide in advance how to communicate the naming of implicated establishments based on local legal guidelines and whether risk of transmission is ongoing.
- In communicating with the public during an outbreak provide practical measures that the public can take to decrease risk for illness (e.g., avoidance of known high-risk foods or special instructions for their preparation), as well as basic food-safety messages and information about how to contact public health authorities to report suspected related illnesses. (Section 6.2.1)

- Make copies of summary reports from each outbreak response available to members of the public who request them. (Section 5.2.10)

Council to Improve Foodborne Outbreak Response (CIFOR). Guidelines for Foodborne Disease Outbreak Response (2nd ed.). Atlanta: Council of State and Territorial Epidemiologists; 2014.

B. State and Local Health Departments

All of the states and cities contacted had the legal authority to communicate to the public the name of implicated establishments if the risk of disease transmission was ongoing during a foodborne illness investigation. Only Rhode Island, however, had written guidance regarding the type of information to be communicated to the public after a foodborne disease outbreak is confirmed or the manner of such communication.

The following is from the Foodborne Illness Outbreak Investigation Plan, which is an Incident-Specific Annex to the Rhode Island Department of Health Emergency Operations Plan.

Public Information -- Although there may not be a need for public information, the PIO [Public Information Officer] should be informed of the outbreak. IDE [Division of Infectious Disease and Epidemiology] and Food Protection are responsible for updating the PIO. Press contact is strictly centralized through HEALTH's PIO designee or incident PIO during all outbreak investigations. The decision as to whether public notification is necessary is made by key personnel in the investigation and includes: State Epidemiologist; Chief Administrative Officer of IDE; IDE's Consultant Medical Director; Chief, Office of Food Protection; Executive Director of Environmental and Health Services Regulation; Laboratory Director; PIO; and Director of Health.

Although it will depend on the situation, the public is generally notified of the outbreak when:

- The outbreak is widespread;
- The outbreak is responsible for significant morbidity and/or mortality;
- It may be difficult to identify the individuals who may be at risk;
- Risk for exposure to agent still exists;
- Widespread vaccination or post-exposure prophylaxis may be required for those exposed to the agent; or
- The outbreak involves distributed product.

The PIO has access to template press releases that may be used for foodborne illness outbreaks.

Rhode Island Department of Health. Foodborne Illness Outbreak Investigation Plan; an Incident-Specific Annex to the Rhode Island Department of Health Emergency Operations Plan (4/7/2014)⁸

The following is from the Iowa Department of Public Health. Foodborne Outbreak Investigation Manual:

Ch. 12 -- Communicating Results: It is important to remember confidentiality when drafting news releases. Iowa Administrative Code 139A.3 c. states, “If information contained in the report concerns a business, information disclosing the identity of the business may be released to the public when the state epidemiologist or the director of public health determines such a release of information necessary for the protection of the health of the public.” There are several news release samples in this chapter that demonstrate when it is appropriate to disclose the identity of the business and in what cases it is not appropriate. It is important for locals to seek legal counsel when considering press releases that may name or disclose any information that may be considered confidential.

Foodborne Outbreak Manual: Chapter 12 - Communicating Results. Iowa Department of Public Health.

<http://wiki.idph.iowa.gov/epimanual/Home/CategoryID/220> (accessed June 10, 2016).⁶

V. CONCLUSION

This study focused on the release of information to the public during foodborne outbreak investigations by public health departments. All of the states and cities contacted during this study had the authority to notify the public provided that the risk of disease transmission was ongoing. Of those states, only one of the northeastern states has written guidelines about when to notify the public about a foodborne outbreak.

The decision to provide information to the public needs to be made on an outbreak-by-outbreak basis. When a specific source is implicated during a foodborne outbreak investigation and the public can take specific action to protect their health, public health officials should communicate relevant information about the source or other relevant information that can enable the public to protect their health. Conversely, if there is no ongoing risk to public health (e.g. control measures have been implemented at the implicated food service establishment) and there are no specific actions that members of the public can take to protect their health, then there is no public health reason for public health officials to notify the public about a foodborne outbreak investigation before the investigation and investigation report are complete. Thus, the decision to provide information to the public needs to be made on an outbreak-by-outbreak basis based on the epidemiologic, environmental, and laboratory evidence obtained from objective, scientifically-sound, multi-agency investigations and in accordance with legal authorities and confidentiality protections.

DPH will include a “Public Information” section in its Foodborne Disease Outbreak Investigations: A Practical Guide for Local Health Departments based on the guidelines that were reviewed for this study. This new section will provide examples of when it may be necessary to release information to the public about a foodborne outbreak investigation and include news release samples that demonstrate when it is appropriate to disclose the identity of a public eating place. DPH will also post these “Public Information” guidelines on the Department’s website.

REFERENCES

1. Investigating Outbreaks. Centers for Disease Control and Prevention. <http://www.cdc.gov/foodsafety/outbreaks/investigating-outbreaks/index.html> (last accessed June 17, 2016).
2. Connecticut Department of Public Health. Foodborne Disease Outbreak Investigations: A Practical Guide for Local Health Departments. March 2015 revision.
3. Connecticut Department of Public Health. Reportable Infectious Diseases Reference Manual: Routine Reportable Infectious Disease Follow-up for the State and Local Health Departments. March 2016 revision.
4. Identifying Commercial Entities during Outbreak Investigations. Centers for Disease Control and Prevention. <http://www.cdc.gov/foodsafety/outbreaks/investigating-outbreaks/identify-commercial.html> (last accessed June 15, 2016).
5. Council to Improve Foodborne Outbreak Response (CIFOR). Guidelines for Foodborne Disease Outbreak Response (2nd ed.) Atlanta: Council of State and Territorial Epidemiologists; 2014.
6. Foodborne Outbreak Manual: Chapter 12 - Communicating Results. Iowa Department of Public Health. <http://wiki.idph.iowa.gov/epimanual/Home/CategoryID/220> (last accessed June 10, 2016).
7. Burnworth L et al. Communication Challenges during Foodborne Outbreaks. Presentation at the Integrated Foodborne Outbreak Response and Management (InFORM) Conference. Phoenix, Arizona on November 19, 2015 (presentation last accessed on 6/14/2016): <http://www.aphl.org/conferences/proceedings/InFORM%20Conferences/InFORM%202015/032-Burnworth-et-al.pdf>
8. Rhode Island Department of Health. Foodborne Illness Outbreak Investigation Plan; an Incident-Specific Annex to the Rhode Island Department of Health Emergency Operations Plan (4/7/2014).