

# Welcome to the 2019 National Pandemic Summit



<p><b>Hon. Charles C. LaVerdiere</b> Chief Judge (Retired) Maine District Court</p>	

# 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.

# 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



# 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*

Filings/Service/Recordings

First issue was Filing

Testify by video? How?

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

# How the case turned out:

- Held initial hearing with attorneys only.
- Needed time to review documents, so put a  
• status quo order in effect and adjourned till next morning
- Ordered not to disclose to public until court obtained a signed release from Respondent

# How the case turned out: *Cont'd*

- Concluded final hearing next day and issued Interim Order
- Court found that the State had not met its burden and denied quarantine, but did require cooperation with monitoring and did put limits on travel.
- Based on Interim Order, agreement reached and case dismissed.

# The Most Important Lesson Learned

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

# Pandemic and Emergency Response Task Force

<p><b>Hon. Jean Hoefler Toal</b> <i>Chief Justice</i> <i>Supreme Court of South Carolina</i> <i>Task Force Chair</i></p>	<p><b>Mr. Joseph Baxter</b> <i>State Court Administrator</i> <i>Rhode Island</i></p>
<p><b>Hon. Jonathan Lippman</b> <i>Chief Judge</i> <i>New York State Unified Court System</i></p>	<p><b>Prof. Allison Winnike</b> <i>Director of Research and Research Professor</i> <i>University of Houston Law Center,</i> <i>Health Law and Policy Institute</i></p>
<p><b>Hon. Michael G. Heavican</b> <i>Chief Justice</i> <i>Supreme Court of Nebraska</i></p>	<p><b>Hon. Charles C. Laverdiere</b> <i>Chief Judge</i> <i>Maine District Court</i></p>
<p><b>Hon. Maureen O'Connor</b> <i>Chief Justice</i> <i>Supreme Court of Ohio</i></p>	<p><b>Mr. Frederick Isasi</b> <i>Director, Health Division</i> <i>National Governor's Association</i></p>
<p><b>Hon. Paul Reiber</b> <i>Chief Justice</i> <i>Supreme Court of Vermont</i></p>	<p><b>Senator Richard T. Moore</b> <i>Past President, National Conference of State</i> <i>Legislatures, Massachusetts</i></p>
<p><b>Mr. Zygmunt Pines</b> <i>State Court Administrator</i> <i>Pennsylvania</i></p>	

# ***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



# 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?