

Stronger Partnerships for Safer Food

An Agenda for Strengthening
State and Local Roles in the
Nation's Food Safety System



**Executive Summary
Key Findings and
Recommendations**

A project of
Department of Health Policy
School of Public Health and Health Services
The George Washington University

In collaboration with
Association of Food and Drug Officials
Association of State and Territorial Health Officials
National Association of County and City Health Officials

**Michael R. Taylor
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STRONGER PARTNERSHIPS FOR SAFER FOOD

EXECUTIVE SUMMARY

THE NEED FOR SYSTEM-WIDE FOOD SAFETY REFORM

Food safety reform is on the front burner in Washington, against the backdrop of numerous large-scale illness outbreaks and sustained criticism of obsolete federal statutes, inadequate resources, and fragmented organizations, all of which cripple the government's response to outbreaks, *and* its ability to prevent problems in the first place.

National policymakers naturally have focused their reform efforts on the key federal food safety agencies, including the Food and Drug Administration (FDA), Centers for Disease Control and Prevention (CDC), and Department of Agriculture (USDA); and reform in the federal food safety program is long overdue. These federal agencies are just the tip, however, of a much larger pyramid of state and local agencies working on food safety.

State and local health and agriculture departments have long been the foundation of the nation's food safety system, with primary responsibility for illness surveillance, response to outbreaks, and regulation of food safety in over one million restaurants and grocery stores. State and local agencies collectively conduct many more inspections, test many more food samples for harmful contamination, and bring many more food safety enforcement actions than the federal food safety agencies.

Food safety reform will not be complete—or successful—unless the efforts of these agencies are strengthened and integrated more fully into the national food safety system.

THE VISION FOR REFORM

Since the 1990's, federal, state, and local agencies have expanded their collaboration in some areas—such as illness surveillance and inspection—and there exists today among food safety officials at all levels a ***widely shared vision of an integrated national food safety system that operates as a full partnership among federal, state, and local agencies.***

Such a system would place first priority on preventing foodborne illness, address food safety risks all across the farm-to-table spectrum, and make efficient, science-driven use of all government food safety resources. Achieving this vision of an integrated national food safety system requires building on past collaborations, but also real change in how federal, state, and local agencies understand their roles and relationships, how state and local agencies acquire the capacities to perform their roles, and how agencies at all levels can better interact as parts of an integrated food safety system.

This report recommends a series of actions to strengthen state and local roles in food safety and fulfill the vision of an integrated national food safety system. It is the product of a project, funded by

the Robert Wood Johnson Foundation, which brought together state and local officials, their federal counterparts, members of the food industry, and consumer groups to develop a reform agenda.

CURRENT ROLES, RESPONSIBILITIES, AND COLLABORATION

The report summarizes the current roles and responsibilities of federal, state, and local food safety agencies in the areas of surveillance, outbreak response, inspection, and regulation; and it describes the many ways in which the three levels of government interact and are mutually dependent. Numerous examples of collaboration among federal, state, and local government—some longstanding and many more recent—demonstrate the potential of such collaboration to improve food safety, and the willingness of officials at all levels to form partnerships.

KEY FINDINGS

The report makes 29 findings concerning the strengths and weaknesses of state and local food safety programs and how they interact with the federal government. While there are many positives in the current situation, the report finds that state and local agencies are hampered by chronic underfunding, wide disparities in capacity and practice in all areas of food safety, and substantial legal, resource, and institutional barriers to collaboration.

RECOMMENDATIONS

The report makes 19 specific recommendations for strengthening state and local roles and building an integrated national food safety system that works effectively to prevent foodborne illness. The recommendations address the following issues:

Strengthening Federal, State, and Local Leadership

- Congress should give the Secretary of The Department of Health and Human Services (HHS) a legislative mandate to lead the development of an integrated, national food safety system and direct HHS to create an organizational focal point within the Department for improving food safety and for building an integrated national food safety system.
- Congress should establish and fund an intergovernmental Food Safety Leadership Council (FSLC) through which the federal government would collaborate with state and local governments to design and implement an integrated national food safety system, including the development of a five-year integration and capacity building plan to meet high priority state and local capacity needs.
- Congress should declare that the federal government has a shared responsibility with the states to adequately fund the national food safety system and authorize FDA to provide federal funding and establish a matching grant program to support the capacity building required to enhance the role of state and local agencies in the national system.
- State and local governments should maintain adequate and stable funding streams to play their proper role in funding food safety programs, and should improve their own structures for food safety oversight, including better integrated surveillance, outbreak response, and food safety

regulatory and inspection activities, and a focal point for better linking and integrating the state's food safety activities with the national system.

- State and local governments should collaborate on the development and widespread adoption of a model state and local food safety law to parallel pending reforms at the federal level, clarify the roles of state and local agencies in a more integrated system, and legally empower state and local agencies to work more collaboratively among themselves and with the federal government.
- HHS, in collaboration with the Food Safety Leadership Council, should establish a Food Safety Leadership and Training Institute focused on building among food safety professionals at all levels a common vision for the nation's food safety system and the leadership skills, network of relationships, and trust needed for an integrated system to succeed.

Strengthening Surveillance and Outbreak Response

- Congress should direct the Secretary of HHS to create, in collaboration with the states, a National Foodborne Illness Data Program that better integrates the efforts of FDA, CDC, states, and localities to generate and analyze the data needed to understand and prevent foodborne illness.
- Working through CDC and FDA and in collaboration with states and localities, HHS should establish a network of regional, federally-funded foodborne outbreak response centers to: (1) support state and local agencies in their day-to-day foodborne surveillance and response activities; (2) improve the thoroughness and timeliness of outbreak detection, response, and follow-up investigation; and (3) establish the relationships, expertise, continuity, and surge capacity needed to ensure well-coordinated and effective response to major outbreaks and follow up investigations.
- Working with states and localities, HHS should foster implementation of best practices for foodborne outbreak response based on the guidelines of the inter-governmental Council to Improve Foodborne Outbreak Response and should establish protocols for managing multi-state outbreaks, including clear definition of federal, state, and local roles.
- Congress should establish traceability requirements that permit federal, state, and local officials to rapidly obtain from food companies reliable information on the source of commodities, ingredients, and finished products.

Strengthening Regulation and Inspection

- HHS and the states should declare that the establishment and enforcement of nationally uniform food safety standards is a common goal and joint responsibility of federal, state, and local governments, with the federal government bearing primary responsibility for establishing science-based standards for preventing foodborne illness and states and localities preserving full legal power to adopt and directly enforce federal standards and to establish their own.
- Working in collaboration with state and local agencies, HHS should develop and implement a plan for integrating federal and state food manufacturing regulatory programs.
- HHS/FDA should make full implementation of FDA's Retail Food Regulatory Program Standards and Manufactured Food Regulatory Program Standards a central component of its plan for building an integrated national food safety system and inspection program and should provide needed resources and incentives for state and local governments to participate.

CONCLUSION

There are no shortcuts to an integrated national food safety system. It requires commitment, resources, and sustained effort, but the potential benefits are great. In fact, food safety reform at the federal level will remain an incomplete solution to today's food safety challenges unless state and local roles are strengthened and better integrated into the national food safety system.

The findings and recommendations outlined here address many of the system changes needed to fulfill the vision of an integrated national food safety system. We hope the report will help stimulate policymakers to act.

KEY FINDINGS ON STATE AND LOCAL FOOD SAFETY ROLES AND OPPORTUNITIES FOR ENHANCEMENT

GENERAL FINDINGS

Finding 1: Essential Role of State and Local Agencies

The dispersal of many food safety functions and much capacity across thousands of state and local agencies is a valuable feature of the food safety system.

Finding 2: Large and Growing Role in the National Food Safety System

As food safety problems increasingly cut across jurisdictional lines and have national consequences, the role of state and local agencies in the national food safety system is becoming even more important.

Finding 3: Challenges of a Decentralized System

While decentralization of the food safety system is a strength, its challenging consequences include:

- *Organizational fragmentation that complicates communication, coordination, and collaboration among government agencies and can impede effective response to food safety problems that cut across jurisdictional lines;*
- *Wide disparity in standards and practices among state and local agencies in such critical areas as illness surveillance, laboratory methods, inspection, and retail regulation; and,*
- *Wide disparity in state and local government investments in food safety and thus in their capacities to detect and address food safety problems.*

Finding 4: Obstacles to Achieving the Shared Vision

Many federal, state, and local officials and agencies share the vision of an integrated national food safety system, but there are significant practical obstacles to real federal-state-local partnership, in addition to the natural organizational barriers; these obstacles include obsolete food safety laws and other legal constraints, coupled with scarce resources and the lack of positive incentives to collaborate across organizational lines.

Finding 5: Chronic Underfunding of State and Local Agencies

As a general matter, state and local food safety programs are significantly understaffed and underfunded in relation to the magnitude and difficulty of the food safety problem and the importance of their contribution to the national food safety effort.

Finding 6: Information Sharing

Federal, state, and local health, regulatory, and inspection agencies collect large volumes of data and information that could be mutually beneficial, but such information tends to be stove-piped within and among agencies, with its sharing and use constrained by inconsistent methods of data collection; legal, policy, and bureaucratic obstacles to data sharing; and lack of investment in information technology and systems to support data sharing.

Finding 7: Need for Action to Achieve Shared Vision

Achieving the vision of a more effective and integrated national food safety system depends on reducing the disparities in practice and capacity, legal and resource constraints, and other obstacles to full partnership among federal, state, and local agencies.

Finding 8: Need for Federal Leadership

Food safety success in the United States requires the federal government to play a leadership role, in collaboration with state and local agencies, to remove obstacles to partnership, ensure adequate funding and capacity, and make optimal use of all resources across the national food safety system.

Finding 9: Federal Leadership Hampered by Fragmented Structure

The capacity of the federal government to lead development of an integrated, national food safety system is impaired by the fragmentation in food safety organizational structures at the federal level, resulting in the lack of a clear focal point for interaction on many food safety matters between state and local agencies and the federal government.

Finding 10: Need to Build on the Current Collaboration

The history of interaction among federal, state, and local food safety agencies provides a strong foundation on which to build, but much work remains at all levels to institutionalize an integrated national food safety system that operates on the basis of seamless collaboration and mutual advantage, dependence, and trust.

Finding 11: National Interest in Strengthening State and Local Roles

The significant national interest in food safety justifies a stronger federal effort, in collaboration with state and local food safety agencies, to ensure that state and local agencies function effectively as integral components of the national food safety system.

FINDINGS ON SURVEILLANCE AND OUTBREAK RESPONSE

Finding 12: Importance of State and Local Roles in Surveillance and Outbreak Investigations

The success of the food safety system in preventing and reducing foodborne illness is heavily dependent on the quality, timeliness, and ready availability of the food safety information generated by state and local agencies through illness surveillance and outbreak response investigations.

Finding 13: CIFOR Guidelines

The Council to Improve Foodborne Outbreak Response is an important collaboration among federal, state, and local officials to improve their consistency, collaboration, and effectiveness in responding to outbreaks, and CIFOR's June 2008 draft Guidelines for Foodborne Outbreak Response provide a valuable template for such improvement.

Finding 14: Lack of Consistent Testing and Reporting

There is no national requirement for laboratory testing of clinical specimens and reporting of foodborne illness by health care providers or through public health agencies to the federal government; the resulting gaps in illness surveillance are obstacles to detecting outbreaks and understanding the full dimension of foodborne illness in the United States.

Finding 15: Lack of Standardized Protocols

There are no standardized protocols for epidemiological data collection that state and local officials are obligated to follow consistently; the result is disparate approaches to data collection among states that make it difficult to compare and aggregate data collected in different locations.

Finding 16: Lack of Uniform Laboratory Methods

Federal, state, and local clinical and public health laboratories do not consistently use nationally uniform methods for testing clinical specimens, which inhibits meaningful data sharing and aggregation of data for purposes of understanding foodborne illness on a nationwide basis.

Finding 17: The Power and Potential of PulseNet

PulseNet has greatly improved the ability of public health officials to detect outbreaks by compiling and analyzing data linking cases of illness to a common pathogenic agent, but the voluntary nature of PulseNet reporting means the database is inevitably incomplete, and many clusters of illness revealed through PulseNet go uninvestigated; the result is that detection and containment of ongoing outbreaks is not what it could be, and opportunities to better understand foodborne illness incidence and patterns are lost.

Finding 18: The Power and Potential of FoodNet

FoodNet has greatly improved estimates of the national burden of foodborne illness and has great potential to provide decision-makers with insights on the incidence and patterns of foodborne illness for

purposes of planning prevention. But, FoodNet lacks sufficient resources for conducting special studies and analyzing existing data, as well as mechanisms for sharing FoodNet data with non-FoodNet states and localities on a detailed and timely basis. FoodNet is thus not fulfilling its potential as a source of data that federal, state, and local agencies can use to prevent foodborne illness.

Finding 19: Lack of State and Local Capacity for Food Safety Epidemiology

Many state and local agencies responsible for foodborne illness surveillance and outbreak response lack access to an epidemiologist who specializes in food safety epidemiology, and, with few exceptions, state and local agencies lack the full scientific capacity, laboratories, and specialized staffing needed to fully manage day-to-day food safety issues, much less the surge capacity to follow up on PFGE-identified illness clusters and respond effectively to outbreaks.

Finding 20: Lack of Credentialing and Training Standards

There are no national standards for the credentialing or training of state and local staff involved in surveillance and outbreak response, which can jeopardize the scientific quality of data collection and investigations.

Finding 21: Lack of Established Mechanisms for Multi-State Outbreak Response

There is no established organizational mechanism and no standard protocol for ensuring effective coordination and collaboration among federal, state, and local agencies in responding to multi-state outbreaks of foodborne illness.

Finding 22: HHS Legal Authority

Under the Public Health Service Act and the federal government's spending powers, the Secretary of Health and Human Services has ample legal authority to play a national leadership role on surveillance and outbreak response, including establishing standards for foodborne illness surveillance and reporting and establishing mechanisms for managing multi-state outbreaks.

FINDINGS ON REGULATION AND INSPECTION

Finding 23: State and Local Oversight of Retail Food Safety

The current allocation of responsibilities for food safety at the retail level among federal, state, and local agencies is appropriate, but there are wide disparities among state and local agencies in their capacity and performance in implementing the FDA Food Code.

Finding 24: FDA's Retail Food Regulatory Program Standards

FDA's Retail Food Regulatory Program Standards can be an effective tool for elevating the quality and consistency of Food Code implementation nationwide, but many states and localities lack the resources and incentives to participate in the program and to make the capacity investments needed to meet the standards.

Finding 25: State Role in Food Processing Inspection

State agencies conduct about 80% of all inspections in food manufacturing facilities and can play an increasingly important inspection role in a nationally integrated food safety system, but the capacity of states varies, inspection practices are not standardized, and some have questioned federal reliance on state inspections in the absence of transparent mechanisms to establish accountability for a consistently high level of state performance in enforcing food safety standards.

Finding 26: FDA's Manufactured Food Regulatory Program Standards

FDA's Manufactured Food Regulatory Program Standards can be an effective tool for elevating the quality and consistency of state inspections and regulatory efforts in food processing facilities, but many states lack the additional resources and incentives to participate in the program and to make the capacity investments needed to meet the standards.

Finding 27: State and Local Food Safety Laws

State and local food safety regulatory laws reflect many of the same limitations of federal food safety laws, especially in terms of not being focused adequately on prevention, and they were generally not written with a view toward supporting the central role of states and localities in an integrated national food safety system.

RECOMMENDATIONS TO STRENGTHEN STATE AND LOCAL ROLES

GENERAL RECOMMENDATIONS

Recommendation 1: Congressional Mandate

Congress should give the Secretary of HHS a legislative mandate to lead the development of an integrated, national food safety system that incorporates and enhances the food safety capacity of state and local agencies.

Recommendation 2: Focal Point for HHS Food Safety Leadership

Congress should direct HHS to unify the management of FDA's food safety functions under a single official with direct access to the Secretary of HHS whose fulltime job is food safety and who would have clear authority, responsibility, and accountability for leading HHS food safety activities.

Recommendation 3: Food Safety Leadership Council

Congress should establish and fund an inter-governmental Food Safety Leadership Council to foster federal-state-local collaboration in the design and implementation of an integrated national food safety system.

Recommendation 4: Prioritizing Capacity Building Needs

The Secretary, in consultation with the Food Safety Leadership Council and collaboration with appropriate professional organizations, should conduct a survey of the current food safety capacities of state and local agencies—including staffing and skill levels, laboratory capacities, information systems, legal authorities, and organizational arrangements—and, on the basis of the survey, identify and prioritize capacity building and other state and local needs that must be met to fulfill their roles in the national food safety system.

Recommendation 5: Five-Year Integration Plan and Benchmarks

Congress should direct HHS to develop, based on the capacity survey and consultations with the Food Safety Leadership Council, a five-year plan for better integrating federal, state, and local food safety efforts and improving state and local capacity for that purpose. The integration plan should be based on mutually agreed criteria and benchmarks for such matters as timeliness of outbreak investigations, frequency of retail inspection, food safety staffing and skill levels, laboratory capacity, and information systems.

Recommendation 6: Joint Funding Responsibility

Congress should declare that the federal government has a responsibility to support the capacity building needed to strengthen the performance of state and local agencies in the national food safety system and has a shared responsibility with the states to adequately fund food safety programs and capacity building, in accordance with the integration plan and benchmarks called for in Recommendation 5.

Recommendation 7: Federal Funding and Matching Grant Program

To help carry out the federal responsibility for state and local capacity building, Congress should authorize and establish an appropriation line item for FDA to provide federal funding to the states in the form of a food safety block grant specifically aimed at improving state and local food safety collaboration and capacity. In addition, Congress should establish a matching grant program to foster improvement and innovation beyond base capacity building.

Recommendation 8: State and Local Funding

State and local governments should maintain stable funding streams sufficient to meet their responsibility for funding of food safety programs, in keeping with agreed criteria and benchmarks for food safety capacity and performance.

Recommendation 9: State and Local Focal Points for Integration

State and local governments should better integrate their own surveillance, outbreak response, and food safety regulatory and inspection activities, and each state should establish a focal point for better linking and integrating the state's food safety activities with the national system.

Recommendation 10: Model State and Local Food Safety Law

State and local governments should collaborate on the development and widespread adoption of a model state and local food safety law that addresses all aspects of state and local roles in food safety, modernizes food safety regulatory laws to adopt a more preventive and risk-based approach, clarifies the roles of state and local agencies in a more integrated system, and legally empowers state and local agencies to work more collaboratively among themselves and with the federal government.

Recommendation 11: Food Safety Leadership and Training Institute

HHS, in collaboration with the Food Safety Leadership Council, should establish a Food Safety Leadership and Training Institute focused on building among food safety professionals at all levels a common vision for the nation's food safety system and the leadership skills, network of relationships, and trust needed for an integrated system to succeed.

RECOMMENDATIONS ON SURVEILLANCE AND OUTBREAK RESPONSE**Recommendation 12: National Foodborne Illness Data Program**

Congress should direct the Secretary of HHS to create, in consultation with the Food Safety Leadership Council and in collaboration with the states, a National Foodborne Illness Data Program that builds on existing efforts of the CDC, states and localities, and CIFOR, but with the goal of significantly expanding the contribution of food safety epidemiology and other data collection to understanding and preventing foodborne illness. The Program's elements should include:

- *A foodborne illness data user group comprised of federal, state, and local regulatory and health officials, food industry and consumer representatives, and members of academia and the public; the group's charge should be to advise the Program on the information needs of parties working to prevent foodborne illness;*
- *Increased investment in FoodNet, and other foodborne illness surveillance;*
- *Increased investment in EHS-Net and in focused outbreak follow-up investigations aimed at producing data to guide prevention;*
- *National requirements and incentives for illness reporting by state and local agencies and, where appropriate, health professionals, standardization of data collection and reporting methods, local illness and outbreak follow up, submission of isolates to PulseNet, and other efforts to improve the quantity and quality of data on foodborne illness;*
- *Consistent with privacy protection, timely and seamless sharing of data from FoodNet, PulseNet, other surveillance activities and outbreak investigations among federal, state, and local health and regulatory agencies and, as much as possible, the food industry and public;*
- *Establishment of food safety epidemiology capacity criteria for state and local agencies and state public health laboratories (including staff qualifications and training, staffing levels, and facilities) and federal investment in building their capacity and preparedness; and,*
- *Promotion of collaboration and capacity sharing among state health agencies and laboratories by improving information systems and reducing legal obstacles to exchange of information, laboratory capacity, and staff.*

Recommendation 13: Regional Foodborne Outbreak Response Centers

HHS, working through CDC and FDA and in collaboration with states and localities, should establish a network of regional, federally-funded foodborne outbreak response centers to ensure an integrated “systems” approach to outbreak response and follow-up investigations. The centers would be staffed fulltime with a multi-disciplinary team of federal, state, and local epidemiologists, environmental health experts, regulatory officials, and food safety communicators (all federally funded) for purposes of: (1) supporting state and local agencies in their day-to-day foodborne illness surveillance and response activities; (2) improving the thoroughness and timeliness of outbreak detection, response, and follow-up investigation to inform future prevention; and (3) establishing the relationships, expertise, continuity, and surge capacity needed to ensure well-coordinated and effective response to major outbreaks.

Recommendation 14: Protocols for Managing Multi-state Outbreaks

HHS, in consultation with the Food Safety Leadership Council and working with states and localities, should establish protocols for managing multi-state outbreaks, including clear definition of federal, state, and local roles; mechanisms for collaboration; and criteria for triggering federal-level management of outbreaks.

Recommendation 15: Traceability Requirements

Congress, with input from experts, should establish traceability requirements that permit federal, state, and local officials to rapidly obtain from food companies reliable information on the source of commodities, ingredients, and finished products.

Recommendation 16: Implementation of CIFOR Guidelines

HHS, working through CDC and FDA and in collaboration with the Food Safety Leadership Council, should support and build on CIFOR’s continuing efforts to define and foster implementation of best practices for foodborne outbreak response.

RECOMMENDATIONS ON REGULATION AND INSPECTION**Recommendation 17: Uniform Standards and Joint Enforcement**

HHS and the states should declare as a matter of policy that the establishment and enforcement of nationally uniform food safety standards is a common goal and joint responsibility of federal, state, and local governments, with the federal government bearing primary responsibility for establishing science-based standards for preventing foodborne illness and states and localities preserving full legal power to adopt and directly enforce federal standards and establish their own.

Recommendation 18: Integration and Modernization of Food Manufacturing Regulatory Programs

HHS/FDA, working in collaboration with state and local agencies, should develop and implement a plan for integrating and modernizing federal and state food manufacturing regulatory programs for facilities under FDA’s jurisdiction. The plan should:

- *Build on the traditional roles of state agencies and clearly define roles and responsibilities of federal and state inspection agencies in an integrated national system;*
- *Develop new risk-based and technologically advanced approaches to inspection that ensure better use is made of inspection resources across the system to enforce food safety standards;*
- *Leverage federal resources by making cost-effective use of state inspection capacity to achieve adequate inspection frequencies in food processing establishments;*
- *Greatly expand the commissioning of state inspectors and enforcement officials so they can work seamlessly with federal authorities to enforce food safety standards and help achieve national food safety goals;*
- *To assure consistent technical skill levels among federal, state, and local inspection agencies, adopt national standards and create federal funding incentives for credentialing environmental health professionals conducting food safety inspections or carrying out other duties in retail food regulatory programs;*
- *Address and minimize legal, technical, and bureaucratic barriers to the free flow and active sharing of food safety data and information among federal, state, and local inspection agencies and invest in the systems needed to support data sharing;*
- *Incorporate standardized approaches to conducting various types of inspections and reporting inspection results;*
- *Address and minimize legal and technical obstacles to federal reliance in enforcement cases on laboratory results and other data generated by state agencies; and,*
- *Ensure that public health protection is the first priority of all food safety inspection and enforcement activities and that there are clear standards and guidance to ensure effective use of enforcement tools to protect public health.*

Recommendation 19: Implementation of Program Standards

HHS/FDA should make the full implementation of the Retail Food Regulatory Program Standards and the Manufactured Food Regulatory Program Standards a central component of its plan for building an integrated national food safety system and inspection program and should provide needed resources and incentives for state and local governments to participate.

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