

# Variation in Enforcement of the Ohio Smoke Free Work Place Law by Local Health Departments – A Robert Wood Johnson Foundation Quick Strike Project

David Bruckman, MS, MT(ASCP)

Ohio RAPHI – Public Health PBRN

Chief Systems Analyst, Cleveland Department of Public Health

Core Faculty, Prevention Research Center for Healthy  
Neighborhoods, Case Western Reserve University



Ohio Research Association  
for Public Health Improvement

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Public Health Practice-Based Research Network

# Investigative Team

- 🌳 Terry Allan, RS, MPH – Cuyahoga County Board of Health
- 🌳 Matt Stefanak, MPH – Mahoning County Health District
- 🌳 Bob Campbell, PhD – Ohio Department of Health
- 🌳 Aylin Drabousky, MA – CWRU School of Medicine (SOM)
- 🌳 Aiswarya Chandran Pillai – CWRU SOM
- 🌳 Elaine Borawski, PhD – Prevention Research Center for Healthy Neighborhoods, CWRU SOM
- 🌳 Scott Frank, MD, MPH – Masters of Public Health Program, EPBI, CWRU SOM



# Investigative Team



Prevention Research Center for Healthy Neighborhoods



**Public Health**  
Prevent. Promote. Protect.  
**Mahoning County  
District Board of Health**



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# Acknowledgements



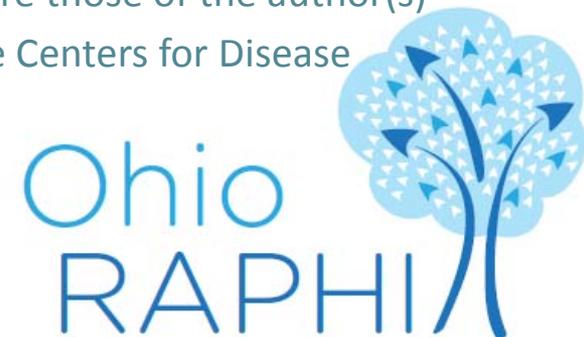
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Prevention Research Center for Healthy Neighborhoods: CDC

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- Findings, conclusions, and comments in this presentation are those of the author(s) and do not necessarily represent the official position of the Centers for Disease Control and Prevention.



# Disclosures

- 🌳 Non-commercial interest.
- 🌳 No relevant financial interest nor conflict of interest in the data and findings.
- 🌳 No discussion of an investigational/unlabeled commercial product or off-label product use.
- 🌳 Preliminary results of research herein.

# Participant Objectives

Participants will be able to...

-  Understand the policy effect of Ohio's Smoke Free Work Place Law (SFWPL) on public health (PH) practice.
-  Consider and discuss how workforce differences among PH workforce may be associated to their performance and attitudes regarding enforcement of SFWPL.
-  Explain effect of a potential loss of state subsidies on local PH enforcement of SFWPL.



# Background

- 🌳 Smoke Free Work Place Act (ORC 3794)
  - Publicly approved November 2006
  - SFWP Law enacted May 3, 2007
  - 12<sup>th</sup> state to enact statewide prohibition (ODH, 2008)
- 🌳 Limits tobacco use in some 280,000 venues
  - Some exemptions
- 🌳 Business and patrons liable



# Enforcement

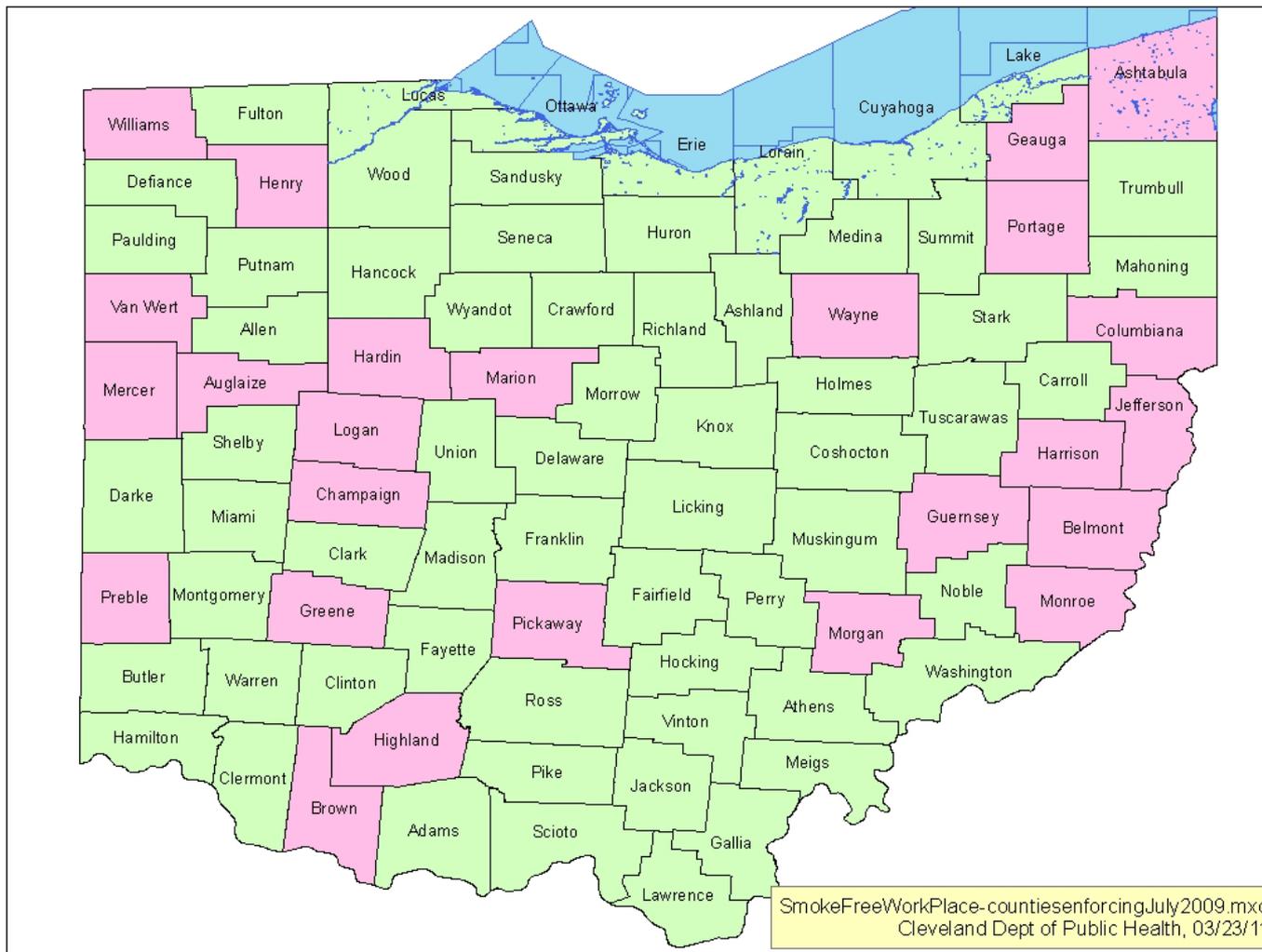
- 🌳 Authority to Public Health
- 🌳 Complaint by email/phone generates review
- 🌳 Ohio Department of Health (ODH) provides a web-based application to register and track complaints and cases.
- 🌳 State subsidy available
  - \$125 for timely, complete investigation
- 🌳 Actions (within 50 days)
  - Dismissal; Notice of Violation or civil fine

# Enforcement (2)

- 🌳 Fines: \$100, \$500, \$1,000, \$2,500, ...
  - Intentional violations can be doubled
  - Daily fines
  - Local enforcing agency gets up to 90% of paid fine
- 🌳 Appeals process available
- 🌳 Outstanding fines may go to state Attorney General for collection (ORC 131.02)
  - ORC allows AG to use coll. Agency



# Counties self-enforcing (green)



# Progress

- 33 other states have similar statewide laws
- In Ohio, (May 2007-May 10, 2010) per ODH
  - 50,200 reports, with 31,100 investigated
  - 19,100 dismissed
  - 3,528 total warnings
    - Level 1 fines (n=1,187); Level 2 fines (n=606); Level 3 fines (n=287); Level 4 fines and greater (n=297)

## \$1.2M fines (to Dec 2010)

- \$800,000 outstanding

(Marlow ML, 2010)



# Research questions

- 🌳 What are the variations in public health practice in enforcement across counties?
  - ...associated to agency characteristics?
- 🌳 What are the differences in opinions and attitudes on enforcement practice by job classification (i.e. Administration vs. non-Admin.)?
- 🌳 How would PH enforcement change if state subsidies or AG collection support ends?

# Research Objectives

1. Determine barriers, incentives, work force issues related to SFWPL enforcement
2. ... and associations to agency and position  
Agency census: urban/rural  
Admin. vs. non-Admin
3. Determine effects in PH practice due to changes in state support.



# Mixed Methods

## 1. Focus Groups (Oct/Nov 2010) across several Ohio regions

- Separate focus groups for PH Executives and PH direct enforcement staff
- NE, NW, SW regions

 Phoned key informants in other regions

 Transcriptions (FG) and notes coded

- **Domains identified for survey**



# Mixed Methods

## 2. Web-based survey of PH enforcement workforce using Survey Monkey

- 🌳 40 Questions over eight domains
  - 5-level response scales
    - Strongly agree, agree, neither, disagree, strongly disagree
    - Always, usually, half the time, rarely, never
  - All responses voluntary (N/A, skip, or exit)
- 🌳 Separate survey site for compensation
  - Survey data not linked to mailing addresses

# Survey Recruitment

## Direct: email list

- Used publicly available data from ODH and LHD websites
  - **Admin:** Health/Env Health Comm. & Directors, EH and project supervisors
    - Medical Directors & Nursing Directors
  - **Non-Admin:** Reg. Sanitarians, health educators., etc.

## Indirect: AOHC and OPHA newsletters

- Association of Ohio Health Commissioners
- Ohio Public Health Association



# Methods II. Analysis

Different denominators needed for analysis

## Respondents

- Full data set (consenting)

## Agency/jurisdiction

- One respondent per agency as denominator
  - Highest job class chosen

## Analysis: Tests of association



# Results: Focus Groups & Phone Interviews

 n=13 across five regions

 Domains identified:

- **Benefit versus the cost and effort**
- **Workforce issues, including safety**
- **Online administrative web-based application**
- **Enforcement Administration: Fees and LHD finances**
- **State support (ODH and Attorney General's office)**
- **Prioritization**
- **Public perception**
- **Business response**



# Results: Online Survey

- 🌳 Site active for 16 days (2/9/11 - 2/25/11)
- 🌳 Final recruitment list: N=433 (effective)
  - 177 visited site (41% recruitment rate)
  - n=166 consented (94%)
- 🌳 Wide representation
  - 63% of jurisdictions (81/128)
  - 68% counties represented (by any jurisdiction)
    - 40% rural, 60% urban
  - 44% respondents: SW and Appalachia

(Regions per Ohio Dept of Dev., 2010; US Census, 2002)



# Denominators

<b>Respondents</b> <b>N=166</b>	<b>Factor</b>	
57% overall	<b>Administrators</b>	
34%	Directors, Commiss.,etc	
23%	Supervisors, Project Coords.	
27%	Reg. Sanitarians	
10%	Nurses, health eds., inspectors, specialists	
6%	Other staff	
63% overall	<b>Males</b>	

# Denominators

<b>Respondents</b> N=166	<b>Factor</b>	<b>Agencies</b> N*=81
57% overall	<b>Administrators</b>	74% overall
34%	Directors, Commiss.,etc	42%
23%	Supervisors, Project Coords.	32%
27%	Reg. Sanitarians	14%
10%	Nurses, health eds., inspectors, specialists	9%
6%	Other staff	4%
63% overall	<b>Males</b>	61% overall

Agency N\* identifies one respondent by highest administrative position.

# Enforcement

## By agencies:

- 78% currently enforce SFWPL
- 18% in past but opted out
- 4% never enforced

## Most PH Enforcement by registered sanitarians (>60% of agencies)

- health eds., project specialists, inspectors, nurses
- H/EH directors, commissioners & supervisors; PIO

## ODH uses one contracted inspector to cover 24 counties

# ODH online application

- 🌳 Respondents: ODH web application is useful
  - 77% agree, 7% disagree
- 🌳 75% agencies use ODH online app only
  - 14% agencies use a separate software package or templates for enforcement and tracking cases.
  - 11% unsure

# State support: ODH

🌳 67% agree: ODH provided timely assistance for enf. issues

- *Always/usually: 76% Admin vs 51% non-Adm*
- *Occ/never: 36% non-Adm vs 20% Admin ( $p=0.03, df=2$ )*

🌳 70% agree: ODH provided adequate assistance...

- *Nearly same results as above*
- *No association to rural/urban*



# Prioritization

- 71% agreed: SFWPL enforcement as a PH priority at the agency
  - Agree: 79% Urban vs 50% Rural ( $p < 0.001$ ,  $df = 2$ )
  - Disagree: 24% non-Adm vs 10% Admin ( $p = 0.08$ ,  $df = 2$ )
- 50% agreed: SFWPL enforcement as important as food & workplace safety (32% disagree)
  - 60% Urban vs 29% Rural ( $p < 0.001$ ,  $df = 2$ )

# Workforce Safety/Practice

- 🌳 81% agree: Inspector safety as the most important issue in SFWPL enforcement
- 🌳 Work alone:
  - 70% always/usually, 22% occ./never
- 🌳 Would make off-hour/wknd inspections
  - 71% always/usually, 27% occ/never
- 🌳 Police/sheriff respond quickly when needed
  - 57% always/usually, 40% occ./never

# Workforce Safety/Practice

- 🌳 95% agree: Would not hesitate in investigating complaint at VFW, Lodges, AmLegion, Eagles, adult entertainment sites.
  - FG: “most problems”
  - 79% citations (Marlow ML, 2010)
- 🌳 74% agree that 80-90% effort spent on <10% of businesses
- 🌳 Use independent contractors, not RS, to enforce
  - 24% agree, 40% disagree, 36% unsure

# Public perception

- 80% agreed that public would miss smoke-free businesses if Law was repealed.
  - Admin > non-Admin* ( $p=0.025$ ,  $df=2$ )
- 57% agreed that fewer people in jurisdiction smoke due to SFWPLaw.
  - 20% neither / 23% disagree

# Public perception

Rural citizens were more tolerant of smokers:

- 🌳 Area citizens tend not to file complaints even when smoking is present.
  - *55% Rural vs 32% Urban ( $p=0.0011$ ,  $df=2$ )*
- 🌳 Area citizens tolerate smoking, rarely file complaints
  - *35% Rural vs 10% Urban ( $p=0.016$ ,  $df=2$ )*

# Business response

- 🌳 75% respondents were against allowing smoking sections
- 🌳 Restaurants doing more business since SFWPL started.
  - 27% Agree; 55% neither; 17% disagree
- 🌳 If law was repealed, most restaurants would again allow smoking
  - 52% Agree; 15% neither; 33% disagree

# Benefit vs. cost & effort

## By Respondents:

 78% agree: Benefits outweighed cost

○ 12% neither, 14% disagree

▪ *Urban 81% vs Rural 62% ( $p=0.037$ ,  $df=2$ )*

 64% agree: Enforcement worth the cost & effort

▪ *Urban 73% vs Rural 44% ( $p=0.004$ ,  $df=2$ )*

 82% disagree: SFWPL should be repealed

▪ 10% agree

# Benefit vs. cost & effort

## By Respondents:

🌳 24% agree: Law is too cumbersome to enforce

## By Agency:

🌳 63% Violations are occ/never paid in time

- 26% Always/usually
- *Occ/never in 75% Rural vs 56% Urban (p: NS)*

# Benefit vs. cost & effort

## By Agency:

- 🌳 73% of agencies lose money on enforcement & educ.
  - <5% make money; 18% break even
- 🌳 56% of agencies lose money each year specifically due to uncollected fines

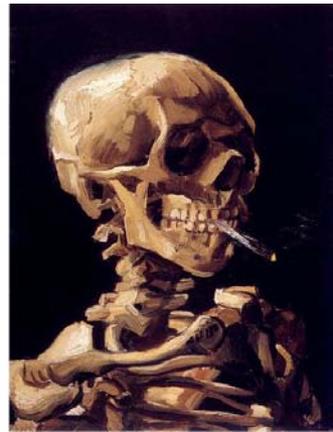
# State support: State AG

- 61% respondents occ./never received timely or adequate assistance from State AG office for enforcement issues
  - Always/usually: 37%
  - Did not differ by Administration class or jurisdictional census (rural/urban)*



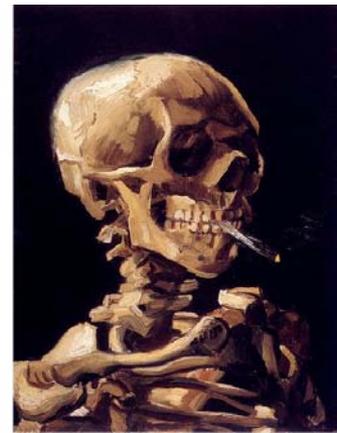
# What if ODH subsidies to LHDs ended?

- 🌳 43% of enforcing agencies would stop enforcement if ODH subsidies ended.
  - (and pass enforcement to ODH)
  - *Rural 58% vs Urban 33% ( $p=0.07$ ,  $df=2$ )*
- 🌳 Less than a third (32%) would continue enforcement .



# What if state AG support ended?

- 🌳 38% of enforcing agencies would end enforcement if State AG stopped collection.
- 🌳 *Rural 53% vs Urban 30% ( $p < 0.007$ ,  $df = 2$ )*
- 🌳 28% would continue enforcement.



# Summary

-  First study to examine PH workplace practices, attitudes and perceptions on a state smoke-free workplace law.
-  ... and that assesses PH practice changes if SFWPL policy on state subsidies is altered.

# Variations in practice exist by census

Barriers among rural agencies are unique.

- Prioritize food/workplace code enforcement over smoke-free work place enforcement.
- Rural public is more tolerant to smoking; fewer complaints.
- Less support from AG for collections.
- Feel that benefit of the SFWPL may not outweigh costs & effort.
- Over half of enforcing agencies would drop enforcement if state ends subsidies for local PH investigations and AG collection support.

# Variations in practice exist by census

## Among urban agencies

- 33% would drop enforcement if state ends subsidies for local PH investigations.
- 30% would drop enforcement if state AG stops supporting collection of outstanding fines.

# Variations in practice exist by administrative levels

## Administration respondents

- were more favorable toward ODH assistance.
- tended to consider smoke-free enforcement higher in priority over non-Admin staff.
- were more sanguine about public appeal and overall benefits vs cost of enforcement.

# Conclusions

-  State support is critical to continue PH stable, statewide enforcement.
-  High potential for more local PH agencies to opt out & transfer enforcement duty to ODH.



# Discussion: Impact on ODH

 Currently, LHD enforcement in 64 counties

- 31 rural and 33 urban counties

- ODH enforces in 24 counties.

 If state subsidies ended and 58% rural and 40% urban agencies opted out, then

- ODH may add up to an additional 68 jurisdictions

- $(.58 * 58 \text{ RURAL}) + (0.40 * 60 \text{ URBAN}) = 34 \text{ rural and } 24 \text{ urban jurisdictions,}$

- ...or up to an additional 31 counties

- or up to 18 rural counties ( $.58 * 31 \text{ rural counties enforcing}$ ) and 13 counties ( $0.4 * 33 \text{ counties enforcing}$ )

- 55 counties: 28,016 of 44,825 sq ml

- VT + NH + MA (29, 479 sq ml)

# Discussion: Systems Issues

Better collection support from state AG office is needed.

Q: What is holding up collection?

- Are businesses getting too effective in extending the appeals process?
- Does AG office consider SFWP collections as a low priority?
- What weaknesses exist in current law that can be amended? Precedents?
- Amending appeals process?



# Thank you

## Information on OhioRAPHI:

- Scott Frank, [scott.frank@case.edu](mailto:scott.frank@case.edu)
- Matt Stefanak, [MStefanak@mahoninghealth.org](mailto:MStefanak@mahoninghealth.org)

## Information on this research:

- David Bruckman, [david.bruckman@case.edu](mailto:david.bruckman@case.edu)



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