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## “Please Remain in Your Seat”: The Federal Government’s Role in Quarantine

**Biot #334:** February 26, 2006

State health departments or health officials typically have primary quarantine authority. However, the **federal government** has jurisdiction over **foreign and interstate** quarantine. Quarantine is the “the restriction of movement of a healthy person who has been exposed to a communicable disease in order to prevent contact with unexposed persons,” according to a definition favored by an attorney writing for Congressional Research Service. (1) Quarantine is “separation and restriction of movement of well persons presumed to have been exposed to contagion, according to a definition favored by a Centers for Disease Control quarantine public health officer, who hastens to add that quarantine “may occur at home or residential facility, and may be voluntary or mandatory.” (2)



“Fear of SARS Prompts Quarantine of Plane in San Jose [California].” “Health officials in San Jose quarantined an American Airlines plane that arrived Tuesday morning from Tokyo. Five people on the plane complained of symptoms similar to those of Severe Acute Respiratory Syndrome. Two passengers, two crew members and one identified person said they showed symptoms similar to those from the mystery illness that has been sweeping Asia. After diagnostic tests and evaluations by physicians, none of the five were found to be suffering from the disease. About 140 people were on board the flight. When the plane landed, it stopped short of the gate and ambulances lined up nearby.” April 1, 2003. Source: <http://www.news10.net/storyfull.asp?id=4068>; accessed February 26, 2006.

### Federal Quarantine Authority Defined

Under the Public Health Service Act, current Secretary of Health and Human Services Michael Leavitt, whose background is in the insurance industry, has the authority to make and enforce regulations necessary “to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession.” (3-4) The law, while providing the Secretary with broad authority to promulgate regulations “as in his judgement [sic] may be necessary,” does limit authority to enacting regulations providing for the “apprehension, detention, or conditional release of individuals.” (3)

The President of the United States may become involved in the regulatory process by issuing an Executive Order to apprehend, detain, or conditionally release of individuals “upon the recommendation of the Secretary, in consultation with the Surgeon General”. Indeed, on April 4, 2003, President George W. Bush, upon recommendation of then Secretary Tommy Thompson, and in consultation with current Surgeon General Richard Carmona, M.D., issued Executive order 13295, which revised the list of communicable diseases to include severe acute respiratory syndrome (SARS) (which was raging in Toronto, Canada, at the time) and viral hemorrhagic fever viruses. The President issued an amendment to 13295 on April 1, 2005 that added “[i]nfluenza caused by novel or reemergent influenza viruses that are causing, or have the potential to cause, a pandemic.” This disease was added in response to the global avian flu problem and anticipation that a human pandemic may be brewing. (5)

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people in the US were counted as probable or suspected SARS cases on April 22, 2003. (6) Theoretically, all 57 of these cases were under the jurisdiction of quarantine public health officers, located at quarantine stations throughout the US, under the aegis of the Centers for Disease Control and Prevention's National Center for Infectious Diseases' Division of Global Migration and Quarantine (DGMQ).

In 2004, there were 11 such quarantine stations, including Chicago, Seattle, Los Angeles, New York City, Miami, San Francisco, El Paso, Houston, Atlanta, Washington, DC, and Honolulu. In 2006, new stations include San Diego, San Juan (Puerto Rico), Minneapolis, Detroit, Boston, Newark, and Anchorage for a total of 18 quarantine stations. (2) Lest we get too excited about this increased network, Tomianovic points out that in 1953, the US

Department of Health, Education, and Welfare had a quarantine program at 52 seaports, 41 airports, 17 border stations, 33 territory stations, 41 US consulates, and 50 maritime vessels, and employed 600. She compares this to the US Quarantine Program operated through the Department of Health and Human Services in 2004, covering only 8 airports and employing only 70 people. (2)

### How Does the Quarantine Officer Carry Out Duties?

How does the quarantine officer apply the federal regulations that authorize apprehending, detaining, examining, or conditionally releasing individuals coming into a state or possession from a foreign country or a possession? Sena Blumensaadt, the veteran public health officer in charge of the Chicago Quarantine Station, describes the process in detail in a PowerPoint presentation available online. (7)



CDC Quarantine Stations in the US, as of February 2006. Source: <http://www.bt.cdc.gov/coca/callsummary.asp>, accessed February 26, 2006.

Blumensaadt states that the mission of the Division of Global Migration and Quarantine (DGMQ) is to “prevent the introduction, transmission, and spread of communicable disease from foreign countries into the United States.” The duties include oversight of:

1. Importations (e.g., animals; blood, tissue, and human remains);
2. Screening medical records of arriving permanent residents (and noting here that refugees, asylees, immigrants, fiancés of American citizens must be medically screened while overseas);
3. Illness response, which comes in an active and a passive form (more on this below);
4. Information sharing with, for example, state and local public health, and updating airport authorities on public health activities at their airport; and
5. Conducting exercises, e.g., tabletop exercises.

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leprosy, the Hansen's Disease Center in Louisiana.

There are several layers of ongoing direct surveillance of people destined for arrival or actually arriving in the US: the flight crew, the medical facility (under contract with airline), the airline arrivals staff, fire/police/paramedics, Customs and Border Protection officials, the airport wheelchair service, and family members and work colleagues." (7)

### Passive Illness Surveillance

Passive surveillance involves a member of the flight crew noticing that "someone is ill on board and notifies the pilot. [The] pilot radios the ground crew. [The] ground crew radios their medical contractors (if any) and the closest quarantine station." The quarantine officer and/or paramedic meet the individual at the gate as the plane arrives and requests that everyone remain on board the aircraft and seated. The ill person is interviewed BRIEFLY, and then is escorted off the aircraft, sometimes masked. Other professionals who may assist in this process are paramedics, Customs and Border Protection inspectors, police department, and the local public health office (if smallpox is suspected). (7)

If the illness is considered to be non-infectious, all of the passengers are then released. But if the illness is believed to be potentially infectious, the masked passenger is transported to the hospital by ambulance. The passengers and crew provide "locator" information so that they can be contacted in case the ill person has a real whopper of a disease. The quarantine station staff notify the hospital to which the ill person is being transported, state and local health departments, CDC headquarters, and other federal agencies. (7)

### Active Illness Surveillance

An officer from the DGMQ meets each flight from countries with exciting "diseases of interest", such as plague, Ebola, and SARS. The officer asks the "lead flight attendant if any illness [is] on board". Then the officer "watches" each person disembark. If the person is exhibiting symptoms of the disease of interest, the quarantine officer isolates and interviews the symptomatic person. Every disembarking person is handed a health alert notice about the disease(s) of interest. Diseases of interest include those on the Presidential List of Quarantinable Diseases described above: cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, SARS, and influenza caused by novel or reemergent flu viruses.

### Two More Federal Government Authorities Relating to Quarantine

There are two additional categories of federal government authority relating to quarantine. First, the federal government has authority to apprehend and examine "any individual reasonably believed to be infected with a communicable disease in a qualifying stage and who (A) to be moving or about to move from a State to another State; or (B) to be a probable source of infection to individuals who, while infected with such disease in a qualifying stage, will be moving from a State to another State." The term "qualifying stage" refers to a disease that is in a communicable stage or is in a pre-

communicable state, if the disease would likely cause a public health emergency if transmitted to other individuals. (1,8) It is via this authority that the federal government may become involved in **interstate communicable disease issues**. If such a person is found to be infected, he or she can be detained for such time and in such a manner as may be reasonably necessary. (1)



Sena Blumensaadt, MPH, in red dress receiving the US Public Health Service Superior Service Award. She has been a member of the USPHS for more than 20 years.  
Source:  
[http://www.ohare.com/events/wings\\_image.shtm](http://www.ohare.com/events/wings_image.shtm),  
accessed February 26, 2006.



Typhoid Mary poster. Source:  
[http://en.wikipedia.org/wiki/Image:Mallon-Mary\\_01.jpg](http://en.wikipedia.org/wiki/Image:Mallon-Mary_01.jpg),  
accessed February 26, 2006.

Indeed, Mary Mallon, the notorious “Typhoid Mary”, of New York State in the first quarter of the 20th century, was a non-symptomatic carrier of the typhoid bacillus. She caused outbreaks of typhoid fever at every house or institution she worked as a cook. In a similar instance today, such a person trying to move to another state would come under the authority of the federal government. In Mary’s case, the New York Public Health Department oversaw her care, which included forced residential habitation at North Brother Island in the East River for two decades because Mary refused to obey instructions. (9) For more on interstate regulations, see below.

Second, the federal government can apprehend and examine any individual “reasonably believed (1) to be infected with such disease [as specified in an Executive order of the President] and (2) to be a probable **source of infection to members of the armed forces of the United States**” or to individuals engaged in the production or transportation of supplies for the armed forces. (1)

### What Is the Link in Authority between the DHHS Secretary and the CDC Director?

Interstate quarantine regulations primarily restrict travel for persons infected with a communicable disease. The regulations apply to the apprehension, detention, or conditional release of individuals for the purpose of preventing the introduction, transmission, or spread of the diseases listed in Executive Order 13295.

Effective September 15, 2000, the DHHS transferred authority for interstate quarantine to the CDC, with the Food and Drug Administration retaining authority over animals and other products that may transmit or spread communicable diseases (recall the monkeypox outbreak in several Midwestern states in 2003). Typically, the CDC director has authority to take measures as may be necessary to prevent the spread of a communicable disease from one state or possession to any other state or possession **if he or she determines that measures taken by local health authorities are inadequate to prevent the spread of the disease**. Infected individuals traveling from one state to another state must possess a permit issued by the health officer of the state, possession, or locality of a destination, if such a permit is required under the law applicable to the place of destination.

For example, consider the following early 20th century predicament. On May 27, 1902, the Kentucky Board of Health ordered a smallpox quarantine against the State of Indiana. “According to the order no person, whether a resident of Indiana or not, will be allowed to cross from the State of Indiana into the State of Kentucky unless that person bears a certificate from a duly authorized health officer showing that he or she has been successfully vaccinated within the last five years. The burden is placed on the ferry, railroad, electric lines, and all other carriers, and any carrying company transporting a person without such a certificate will be prosecuted to the fullest extent of the law. The order is the result of Governor Durbin’s refusal to aid the Kentucky authorities in dealing with the smallpox situation. The disease is now prevalent in Indiana, especially in New Albany and Jeffersonville, directly across the river from Louisville. The average receipts of the ferry and railway lines across the Ohio River here show that 6,000 persons cross into Louisville from New Albany and Jeffersonville every day. They are employed in Louisville. The quarantine will keep these persons at home and will probably suspend all traffic between the Kentucky metropolis and the towns across the river.” (10) Today, the federal government would become

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"In 1900 Northern Brother Island was home to hospitals (such as the Pest House, pictured here) housing patients with contagious diseases, most notably tuberculosis, typhoid fever and smallpox. For 26 years, Typhoid Mary was quarantined on the island. Later, it was a facility for drug-addicted youth. When this program ended in 1950, the island was abandoned and evolved into a bird sanctuary with vine-covered ruins." Source: <http://www.eastrivernyc.org/enatural/bro1.shtml>, accessed February 26, 2006.

## Summary

The federal government has authority to authorize quarantine under certain circumstances, which include jurisdiction over foreign and interstate quarantine, as well as over individuals who could infect the armed forces during war. In all other instances, such as quarantine within states, preservation of the public health has historically been the responsibility of state and local governments and the primary authority exists at the state level as an exercise of the state's police power.

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3. 42 USC 264. "Originally, the statute conferred this authority on the Surgeon General; however, pursuant to Reorganization Plan No. 3 of 1966, all statutory powers and functions of the Surgeon General were transferred to the Secretary." Source: see #1 above, CRS-2.
4. Biography of Michael Leavitt at: <http://www.hhs.gov/about/bios/dhhssec.html>; accessed February 26, 2006.
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