Law & the Prevention & Control of Obesity:
 a Selected Bibliography

Introduction
This selected bibliography provides a starting point for learning more about the intersection of obesity and law. The bibliography is not intended to be all inclusive of the literature on obesity and the law, but it is intended to be a credible source of information about the influence law can have on the public health issue of obesity prevention and control. The CDC PHL Program gratefully acknowledge the work of Courtney Petty, a 2009 intern with the program who prepared the update to this bibliography.

Methods in creating the Bibliography:
In creating the bibliography, we established an initial parameter for items published in public health, medical, and law journals from January 1, 2000 through the summer of 2009. The bibliography includes articles accepted for publication, but not published, if they were accessible electronically through PubMed.

To identify articles in the public health or medical literature, PubMed searches look for select combinations of the terms in Box 1 in either the title or abstract of the articles.

To identify articles in the legal literature, Lexis Nexis and Westlaw searches examine the U.S. law journal databases for articles containing “obesity” in their titles.

The results from these searches were reviewed for relevance. Articles were excluded if (a) they failed to address either obesity or law; (b) they addressed legal approaches to obesity only within the larger issue of chronic disease; (c) their focus on law was minor; or (d) they bore a limited relation to the issue of obesity and law within the U.S. Based on a review of the article abstracts and introductions, the articles were divided into topical categories, the descriptions of which are below. Some of the articles fit into multiple categories, but are in the category that appeared most relevant. Included at the end of the bibliography are selected reports and tools.

Box 1. PubMed Search Terms
Legal Strategies for Preventing or Reducing Obesity:

Public health professionals and the legal practitioners who advise them have become increasingly aware that legal strategies are useful to address the obesity epidemic. Laws and legal authorities impact the nutrition standards at our nation’s schools, subsidies to farmers, zoning and transportation that impact our physical activity and insurance regulations that impact how professionals treat obesity.

The articles in this section primarily address two issues: (1) Should government take a role in preventing the obesity epidemic and if so what is its appropriate role? and (2) What legal strategies are likely to be most effective in combating the obesity epidemic? Articles fitting within this topic have been divided into four sub-categories depending on which legal avenue the article emphasizes.

The General Use of Law:
The following articles address the use of law generally to fight the obesity epidemic. Several address the broader issue of whether government should be involved in the fight against obesity. Several present theoretical legal approaches to framing the issue of obesity and several discuss multiple legal approaches to reducing the prevalence of obesity.

General
The Use of Courts and Litigation:
Can fast food companies be held accountable for their role in the obesity epidemic? Should courts authorize removal of morbidly obese children from their parents under theories of medical neglect? Are fast food lawsuits frivolous? The following articles explore the manner in which courts have and could be used to reduce the obesity problem.

Judicial/Litigation

• B. Falit, Recent Development, "Fast Food Fighters Fall Flat: Plaintiffs Fail to Establish that McDonalds Should be Liable for Obesity-Related Illnesses," Journal of Law, Medicine & Ethics, 31 (2003): 725-729.

The Use of Federal and State Legislation and Regulation:
How do laws relating to our food supply impact obesity rates? Should the government be able to tell us what to eat? Can legislation be an effective tool against childhood obesity? The following articles address the use of either legislation or regulations to address obesity.

Legislation/Regulation


The Use of Community-Based Policies:
How can communities be involved in using law to decrease obesity rates? What school policies seem to work in addressing the childhood obesity rate? How do community land-use policies impact weight? The following articles have some overlap with the above category. However, these articles tend to focus more on policies that could be implemented on a local level, with an emphasis on community involvement.

Community Based Policies

Legal Challenges Posed by a Growing Population:
With an increasing percentage of the US population overweight or obese, legal questions have arisen regarding how people and institutions react to obesity. These include the legal issues posed by workplace wellness programs and whether institutions should be permitted to discriminate based on weight. The articles below address some of the issues posed by an increasing prevalence of obesity.

Legal Challenges Posed by an Obese Population


Related Reports and Tools