

Local Autonomy and Response to the COVID-19 Pandemic

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Abstract

We examine local government response to the COVID-19 pandemic in the United States utilizing a unique dataset created by the National League of Cities. The most common action by local governments was changing administrative procedures and implementing policies aimed at prevention or “flattening the curve”. The general public was the most common population target. In addition to detailing the most common local action types, policy areas, and population targets, we analyze local response based on the autonomy granted to local governments by states. We expected local governments with greater levels of autonomy would have a greater level of response; however, some local governments did not ‘behave’ as expected based on their degree of policymaking autonomy granted by state governments. Some states with higher levels of autonomy enacted relatively few local actions in response to the pandemic, whereas some with little autonomy engaged in considerable activity to address COVID-19.

Keywords

COVID-19, home rule, local government

Introduction

The nature of federalism provides opportunities for both collaboration and conflict. Opportunities for federal-state collaboration are plentiful and state governments enjoy considerable autonomy through the reservation of powers to the states via the Tenth Amendment. The US Constitution, however, dictates that federal-state conflict result in federal supremacy. Opportunities for collaboration and conflict between local governments and state governments are structured differently across and within states. The US Constitution is silent regarding local governments, leaving it up to states to determine how local governments will exercise power. Some states, such as New Jersey, have a long history of granting local governments considerable policymaking powers;

whereas other states, such as Alabama, require almost all local actions to be approved by the state legislature or voted on as a state Constitutional amendment.

The advent of the COVID-19 pandemic in early 2020 brought the issue of federalism into sharp relief not only among academics and

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politicians, but the wider public as questions about what local governments could or could not do became common in the news and the public sphere. Did local governments have the power to close non-essential businesses, issue mask mandates, send school children home for remote learning? If state government leaders were hesitant to act to ‘flatten the curve’, could local leaders step in and take action?

In this field note, we utilize a unique dataset created by the National League of Cities: the COVID-19 Local Action Tracker. We examined the data to better understand what actions local governments have taken in response to the pandemic and how those actions may have varied depending on the degree of local autonomy granted by state governments. We provide a descriptive analysis of the COVID-19 Local Action Tracker dataset and examine local actions in the context of home rule. We expect local government officials, public health practitioners, and state health officers in particular may find the descriptive analyses of local actions useful. Our most interesting finding is that governments in states that limit local autonomy were not inhibited from taking action to address the COVID-19 crisis.

Experts agree that COVID-19 will not be our last pandemic (e.g., Frieden, Buissonnière and McClelland 2021; Marani et al. 2021; Mishra, Mishra and Arora 2021; Shivaprakash et al. 2021). The dataset provides elected officials, researchers, and practitioners a rich source of data to utilize in myriad ways. We thus conclude the note with suggestions for future avenues of academic research utilizing the Local Action Tracker dataset, which may enhance our understanding of local response effectiveness during a public health crisis.

Study Data and Methods

Measuring COVID-19 Local Government Policy Actions

The National League of Cities (NLC), in partnership with Bloomberg Philanthropies, created a COVID-19 Local Action Tracker

which is available on their website at <https://www.nlc.org/resource/covid-19-local-action-tracker/>. We downloaded the complete dataset on September 12, 2021, and after identifying some duplicate entries through data cleaning, the dataset contained 4444 observations of local actions related to COVID-19 between January 26, 2020 and September 10, 2021. The dataset contains observations from all fifty states, plus the District of Columbia, and includes data from 669 distinct cities ranging in population from 10 (Waldron, Kansas) to over 8 million (New York, New York) with median population of 326,586. Data are collected by the National League of Cities through searches on city websites, news alerts, and self-reporting by city officials. A limitation of the dataset is the likelihood that some local actions are not captured by these data collection methods. However, the large number of cities covered and observations coded make this unique dataset highly valuable to researchers and practitioners seeking to understand local actions related to COVID-19.

The NLC dataset contains rich information on nine types of action taken (e.g., executive order, administrative procedure, city ordinance), twenty different policy areas (e.g., government operations, housing, prevention/flattening the curve), and twenty populations addressed by the local action (e.g., general public, low income, small business). In addition, the dataset contains a brief policy description of the action, the date of the action, a link to most of the news stories or press releases pertaining to the action, and the population and location of the city. One challenge in utilizing the dataset is some local actions contain multiple codes, such as an action closing restaurants for in-person dining affects both the general public and small businesses. To best understand all types of actions taken, policies addressed, and populations affected, we recoded each instance of multiple coding.

Measuring Local Government Autonomy

The division of power among federal, state, and local governments is of intense interest to local

government officials due to the specter of state preemption or their lack of policymaking authority. In two court decisions in 1868, Judge John F. Dillon made clear that local governments were mere creatures of the state and derived all authority from state grants of power (*City of Clinton v. Cedar Rapids & Missouri River R.R. Co.* 1868; *Merriam v. Moody's Executors* 1868). Dillon's Rule was challenged but upheld by the Supreme Court in 1907 (*Hunter v. City of Pittsburgh* 1907) and again in 1923 (*Trenton v. New Jersey* 1923).

Local governments may, however, derive authority from state constitutional provisions or from state legislative actions – authority that is typically referred to as Home Rule (e.g., Hanson 1998; Krane, Rigos and Hill 2001; Wolman et al. 2010). A majority of states have both Dillon Rule and Home Rule (Public Health Law Center 2020). For example, in Illinois, cities with populations over 25,000 enjoy home rule, however, smaller cities may enact home rule by referendum (“What is a Home Rule Unit” 2021). Other states, such as Alabama, require most local policymaking to be approved by the state legislature or through Constitutional

amendment. Hence, Alabama has one of, if not the longest, constitutions in the world and approximately 70 percent of it pertains to local affairs. This is in addition to over 36,000 local laws passed by the state legislature (Spencer 2020). Other states, such as New Jersey, have a long tradition of strong home rule throughout its numerous municipalities (Fassett 2020). Such variations in local government autonomy make it difficult to simply assign a dichotomous Dillon Rule/Home Rule designation to each state. Thus, we utilize a measure of local autonomy, Home Rule Factor Scores, developed by Wolman et al. (2010) which range from 2.33 (Alaska) to -1.528 (Oklahoma). Higher scores are indicative of greater local autonomy within the state.

Study Results

Local governments acted swiftly in the earliest stages of the pandemic, as shown in Figure 1. We divide the data into approximate quarters, reflecting national conversations around how COVID-19 was expected to decline (e.g. summer months, vaccinations available) or surge (e.g., school resumption, holidays) and hence may have affected local actions.



Figure 1. Number of COVID-19 Local Actions, January 2020 – September 2021.

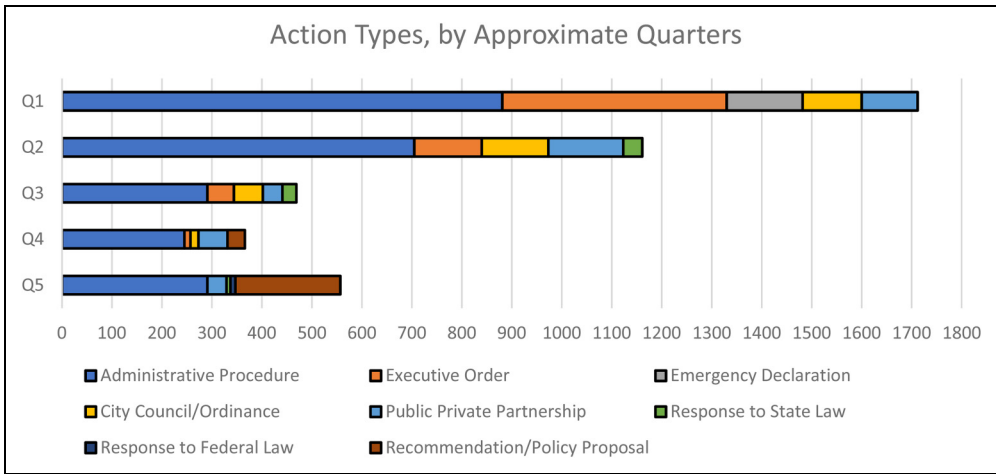


Figure 2. Top Five Action Types Taken by Local Governments, by Approximate Quarters. Note: The complete dataset contains a total of nine different action types taken by local governments. Court Orders was not in the top five action types in the time periods examined.

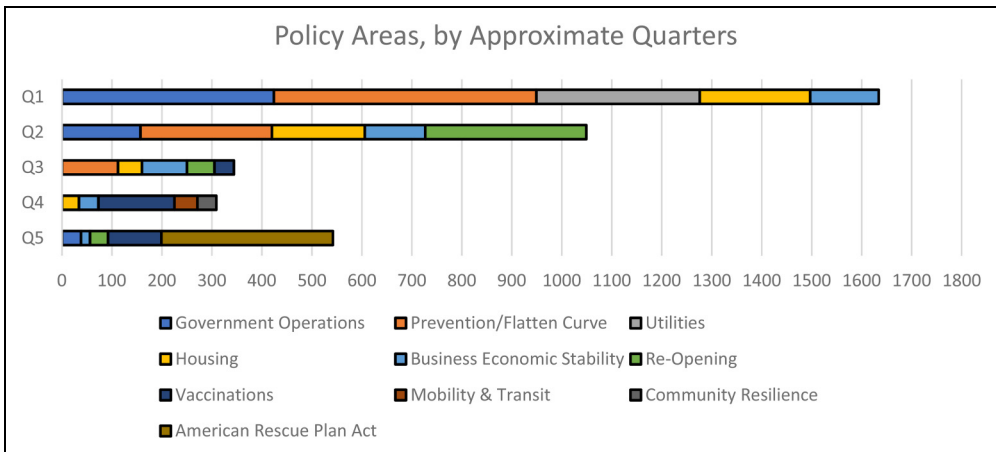


Figure 3. Top Five Policy Areas Addressed by Local Governments, by Approximate Quarters. Note: The complete dataset contains a total of twenty different policy areas addressed by local action. Communication, Individual/Family Economic Stability, Digital Connectivity, Participatory Governance, Food/Nutrition, Medical/Behavioral Health Services, Public Safety/Law Enforcement, Education and Childcare, Combatting Discrimination, and City Fiscal Stability were policy areas outside of the top five areas in the time periods examined.

Figures 2–4 summarize the NLC Local Action Tracker data by reporting the top five types of action taken, policy areas, and population targets of the policy by the approximate quarters shown in Figure 1. Totals exceed number of observations in the dataset due to some local actions having multiple codes. For example, the city council in

Daphne, Alabama adopted the mayor’s relief package to waive garbage fees for three months (General Public) and encouraged citizens to use those savings to patronize local retail and dining establishments (Small Business). We separate observations that contained multiple coding into individual counts for each action type, policy

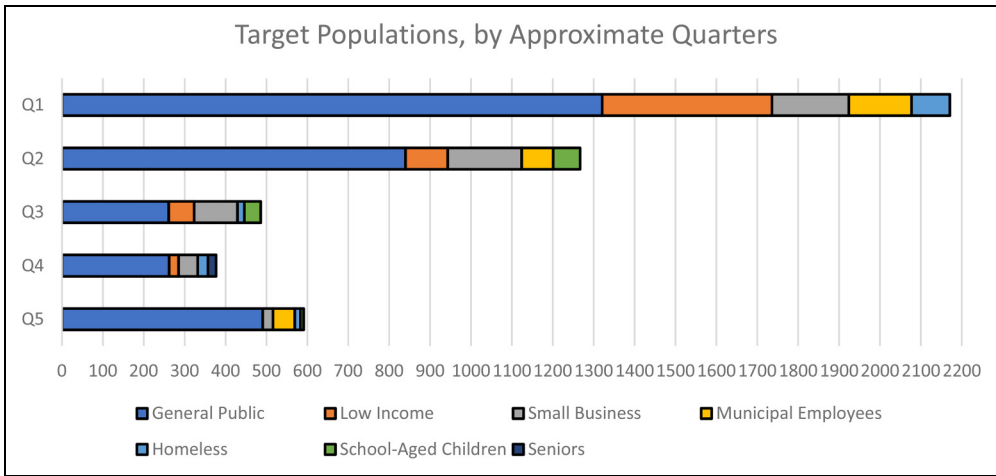


Figure 4. Top Five Population Targets by Local Governments, by Approximate Quarters. Note: The complete dataset contains a total of twenty different target populations addressed or impacted by local action. Incarcerated/Legally Involved, Tribal/Indigenous Communities, People with Disabilities, Immunocompromised/Chronically Ill, Undocumented/Mixed Status Immigrants, Non-English Speaking/ESOL, LGBTQIA, Children Under 5, College Students, Healthcare Workers, Military, First Responders/Essential Personnel, and Elected Officials were population targets outside of the top five during the periods examined.

area, and population target in order to obtain the most accurate picture of the potential effects of COVID-19 local actions.

Across all time periods examined, the most common action type taken by local governments was a change in Administrative Procedure in response to the pandemic, as shown in Figure 2. The National League of Cities defines this action as a *change in practice or activities taken by the governing body*. This action type is broad and captures things such as moving city council meetings online to suspending utility shut-offs to changing city pool operation hours. The increase in Recommendations/Policy Proposals in the most recent time period coincides with discussions about how to utilize American Rescue Plan Act (ARPA) funds.

Figure 3 illustrates how policy areas addressed by local governments changed over time. The premature move toward “re-opening” in the summer months of 2020 is depicted with the green bar. From May to September 2021, local governments have largely shifted focus to actions related to the ARPA. In June 2021, the city council in El Cajon, California, for example, voted to earmark

\$500,000 of the ARPA funds for a pilot program for social workers to respond to calls involving people in crisis rather than the police.

Figure 4 provides a picture of the target populations addressed or impacted by local actions. The General Public is the most frequent target population of local action. During the first phase of the pandemic, low-income individuals benefited from local actions such as suspension of utility cut-offs. Small business owners were regularly addressed by local actions, but to a declining extent as the pandemic has worn on. Other groups, such as municipal employees, the homeless, and school-age children have also been target populations of local action.

As noted earlier, in addition to examining the actions taken by local governments, we are also interested in the relationship between local autonomy and COVID-19 local policy actions. We summed the number of local actions in each state and calculated the rate per 100,000 state population. We expected higher levels of local autonomy would result in higher rates of COVID-19 local actions per 100,000 population. Table 1 displays

Table I. Home Rule Factor Scores and Local COVID-19 Actions, per 100,000 Population.

Rank	State	Factor Score	Local Actions	Rank	State	Factor Score	Local Actions
1	Alaska	2.33	5.73	26	Wisconsin	-0.199	2.10
2	Massachusetts	1.932	1.18	27	Tennessee	-0.257	1.52
3	New Jersey	1.737	0.81	28	South Dakota	-0.306	0.34
4	New Mexico	1.666	2.17	29	Michigan	-0.353	0.84
5	Ohio	1.59	1.50	30	Rhode Island	-0.384	1.00
6	Montana	1.437	0.37	31	Connecticut	-0.425	0.25
7	Utah	1.416	0.09	32	Indiana	-0.468	1.08
8	Kansas	1.302	0.99	33	Virginia	-0.554	1.24
9	South Carolina	1.251	0.49	34	Alabama	-0.59	0.74
10	Illinois	1.087	0.84	35	Arizona	-0.604	2.70
11	Iowa	.942	1.76	36	Minnesota	-0.619	1.40
12	Maine	.866	0.59	37	Georgia	-0.631	0.63
13	Colorado	.836	2.55	38	Delaware	-0.647	1.11
14	Louisiana	.801	2.00	39	New York	-0.669	0.77
15	California	.343	1.78	40	Hawaii	-0.869	2.54
16	Arkansas	.234	1.73	41	Nebraska	-1.039	3.52
17	Mississippi	.213	0.20	42	Idaho	-1.04	1.25
18	North Dakota	.174	0.26	43	West Virginia	-1.125	0.39
19	Missouri	.068	1.17	44	Pennsylvania	-1.161	0.85
20	Kentucky	.062	1.95	45	Nevada	-1.162	2.51
21	Texas	.033	1.63	46	Vermont	-1.243	0.47
22	Oregon	.008	1.30	47	North Carolina	-1.248	1.59
23	Wyoming	-0.111	2.60	48	Washington	-1.321	1.14
24	Florida	-0.143	1.14	49	New Hampshire	-1.449	0.58
25	Maryland	-0.186	1.04	50	Oklahoma	-1.528	1.34

Source: Home Rule Factor Scores: Wolman et al. (2010); Local COVID-19 Actions per 100,000 population calculated by authors using data from National League of Cities.

each state’s home rule factor score and the number of local COVID-19 actions per 100,000 population.

We found no meaningful correlation, however, between Home Rule Factor Scores and the rate of COVID-19 local actions per 100,000 population (Pearson’s $r = .15$), as depicted in Figure 5.¹

Discussion

State and local government officials should not conclude from our findings that states with low home rule factor scores necessarily had local officials acting outside their purview of power. The landscape of local autonomy within states can differ dramatically depending on the state law or

constitution, potentially leading to some local governments in low autonomy states having an opportunity to act whereas other local governments in the same state may have been restricted from action. Likewise, state pre-emptive action in high autonomy states likely helps explain the relatively low level of actions in a state such as New Jersey. It’s beyond the scope of this field note to examine why some states with low (high) levels of local autonomy engaged in high (low) levels of action, but we offer some additional suspected explanations for this finding to pursue in future studies.

Factors such as politics or local culture, particularly in rural states, may have resulted in some local government authorities shying

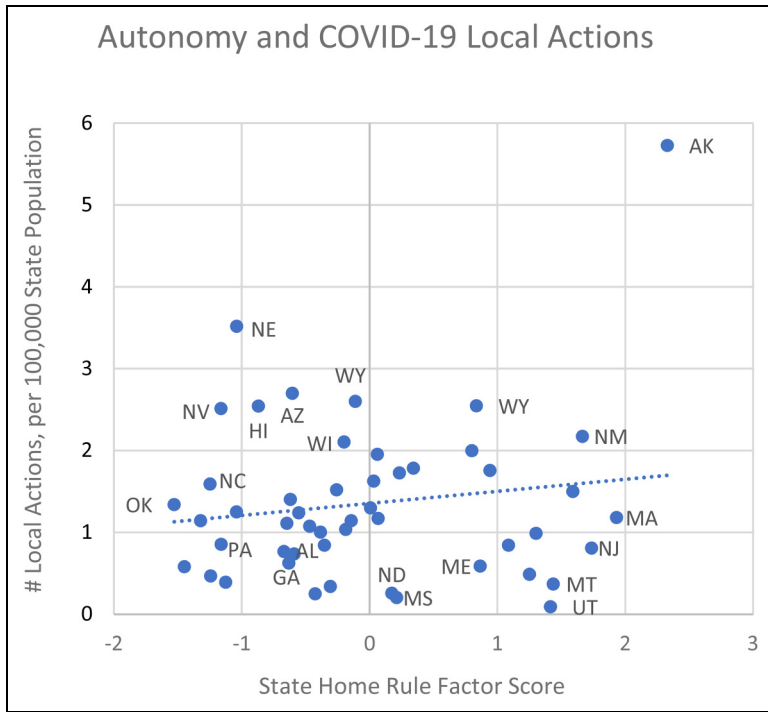


Figure 5. Scatterplot of State Home Rule Factor Scores and COVID-19 Local Actions per 100,000 Population, with Linear Line. Note: State home rule factor scores from Wolman et al. (2010). Higher scores indicate greater local policymaking autonomy within the state.

away from COVID-19 policymaking. It may not, therefore, be surprising that some local governments took few actions even when home rule factor scores indicate they could. Conversely, some local governments with low levels of autonomy may have engaged in numerous actions, but remained within their orbit of power. Further examination of the influence of local public health legal infrastructure (Costich and Patton 2012) on local action may provide insight to the finding that many local governments did not act as would be expected.

It may also be the case that states with a strong home rule tradition moved quickly to pre-empt local action. Perhaps Dillon Rule states felt less need to engage in preemption since local action was unexpected, particularly in the early stages of the pandemic. Examination of state preemption in response to or in advance of COVID-19 local actions may

prove valuable in understanding the effects of state-city conflict on the lives of citizens (Hicks and Weissert 2018) during the current pandemic. It may also help guide state and local government coordination and cooperation to better address future public health crises.

Conclusion

Our examination of the unique dataset created by the National League of Cities to track local government action during the pandemic reveals a high degree of action by local leaders to address the COVID-19 pandemic. The unexpected result showing some local governments did not act as would be expected based on their degree of autonomy raises additional questions. Future avenues of research on local public health infrastructure and state preemption should shed more light on this contentious aspect of federalism in the United States.

These data also provide local government scholars an opportunity to examine how different forms of municipal government may affect different types of actions taken or policies pursued, how severity of local COVID-19 case rates and/or related deaths may have influenced local actions, or how partisanship may have played a role in government response. Scholars with an interest in target populations of policies may find this dataset useful in examining differences in local actions across or within states. These data present state and local government scholars multiple avenues for research, but also serve as an important source of information for local government officials to see what actions were, and continue to be, taken to tackle the COVID-19 pandemic.


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Note

1. At the time of writing, the dataset only contained 356 local actions related to ARPA funds. As noted by a reviewer, all local governments received these funds regardless of home rule status. The analysis did not change substantially with the removal of these observations (Pearson's $r = .145$ versus $.148$), but future studies using the dataset should consider this as there will likely be more observations of ARPA-related local actions.

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