

Public Health Law 101

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Public Health Law Program

- **What we do**
 - Legal epidemiology
 - Workforce development
 - Partnerships and outreach
- **Whom we serve**
 - CDC programs
 - State, tribal, local, and territorial (STLT) communities
 - YOU!



Legal **HISTORY** reveals both
the **POWER & LIMITATIONS**
of government authority
to protect the public's
health





The *Broad Street* Pump



New York **before sanitation reform**



...and New York **after the reform**



The story of a
1902 smallpox
outbreak in
Massachusetts



But the liberty secured by the Constitution of the United States to every person within its jurisdiction **does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good.** On any other basis, organized society could not exist with safety to its members."



**This history forms the
foundation for public
*health law today***



Who has the power
**to shape public
policy to improve
public health?**

WE THE PEOPLE of the
insure domestic Tranquility, provide for the common defence
and our Posterity, do ordain and establish this Constitution



Look to the US Constitution



**What are the public
health powers of the
*federal government?***



**Federal regulations
can incentivize**

local action



The states have the primary responsibility
for public health

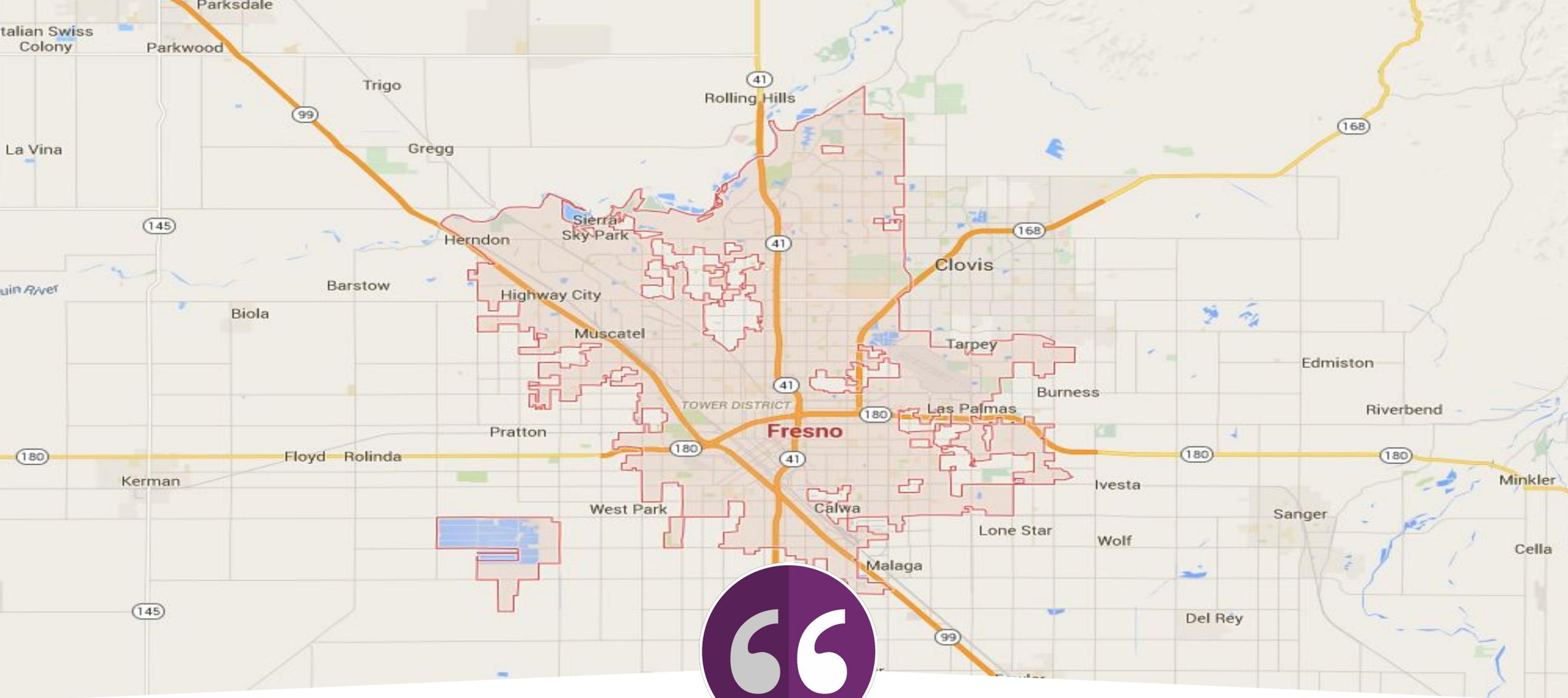


Police Power

Promotes the public health, safety, & the general well-being of the community

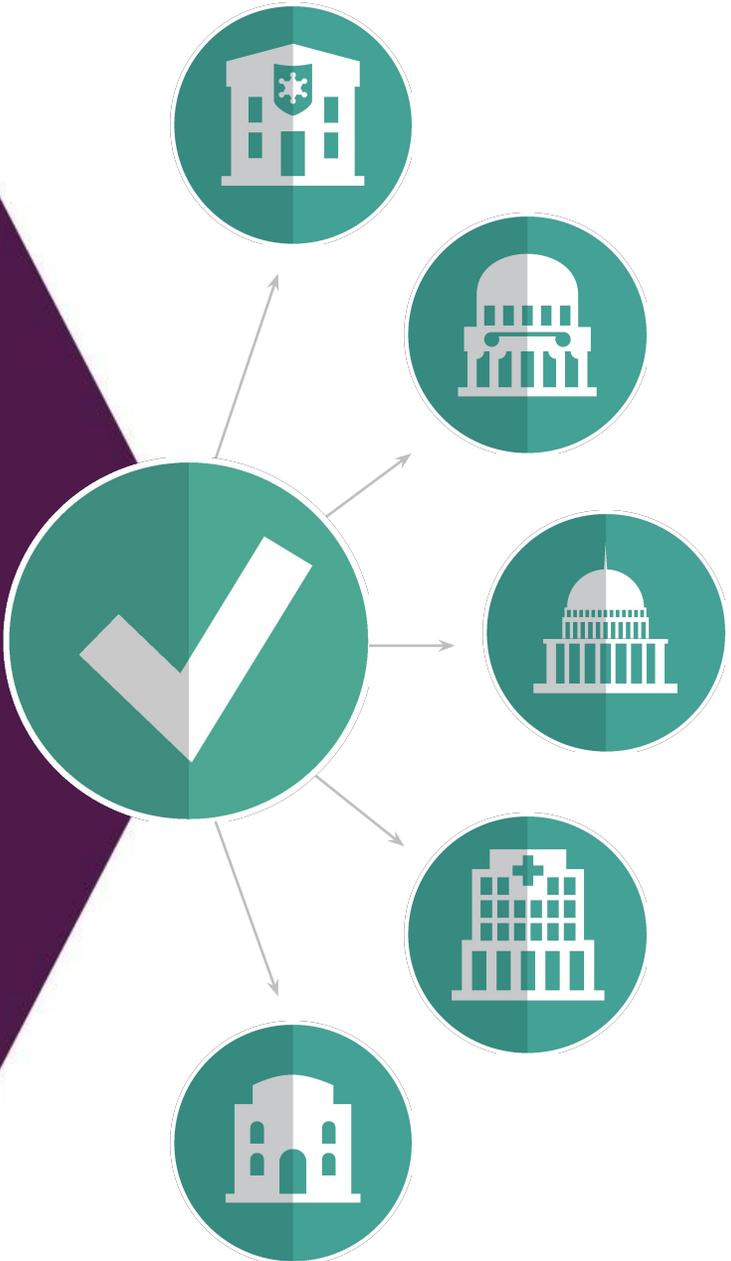
Enacts & enforces laws for general welfare

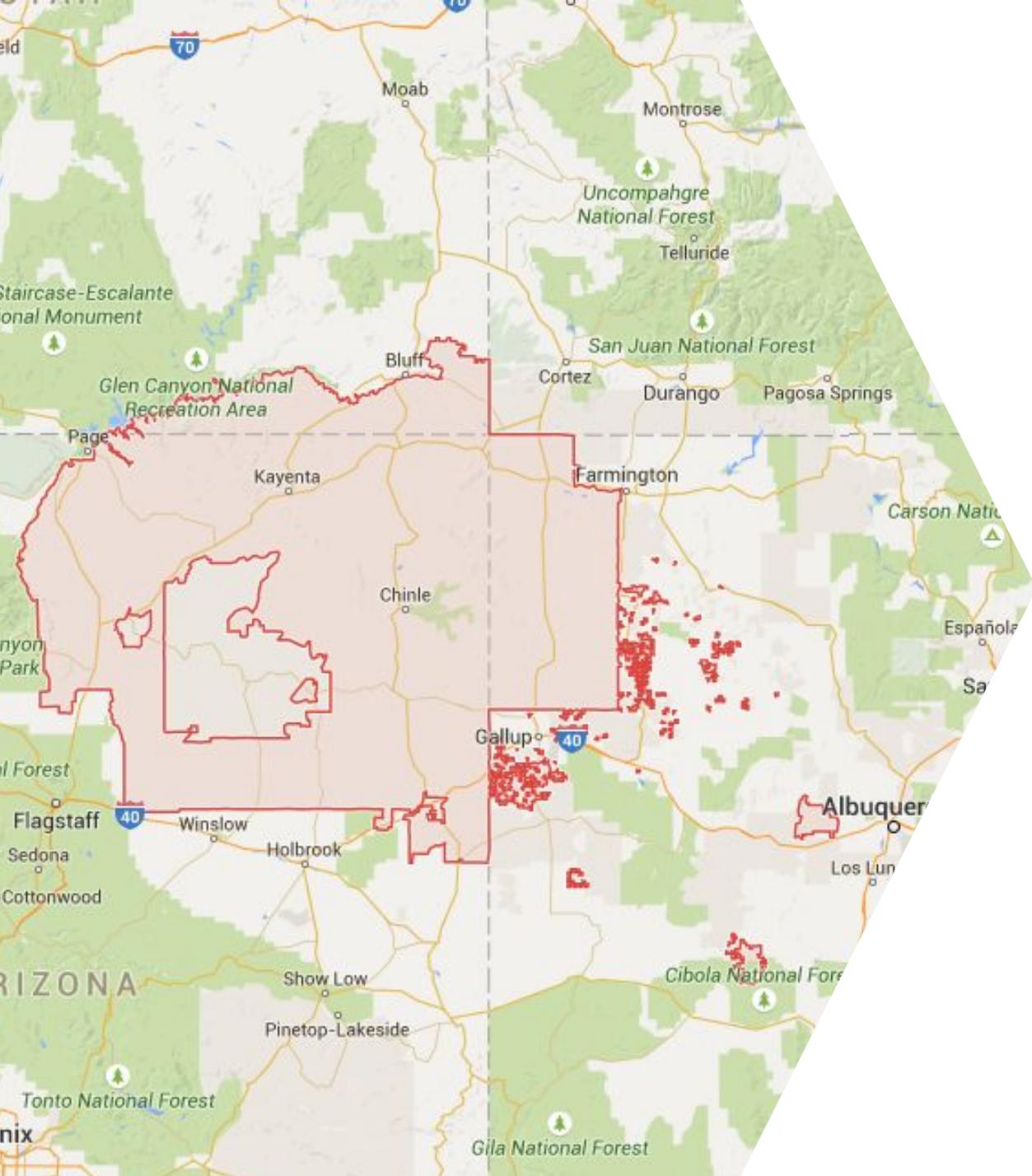
Regulates private rights in the public interest



“A county or city may make & enforce within its limits all local, police, sanitary, & other ordinances and regulations not in conflict with general laws.”

State & local
government
can...





What about tribal
sovereignty?

WE THE PEOPLE of the
insure domestic Tranquility, provide for the common defence
and our Posterity, do ordain and establish this Constitution



What are the major sources of U.S. Law?

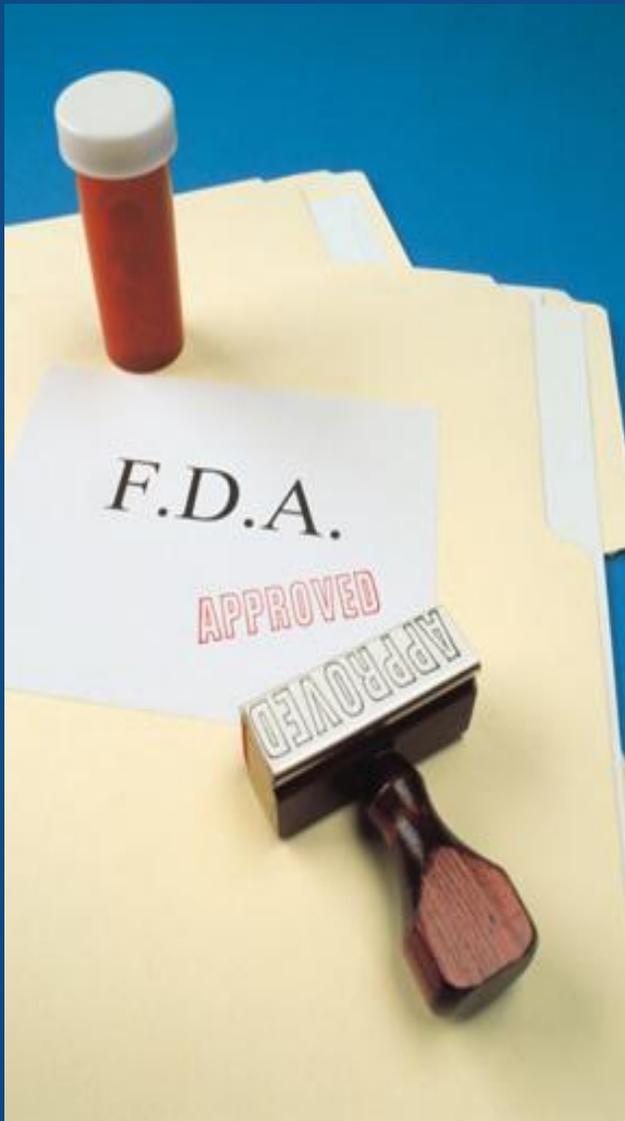
Statutes

- Express the intent of the legislative branch
- Create and empower executive agencies
- Provide agencies authority to promulgate regulations and oversee regulated activities
- Appropriate money
- Make certain activities crimes



Regulations

- Regulations are agency-made rules that:
 - Implement the letter and intent of statutes
 - Prescribe the standards that people and companies must follow in order to be lawful while engaging in a certain activity
- Tend to be more detailed and technical than statutes



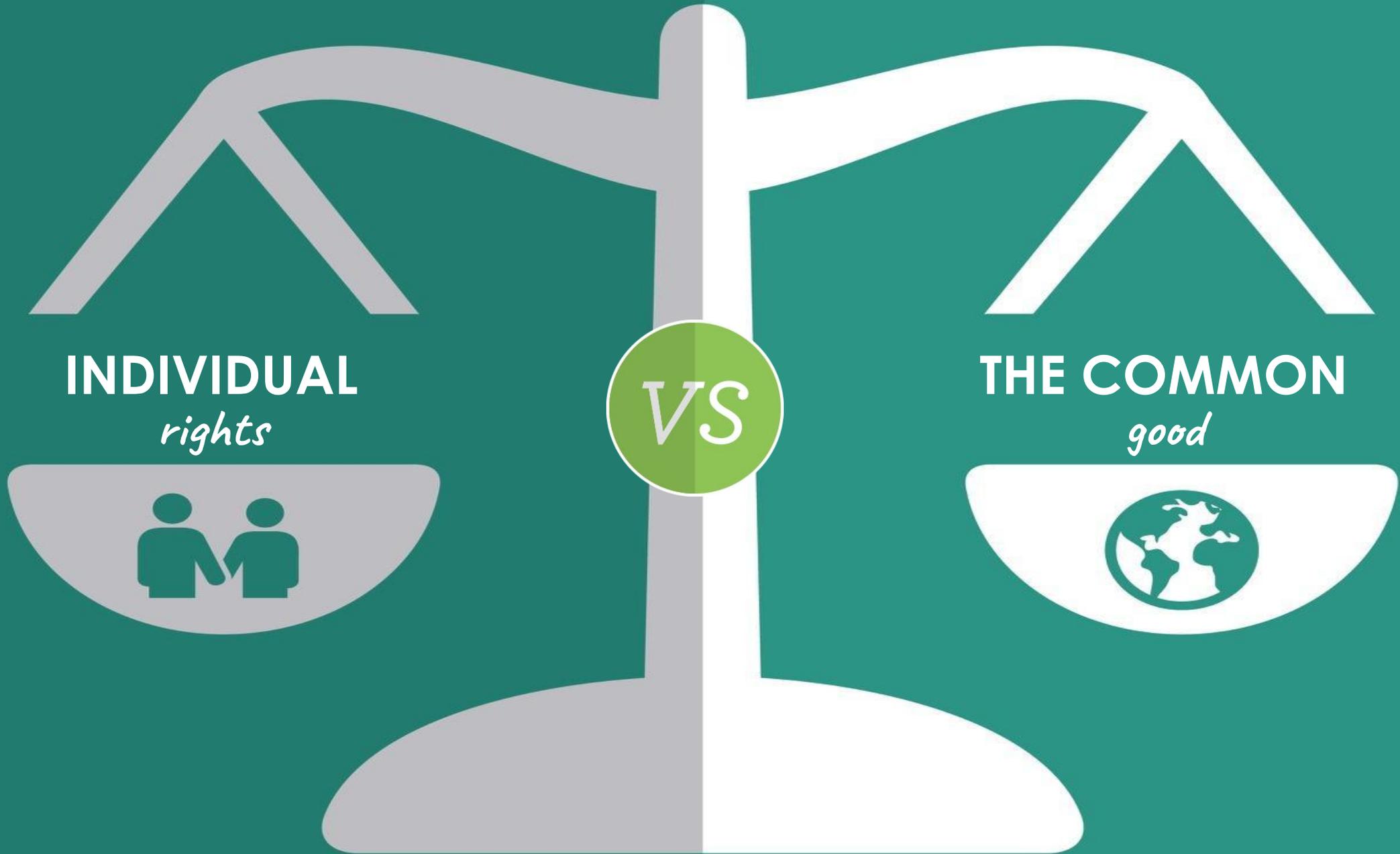
Case Law

- “Case law” is made by courts interpreting the Constitution, statutes, and regulations while ruling on disputes between parties.
- If case law comes from the same jurisdiction and is from a higher court, the rulings are binding on the lower court.





**What are the
limitations on this
*power?***



INDIVIDUAL
rights

VS

THE COMMON
good



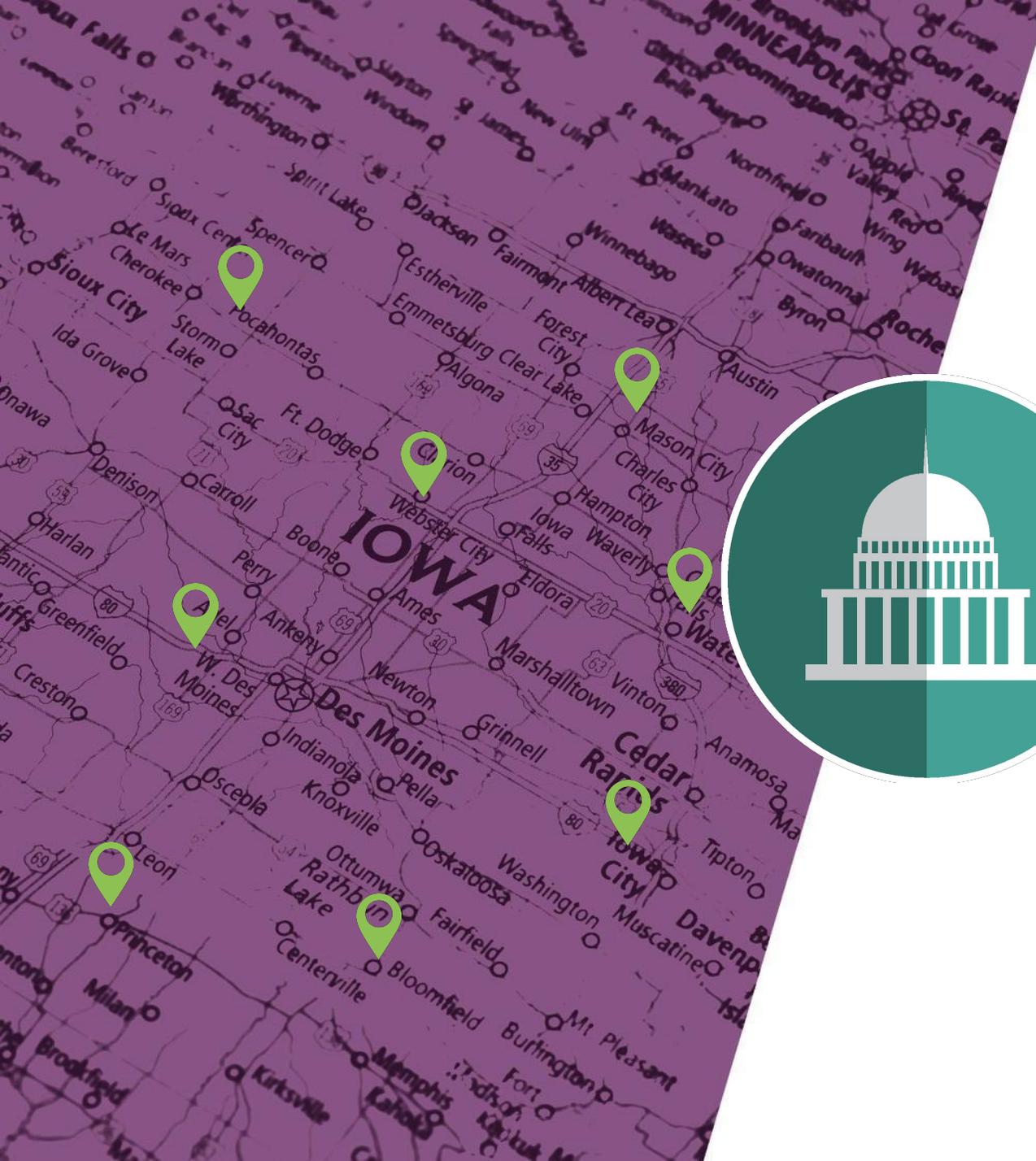
According to the 5th & 14th
**amendments, the government
cannot deprive individuals of
life, liberty, or property without
due process of law**

A Primer on Preemption



Delegation of Power: 10th Amendment

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”



State Plenary Powers

Distribute power between the state government and local governments



What is preemption?

When the law of a higher level of government trumps the law of a lower level of government



State Laws Vary. Home Rule:

“A county or city may **make** and **enforce** within its limits **all local, police, sanitary, and other ordinances and regulations** not in conflict with general laws.”



State Laws Vary. Dillon's Rule:

Local governments have **only** those powers that are:

Explicitly granted

Implied from a specific grant of authority

Essential to the purposes of government

Legal **HISTORY** reveals both
the **POWER & LIMITATIONS**
of government authority
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Thank You

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The findings and conclusions in this report are those of the authors and do not necessarily represent the official position of the Centers for Disease Control and Prevention.

