

# What laws and regulations authorize US government efforts to control the pandemic?



## UNDER THE CONSTITUTION

**Powers given to the Federal Government:**  
Interstate Commerce Clause - *Can regulate*  
Appropriations Clause - *Can spend money*  
Necessary and Proper Clause - *Can write laws*

**Relevant Limits on Federal Power:**  
Rights Reserved to States - *State Rights*  
Freedom of Assembly

## WHY ISN'T THERE ANYTHING SPECIFIC ABOUT QUARANTINE IN THE CONSTITUTION?

When the constitution was written, infectious disease was a common occurrence and the laws surrounding quarantine and isolation were well established locally.

Not until the 19th century did Congress, using the Interstate Commerce Clause, intervene in state efforts to prevent the spread of yellow fever.

## FEDERAL AGENCIES

In emergency preparedness, the federal government maintains a wide range of health experts in the Department of Health and Human Services (HHS). This department administers the Center of Disease Control (CDC) and the National Institute of Health.



OTHER RELEVANT AGENCIES:  
FEMA : DISASTER RELIEF  
FDA: NEW DRUG APPROVAL  
SBA: LOANS FOR SMALL BUSINESSES



## CONGRESS

In 2020, Congress has passed 6 emergency spending bills relating to COVID-19, including the Coronavirus Aid, Relief, and Economic Security (CARES) Act freeing up \$2.59 trillion in monetary resources for agencies to disperse in relief programs.

## THE STRATEGIC NATIONAL STOCKPILE (SNS)

The federal government invests millions of dollars in a stockpile as a stopgap measure to address immediate problems in major public health emergencies.



## THE SUPREME COURT WEIGHS IN

### *Morgan's Steamship Co. v. Louisiana Board of Health (1886)*

While states typically are in charge of quarantine laws, Congress can act to supersede.

### *Jacobson v. Massachusetts (1904)*

A law requiring the smallpox vaccine was upheld and found to be an appropriate use of state power to protect the health of citizens.

### *Roman Catholic Diocese of Brooklyn v. Cuomo (2020)*

The court preliminarily ruled that numerical limitations on worship services violated First Amendment rights of freedom of assembly.



## WHAT IS AN "ESSENTIAL BUSINESS"?

States have the legal authority to enforce quarantine, isolation policies and temporarily close businesses, but in today's world this can create new problems. Across the US, many states have faced lawsuits on their COVID restrictions asking the questions:

*How do we define an essential business?*  
*How can the state enforce mask policies?*  
*How is social distancing in line with the freedom of assembly?*



## 50 STATES



States have policing power authority which grants them the ability to regulate all pandemic efforts that do not conflict with federal efforts. This authority also allows them to declare "a state of emergency" quickly freeing up emergency funding and resources.

The National Guard is in part under state authority and has been used to support state lead COVID testing.

## LOCAL GOVERNMENT: THE COUNTY LEVEL

In 2020, the US has 3,143 counties and county equivalents.

Smaller jurisdictions allow for more tailored solutions. Counties are sometimes able to better assess the needs of and distribute state resources. But as creatures of state law they ultimately take direction from governors and state legislators.

Counties in the US support over 900 hospitals and 1,900 public health departments.



## Government Response Analysis



With so many cooks in the Washington kitchen, it's difficult to know whose responsibility it is to act, what role different agencies on different government levels have, and what laws and regulations give them that authority. While states have traditionally lead infectious disease control initiatives, much of the bureaucracy and the general public is inexperienced in handling a long term infectious disease crisis. A couple positive outcomes from COVID is an increased collaboration between states and further definitions from the supreme court on the use and limitations of the freedom of assembly. Crises are almost always local and as local governments continue to be extended past their budgets they will rely on states and ultimately federal government to make ends meet.



## Further Reading:

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- U.S. Response to Disasters and Public Health Emergencies - Section 2: U.S. Response Organizations. (n.d.). Disaster Information Management Research Center. Retrieved December 10, 2020, from [https://www.nlm.nih.gov/dis\\_courses/us\\_response/02-000.html#:~:text=The%20Department%20of%20Health%20and,preparedness%20and%20disaster%20response%20efforts.](https://www.nlm.nih.gov/dis_courses/us_response/02-000.html#:~:text=The%20Department%20of%20Health%20and,preparedness%20and%20disaster%20response%20efforts.)
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- Supreme Court Orders Preliminary Injunction in Roman Catholic Diocese of Brooklyn v. Cuomo. (n.d.). The National Law Review. <https://www.natlawreview.com/article/supreme-court-orders-preliminary-injunction-roman-catholic-diocese-brooklyn-v-cuomo>
- State Emergency Authorities to Address COVID-19. (2020, August 24). Lawfare. <https://www.lawfareblog.com/state-emergency-authorities-address-covid-19>
- The Constitution of the United States: A Transcription. (n.d.). National Archives. <https://www.archives.gov/founding-docs/constitution-transcript#toc-section-8->
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