MAINTAINING HONOR IN PUBLIC SERVICE

- COMPARATIVE LAW PRESENTATION

- INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION (IMLA)/ ASOCIATION LETRADOS ENTIDADES LOCALES (ALEL)
  - Lori Grigg Bluhm, City Attorney, City of Troy Michigan, USA

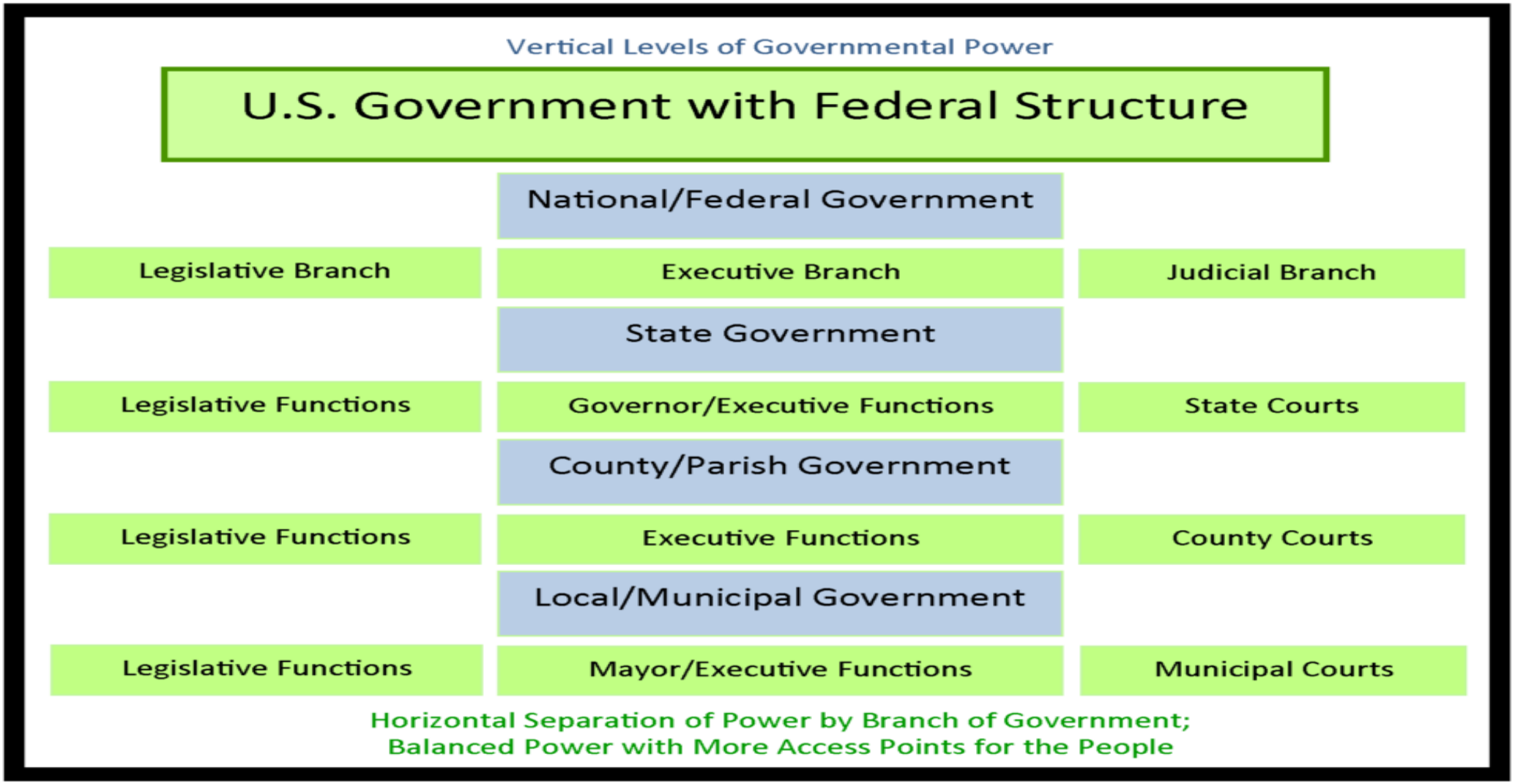


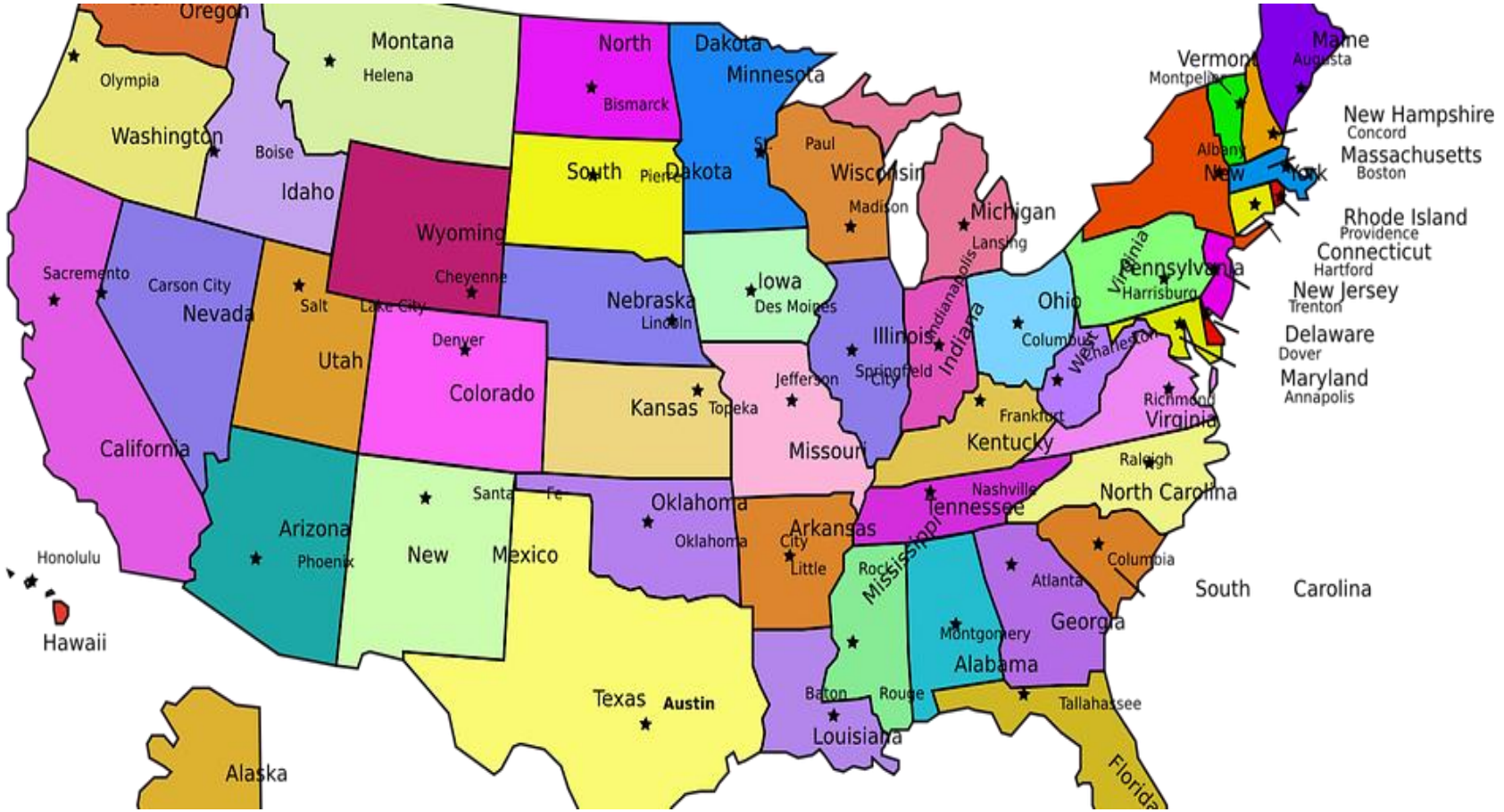
NO HIGHER CALLING

- Public servants have unique loyalty to uphold laws and to the public, not necessarily the employer
- Chance to improve the community & individual lives
- Privilege based on moral foundations & not private gain
- Responsibility to prevent, refrain from, and disclose corruption, fraud, abuse
- Professional codes may also apply- appointed officials
- Civil service protections/ Contractual- Collective Bargaining Agreements set some parameters



LAYERS OF US GOVERNMENT





50 STATES & 5 TERRITORIES
Approximately 89,000 local government entities

Counties, Cities, Townships, Villages, Parishes, Boroughs, Special Districts and School Districts- Illinois has 6918, Hawaii has 21- 2017 Census Info- Michigan has 2863

Breaches of Public Trust



- Bribery/ Acceptance of Kick Backs
- Embezzlement/ Extortion
- Fail to disclose/ abstain when conflict of interest
- Misuse or wasting of public resources
- Wrongful disclosure of confidential information
- Making promises without authority to do so
- Use of information or position for personal gain or enrichment
- Improper performance of duties rising to level of gross negligence
- Discriminatory behavior
- Criminal Conviction
- Obstruction of justice
- Conveying inaccurate or false information
- Campaign violations
- Habitual intoxication

Anti-Corruption Tools- Electeds

- Limited if local official is **ELECTED**
  - If criminal actions- prosecution by higher level of government
  - Possible removal from office by higher level of government
  - Recall Election/ Defeat At Next Election
  - Censure
  - Action against bonds
  - Possible professional license sanctions if violation of code
  - Lawsuits against official and/or local unit of government
    - No municipally funded legal representation or damage coverage if intentional or grossly negligent conduct
    - Mandamus Lawsuits for specific performance of duties
    - Quo Warranto Writ- extraordinary relief for public



Anti- Corruption Tools – Appointed Officials/ Employees

- If local official is **APPOINTED** or **CIVIL SERIVCE-**
  - If criminal- prosecution by higher levels of government
  - Termination if at will employee- not civil servant or union
  - Due process hearings if civil servants or union employee
  - Lawsuits against official and/or local unit of government
    - No municipally funded legal representation or damage coverage if intentional or grossly negligent conduct
    - Mandamus Lawsuits for specific performance of duties
    - Quo Warranto Writ- extraordinary relief for public
    - Whistle blower lawsuits if retaliation
  - Restitution
  - Professional licensure sanctions
  - Disclosure of misconduct to future employers
  - Actions against bonds- financial performance



Additional Mitigation/ Guards

- Strong federal constitution/statutes/ officials
- Solid state constitutions/ statutes/ officials
- Separation of powers- with judicial oversight
- Robust Ethics Code/ Enforcement/Training
- Competitive Bidding and Conflicts Disclosures
- Top officials' expressed commitment to integrity
- Annual financial audits by independent sources
- Required financial reporting to higher levels of gov't
- Strong open meetings and open records statutes
- Comprehensive media investigations and coverage



FEDERAL GOVERNMENT ENFORCEMENT

PUBLIC INTEGRITY SECTION- US ATTORNEYS OFFICE/ FBI 5188
cases against local officials since 2001 in all 50 states

- Federal Program Bribery Statute- 18 U.S.C.A. Section 666 (a)(2)
- Hobbs Act- 18 U.S.C.A. Section 1951- interstate commerce/ extortion
- Travel Act- 18 U.S.C.A. Section 1952- distribution of criminal proceeds
- Mail Fraud/ Wire Fraud- 18 U.S.C.A. Section 1341/ Section 1343
- Honest Services Fraud Act- 18 U.S.C.A. Section 1346
- Racketeer Influenced & Corrupt Organizations Act- 18 U.S.C.A. Sec. 1961
- Bribery- 18 U.S.C.A. Section 201
- Blackmail & Others - 18 U.S.C.A. Section 872-880
- Campaign Finance Act Violations- 52 U.S.C.A. Sections 30114, 30116
- Constitutional Violations/ Civil Rights lawsuits



Long Term Costs

- Public mistrust of ALL officials and employees for **several years**
- Mandated disclosure of confidential documents if investigation
- Polarizing elections- and potential recall elections
- Complete lack of confidence in municipal officials and employees
- High rate of employee stress/ turn-over/ inability to competitively hire
- Increased levels of scrutiny from public and other government officials
- Prejudiced in lawsuits- forced settlements and target for new cases



QUESTIONS?

