

# Legal Perspectives: What to Expect How to Handle the Activists



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# Short Answers

- What to Expect
  - Passionate Beliefs
  - Emotional Responses
  - Not much understanding of the law
  - Less understanding of Constitutional Rights
  - A Lack of Respect for Boundaries
- How to Handle the activists
  - Respect the rights of everyone
  - Plan, Communicate, and Plan

# Who Might Show Up

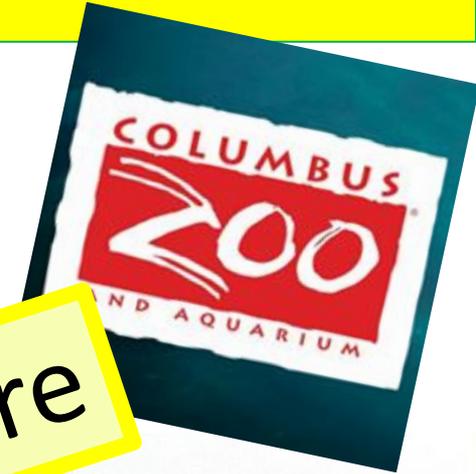
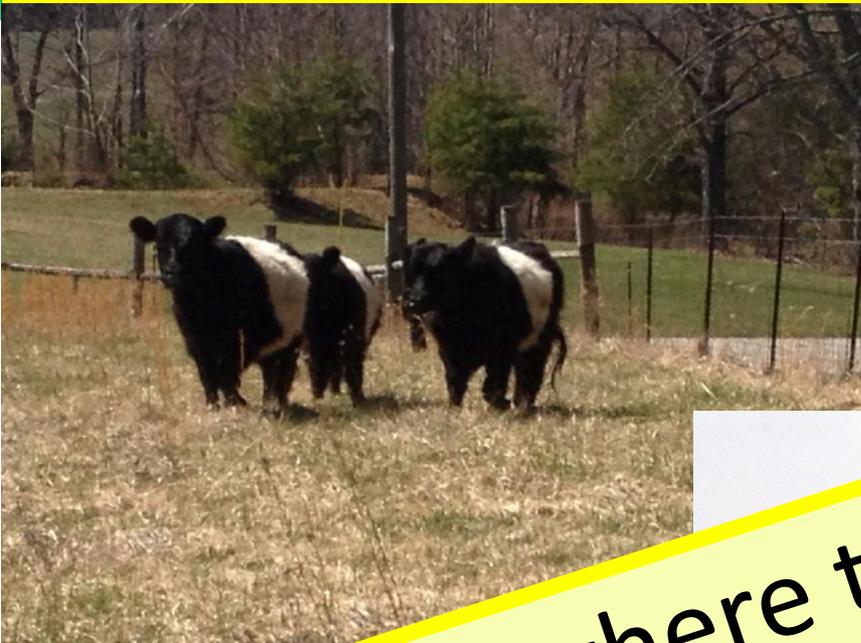
In Defense of Animals  
ANIMAL ACTIVIST MENTOR LINE  
1 800 705 0425



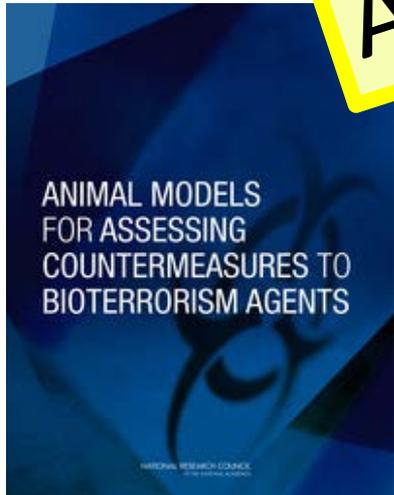
- Who is opposed to the ownership of animals?
- Why?
- What is the law?



# Where?



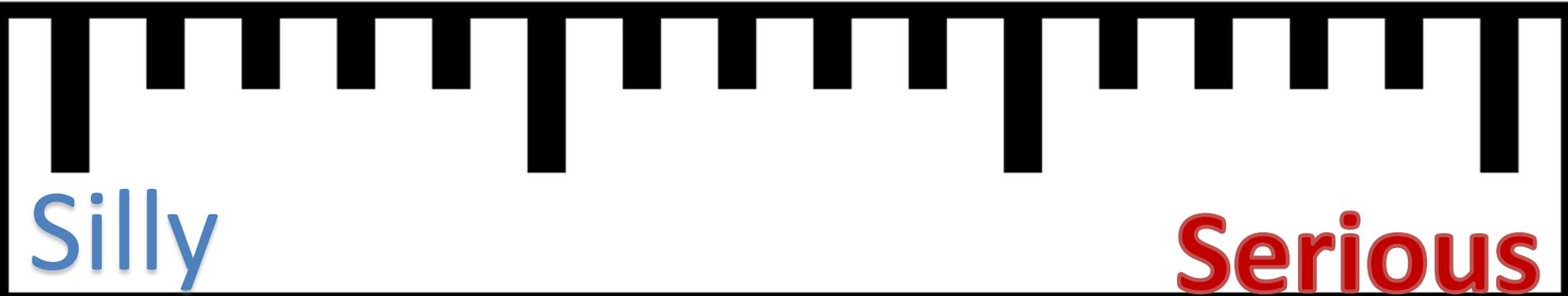
Anywhere the animals are



Doug McKenzie Collection

# What?

On A Sliding Scale

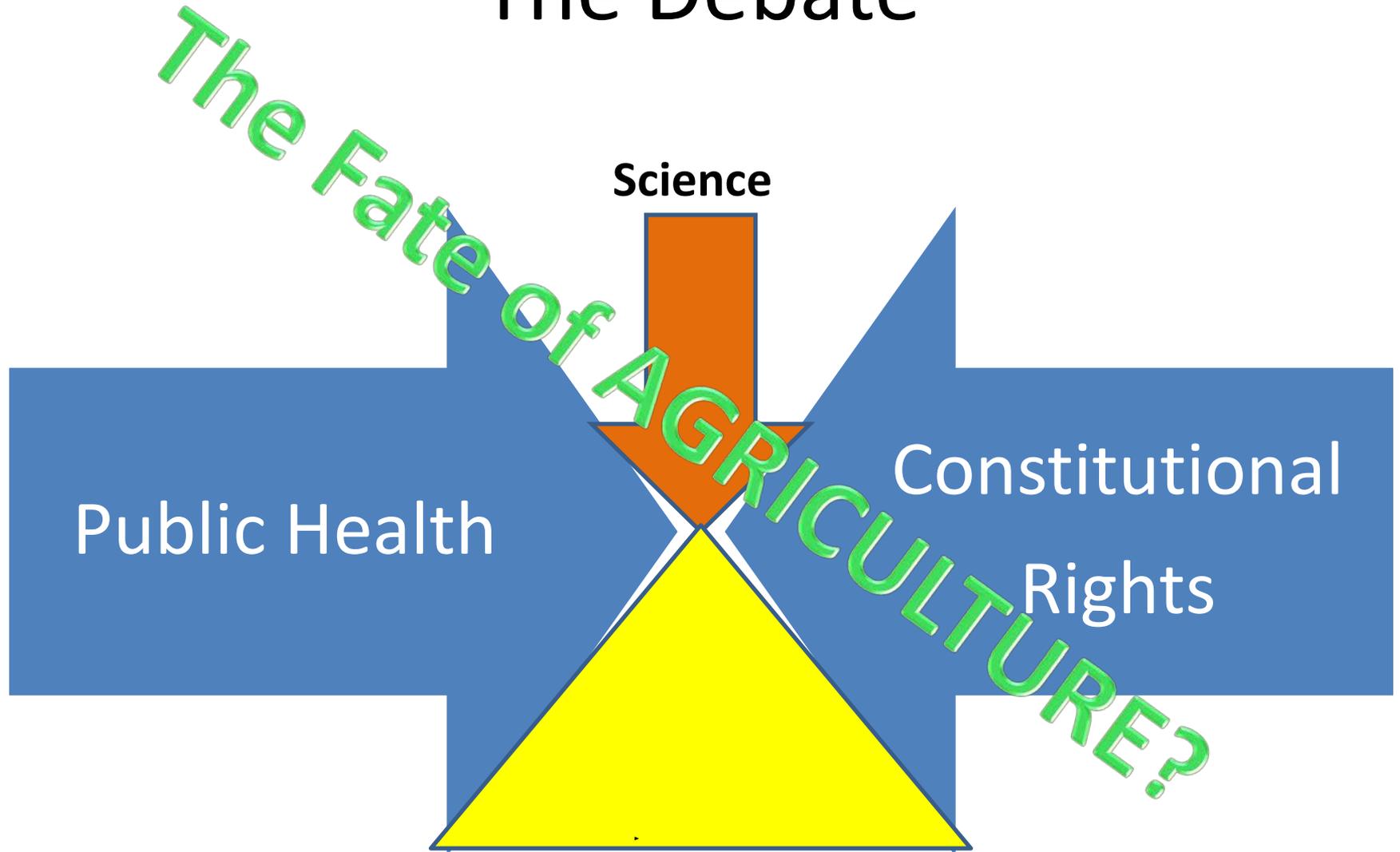


Demonstrations  
False Advertising

Picketing

Sabotage  
Destruction  
Traffic Stops  
Litigation  
Regulation  
Legislation

# The Debate



# Debates du Jour

- What should the animal human relationship be?
- IS it “speciesism” to deny animals basic human rights?
- Should we eat meat for protein and other nutrients?
- Should we produce animals for research or stop the advancement of medical knowledge if the use of animals is required?
- Who should make these determinations? What is the role of Local, State or Federal government?

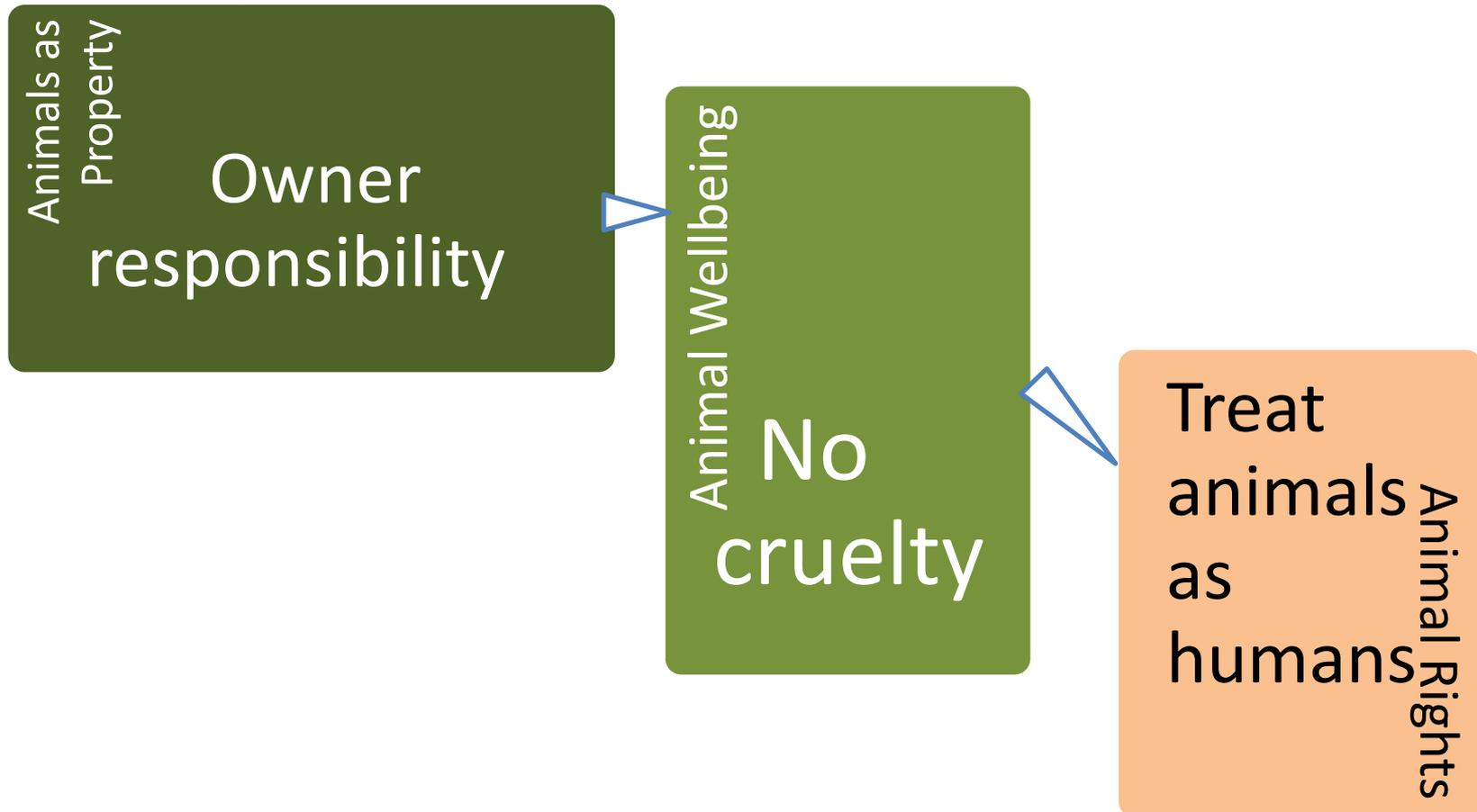
# What if animals had **rights**?

- Who would determine what care is adequate?
  - \$17,000 to save the life of a completely blind 4 year old dog
- Who would pay for the care of the animals?
- Who would serve as their guardian ad litem?
- Will we need special animal treatment courts like we have for drug treatment?

Place these questions on hold and look at the current legal system.

# Animal Law

- Range of views on what animal law should be



# What are the differences?

## **Animal Welfare**

- Owners determine care and use
- Owners provide care that is appropriate to the species and breed
- No abuse nor neglect

## **Animal Rights**

- Give animals rights of personhood.
- Treat animals like children
- Adapt the concept of the children in need of services (CHINS) system to apply to animals whose owners do not care for them to the standards the rights groups want

# Legal History

- Most of US adopted English Common Law
- Animals are property subject to government laws and regulations.
- The question of the day is whether the romance with rights has overwhelmed the question of how to care for animals properly.
- Why are the arguments shifting from animal rights to arguments/issues such as food security (FSMA) requiring cost prohibitive regulations?

# In all states

- Animals are property
- Except for
  - Wild
  - Feral
- No animal rights
- Owner Responsibilities

# Domesticated Animals are Owned

- Ownership rights and responsibilities are established by law of the state.
- Ownership rights are property rights and often described by the analogy to a bundle of sticks.
- Increasing pressure to have the federal government preempt state law.
- Constitutionally, federal regulation of the animal ownership not defensible.

**When  
Constitutional  
Rights collide...**

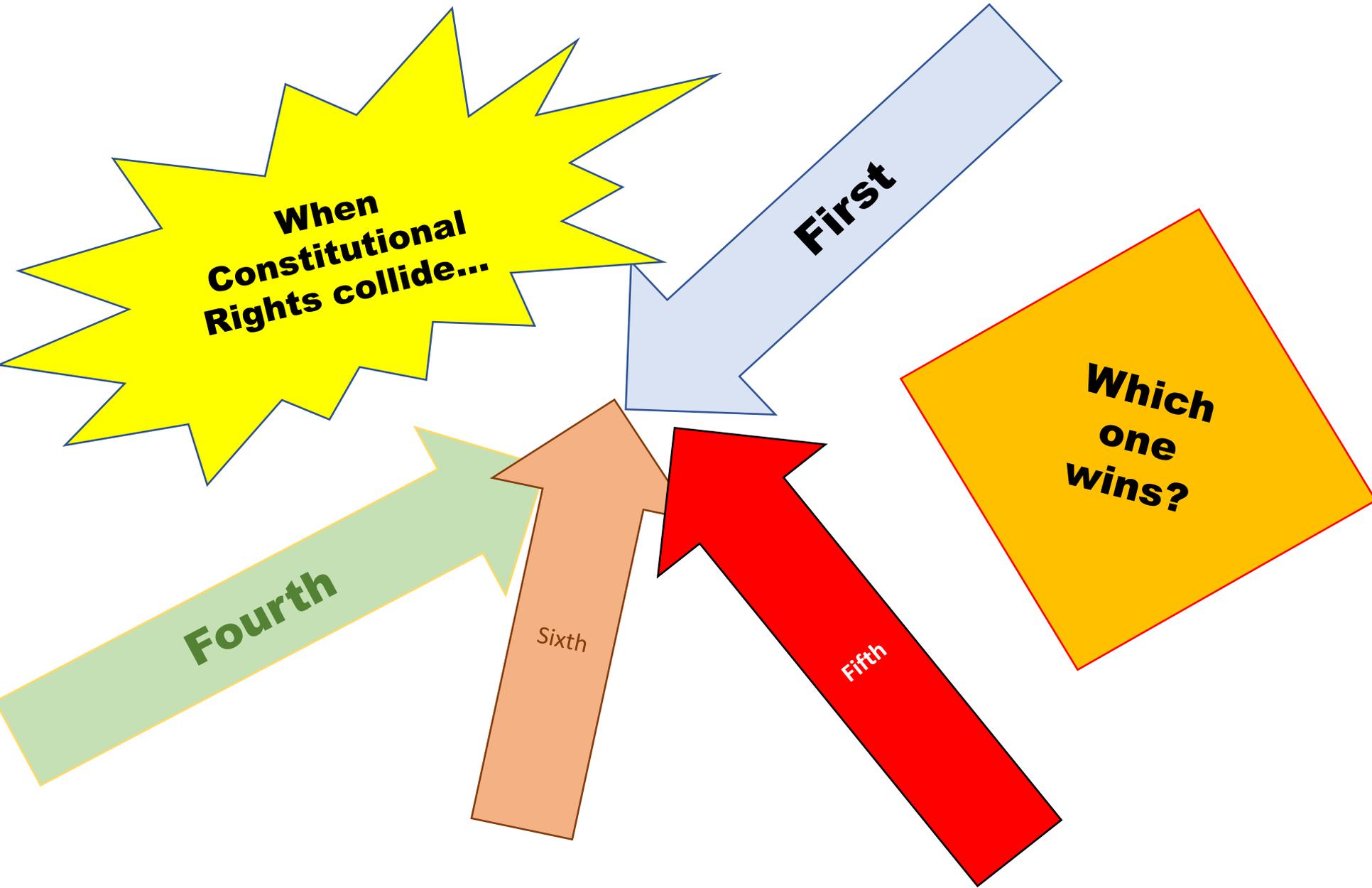
**First**

**Which  
one  
wins?**

**Fourth**

Sixth

Fifth



# Constitutions

- Federal Constitution, Section. 8. The Congress shall have Power To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;
- Tenth 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 Constitutions vary but they also guarantee rights of property ownership.
- Watch the Amendment efforts to the state constitutions.

# Who Has Which Constitutional Rights?

## Owner

**A party that possesses the exclusive right to hold, use, benefit-from, enjoy, convey, transfer, and otherwise dispose of an asset or property.**



## Activist

A person who engages in direct vigorous action especially in support of or opposition to one side of a controversial issue.



# U. S. Bill of Rights

## 1<sup>st</sup> Amendment

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

## 4<sup>th</sup> Amendment

The right of the people to be secure in their persons, houses, papers, and effects against **unreasonable searches and seizures** shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or **things** to be seized.

# U. S. Bill of Rights

## **5<sup>th</sup> Amendment**

No person shall be ... nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

## **6<sup>th</sup> Amendment**

In all criminal prosecutions, ... and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

# Bill of Rights

## **7<sup>th</sup> Amendment**

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law.

## **9<sup>th</sup> Amendment**

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

# FEDERAL LAWS

- More than 50 federal laws have been enacted to protect animals:
- The [Animal Welfare Act](#)(AWA) primarily governs the use of animals in research and education.
- The Health Research Extension Act of 1985, which amended the U.S. [Public Health Service Act](#), is the other significant federal law that governs the use of animal in research by federally funded institutions.

# Burden on Legal System

- 1 to 2 years to get a divorce tried.
- Less than 5% of criminal cases go to trial
- Average age of cases varies greatly but guidelines are not met; See data at National Center for State Courts
- Current cost of the justice system in the United States- 2008 – over one billion dollars for adjudication

# Law and Regulations

## **USDA and the Animal Welfare Act-APHIS**

- Covers dead or alive
- Dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warm-blooded animal
- Intended for use in research, testing, experimentation, or exhibition purposes, or as a pet
- All dogs including those used for hunting, security, or breeding purposes

## **HHS and the Health Research Extension Act of 1985-OLAW**

- Care and Treatment of animals used in research
- All research entities receiving funds under this act must all dogs including those used for hunting, security, or breeding purposes ( IACUC)
- (5) members min including vet and non associated person

# Knowing the law is half the battle

- Common Law and Property Rights
- Legal Categories of Animals
  - Wild –Exotics
  - Feral
  - Domesticated
- Know the Legal Issues for Dealing with Animal Rights Activists at Your Facility
  - Assess Ownership Authority –Public vs Private
- Assess Danger at or away from your facility

# Dwight D. Eisenhower

Remarks at the National Defense Executive Reserve Conference November 14, 1957

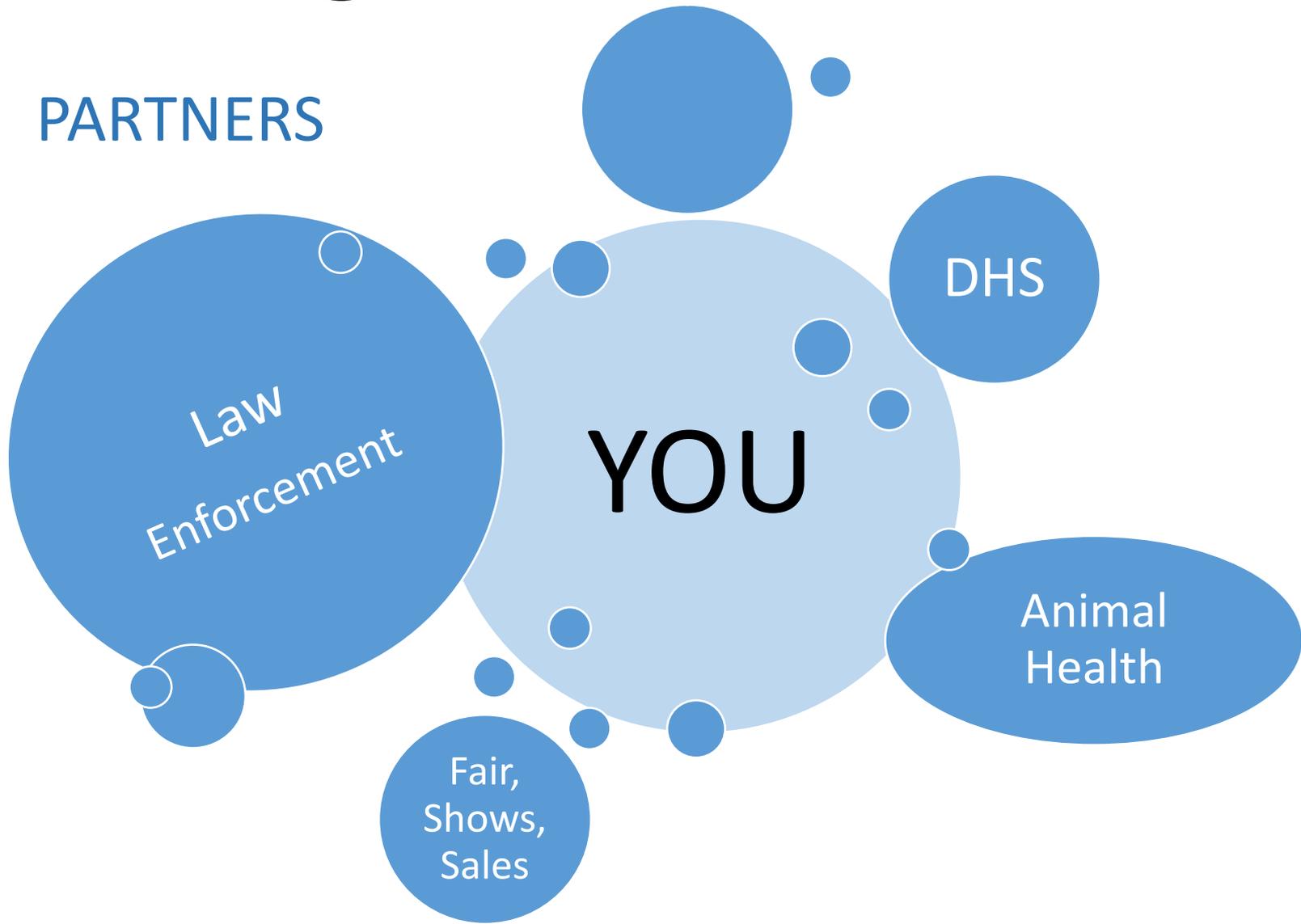
- Plans are worthless, but planning is everything.
- There is a very great distinction because when you are planning for an emergency you must start with this one thing: the very definition of "emergency" is that it is unexpected, therefore it is not going to happen the way you are planning.
- So, the first thing you do is to take all the plans off the top shelf and throw them out the window and start once more. But if you haven't been planning you can't start to work, intelligently at least.
- That is the reason it is so important to plan, to keep yourselves steeped in the character of the problem that you may one day be called upon to solve--or to help to solve.

# Plan to Plan

- Plan
  - What resources are needed to plan?
  - What are the issues to address in the plan?
  - Who are the responders?
  - Write the plan to address the issue and the level of protest or level of exposure.
- Educate
  - Identify the audience and determine age and function appropriate training materials and background information.
  - Create and deliver training.

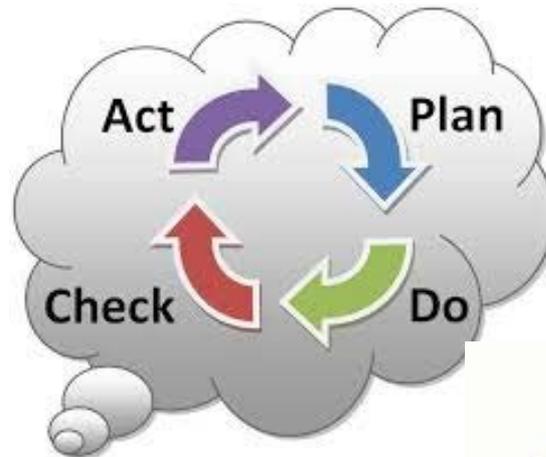
# Strength in Numbers

PARTNERS



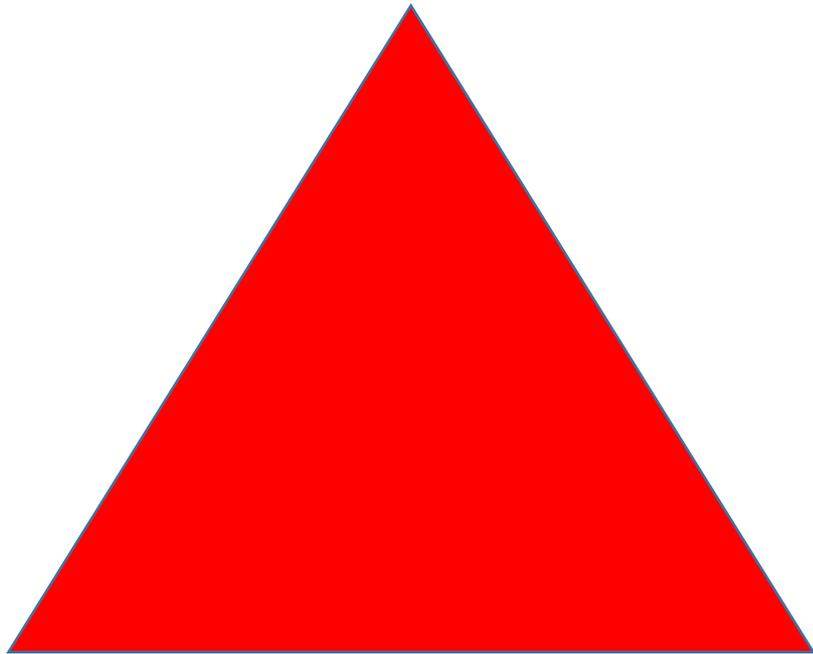
# Continuous Loop Planning

- Evaluate
  - Surveys
  - Stage Simulations
- Keep Current –once is not enough.
  - Assign someone assigned to the DEW Line and scoping the activists.
  - Have at least an annual review 30 to 60 days before the event.



# What are your plans?

Deltas?



• Plusses?

