

The Shirking Pandemic: How Politicians Pass the Buck

An elderly couple in my home state of North Carolina, married for over fifty years, has been forcibly separated by their nursing home for three months. The husband, now despondent, says he doesn't want to live anymore if he can't be with his bride.

When [pressed about this inhumane policy](#) by a North Carolina legislator who also happens to be an M.D., Dr. Mandy Cohen, head of N.C.'s Department of Health and Human Services, claimed that the matter is out of her hands, alleging visitation rules are set by the Federal government. "It is our job," she said, "to carry out those rules." It isn't at all clear that this draconian policy is required or enforceable by the Federal government. What is clear is that Dr. Cohen has little interest in pushing the matter.

We've seen a lot of buck-passing during this stressful time. New York Governor Andrew Cuomo claims the Feds made him force nursing homes to take back thousands of COVID-positive residents, which resulted in [over 6,000 deaths and counting](#). The head of Centers for Medicare and Medicaid Services [directly contradicts his claim](#). Months ago, Cuomo likewise insisted it was the responsibility of the Feds to provide his state with ventilators and respirators, until resistance from D.C. forced him to use the power he already had to redistribute equipment within New York.

It's not just governors abdicating their authority; officials in Charlotte, N.C. have called on our governor to enact a statewide mask requirement, yet [haven't exercised their own authority](#) to require masks. At the other end of the political spectrum, Republican politicians who haven't lifted a finger to amend or clarify Title VII of the 1964 Civil Rights Act are

up in arms about the recent Supreme Court decision in [Bostock v. Clayton County](#), GA extending its protections to gay and transgender citizens. Their position seems to be that it's the job of nine unelected judges to revise federal laws.

When our nation's founders were stratifying authority between branches and levels of government, they assumed we would elect officials with the wisdom and moral courage to exercise that authority. Sadly, it appears we've achieved the opposite. Rather than wield powers granted by the U.S. and their respective state constitutions on behalf of citizens, too many elected officials want to push decisions upstairs. It's a new Anti-Federalism.

Nebraska Senator Ben Sasse [castigated his fellow legislators](#) for this Constitution-eroding habit during Brett Kavanaugh's Supreme Court confirmation hearings: "The legislature is impotent. The legislature is weak. And most people here want their jobs more than they really want to do legislative work. And so they punt most of the work to the next branch." Maine Senator Angus King calls this "[The Great Abdication](#)."

Scholars have long-noted this Congressional habit. Congressmen pass vague laws, allow unelected federal bureaucrats to interpret and enforce them, then swoop in to aid select constituents caught up in the Federal gears. The Mafia used to threaten to burn down your business if you didn't pay protection; Congress lights the fire and shows up with a bucket of water.

What's newly troubling is evidence that shirking has become a habit at the state and local level too. North Carolina governor Roy Cooper, for example, recently promised the sister of George Floyd that he would [work for justice in Mr. Floyd's name](#). Those of us with memories that extend past the last news cycle, however, will recall that Mr. Cooper was our state's Attorney General for 16 years, yet it was the U.S. Department of Justice that had to [investigate allegations of systemic](#)

[racism](#) against an Alamance County Sheriff's Department that was arresting Latinos at double the statewide rate.

This tendency to look to the Feds to solve problems is one reason local officials have allowed an intolerable persistence of police abuse for decades. There's no reason states [can't empower their attorneys general to investigate police departments](#). They have the authority and the bully pulpit to [stand up to police unions](#). They are empowered to prohibit local agencies from using military-grade weapons from the Department of Defense, and participating in an [unjust civil asset forfeiture program](#) that incentivizes police departments to become outposts of the Federal drug war. State officials have the authority to reform corrupt police departments, but too many of them lack the courage.

Not only is the new Anti-Federalism literally costing lives, it's rapidly making states and cities mere adjuncts of Washington, D.C. States now get roughly [a third of their revenue](#) from Washington, and it comes with strings. The scandal is that our elected officials make it their business not to scrutinize those strings. When Oklahoma legislators advanced a bill requiring state agencies to report the extent to which federal funds impinge on local autonomy, [Governor Mary Fallin vetoed it](#). Nearly three-quarters of states require no legislative approval for agencies to accept grants – and all their strings – from the Feds. A third of them don't even require agencies to get approval from a central authority in their own executive branch. Looking the Federal gift horse in the mouth might require us to start living within our means.

While acknowledging in *NFIB v. Sebelius* that Federal dollars can become coercive, Chief Justice Roberts [made a powerful observation](#) about where the buck actually stops: "The States are separate and independent sovereigns. Sometimes they have to act like it." Likewise, state and local officials have to act like they were elected to do something other than take orders from people higher up the food chain. Every single one

of them takes an oath to uphold their state constitutions in the service of we the people. It's high time they remember that.

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