

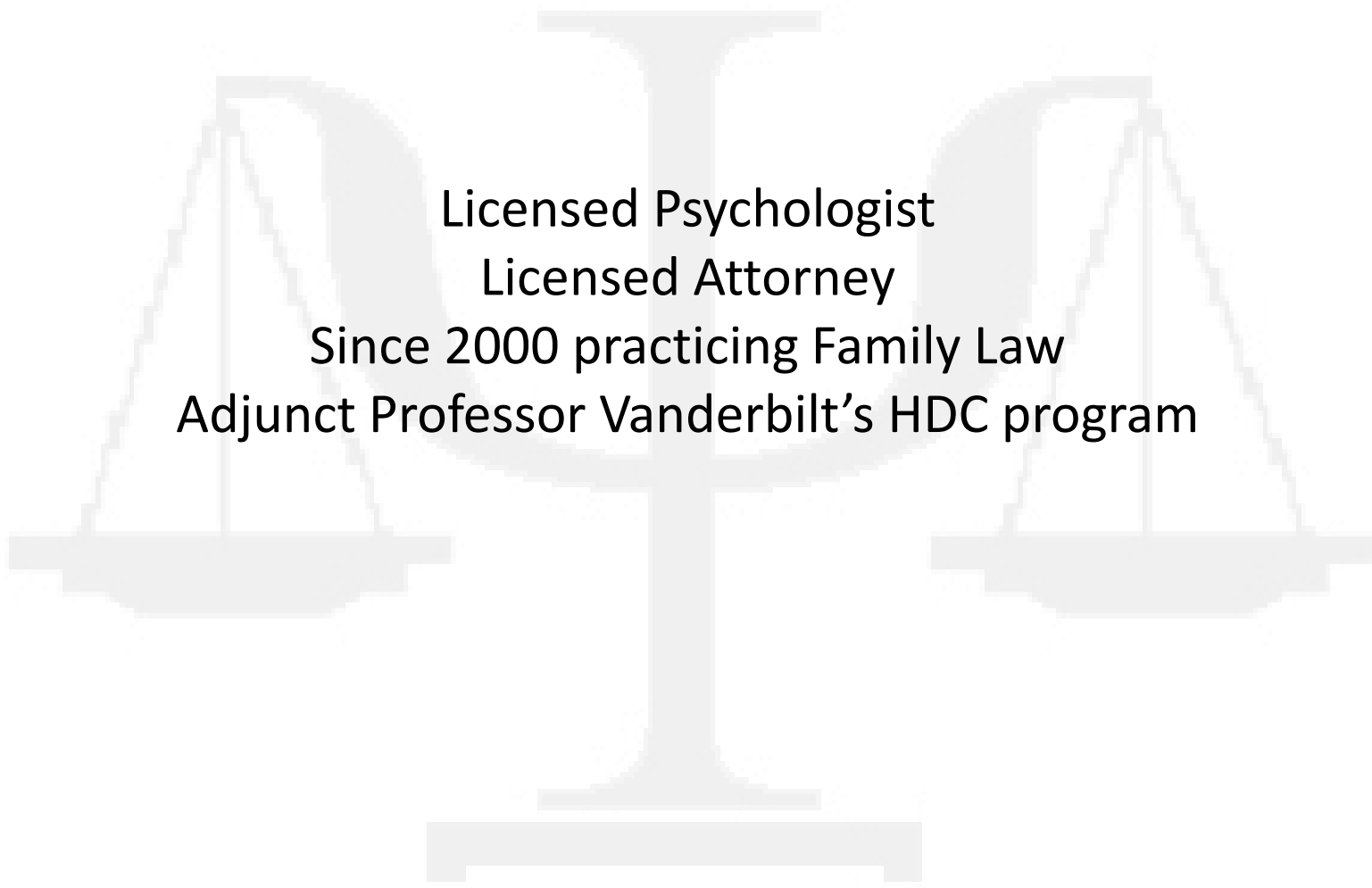


# Social, Legal and Ethical Issues

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Licensed Psychologist  
Licensed Attorney  
Since 2000 practicing Family Law  
Adjunct Professor Vanderbilt's HDC program

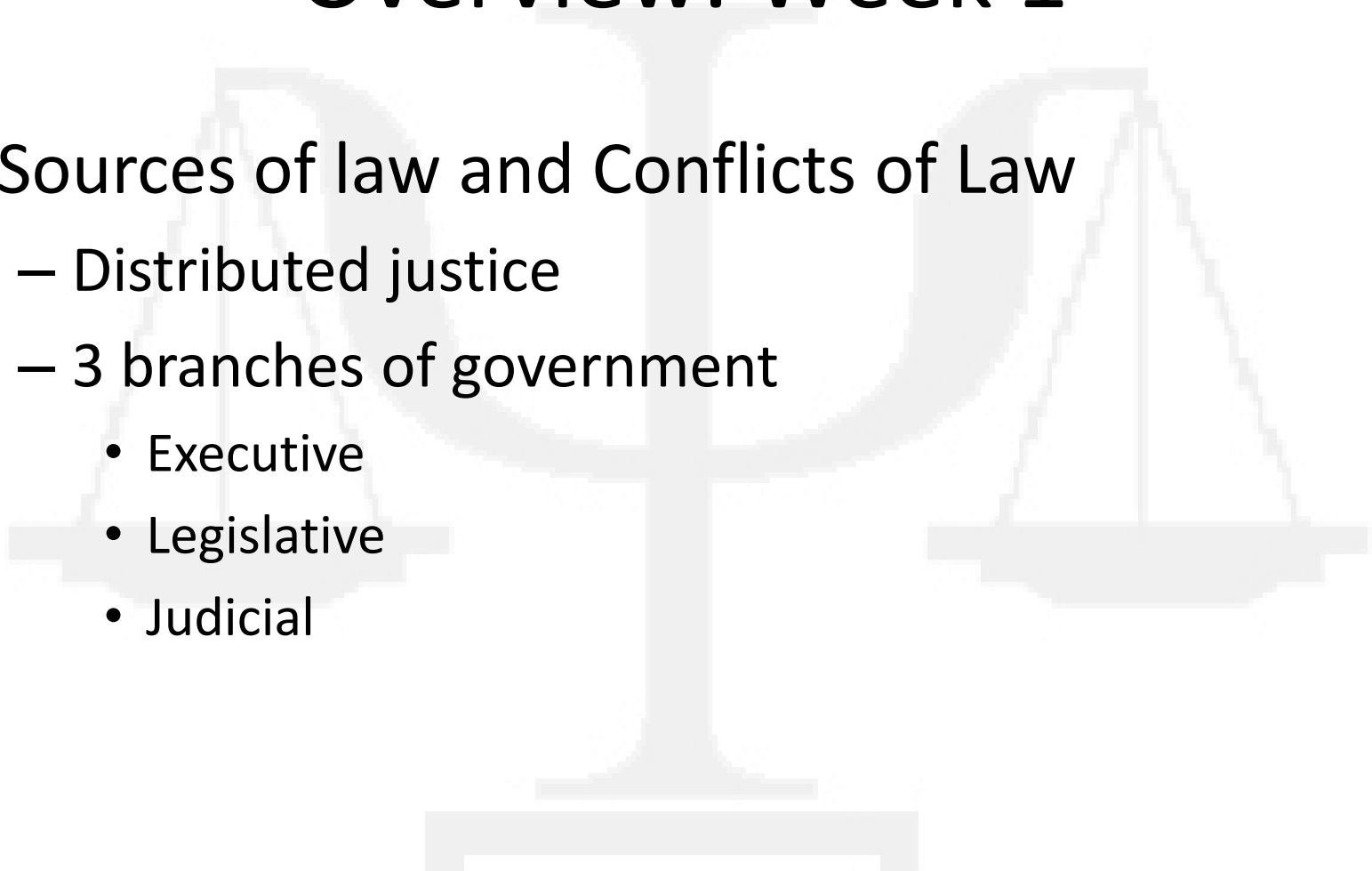
# Overview: Week 1

- Sources of law and Conflicts of Law
  - Distributed justice



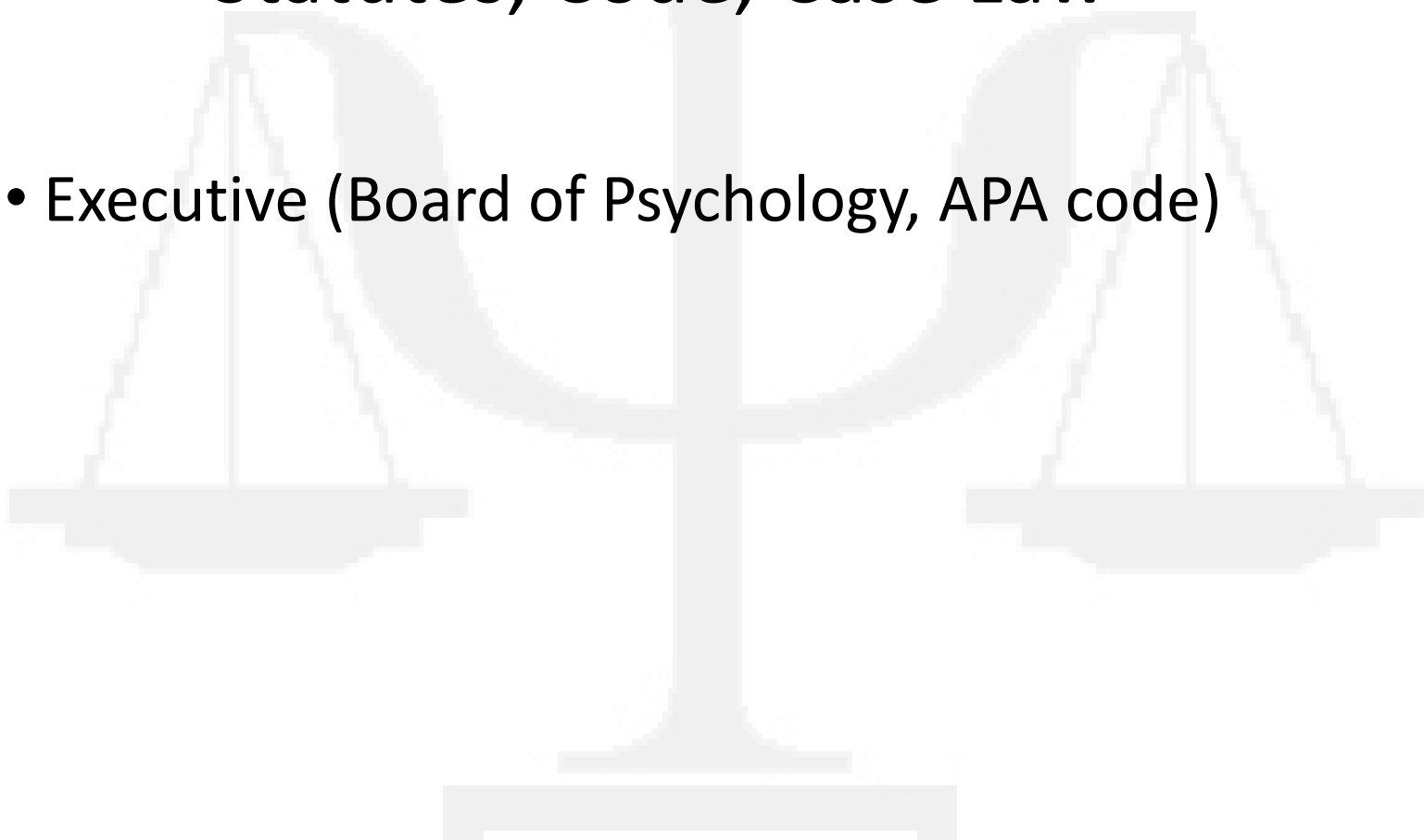
# Overview: Week 1

- Sources of law and Conflicts of Law
  - Distributed justice
  - 3 branches of government
    - Executive
    - Legislative
    - Judicial



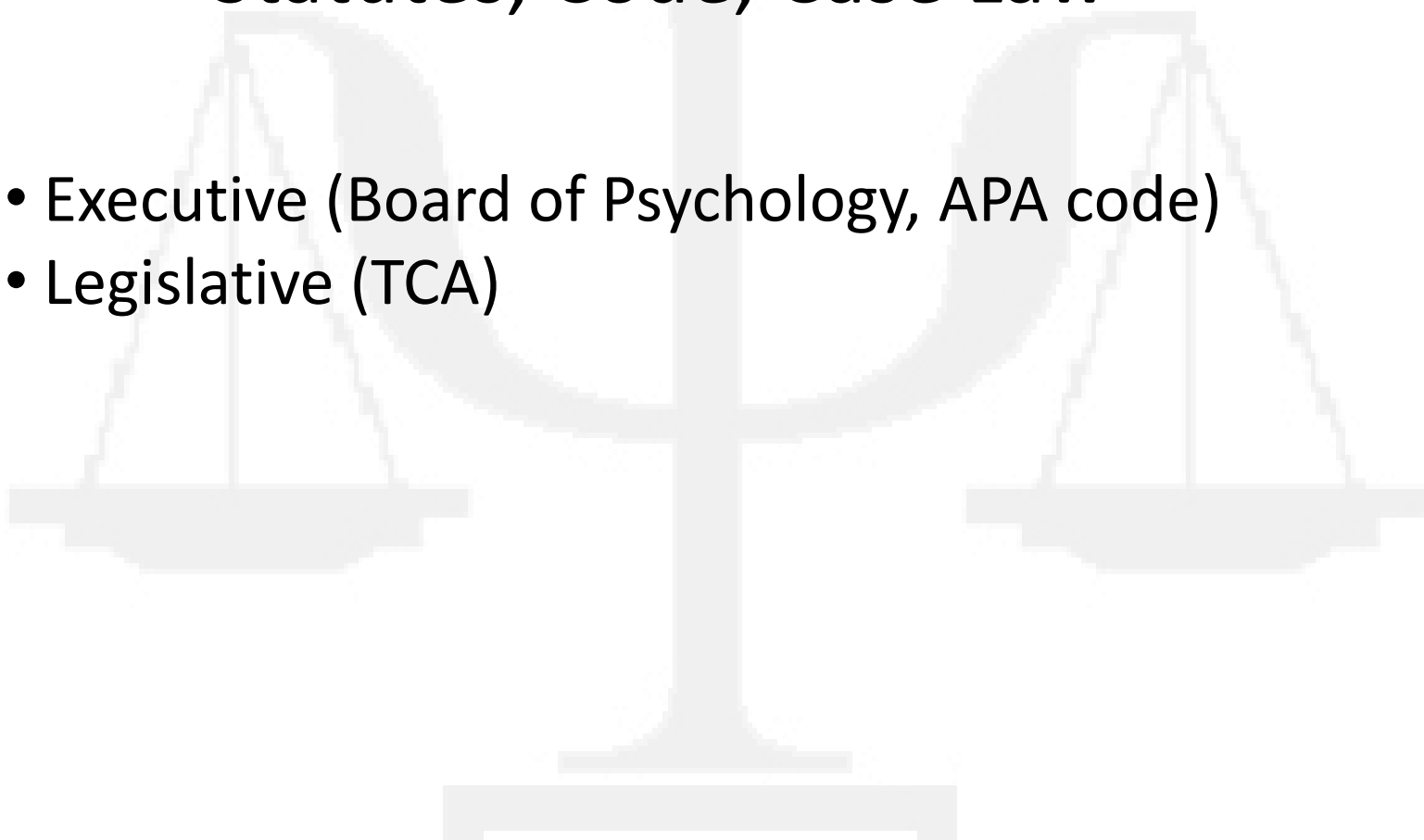
# Statutes, Code, Case Law

- Executive (Board of Psychology, APA code)



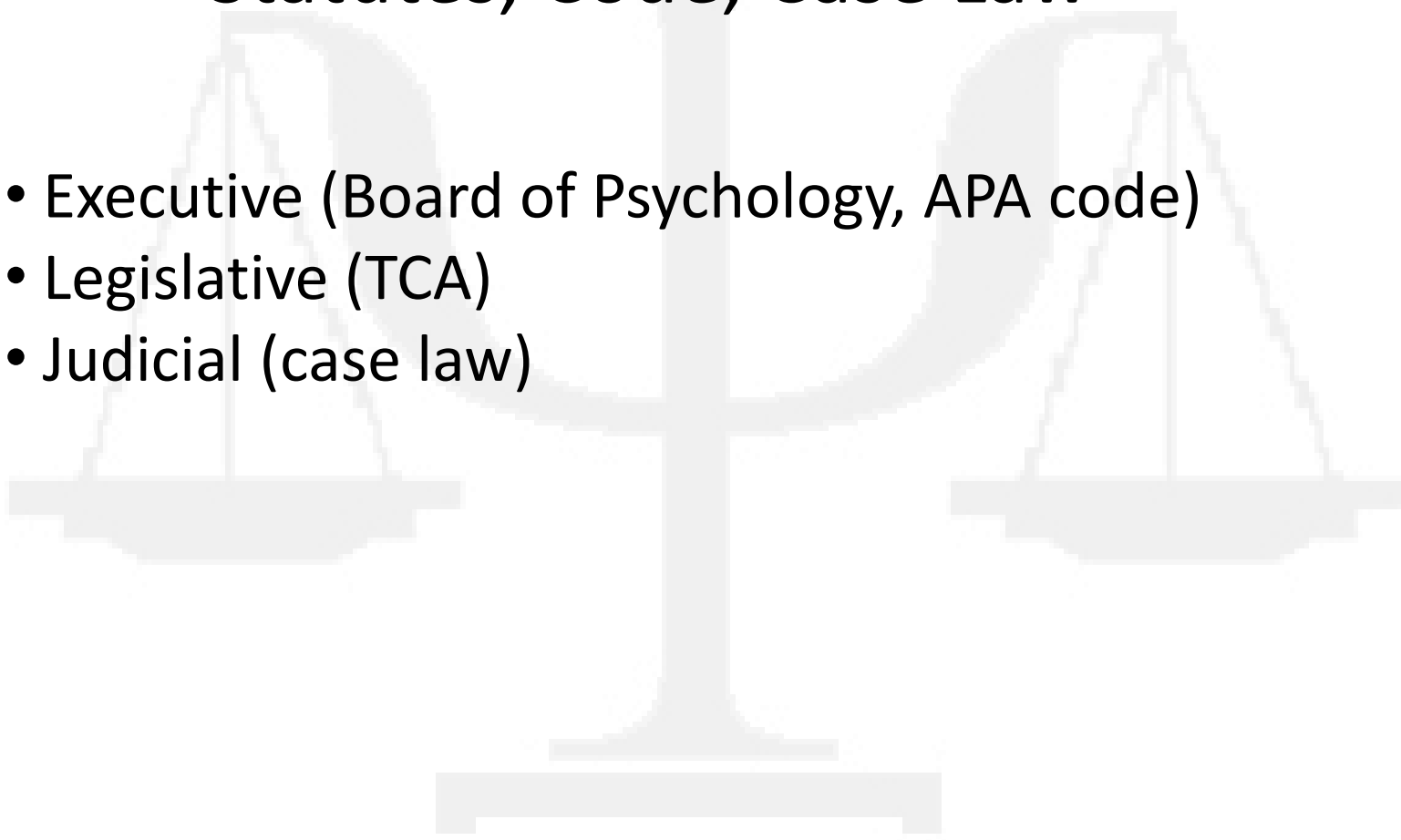
# Statutes, Code, Case Law

- Executive (Board of Psychology, APA code)
- Legislative (TCA)



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- Legislative (TCA)
- Judicial (case law)

Which one applies??? Who trumps who???

**33-3-206. Duty to predict, warn or take precautions to provide protection — Liability. —**

IF AND ONLY IF

**(1)** a service recipient has communicated **to** a qualified mental health professional or behavior analyst an actual threat of bodily harm **against a clearly identified victim**, AND

**(2)** the professional, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the professional's specialty under similar circumstances, has determined or reasonably should have determined that the service recipient has the apparent ability **to** commit such an act and is likely **to** carry out the threat unless prevented from doing so,

THEN

**(3)** the professional shall take reasonable care to predict, warn of, or take precautions to protect the identified victim from the service recipient's violent behavior.



“Non-Tarasoff State”???



**Turner v Jordan**: 1997 TN Supreme Court case

TCA states we owe a duty to an “identified third party”

Turner v Jordan holds that we owe a duty to “foreseeable (unidentified) third party” and duty is to “warn or protect”



**33-3-201. Liability of counselor for suicide or attempted suicide of person counseled.**

A counselor, while acting within the scope of responsibilities assigned by a counseling center, is not liable civilly or criminally for the suicide or attempted suicide of any person consulting the counselor.

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(a) As used in this section, unless the context otherwise requires:

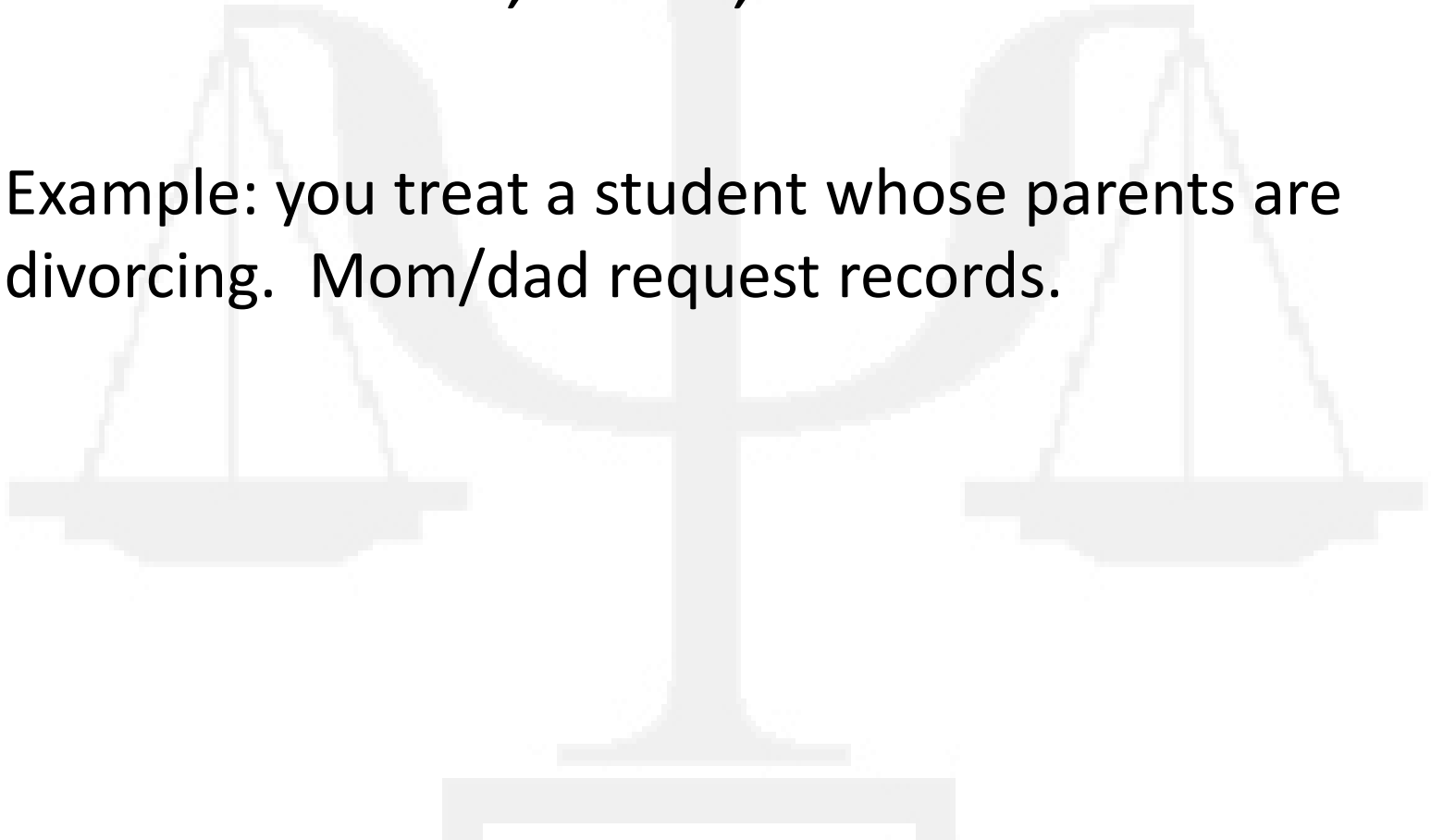
(1) “Counseling center” means any nonprofit service operated at least partially with volunteer assistance that provides counseling, assistance or guidance, either in person or by telephone, to persons with mental illness or serious emotional disturbance; and

(2) “Counselor” means any psychiatrist, psychologist, licensed psychologist with health service provider designation, certified or licensed marital and family therapist, certified or licensed professional counselor, certified or licensed social worker, or other professional trained in the field of psychiatry or psychology or any nonprofessional person acting under the guidance or supervision of the professionals.

(b) A counselor, while acting within the scope of responsibilities assigned by a counseling center, is not liable civilly or criminally for the suicide or attempted suicide of any person consulting the counselor.

# Statutes, Code, Case Law

Example: you treat a student whose parents are divorcing. Mom/dad request records.



# Statutes, Code, Case Law



Example: you treat a student whose parents are divorcing. Mom/dad request records.

- FERPA (Family Educational Rights Privacy Act)
- HIPPA
- School rules
- ACA guidelines
- Court orders from the divorcing court

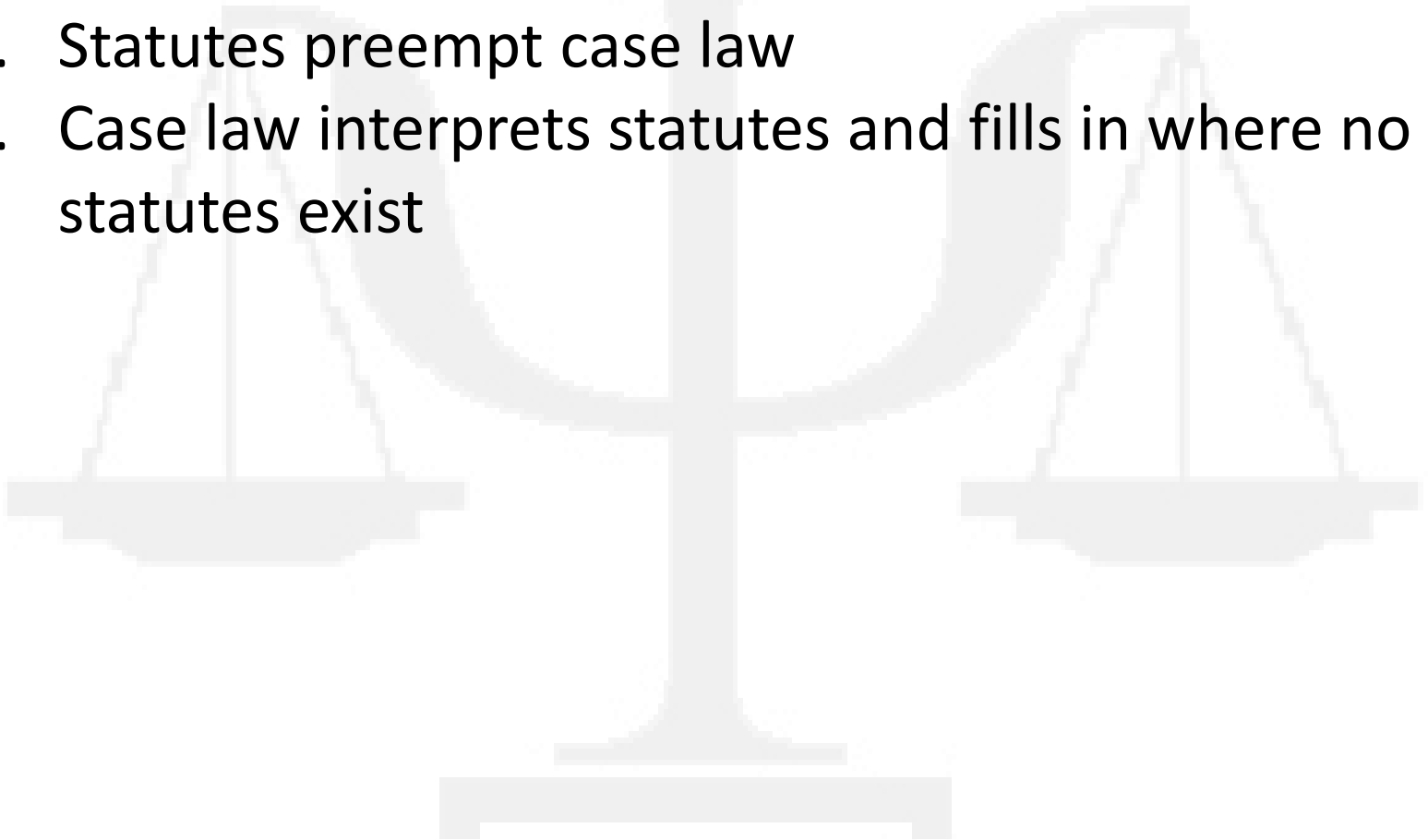
# Conflicts of Law

1. Statutes preempt case law



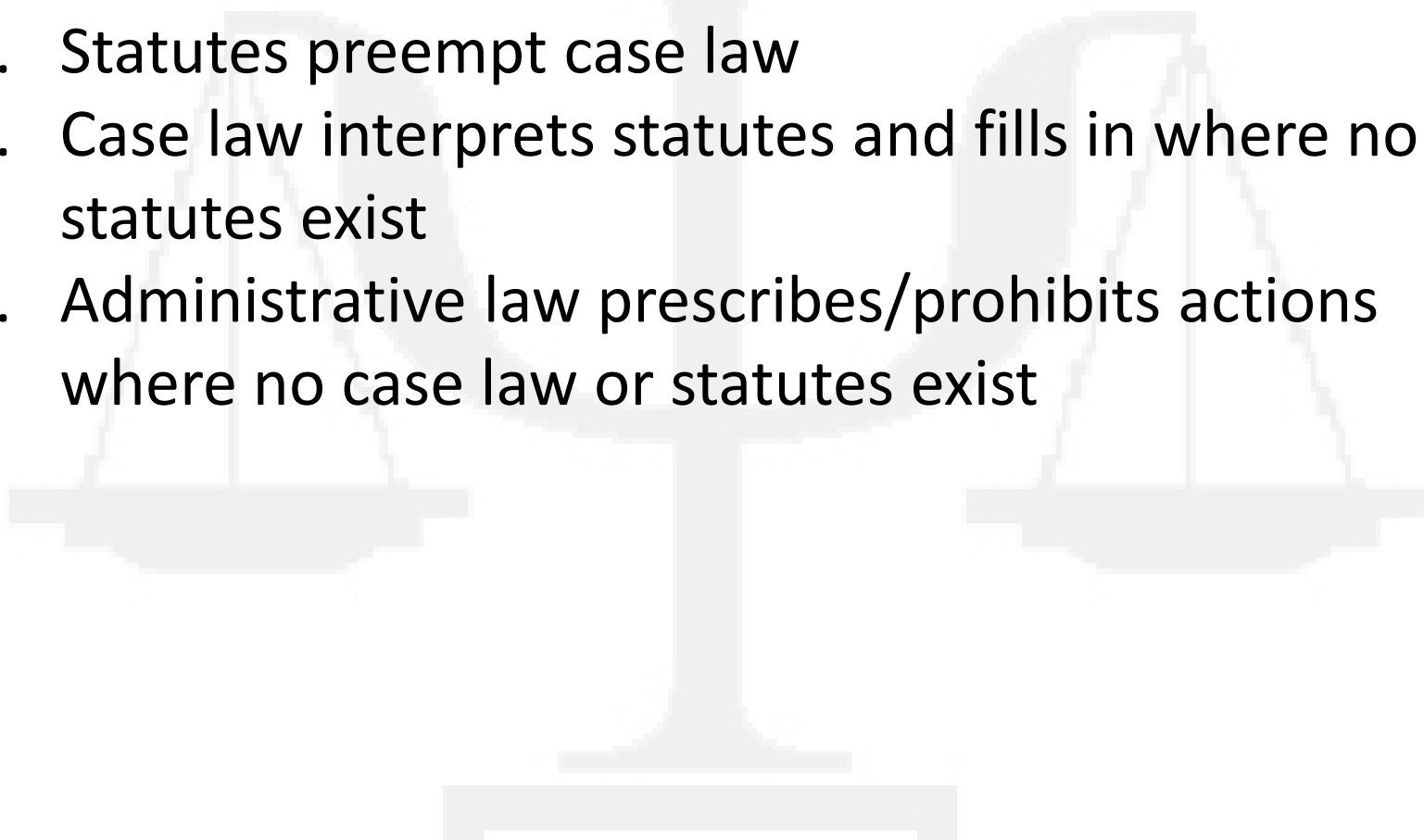
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10. Jurisdiction/venue