

The background of the poster is a photograph of a city waterfront at dusk or dawn. On the left, a modern building with a large glass facade reflects the sky. In the foreground, a marina with several boats is visible. On the right, a large, white, tent-like structure with a curved roof is prominent. The sky is a mix of soft pinks, oranges, and blues. Overlaid on the image are several horizontal dotted lines in a teal color.

2021

VIRTUAL PUBLIC HEALTH LAW CONFERENCE

**Building and Supporting
Healthy Communities
for All**

September 21-23



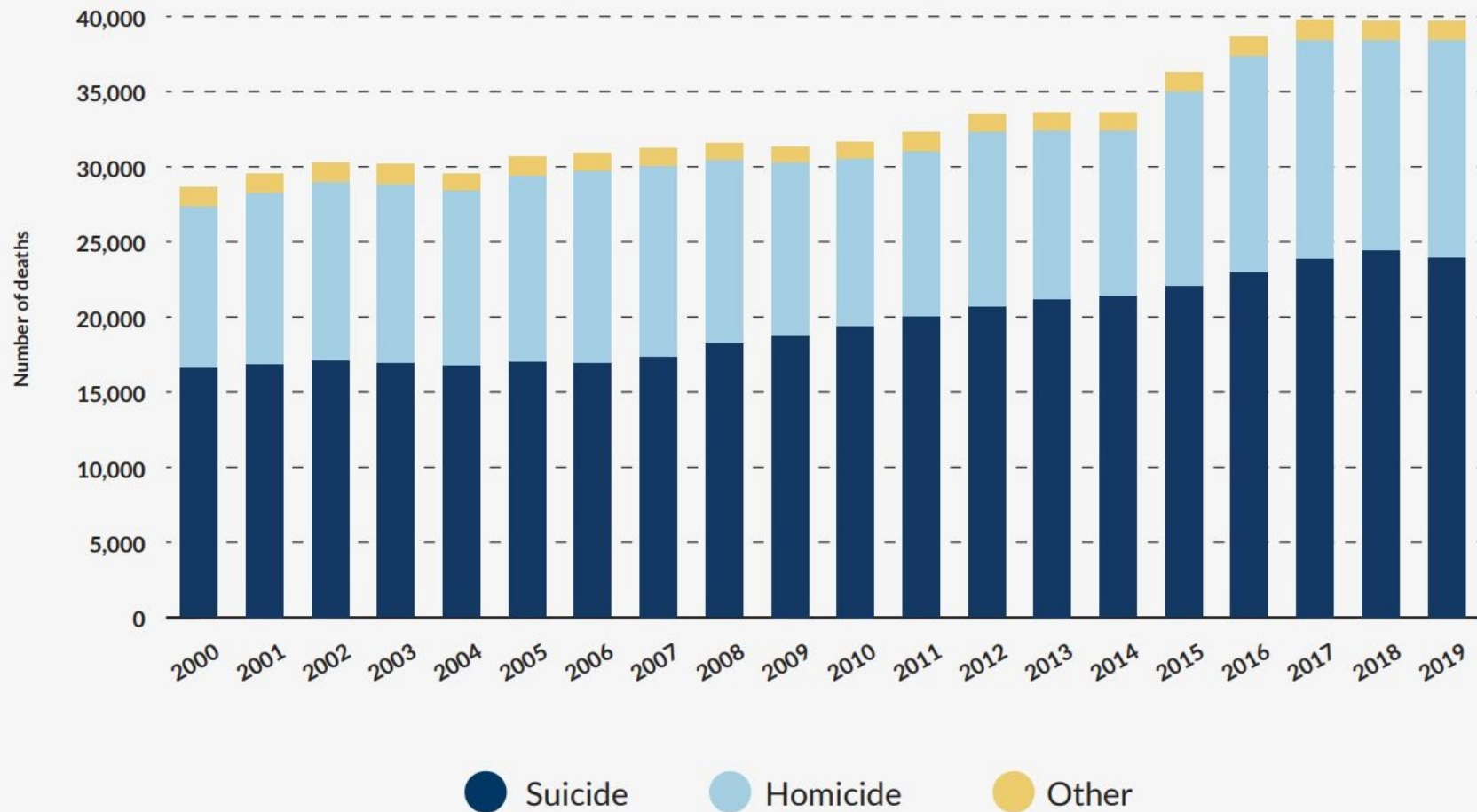
THE EDUCATIONAL FUND
TO STOP GUN VIOLENCE

Promising Legal Tools for Public Health Progress: Extreme Risk Laws

Josh Horwitz

Executive Director, Educational Fund to Stop Gun Violence
National Public Health Law Conference
September 21, 2021

Number of Gun Deaths, 2000-2019





CONSORTIUM FOR
RISK-BASED FIREARM POLICY

About the Consortium for Risk-Based Firearm Policy

The Consortium for Risk-Based Firearm Policy (Consortium) comprises experts committed to advancing evidence-based gun violence prevention policies. The group includes the nation's leading researchers and academics with expertise at the intersections of gun violence prevention and public health, law, behavioral health, medicine, criminology, and related fields.

Following the horrific school shooting in Newtown, Connecticut, in 2012, Josh Horwitz, executive director of the [Educational Fund to Stop Gun Violence](#), convened the Consortium in March 2013 to identify areas of consensus regarding risk factors for future violence, discuss existing research evidence on the issue, and foster collaboration on the development of new research that could lead to new practices and policies. Though they are separate entities, the Consortium is organized and staffed by the Educational Fund to Stop Gun Violence.

The Consortium convenes regularly to develop evidence-based gun violence prevention policies. In turn, policymakers have come to rely upon the Consortium's recommendations to craft legislation and executive action and to inform implementation efforts which continue to shape the policy landscape of the gun violence prevention movement.

Best known for its development of the extreme risk protection order policy, or ERPO, the Consortium has published reports on evidence-based recommendations for state and federal policy, best practices for firearm removal in cases of domestic violence, and guidelines for practice and training in lethal means safety counseling for firearm suicide prevention.

Quick Facts about Extreme Risk Laws



Extreme risk laws create a legal mechanism to temporarily remove firearms from individuals at an elevated risk of harm to self or others — preventing potential tragedy.

Extreme risk laws are modeled after domestic violence restraining orders and afford similar due process protections.

Nineteen states and the District of Columbia have extreme risk laws.

For every 10-20 firearm removal orders issued, one suicide is prevented.

California's extreme risk law was used in efforts to prevent 21 mass shootings from 2016 to 2018.

Factors for Consideration

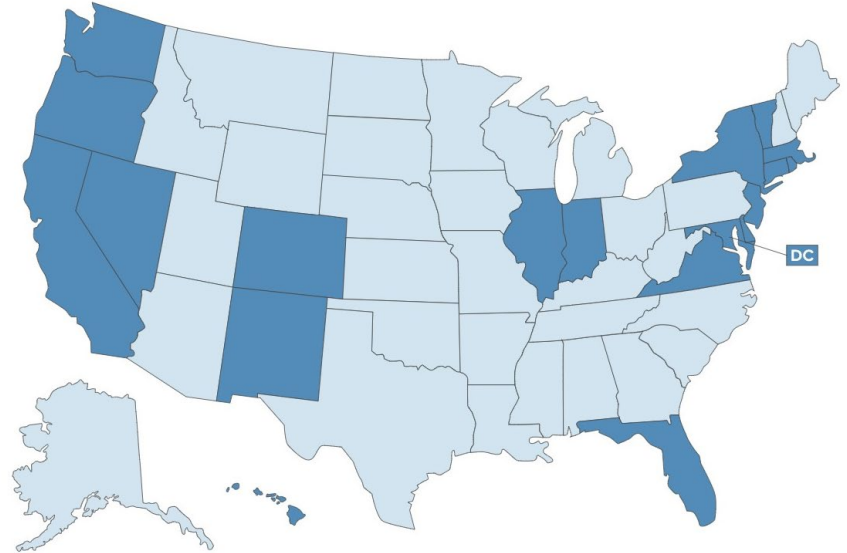
- Recent acts or threats of violence towards self or others.
- History of threatening or dangerous behavior.
- History of or current misuse of controlled substances and/or alcohol.
- Unlawful or reckless use, display, or brandishing of a firearm.
- Recent acquisition of firearms, ammunition, or other deadly weapons.
- *Strongly recommend **against** using psychiatric diagnoses in consideration of an order.* Not only is this stigmatizing, but mental illness is not a reliable predictor of violence.



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Extreme risk law timeline

- California passed the first modern-day extreme risk law (called a gun violence restraining order or GVRO) in 2014
- As of September 2021, 19 states and DC have extreme risk laws



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EXTREME RISK PROTECTION ORDER: A TOOL TO SAVE LIVES

ERPO laws are helping to prevent gun deaths and protect communities. Their implementation – in 19 states and the District of Columbia – is part of a national effort to reduce the daily loss of life due to firearm violence, including gun suicide.

This evolving resource will be frequently updated to help implementers take action – and save lives.

(at three
A man who grabbed a
and threatened to kill himself, his wife, and their young child. His wife had overheard him distraught and cry
A 28-year-old man who grabbed a gun case and threatened suicide. When his ex-girlfriend tried to call for help, he grabbed
head into a wall. Police seized two handguns, two rifles, and a shotgun. A 33-year-old man who locked his wife in a car with him,
Department arrived on the scene and searched the car, they found a meth pipe along with two loaded firearms that did not belong to
dgun. A 35-year-old man with a small arsenal and a history of domestic violence, whose wife suffered a serious laceration to her for
a pistol, a Mosquito semi-automatic pistol, a Ruger .22, a Springfield .40 caliber pistol, a Ruger rifle, a Mossberg shotgun, and an
by text message that he wanted to shoot her in the head, then visited his fiancé's ex-boyfriend and threatened to kill him while hol
a handgun and an AR-15, the semi-automatic rifle frequently used by mass shooters. A 28-year-old ex-Marine who had developed a parano
into an auto parts store with a loaded handgun, but called police before shooting anyone. A 38-year-old man who, while intoxicated (at 1
ting at raccoons and rats in his backyard. Terrified neighbors called police as bullets flew into their backyards. A 68-year-old man who
s family discovered he was molesting his grandchild. The man was arrested with the gun in his vehicle. A 38-year-old man who threatened
him. His wife had overheard him distraught and crying in the bathroom, and cocking his .40 caliber pistol. A 28-year-old man
and tried to call for help, he grabbed her by her hair, threw her on the ground, and pushed her head into a wall. Police
man who locked his wife in a car with him, threatening her with a loaded firearm. When the Police Department arriv
two loaded firearms that did not belong to him. He later surrendered a Glock
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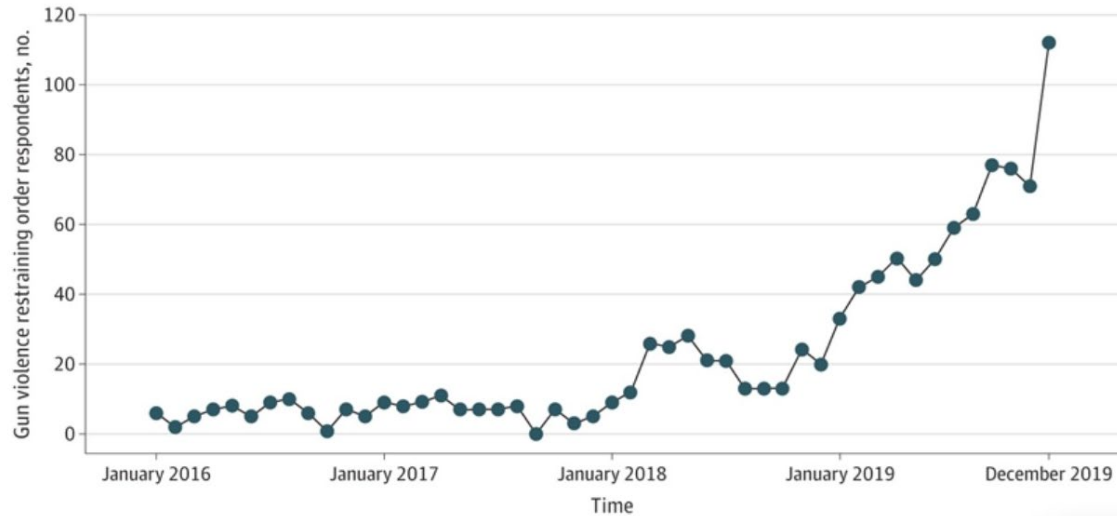
<https://americanhealth.jhu.edu/implementERPO>

Extreme risk law use in several states

- California (January 1, 2016, to December 31, 2019)
 - 1,094 respondents to GVRs, 725 orders served
- Washington state (December 8, 2016 - May 10, 2019)
 - 238 orders filed
- Colorado (January 2020 - December 2020)
 - 66 temporary orders, 49 364-day orders
- Virginia (July 2020 - June 2021)
 - 129 emergency risk orders, 73 final orders

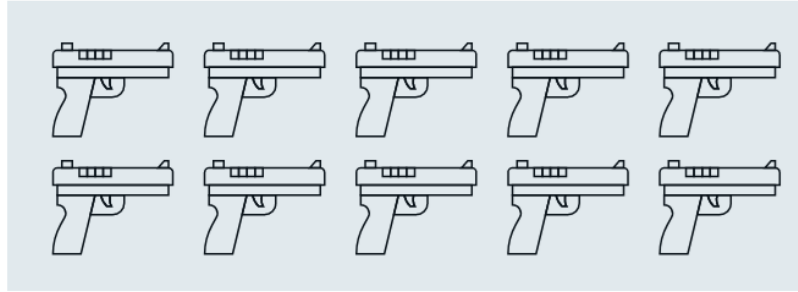
Increased usage of extreme risk laws in California

Figure 1. Counts of Gun Violence Restraining Order Respondents by Month, 2016 to 2019



The data behind extreme risk laws

1 life saved for 10-20 removals

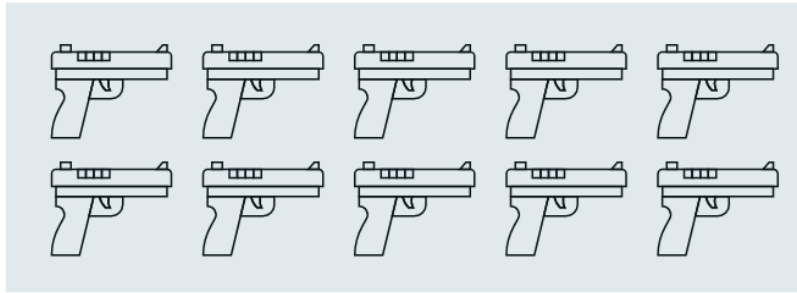


So that means...

If 1 life is saved for every 10-20 firearm removals ...

Extreme risk laws have saved a lot of lives!

1 life saved for 10-20 removals



Extreme risk law case studies

Preventing suicide

Washington state:

- “A girlfriend filed an Extreme Risk Protection Order against her boyfriend as he recently tried to commit suicide and wanted to purchase a firearm. At the Extreme Risk Protection Order hearing, the couple came to court together (holding hands). The respondent had no objection to the Extreme Risk Protection Order. The respondent expressed gratitude that someone cared enough to make sure that he did not have access to a gun.”



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Extreme risk law case studies

Preventing school shootings

Maryland:

- A Maryland student posted Snapchats of him holding a rifle and threatening a school shooting. Police issued a temporary order and removed a pair of loaded assault rifles and ammunition.



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Extreme risk law case studies

Preventing mass violence

Connecticut:

- In 2019, Melissa Potter received a call from her estranged nephew, Brandon Wagshol, who told her he intended to build an AR-15-style rifle and needed to ship magazines to her home in New Hampshire (the magazines he wanted were not legal to purchase in Connecticut). Potter alerted Wagshol's mother and then a week later, she contacted the local police department. Upon investigation, items such as "planning a mass murder" were found under activities on his Facebook page. The police applied for and received a risk warrant, searched Wagshol's residence, and seized the firearms and ammunition (including four hundred rounds, a long rifle, and a hand grenade) they found.

Extreme risk law case studies

Preventing white supremacy and hate crimes

Washington state:

- A Washington man posted numerous mass shooting threats on social media including stating that he planned on shooting 30 Jews, along with pictures of Nazi artifacts and of his gun collection. An order was granted and 12 firearms were removed.



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Thank you! Questions?

Josh Horwitz

Executive Director, Educational Fund to Stop Gun Violence

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Promising Legal Tools for Public Health Progress

Overdose Crisis

September 21, 2021

Sally Friedman, Vice President of Legal Advocacy



LEGAL ACTION CENTER

Breaking Barriers. Defending Dignity.

Overdose crisis accelerates

- 92,000 overdose deaths, Dec. 2019- Dec. 2020
- 30% increase over similar period prior year
- Disparate racial impact
- Factors include fentanyl and COVID-19 pandemic

Health care solutions not sufficiently used

- Health care strategies exist – evidence-based treatment, including medication for opioid use disorder (MOUD) – which can cut risk of overdose death in half.
- But often are not used, hence....
- Overrepresentation of people with substance use disorder (SUD) in criminal legal system, family regulation system, and cycling in/out of emergency departments.
- Why? Often stigma – perception of SUD as moral failing, worthy of criminalization; exacerbated by racism.

This presentation will cover

Legal strategies to address denial of evidence-based care in:

- **Criminal legal system & family regulation system** (a.k.a. child welfare system)
- **Health care system:**
 - Emergency departments
 - Skilled nursing facilities

Illegal prohibition of medication for opioid use disorder

- Denial of MOUD in **criminal legal system + family regulation system + skilled nursing facilities + emergency departments**
- **2011 LAC report**: criminal legal system's denial of access to MOUD violates Americans with Disabilities Act and Constitution.
- Two successful NY cases – Judges backed off requirement to get off Suboxone or face prison time. But no published decision.
- 2018 – ***Pesce v Coppinger*** – landmark decision: jail's failure to provide methadone likely violated ADA and Constitution

9 Cases After *Pesce*

1. ***Smith v. Aroostook County**** (D. Maine, 1st Cir.) – jail
2. *Smith v. Fitzpatrick* (D. Maine) – jail & prison
3. *Kortlever v. Whatcom County* (D. Wash.) – jail, class action
4. *DiPierro v. Hurwitz* (D. Mass.) – Federal Bureau of Prisons (BOP)
5. *Crews v. Sawyer* (D. KS) – BOP
6. *Sclafani v. Mici* (D. MA) – MA Dept. of Corrections & 2 prisons
7. *Godsey v. Sawyer* (W.D. WA) – BOP
8. *Finnigan v. Mendrick* (N.D. IL) – jail
9. ***P.G. v Jefferson County**** (N.D.N.Y. 2021)

* = favorable court decision

Department of Justice & Office of Civil Rights

- LAC engaged Department of Justice (DOJ) and Office of Civil Rights (OCR):
 - education, intervention, state-wide investigations; settlements
- Settlements. Denial of MOUD in --
 - **Jail:** Cumberland County, NJ (2021) – found violation of 8th Amendment.. Ordered provision of MOUD.
 - **Family regulation system** - West Virginia Department of Health & Human Resources; SDNY letter to NY Attorney General
 - **Health care:** skilled nursing facilities, primary care, organ transplantation

Education and support for attorneys

- **Support for attorneys** – LAC engaged public defenders & attorneys representing parents to object/appeal MOUD denial. Example:
 - Ohio – *State of Ohio v Yontz* -- appeal of Suboxone prohibition during community control. Support with merits arguments; amicus briefs.
- **Trainings** – judges & others working or practicing in criminal and juvenile courts
- **Impact:** education and support of attorneys leverages the litigation & DOJ/OCR activities to drive change. MOUD prohibition less common than 10 years ago.

Emergency Departments

- **New LAC 2021 report:** failure to provide evidence-based care for patients with SUD:
 - Negates core role – to identify and address life-threatening emergencies and connect to ongoing care
 - Can violate four federal laws.

Emergency: Hospitals are Violating Federal Law by Denying Required Care for Substance Use Disorders in Emergency Departments

Three evidence-based practices

1. **Screen** and diagnose SUD
2. **Offer buprenorphine** to treat opioid withdrawal & suppress cravings
3. **Connect** patients with appropriate care for ongoing treatment through facilitated referral **and provide naloxone** to patients who use opioids or drugs that can be mixed with synthetic opioids, such as fentanyl

It's a racial justice issue

- **Disparate impact on Black, Latinx, and Indigenous people:**
 - Black and Latinx people – more likely to seek emergency department services than white people
 - Prevalence data:
 - National: Black and Latinx – increased *rates* of overdose deaths; Indigenous -- highest prevalence of opioid misuse and highest rate of alcohol use disorder
 - In some states and localities:
 - Black people – overrepresentation in opioid-related deaths (e.g., Cook County, Ill.)
 - Indigenous and Black people – higher rates of overdose deaths than white people (e.g., Minnesota)

Can Violate Four Federal Statutes

1. **EMTALA** (Emergency Medical Treatment and Labor Act) – failure to provide required screening and, if emergency medical condition identified, stabilization services.
2. **Americans with Disabilities Act** *and*
3. **Rehabilitation Act of 1973** – denial of services due to stereotypes about disabilities & failure to provide reasonable accommodation
4. **Title VI of Civil Rights Act** – disparate treatment and disparate impact discrimination

Strategy – report as tool to drive change

1. **Educate** – hospitals and patients
2. **Spawn litigation and government enforcement**
 - EMTALA – Center for Medicare & Medicaid Services
 - ADA/RA – DOJ & State Attorneys General
 - Title VI – Office of Civil Rights & State Attorneys General
3. **Spur policy change** – financial supports, adoption of evidence-based practice guidelines, use of peer services, establishment of bridge clinics, development of linkages to community-based care

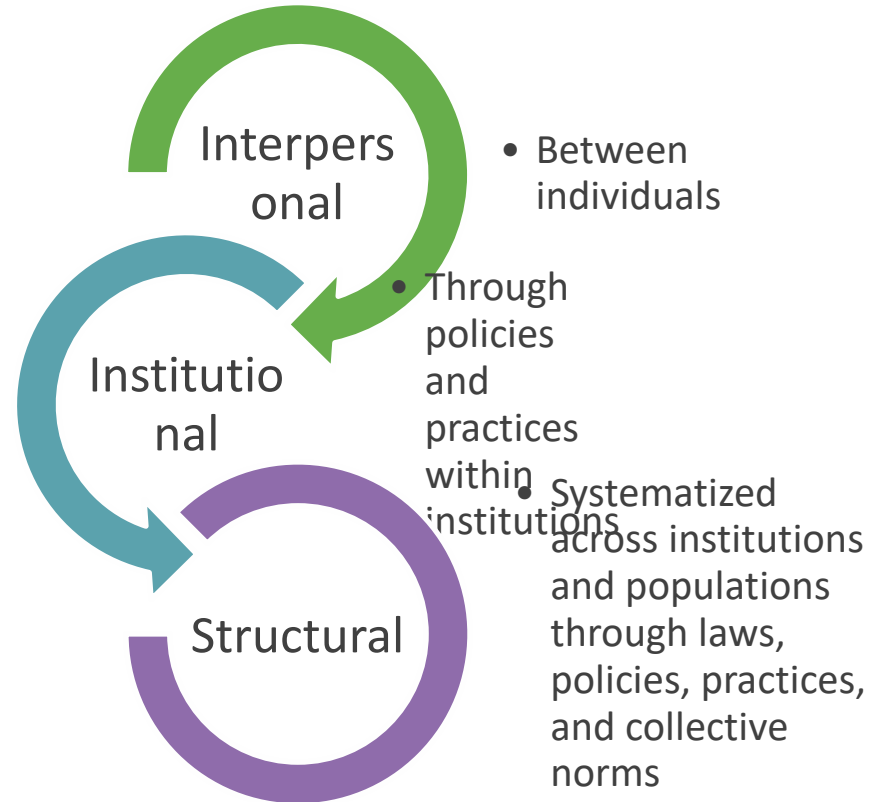
Law, Policy, and Racial Equity

Presented [September 21, 2021]

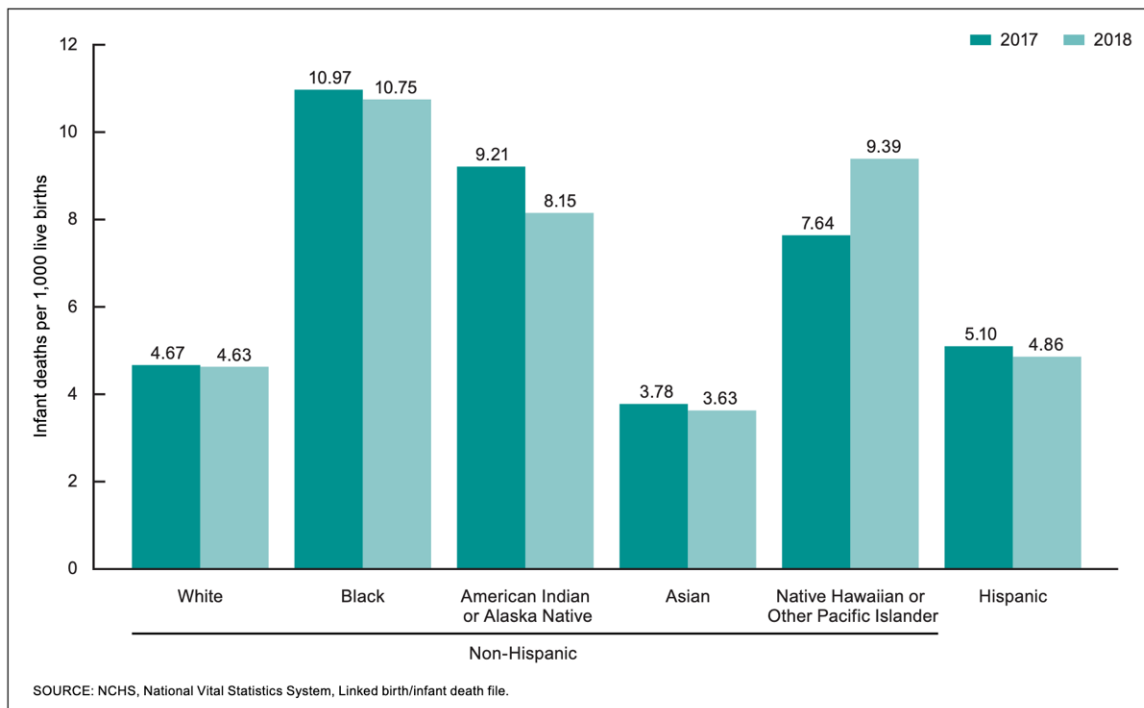
Dawn Hunter, JD, MPH, CPH
Director, Network for Public Health Law – Southeastern Region



How does racism show up in public health policies and practices?



Infant mortality rates, by race and Hispanic origin: United States, 2017–2018





What reduces infant mortality rates?

Civil rights laws

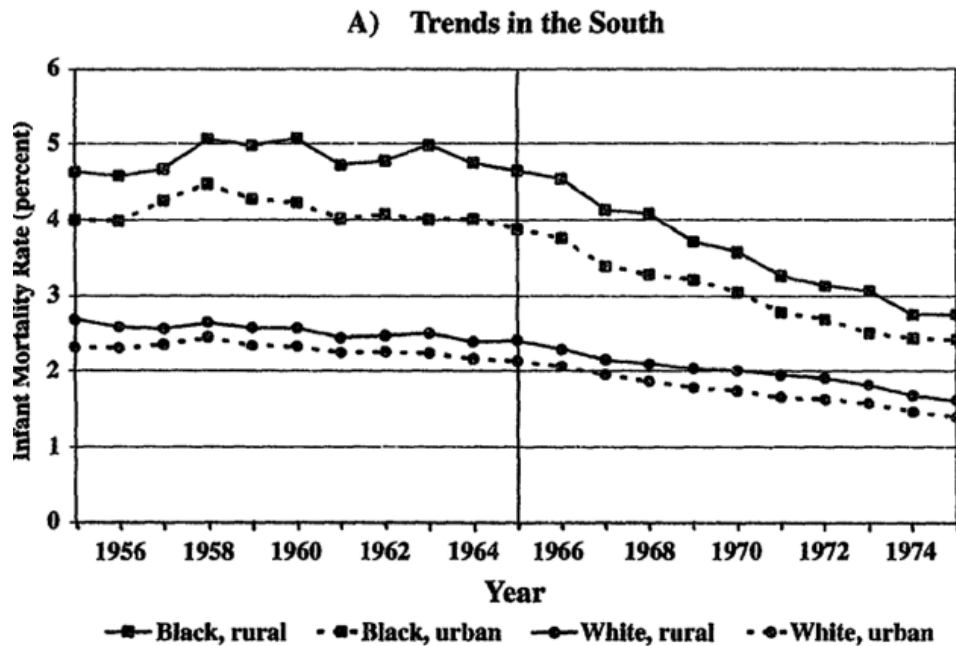
Minimum wage laws

Public health laws (e.g.,
mortality review
committees)

Medicaid expansion

Education and Training
Requirements

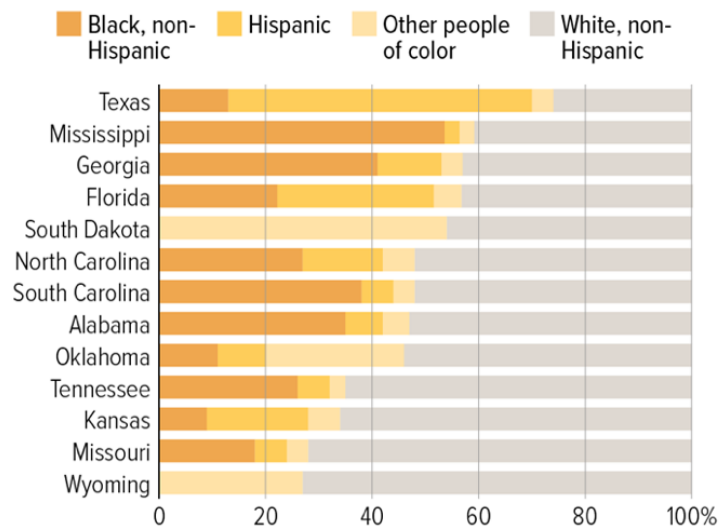
Black and White Infant Mortality Rates in the South, 1955-1975



Excerpt from Chay and Greenstone, "The Convergence in Black-White Infant Mortality Rates During the 1960's," Accessed Oct. 28, 2020

Many Black, Hispanic People Would Benefit From Further State Medicaid Expansions

Share of uninsured adults who would become eligible for Medicaid, by race and ethnicity

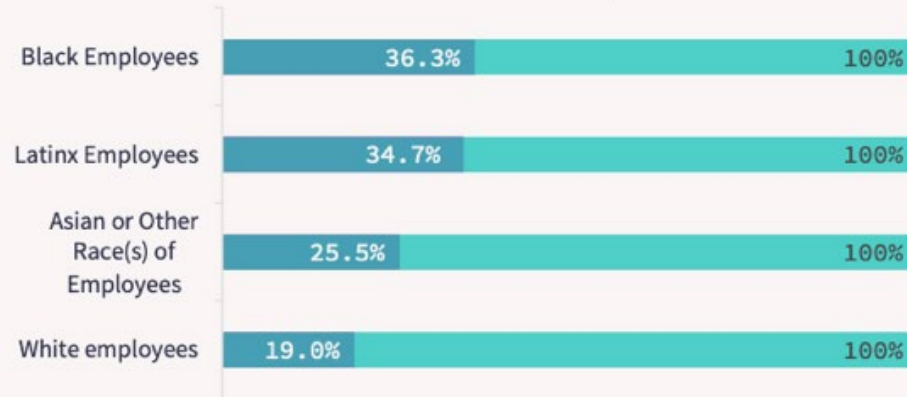


Note: Estimates by subgroup are not available for South Dakota and Wyoming, so the "other people of color" category represents all people of color, including Black and Hispanic people.

Source: Kaiser Family Foundation based on 2018 Census Bureau data

Florida Minimum Wage Increase Effective September 30, 2021

Figure 5: SHARE OF WORKING FLORIDIANS WHO WOULD
SEE PAY INCREASE, BY RACE



A. Davis, Florida Policy Institute, "A Minimum Wage Boost Would Improve Equity for 2.5 Million Floridians and Bolster the State's Post-Pandemic Recovery," September 2020



Health and Racial Equity: Legislative Trends

Topics of bills addressing racism, racial equity, and health equity



Racism as a
public health
crisis or
emergency

Educational
inequities

Data collection
and use

Provider
education and
training



Infrastructure
(offices,
positions, task
forces)

Equity in birth
outcomes

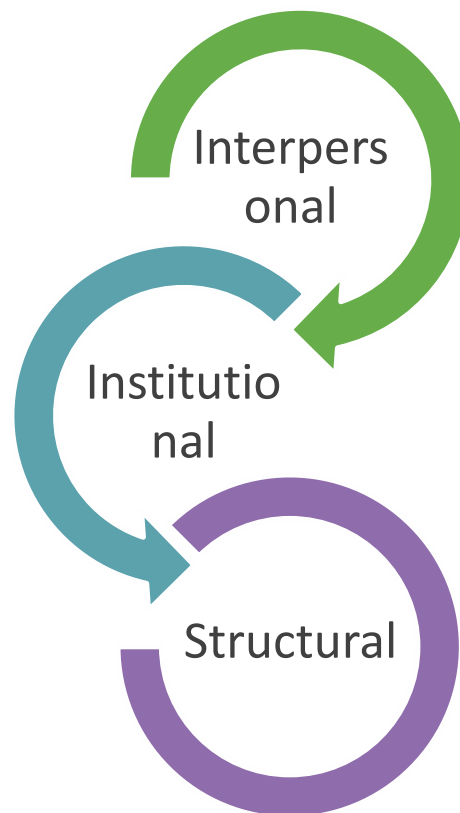
Environmental
justice

Funding

The use of racial
or health impact
statements in
policymaking



**How does racism
show up in public
health policies and
practices...**
**...and where can
law and policy make
a difference?**



- Provider education and training requirements on implicit bias and culturally competent care.
- Increasing workforce diversity by reevaluating HR policies.
- Incorporating community feedback into programming and investment decisions.
- Strengthening local public health authority and infrastructure.
- Identifying and removing legal barriers that impact access and opportunity.

In practice: FEMA ends a policy that resulted in Black families being denied disaster relief funds



Deanne Criswell ✓
@FEMA_Deanne



This is a culture shift for the agency and we are only just beginning. These new changes reduce barriers and help us provide more equitable disaster support to all survivors, specifically for underserved populations.

Learn more: [fema.gov/press-release/...](https://fema.gov/press-release/)

September 2021

FEMA EXPANDS OPTIONS TO PROVE WHERE YOU LIVE

Now accepting additional forms of documentation required for both renters and homeowners

Why the update? To advance equity for disaster survivors, ensuring more underserved communities can access disaster assistance. When FEMA is not able to verify documentation, the two categories below are now available to prove ownership.

Current Options	Expanded Options
<ul style="list-style-type: none"> Lease or housing agreement Rent receipts Utility bill (electric, water/sewer, etc.) Pay stub Bank, credit card statement Driver's license, state issued identification card, or voter registration card Public official's statement 	<ul style="list-style-type: none"> Documentation can now be dated within 1 year prior to the disaster or within the 18-month period of assistance Medical provider's bill Social service organization documents (e.g. Meals on Wheels) Motor vehicle registration Affidavits of Residency or other court documentation Letter or mail delivered to your address from an employer, public official, social service organization, local school or school district, mobile home park owner or manager

If you have questions, please call: 1-800-621-3362 or visit: fema.gov after applying

In rare occasions where FEMA cannot verify where survivors live and documentation listed above cannot be provided, a caseworker will help survivors explore this last resort option.

September 2021

FEMA EXPANDS OPTIONS FOR HOMEOWNERS

Now accepting additional forms of documentation to help prove that you own your home

Why the update? To advance equity for disaster survivors, ensuring more underserved communities can access disaster assistance. When FEMA is not able to verify documentation, the two categories below are now available to prove ownership.

Current Options	Expanded Options
<ul style="list-style-type: none"> Deed or title Mortgage document Homeowners insurance documentation Property tax receipt or tax bill Manufactured home certificate or title Home purchase contracts (e.g. Bill of Sale) Last will and testament (and death certificate naming applicant heir to the property) 	<ul style="list-style-type: none"> Documentation can now be dated within 1 year prior to the disaster or within the 18-month period of assistance Receipts for major repairs or maintenance dated within 5 years prior to the disaster Letter prepared after the disaster from a mobile home park owner or manager or public official that meet FEMA requirements Letter or mail delivered to your address from an employer, public official, social service organization, local school or school district, mobile home park owner or manager

If you have questions, please call: 1-800-621-3362 or visit: fema.gov after applying

In rare occasions where FEMA cannot verify homeownership and survivors cannot provide documentation listed above, a caseworker will help survivors explore these last resort options.

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Copy link to Tweet



What do we need to do now to ensure more equitable outcomes in the future?

Formalize commitments to health and racial equity

Craft legislation that is informed by **data, evidence, and subject matter expertise**

Systematically and regularly review laws and policies using an **equity lens**

Allocate sufficient resources and leverage budgets as a policy tool

Engage communities in the policymaking process and **equip community members** to lead

Monitor the impact of laws and policies on health outcomes over time





Questions?

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