

Fighting the Anti-Anti Racism Movement Through Theory, Practice, and Litigation



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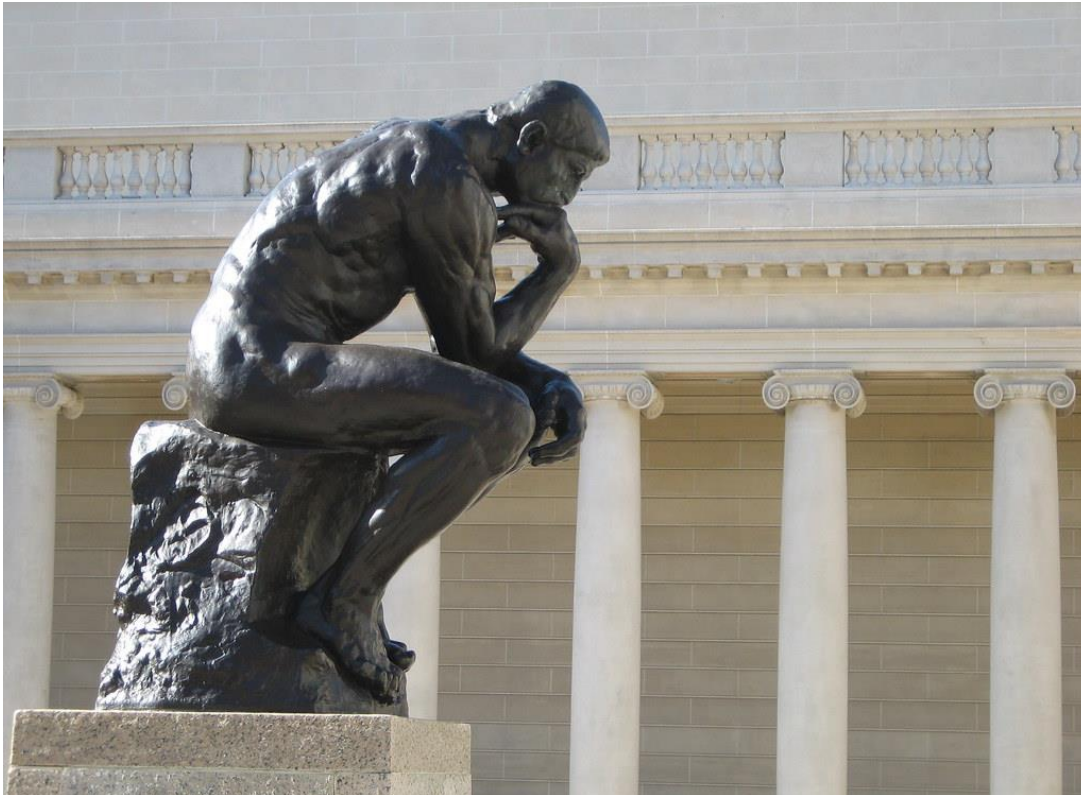


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The Anti-Anti Racism Movement: Why Start with Theory?



*The **law** is theory in practice with the power of the state behind it.*

The Persistence of Structural Racism

...sistatue finds that tenets
often found in "critical race
theory" are based on the
basis of sex, race, ethnicity
and other characteristics
criteria in ways contrary to
state of Idaho and its citi-
zens. Section 6, article IX of
the Idaho Code, which
prohibits discrimination on
the basis of sex, race, eth-
nicity, religion, color, or
national origin, is violated
by the state's adoption of
critical race theory. The
state is directed to remove
critical race theory from its
curriculum and to ensure
that its educational materials
are consistent with the
state's commitment to
equality and non-discrimi-
nation.

Legislature



Executive Powers



Courts

h Carolina system |
tem to eliminate di-
spending. It's anot
become a defining |

Formal & Informal
Actions

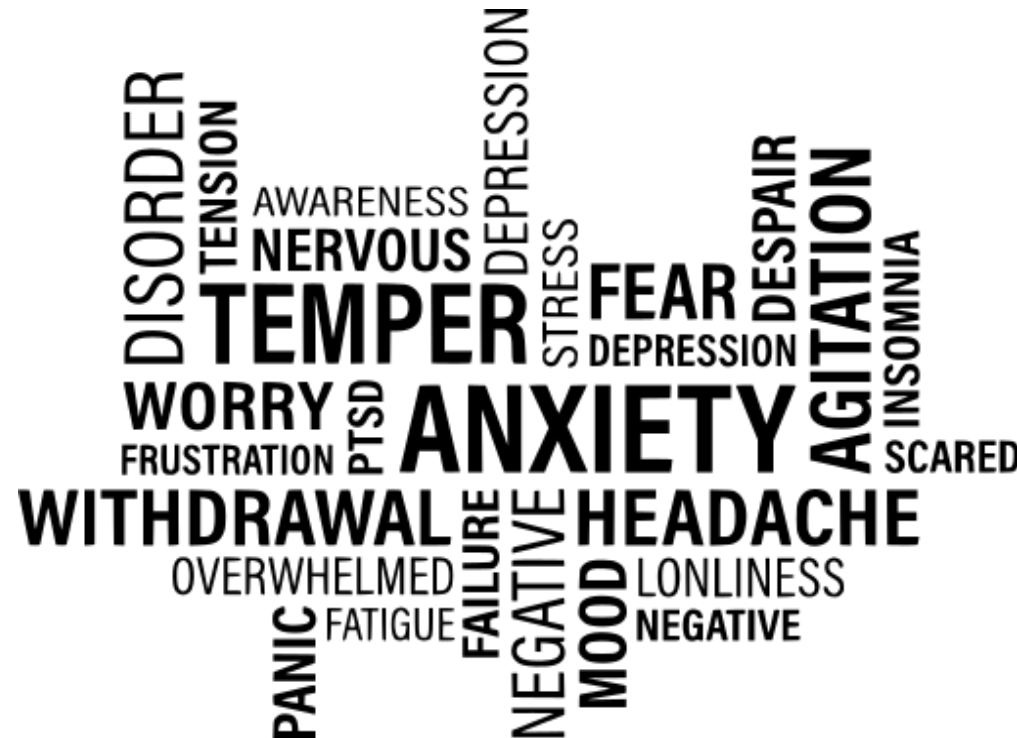
; Texas and Florida
the decision in No
erning board.



Narrative

What is Different Right Now?

*The **aggressive** elimination of people of color and anti-racist institutions*



“Illegal DEI and DEIA policies . . . deny, discredit, and undermine the traditional American values of hard work, excellence, and individual achievement in favor of an unlawful, corrosive, and pernicious identity-based spoils system.” Exec. Order No. 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity (Jan. 2025)

“[N]early every Federal agency and entity submitted ‘Equity Action Plans’ to detail the ways that they have furthered DEIs infiltration of the Federal Government. The public release of these plans demonstrated. . . shameful discrimination. That ends today. Americans deserve a government committed to serving every person with equal dignity and respect.” Exec. Order 14151, Ending Radical and Wasteful Government DEI Programs and Preferencing, (Jan. 2025)

“American citizens deserve an excellent and efficient Federal workforce that attracts the highest caliber of civil servants . . . [b]ut current Federal hiring practices . . . no longer focus on merit, practical skill, and dedication to our Constitution.” Exec. Order No. 14170, Reforming the Federal Hiring Process and Restoring Merit to Government Services (Jan. 2025)

“Every tax dollar . . . should improve American lives or advance American interests. This often does not happen. Federal grants have funded drag shows in Ecuador, trained doctoral candidates in critical race theory, and developed transgender-sexual-education programs.” Exec. Order 14332, Improving Oversight of Federal Grant Making (Aug. 2025)

What is the Narrative?

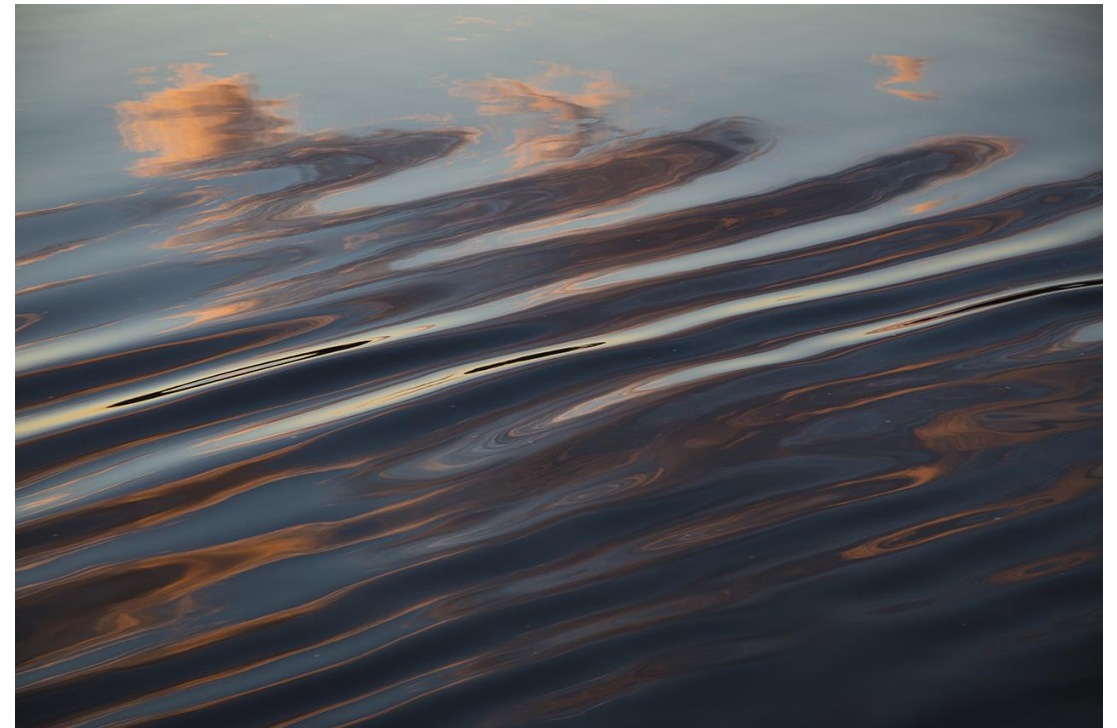
Things like “DEI” and “Equity” (very broad and undefined terms that operate as placeholders):

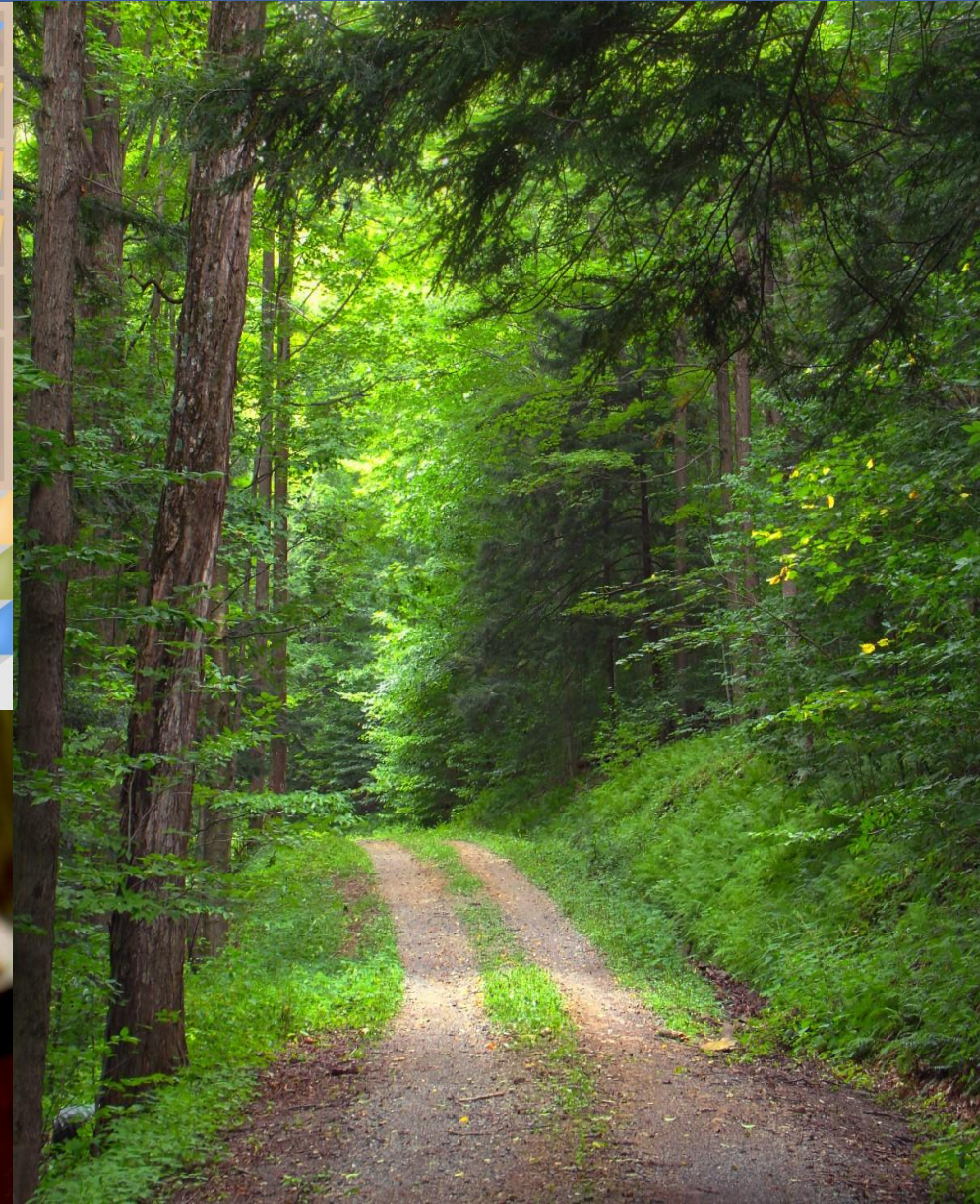
- Are an “infiltration” of the federal workforce
- Are “shameful” forms of discrimination
- Propagate “absurd ideologies”
- “Undermine the traditional American values of hard work, excellence, and individual achievement”
- Deny “hardworking Americans” a “shot at the American Dream”
- Fail to attract a workforce with the “highest caliber of civil servants”
- Do not value “merit” or “practical skill”
- Represent a “pernicious identity-based spoils system”

References: Exec. Order No. 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity (Jan 2025); Exec. Order 14151, Ending Radical and Wasteful Government DEI Programs and Preferencing, (Jan. 2025); Exec. Order No. 14170, Reforming the Federal Hiring Process and Restoring Merit to Government Services (Jan. 2025); Exec. Order 14332, Improving Oversight of Federal Grant Making (Aug. 2025).

Reflections

- Law is racialized theory, whether explicitly or implicitly stated
- Understanding legal narratives is as important as understanding what laws say you must do
- Treating the current legal and political atmosphere as wholly *new* is inaccurate and can be harmful
- How organizational pivots are perceived by communities will vary depending on the trust that has already been built
- Historically, communities of color are the engines that drive racial justice reforms
- Governments can be allies, and where that allyship lies changes (e.g., local, state, Tribal, federal)
- The loss of safe spaces creates fear, but can it also support fearlessness?





Race **Neutral**

Race **Neutral**

Race-based

Race-based



Race **Neutral**

Some Key Legal Definitions

Race-based classifications

Strict scrutiny review

Most difficult legal challenge for a government to overcome

ex: race-conscious affirmative action

Race-neutral classifications

Rational basis review

Easiest legal challenge for the government to overcome

ex: income-based affirmative action

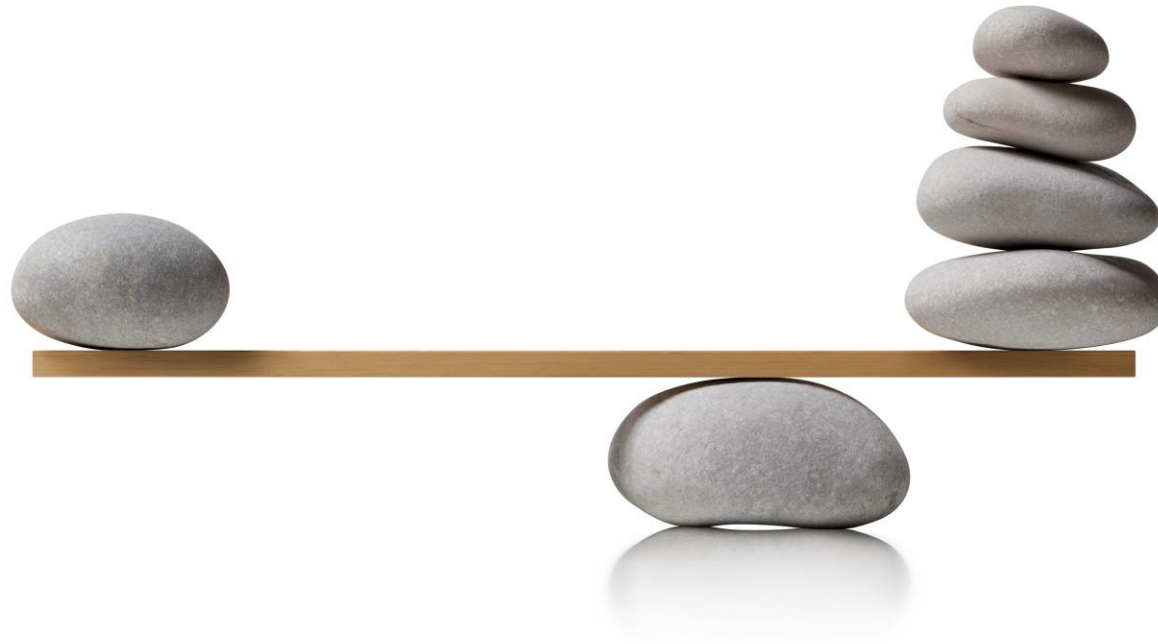


The Social Determinants of Health

- The problem with race-neutral classifications
- The problem with race-based classifications



RACE NEUTRALITY



“Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination” (July 2025)

Identifies examples of so-called “unlawful”
race neutral proxy discrimination

- Cultural competency, lived experience, cross-cultural skills
- Overcoming obstacles and diversity statements
- Geographic, organizational, or institutional targeting for strategic recruitment

Federal Attack on Race-Neutrality
(*Sometimes)



Office of the Attorney General
Washington, D. C. 20530

July 29, 2025

MEMORANDUM FOR ALL FEDERAL AGENCIES

FROM:

THE ATTORNEY GENERAL 

SUBJECT:

GUIDANCE FOR RECIPIENTS OF FEDERAL FUNDING
REGARDING UNLAWFUL DISCRIMINATION

I. INTRODUCTION

One of our Nation’s bedrock principles is that all Americans must be treated equally. Not only is discrimination based on protected characteristics illegal under federal law, but it is also dangerous, demeaning, and immoral. Yet in recent years, the federal government has turned a blind eye toward, or even encouraged, various discriminatory practices, seemingly because of their purportedly benign labels, objectives, or intentions. No longer. Going forward, the federal government will not stand by while recipients of federal funds engage in discrimination.

This guidance clarifies the application of federal antidiscrimination laws to programs or initiatives that may involve discriminatory practices, including those labeled as Diversity, Equity, and Inclusion (“DEI”) programs.¹ Entities receiving federal funds, like all other entities subject to federal antidiscrimination laws, must ensure that their programs and activities comply with federal law and do not discriminate on the basis of race, color, national origin, sex, religion, or other protected characteristics—no matter the program’s labels, objectives, or intentions. In furtherance of that requirement, this guidance identifies “Best Practices” as non-binding suggestions to help entities comply with federal antidiscrimination laws and avoid legal pitfalls; these are not mandatory requirements but rather practical recommendations to minimize the risk of violations.

Entities that receive federal financial assistance or that are otherwise subject to federal anti-discrimination laws, including educational institutions, state and local governments, and public and private employers, should review this guidance carefully to ensure all programs comply with their legal obligations.

How do you build anti-racist systems under the current movement to entrench racism deeper into the law?

The Network's Racial Health Equity Cohort

- The Network releases a bi-annual **call for applications** to support projects that advance racial health equity
- Team of attorneys and policy analysts provide up to **40 hours of free legal technical assistance** on selected projects
- **Deep dive** on how to use law and policy to advance racial health equity
- Opportunity for **ongoing support and connection** over an 8-month period
 - Legal TA, training, connection with other cohort members
- Applications for the next cohort **open early next summer**



Resources

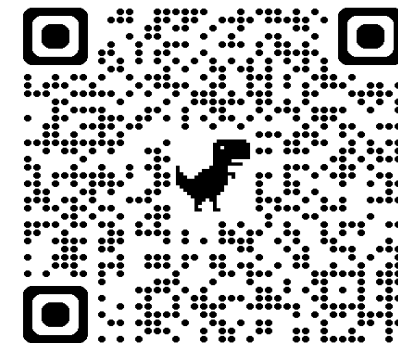
News & Insights

Events & Webinars

Projects & Initiatives

Legal and Policy Assistance to Address Racial Health Equity

Call for Applications for Legal and Policy Assistance to Promote
Racial Health Equity



“TO BE HOPEFUL in bad times is not just foolishly romantic. It is based on the fact that human history is a history not only of cruelty, but also of compassion, sacrifice, courage, kindness And if we do act, in however small a way, we don’t have to wait for some grand Utopian future. The future is an infinite succession of presents and to live *now* as we think human beings should live, in defiance of all that is bad around us, is itself a marvelous victory.” – Howard Zinn *You Can’t be Neutral on a Moving Train*



Thank you! Contact: April Shaw, Interim Director, Health Equity, The Network for Public Health Law: ashaw@networkforphl.org

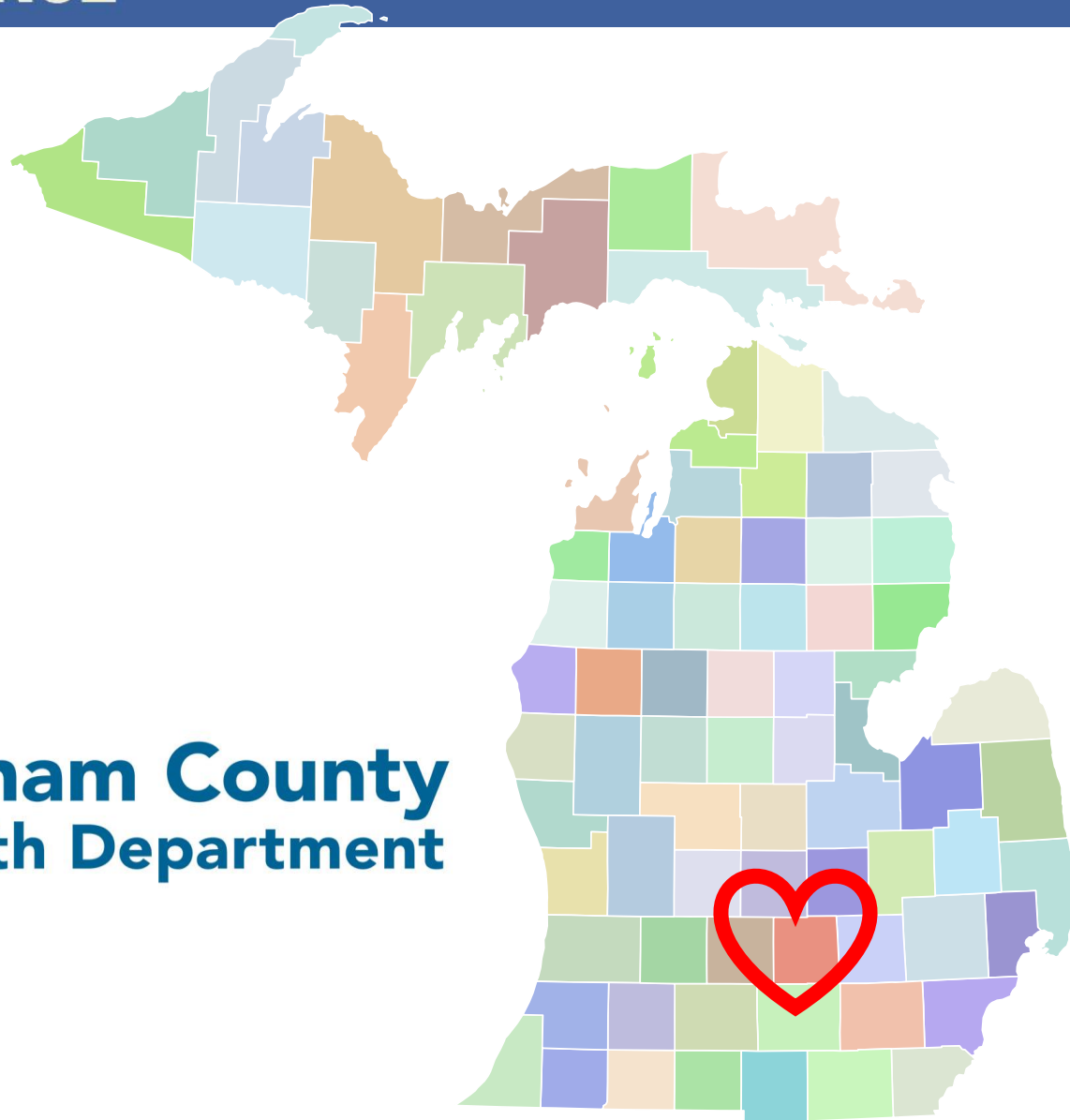
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The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation.

Network for Public Health Racial Health Equity Technical Assistance Project

Ingham County Health Department and One Love Global



Project Motivation

- Long standing relationship with One Love Global
- 2020 resolution declaring racism as a public health crisis
- Ingham County Health Department values focusing on social justice and equity
- A drive to connect policy, collaboration, and racial justice
- Addressing the relationship between police violence and health outcomes
- Gathering input from the Health Equity Council

Declaring Racism As A Public Health Crisis

- Ingham County Resolution #20-254, passed June 9, 2020
- Systemic racism as a social system that is institutional and structural
- Racism is rooted in the foundation of America and causes persistent discrimination in public health, access to care, public safety, mental health, and so many other aspects of life
- Acknowledging the historical racism within both Michigan and Ingham County
- Data to show the impact of racism on Black people in Ingham County; highlighting the effect of police brutality on the Black community

Relationship Between Public Health And Police Violence

- The importance for public health practitioners to implement surveillance of law enforcement violence and understand the experiences of victims (Alang, S., 2017)
- The role of public health in researching, educating, and advocating for policies that reduce police violence and promote public health
- The burden that people of color-primarily Black individuals-have had to take on to educate and advocate

The Impact On Public Health

- Black people are 5x more likely to sustain an injury that requires emergency department care from police violence (Spolum, M, 2022)
- Systematic disempowerment of Black communities
- Racist messaging
- Physical injury
- Psychological stress
- Economic impact

Racial Health Equity Project

- Review the federal and local BREATHE Acts
- Identify how public health fits into the work
- Identify ways that we can collaborate with each other and the community to promote health outcomes
- Understand what the community wants and needs

The BREATHE Act

Section 1: Repair

Divesting & Ending Criminal-Legal Harm
Part 1: Divesting from Harm

Section 2: Reimagine

New Approaches to Community Safety
Part 2: New Infrastructure for Public Safety

Section 3: Rebuild Real Public Safety with Community at the Center

Investing in Healthy, Sustainable & Equitable Communities for All People
Part 3: Education Justice
Part 4: Health, Family, & Environmental Justice
Part 5: Economic Justice
Part 6: Housing Justice

Section 4: Reclaim Public Systems to Produce Just and Equitable Results

Holding Officials Accountable & Enhancing Self-Determination of Black Communities
Part 7: Historical Accountability & Reparations
Part 8: Democratic Accountability
Part 9: Legal Accountability

Our Focus: Repair Harm

- Part 7 of the BREATHE Act
 - Seeks to bring awareness of racial police violence
 - Create processes for accountability and healing
- Understand the harm through a public health lens
- Identify strategies that are taking place currently

Focus Provisions

- Police violence reparations
- Establish a commission on the war on drugs and mass criminalization reparations
- Establish a statewide commission on truth, racial healing, and transformation

Understanding Reparations

- Adding a section on the definition and background of reparations
- Helping community understand what we mean by reparations in a way that feels actionable
- Promoting a shared understanding

The Challenges

- Federal administration change that does not prioritize racial health equity or inclusion
- Executive Orders and grant policy changes that prohibit or prevent work related to diversity, equity, inclusion, or accessibility
- Attacks on public health
- Loss of AmeriCorps grants, staff, and members

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Moving Forward

- Continued community collaboration
- Uplifting community voices
 - Especially voices with lived experience
- Education focus
 - Identifying community champions
- Prioritizing the Truth, Racial Healing, and Transformation commission

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References

Alang, S., McAlpine, D., McCreedy, E., Hardmen, R. (2017). *Police brutality and Black health: Setting the agenda for public health scholars*. American Journal of Public Health Medicine. 107(5):662-665. doi: 10.2105/AJPH.2017.303691

Spolum, M., & et al. (2022). *Police violence: Reducing the harms of policing through public health-informed alternative response programs*. American Public Health Association.

<https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2022.307107>

By Any Means Necessary: The Deep State Conundrum & Self-Determination in Health & Safety

Fighting the Anti-Anti Racism Movement Through Theory, Practice, & Litigation
The Network for Public Health Law
Public Health Conference September 2025
Seattle, Washington

NOTE

Administrative Law

Discussing executive branch agencies
(A handful of agencies are independent,
legislative, or judicial agencies.)

Self-Determination

MXGM examples; not global health
context

Arc

Big → Small (Bad → Better)

IN THEORY
HOW IS LAW MADE?

LEGISLATIVE AUTHORITY

Statutes duly passed
(& within Article I authority)

EXECUTIVE AUTHORITY

Policy/EOs duly issued
(& within Article II authority)
direct those within the executive branch to
(a) execute an inherent executive power, or
(b) implement a statute in a particular way.

JUDICIAL AUTHORITY

Case law interpreting statutes and applying the
constitution (within Article III authority)

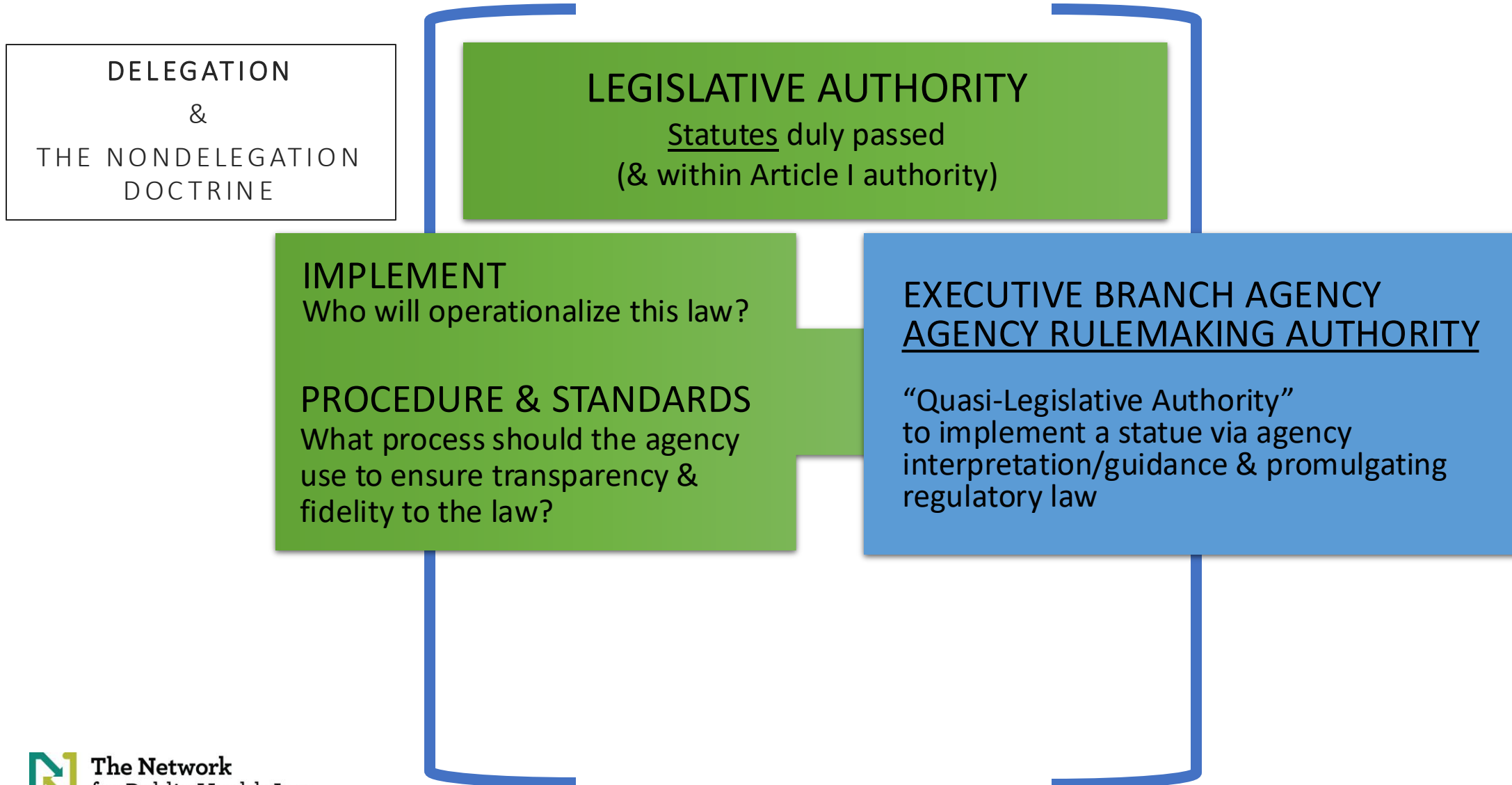
IN THEORY
HOW IS LAW MADE?

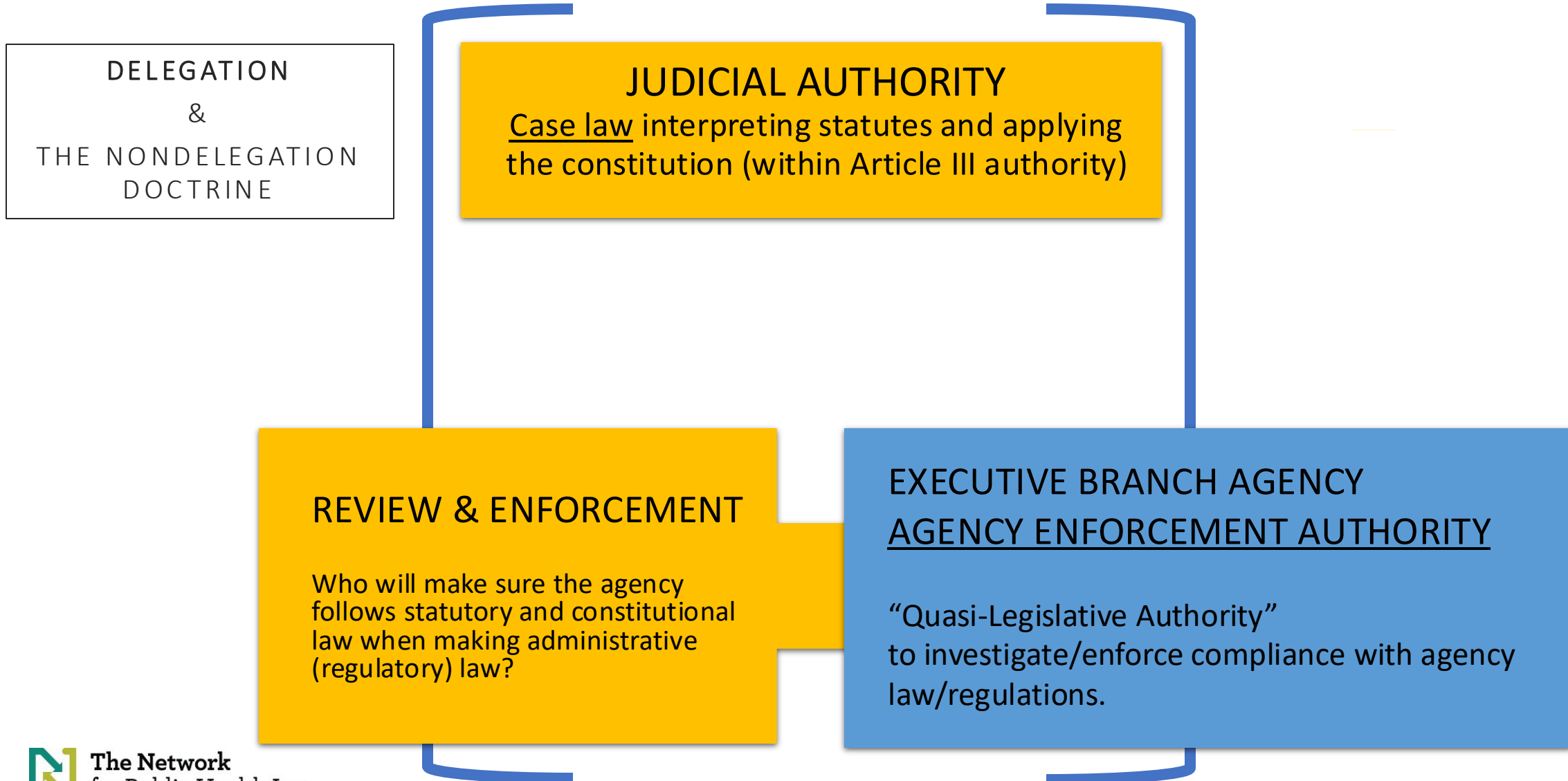
LAW MADE BY
CONSTITUTIONAL BRANCHES

IMPLEMENT
Who will operationalize this law?

PROCEDURE & STANDARDS
What process should the agency
use in implementation to ensure
transparency & fidelity to the law?

REVIEW & ENFORCEMENT
Who will make sure the agency
adheres to the law?





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HOW LAW IS MADE

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JUDICIAL AUTHORITY

Case law interpreting statutes and applying the
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IN
PRACTICE
HOW LAW
IS MADE

LEGISLATIVE AUTHORITY

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direct those within the executive branch to
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Case law interpreting statutes and applying the
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EXECUTIVE BRANCH AGENCY AGENCY RULEMAKING AUTHORITY

“Quasi-Legislative Authority”
to implement a statute via agency
interpretation/guidance & promulgating
regulatory law

EXECUTIVE BRANCH AGENCY AGENCY ENFORCEMENT AUTHORITY

“Quasi-Legislative Authority”
to investigate/enforce compliance with agency
law/regulations.

WHAT IF THE
EXECUTIVE BRANCH
EXERCISES ITS
DELEGATED
AUTHORITY IN A WAY
THE LEGISLATURE
OPPOSES?

CHECKING EXECUTIVE POWER:
OTHER TWO
CONSTITUTIONAL BRANCHES

LEGISLATIVE AUTHORITY

Statutes duly passed
(& within Article I authority)

IMPLEMENT

For legislatively-created agency, amend enabling act. Pass new enabling act for new agency under legislative branch. Modify existing enabling act to make a legislatively-created agency an independent one.

PROCEDURE & STANDARDS

APA

REVIEW & ENFORCEMENT

Add or remove investigation or enforcement powers.

WHAT ARE THE
CHANCES
THE LEGISLATURE
WILL MEANINGFULLY
CHECK EXECUTIVE
AGENCY POWER?

FACTS ABOUT THE LEGISLATURE

Composition

Recent polarization

Other barriers

Alternatives
(Erwin Chemerinsky's
"No Democracy Lasts
Forever")

WHAT IF THE
EXECUTIVE BRANCH
EXCEEDS ITS
DELEGATED
AUTHORITY OR
VIOLATES THE LAW?

CHECKING EXECUTIVE POWER:
OTHER TWO
CONSTITUTIONAL BRANCHES

JUDICIAL AUTHORITY

Case law interpreting statutes and applying the
constitution (within Article III authority)

IMPLEMENT

Right agency? Right scope?

PROCEDURE & STANDARDS

APA followed?

REVIEW & ENFORCEMENT

Did agency action (exercise of
rulemaking or enforcement
authority) abuse or exceed its
delegated authority (legislative or
judicial)?

WHAT ARE THE
CHANCES
THE FEDERAL COURTS
WILL MEANINGFULLY
CHECK EXECUTIVE
AGENCY POWER?

FEDERAL COURTS FACTS

Composition

Recent executive power cases

Recent administrative law cases

Other barriers

Alternatives to a
nine–justice, lifetime
appointment SCOTUS



TREATING
VIOLENT CRIME

BY CENTERING
SURVIVORS & PUBLIC SAFETY



WHAT DOES OUR
RESPONSE TO
VIOLENT CRIME
DELIVER?

DOES IT DELIVER
SAFETY?

Does it make the person
responsible very unlikely to
re-offend?

No. 40% recidivate.



Doesn't prioritize
making survivors
healthy and whole.

Costs almost
half a billion
dollars per
year—none of
which goes to
survivors.

(MDOC costs MS
\$460M annually)

Does it deter future crime? Make
communities safer?

**No. We maintain high violent crime
rates despite incarcerating more of
our own than any government in the
free world and most all in the non-
free world.**

(661 per 100K people, which is five times China's rate).

Doesn't focus on
making survivors safer
after the person
responsible is released.



Doesn't make
the person
responsible
make right
their wrong—
on the
survivors'
terms.

Does it save money? Pay
for survivors' medical bills?

**Neither. Incarceration costs
us \$24,000 per year per
individual—none of which
goes to helping survivors.**

RESTORATIVE JUSTICE
RESPONSES
DELIVER SAFETY

INCARCERATION DOES
NOT

WHAT DELIVERS HEALTH
OUTSIDE OF
FEDERAL AGENCIES?

“There is not a
prison in the world
that can produce the
outcomes we see.”

Executive Director Danielle Sered of Common
Justice

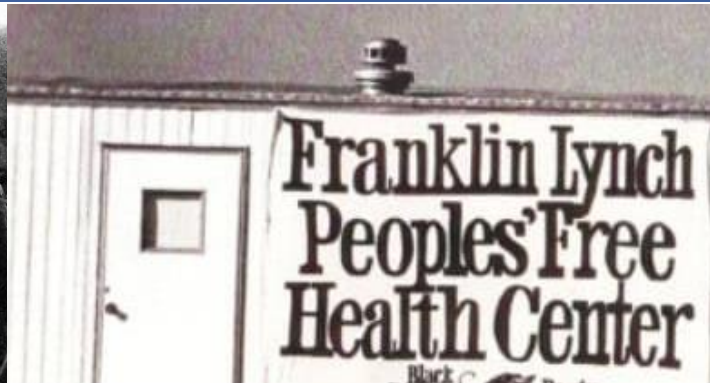
“THE LONGER I DO THIS WORK, THE MORE
I THINK NOT ONLY ARE ACCOUNTABILITY
AND PUNISHMENT NOT THE SAME,
THEY'RE IN MANY RESPECTS
ANTITHETICAL.”

— Danielle Sered,
Executive Director of
Common Justice

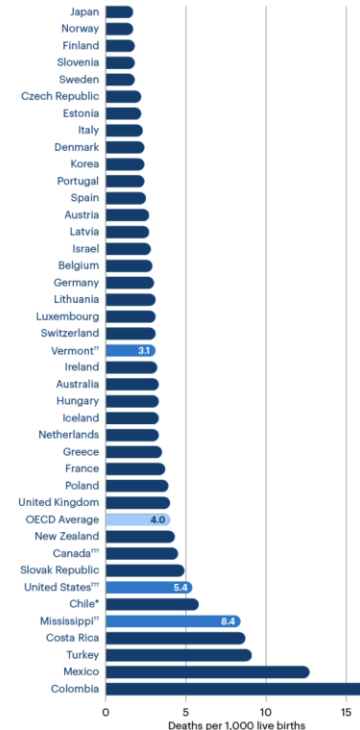


Common Justice was exactly right for me. I knew immediately when I was robbed at gunpoint that I didn't want those boys to go to prison, but I wanted something. I needed something. I wanted them to face me man-to-man, human-to-human. I wanted to know they would do something with their lives so they'd never do this to anyone again. And I wanted to have some say in what that might be.”

— COMMON JUSTICE
HARMED PARTY



The U.S. Ranks No. 33 out of 38 OECD Countries in Infant Mortality

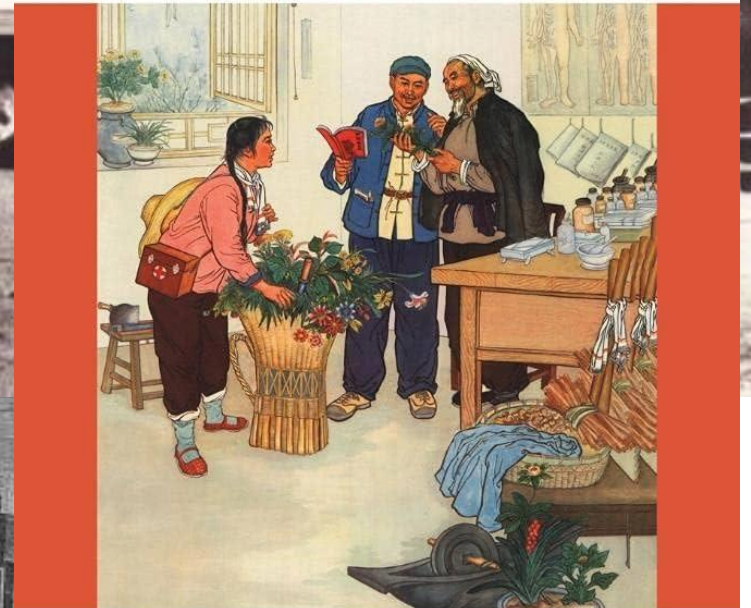


amazon pharmacy

UNIVERSITY OF ROCHESTER PRESS

ROCHESTER STUDIES IN MEDICAL HISTORY

Barefoot Doctors and Western Medicine in China



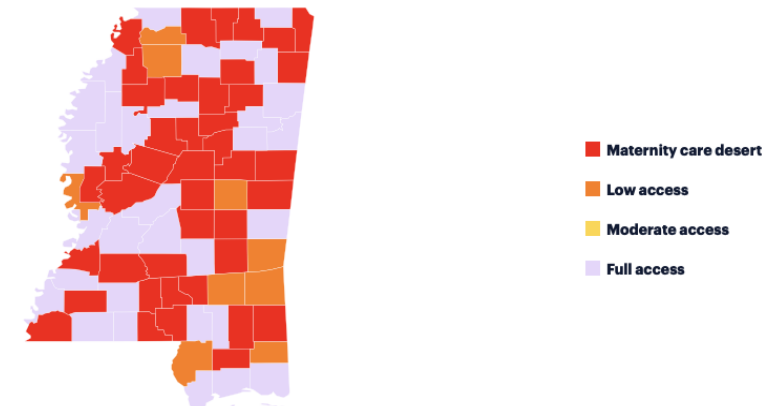
Xiaoping Fang

“The hardest people to persuade that incarceration will keep them safe are people who live in neighborhoods where incarceration is common.

They have paid the price of prison’s total failure with their enduring pain.”

Danielle Sered, founder of Common Justice

- In Mississippi, there were 8,148 babies born in maternity care deserts, 23.2% of all births.
- 34.7% of babies were born to women who live in rural counties, while 25.2% of maternity care providers practice in rural counties in Mississippi.

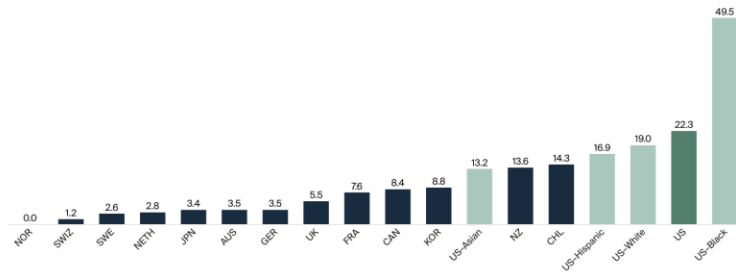


Definitions of maternity care deserts and access to maternity care

Definitions	Maternity care deserts	Low access to maternity care	Moderate access to maternity care	Full access to maternity care
Hospitals and birth centers offering obstetric care	zero	<2	<2	≥2
Obstetric Providers (obstetrician, family physician†, CNM/CM per 10,000 Births)	zero	<60	<60	≥60
Proportion of women 18-64 without health insurance	any	≥10%	<10%	any

The United States continues to have the highest maternal death rate, with the rate for Black women by far the highest of any group.

Maternal deaths per 100,000 live births



Notes: The maternal mortality ratio is defined as the death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management but not from accidental or incidental causes. For more information on how maternal mortality is defined, see Organisation for Economic Co-operation and Development, "Maternal and Infant Mortality," in *Health at a Glance 2023: OECD Indicators* (OECD, 2023). 2015 data for FRA; 2017 data for UK; 2018 data for NZ; 2020 data for CAN and SWZ; 2021 data for AUS, GBR, JPN, KOR, NTH, and SWE; 2022 data for CHL (provisional), KOR, and US. Due to sample size limitations, data for US-AIAN cannot be displayed. AIAN = American Indian and Alaska Native. Asian Americans include a wide range of distinct communities. Such groupings are imperfect, as they mask significant difference in maternal mortality rates.

Data: All country data from OECD Health Statistics 2023 extracted on February 29, 2024, except data for US are 2022 data from the Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics System, mortality and natality data files, "Maternal Mortality Rates in the United States, 2022."

Source: Munira Z. Gunja et al., *Insights into the U.S. Maternal Mortality Crisis: An International Comparison* (Commonwealth Fund, June 2024), <https://doi.org/10.26099/cfhe-st75>

- MS's **maternal mortality rate is among the highest** in the nation, it is **four times higher** for Black than white women, and many people can't get ob/gyn care within **an hour's drive**—and not all **can pay** for it.
- Being denied abortion care services, which are banned in MS, can **kill** in Mississippi, and most people seeking abortions are **already parents** whose families need them.
- MS has the nation's **highest** fetal mortality, infant mortality and pre-term birth rates.
- MS **children are more likely to die** before their first birthday than in any other state.
- *Roe v. Wade* never made abortion care **equitably** accessible, especially to **rural**, Black, and low-income Mississippians. We're fighting for **Reproductive Justice**: the human right to maintain personal bodily autonomy, **have children**, not have children, and parent the children we have in safe and sustainable communities.

Similarly.

The hardest people to persuade that getting back what we had—by checking executive power—will deliver us health are likely people who live in communities where access to care is limited and poor health outcomes are common.

They have paid the price of the failed private insurance-driven model of healthcare in America with their enduring pain, chronic disease, and preventable deaths.

We want something else entirely.



Please take this survey to evaluate conference sessions.



THANK YOU