HEALTH IN ALL POLICIES: AN APPROACH TO COMBATTING RACISM'S IMPACT ON PUBLIC HEALTH

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I. INTRODUCTION

The COVID–19 pandemic has sparked the current discussion of racism as a public health crisis throughout the country. The impacts of the pandemic have illuminated several racial disparities in health outcomes, including greater rates of infection, hospitalization, and death amongst racial and ethnic minorities compared to their white counterparts.[1]

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1. *Risk for COVID–19 Infection, Hospitalization, and Death by Race/Ethnicity*, CTRS. FOR DISEASE CONTROL & PREVENTION (Nov. 22, 2021), https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.

Although the pandemic has forced this issue into the spotlight, these health disparities are not a brand-new occurrence, and most certainly do not require a pandemic in order to occur.[2] Mothers who are Black, Native American, or Alaskan Native have double, or sometimes even triple, the risk of dying due to pregnancy-related complications than white mothers.[3] When adjusted for age, the death rate for Black individuals who suffer from cardiovascular disease is thirty-three percent higher than that for the overall U.S. population.[4] Racial disparities even manifest in the amount of pain relief given to a patient, as evidenced by a recent study finding that Black children who visited an emergency department for acute appendicitis were eighty percent less likely than white children to receive opioid pain killers.[5]

Michigan's Governor, Gretchen Whitmer, has taken the first steps toward addressing this public health issue through an executive directive released in August 2020.[6] In this directive, Governor Whitmer adopted several strategies that the state's health department, in conjunction with other state agencies and departments, will utilize in order to combat racism's effects on public health in Michigan.[7] These strategies include:

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html [https://web.archive.org/web/20220128220736/https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html]. As of November 22, 2021, Black patients were 2.6 times more likely to be hospitalized for COVID–19 and 1.9 times more like to die from COVID–19.

2. *See* Graeme Wood, *What's Behind the COVID–19 Racial Disparity?*, THE ATLANTIC (May 27, 2020), https://www.theatlantic.com/ideas/archive/2020/05/we-dont-know-whats-behind-covid-19-racial-disparity/612106/ [http://web.archive.org/web/20210130055734/https://www.theatlantic.com/ideas/archive/2020/05/we-dont-know-whats-behind-covid-19-racial-disparity/612106/].

3. *Racial and Ethnic Disparities Continue in Pregnancy-Related Deaths: Black, American Indian/Alaska Native Women Most Affected*, *CDC Newsroom*, CTRS. FOR DISEASE CONTROL & PREVENTION (Sept. 5, 2019, 1:00 PM), https://www.cdc.gov/media/releases/2019/p0905-racial-ethnic-disparities-pregnancy-deaths.html [http://web.archive.org/web/20210223195145/https://www.cdc.gov/media/releases/2019/p0905-racial-ethnic-disparities-pregnancy-deaths.html].

4. *Fact Sheet: CVD Health Disparities*, AM. HEART ASS'N, https://www.heart.org/idc/groups/heart-public/@wcm/@hcm/@ml/documents/downloadable/ucm_429240.pdf [http://web.archive.org/web/20210212123711/https://www.heart.org/idc/groups/heart-public/@wcm/@hcm/@ml/documents/downloadable/ucm_429240.pdf] (last visited Mar. 1, 2021).

5. Haider J. Warraich, *Racial Disparities Seen in How Doctors Treat Pain, Even Among Children*, WASH. POST (July 11, 2020, 11:00 AM), https://www.washingtonpost.com/health/racial-disparities-seen-in-how-doctors-treat-pain-even-among-children/2020/07/10/265e77d6-b626-11ea-aca5-ebb63d27e1ff_story.html [http://web.archive.org/web/20210302010145if_/https://www.washingtonpost.com/health/racial-disparities-seen-in-how-doctors-treat-pain-even-among-children/2020/07/10/265e77d6-b626-11ea-aca5-ebb63d27e1ff_story.html].

6. Exec. Directive No. 2020-09 (Mich. 2020).

7. *Id.*

(1) data and analysis collection to determine what resources and tools are necessary to address the crisis; (2) policy and planning initiatives to combat racism; (3) engagement, communication, and advocacy to implement a community-driven response; and (4) implicit bias training in state departments and agencies.[8]

Although Governor Whitmer's initiative is an important first step in the right direction, more can be done to ensure that racism's effects on public health are effectively dealt with and eradicated. This Note argues that in order to obtain true health equity amongst racial and ethnic groups, a Health in All Policies (HiAP) approach should be adopted at the state level. This means that whenever a new policy is contemplated, the health implications that may result from that policy decision must be considered simultaneously.[9] As policies are implemented and evaluated, both government and community organizations should ensure that they do not have a negative or disparate impact on the health outcomes of various groups.[10] Part II of this Note provides background on how racism has been analyzed as a public health crisis and provides more information regarding what Governor Whitmer's directive entails.[11] It additionally provides an overview of what sort of legislation has been introduced regarding this issue at the local, state, and federal levels, as well as a deeper discussion of what a HiAP framework involves.[12] Part III analyzes where Governor Whitmer's directive falls short and why Michigan should adopt a HiAP approach.[13] Part IV concludes that in order to achieve equitable public health outcomes for minority Michiganders, a HiAP approach must be adopted statewide in addition to the policies already put in place by Governor Whitmer's executive directive.[14]

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8. *Id.*

9. *See What You Need to Know About Health in All Policies*, WORLD HEALTH ORG, https://www.who.int/social_determinants/publications/health-policies-manual/key-messages-en.pdf [http://web.archive.org/web/20150306073928/http://who.int/social_determinants/publications/health-policies-manual/key-messages-en.pdf] (last visited Jan. 30, 2021).

10. *Id.*

11. *See infra* Parts II.A–B.

12. *See infra* Parts II.C–E.

13. *See infra* Part III.

14. *See infra* Part IV.

II. BACKGROUND

A. Racism as a Public Health Crisis

Analyzing racism's impact on public health is not a new phenomenon.[15] During the presidency of Lyndon Johnson, the National Institute of Mental Health (NIMH) researched mental health outcomes amongst minority groups, as well as other health implications that racism may cause.[16] Later on, in 1972, about a fifth of the NIMH budget was dedicated to evaluating how social problems, including racism, impact mental health.[17] The Nixon administration reversed the focus on racism's impact on health measures, as President Nixon believed that government-funded research on social determinants of health "supported left-wing policies."[18] The focus was shifted away from systemic, racialized causes of health outcomes and blame was instead placed upon individuals for their health issues.[19] Years later, during the Clinton administration, racism was once again analyzed through a public health lens.[20] However, Surgeon General David Satcher's attempts in framing racism as a public health crisis were ultimately futile.[21] Although Dr. Satcher was able to point to "compelling evidence that race and ethnicity correlate with persistent, and often increasing, health disparities among US populations," his efforts were unable to convince the medical industry, and other industries, to reform their policies in order to advance health equity across racial groups.[22] Due to the fact that the U.S.'s medical system workforce is overwhelmingly white, Black individuals who exhibit the same symptoms as white individuals are less likely to be referred for treatment in this system.[23] This pattern stems from systemic racism's impact on the medical system, where white patients may be treated more favorably than patients of other races and ethnicities.[24] Simply recognizing this issue, without

15. Olivia Goldhill, *Racism Used to Be Considered a U.S. Public Health Issue Until Nixon Interfered*, QUARTZ (Aug. 1, 2020), https://qz.com/1887142/racism-was-considered-a-us-public-health-issue-until-nixon/ [http://web.archive.org/web/20210201014238/https://qz.com/1887142/racism-was-considered-a-us-public-health-issue-until-nixon/].
16. *Id.*
17. *Id.*
18. *Id.*
19. *See id.*
20. *Id.*
21. *See id.*
22. *Id.*
23. *Id.*
24. *See id.*

implementing effective policies aimed at addressing the it, was not sufficient to solve the underlying problem.[25]

Discussing racism in terms of public health has once again gained national attention as the deaths of George Floyd, Breonna Taylor, Ahmaud Arbery, and several other Black individuals at the hands of violent police, made national headlines during the summer of 2020.[26] Numerous protests erupted throughout the country, and around the world, in response to the police brutality that Black and other racial-ethnic minority communities often face.[27] Several scholars are once again defining racism as a public health issue and have analyzed how the public health crisis of racism interacts with other aspects of society. [28] For example, scholars have discussed how systemic racism's effect on Black communities has resulted in several unwanted health outcomes, such as poor mental health, lowered life expectancy, poor maternal and child health, and greater prevalence of high blood pressure, asthma, diabetes, and many other chronic diseases.[29] These health outcomes are exacerbated by the over-policing of Black bodies, severely underfunded school systems, false perceptions that Black people do not feel physical pain as much as white people, and other racial disparities.[30]

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25. *See id.*

26. *See, e.g.*, *Racism is an Ongoing Public Health Crisis that Needs Our Attention Now*, AM. PUB. HEALTH ASS'N (May 29, 2020), https://www.apha.org/news-and-media/news-releases/apha-news-releases/2020/racism-is-a-public-health-crisis [http://web.archive.org/web/20210201014444/https://www.apha.org/news-and-media/news-releases/apha-news-releases/2020/racism-is-a-public-health-crisis] (last visited Jan. 31, 2021).

27. Ashley Westerman, *In 2020, Protests Spread Across the Globe With a Similar Message: Black Lives Matter*, NPR (Dec. 30, 2020, 5:04 AM), https://www.npr.org/2020/12/30/950053607/in-2020-protests-spread-across-the-globe-with-a-similar-message-black-lives-matt [http://web.archive.org/web/20210201014553/https://www.npr.org/2020/12/30/950053607/in-2020-protests-spread-across-the-globe-with-a-similar-message-black-lives-matt].

28. *See, e.g.*, RUQAIIJAH YEARBY ET AL., SAINT LOUIS UNIV., THE INST. FOR HEALING JUST. & EQUITY, RACISM IS A PUBLIC HEALTH CRISIS. HERE'S HOW TO RESPOND (2020), https://pressley.house.gov/sites/pressley.house.gov/files/20.09_Racism-is-a-Public-Health-Crisis.pdf [http://web.archive.org/web/20210201014931/https://pressley.house.gov/sites/pressley.house.gov/files/20.09_Racism-is-a-Public-Health-Crisis.pdf].

29. Montrece M. Ransom, *Guest Chair's Column: Dying to Belong: Racism as a Public Health Issue*, AM. BAR ASS'N (June 24, 2020), https://www.americanbar.org/groups/health_law/publications/health_lawyer_home/2020-june/chair/[http://web.archive.org/web/20210201015044/https://www.americanbar.org/groups/health_law/publications/health_lawyer_home/2020-june/chair/].

30. *See id.*

Poverty and socioeconomic status are driving factors in health outcomes for Black communities.[31] Additionally, overwhelming rates of police violence toward Black people specifically can be considered a public health issue.[32] Although our federal and state governments have passed laws concerning the civil rights of minorities, including the Civil Rights Acts of 1964 and 1968, "Blacks and other racial-ethnic minorities still experience disparities in educational, professional, and financial advancements."[33]

B. Governor Whitmer's Executive Directive

On August 5, 2020, Michigan Governor Gretchen Whitmer released an executive directive declaring racism to be a public health crisis—the first state to do so.[34] This response appears to be largely fueled by the devastation caused by the COVID–19 pandemic.[35] At the time the directive was issued, the Black/African American death rate for Michigan residents due to COVID–19 was more than four times higher than that of white Michigan residents.[36] The beginning of Governor Whitmer's executive directive provides a brief history of racism's impact in America, and more specifically, in Michigan.[37] For example, Whitmer cites issues including redlining, exclusionary housing covenants, limited access to healthy foods, and older housing options.[38] In turn, these systemic issues may lead to health problems, such as reduced life expectancy, higher rates of asthma, higher rates of lead poisoning, and several other health issues.[39] The directive also notes that the American Public Health Association, the American Medical Association, the American Academy of Pediatrics, and the American College of Emergency Physicians have declared institutional racism an urgent public health issue, and that "they have vowed to eradicate racism and discrimination in health care."[40]

Governor Whitmer identified four strategies to be undertaken in order to address racism in Michigan: (1) collection of data and performing data

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31. *See* Dayna Bowen Matthew, *"Lessons from* The Other America*" Turning a Public Health Lens on Fighting Racism and Poverty*, 49 U. MEM. L. REV. 229 (2018).

32. Chandra L. Ford, *Graham, Police Violence, and Health Through a Public Health Lens*, 100 B.U. L. REV. 1093 (2020).

33. Raja Staggers-Hakim, *Black Lives Matter, Civil Rights, and Health Inequities*, 40 W. NEW ENG. L. REV. 447 (2018).

34. Exec. Directive No. 2020-09 (Mich. 2020).

35. *See id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

analysis; (2) policy and planning; (3) engagement, communication, and advocacy; and (4) implicit bias training,[41] which will be discussed further below.[42] Governor Whitmer also ordered that all state departments and agencies "must take all necessary steps to implement" the directive.[43] Necessary steps may include reallocation of funds or lawful use of other resources.[44]

1. Data Collection and Analysis

To determine what tools and resources are required to address racial disparities in public health, data must be collected regarding the lives of different racial and ethnic groups.[45] After this data is collected, it can be analyzed to determine the root causes of racial disparities in Michigan.[46] Governor Whitmer's executive directive requires that data highlighting the differences in health outcomes for various racial and ethnic groups be collected.[47] Once the data is collected, it will be analyzed and shared publicly in order to encourage equity in developing policies and practices.[48] The data analysis is intended to shed light on the intersection of racial disparities in "societal, economic, environmental, and behavioral factors" with access to resources that help individuals stay healthy.[49] These resources include stable employment, affordable and healthy food and housing, equitable transportation, and public education.[50] The data analysis will also focus on the relationship between community violence and racism, and how community violence affects an individual's overall health as well as the general community's health.[51]

2. Policy and Planning

In order to bolster policy and planning initiatives to combat racism and its effects in Michigan, the Department of Health and Human Services (MDHHS) will be partnering with the Michigan Coronavirus Task Force on Racial Disparities.[52] This task force has been specifically evaluating

41. *Id.*
42. *See infra*, Parts II.B(1)–(4).
43. Exec. Directive No. 2020-09 (Mich. 2020).
44. *Id.*
45. *See id.*
46. *Id.*
47. *Id.*
48. *Id.*
49. *Id.*
50. *Id.*
51. *Id.*
52. *Id.*

racial disparities during the COVID–19 pandemic.[53] Together, these two groups will create detailed outlines as to how Michigan will address and eliminate the root causes of racial inequity in the State, which lead to disparities in health outcomes for Michiganders.[54] In addition to creating these policy outlines, the groups will create direct service programs to address the several negative impacts of racial inequity on certain populations.[55] They are also tasked with creating programs that aim to empower communities in confronting systemic barriers to racial equity.[56]

3. Engagement, Communication, and Advocacy

Another strategy of Governor Whitmer's response to racism's effects is to work with historically marginalized communities.[57] Working with impacted communities will allow MDHHS to determine what problems the communities are facing and what the best responses to those problems are, including community-driven responses.[58] MDHHS will also ensure that plans regarding access to prevention and treatment are "culturally and linguistically competent," meaning that they can be easily understood and utilized by the target communities.[59] These plans will focus on combatting health care inequities.[60] The directive also calls for advocacy at both the state and federal levels to ensure that policies and funding opportunities are created to fight the effects of systemic racism directly.[61]

4. Implicit Bias Training

The final strategy that Governor Whitmer calls for in her executive directive is the requirement of implicit bias training, which "applies to all state department directors and autonomous agency heads."[62] Classified as well as unclassified state employees are required to complete implicit bias training.[63] State department directors and autonomous agency heads were required to access this training by December 31, 2020, through the Michigan Civil Service Commission, the Michigan Department of Civil

53. *Id.*
54. *Id.*
55. *Id.*
56. *Id.*
57. *Id.*
58. *Id.*
59. *Id.*
60. *Id.*
61. *Id.*
62. *Id.*
63. *Id.*

Rights, or an Office of State Employer-approved vendor.[64] If special circumstances were present, the deadline of December 31, 2020, may have been extended by the Office of State Employer.[65] In scenarios where state employees may have already participated in an implicit bias training in the past year, they may have met this requirement but needed approval from the Office of the State Employer.[66] All new state employees must undergo implicit bias training during the new hire process.[67] The employee must complete the training no later than sixty days after being hired.[68]

The directive also contains certain requirements for Special Personnel Services (SPS) contractors and other "temporary, intermittent, or irregular personal service workers" that work for the State and also work with classified and unclassified state employees.[69] Additionally, the departments and autonomous agencies must ensure that all state employees complete implicit bias training by December 31st every other year.[70] Departments and autonomous agencies are also required to work with the Office of the State Employer in order to create a compliance-monitoring process for keeping track of implicit bias training requirements.[71] The Office of the State Employer is required to submit an annual report to the Chief Compliance Officer.[72] The directive states that this entire implicit bias training plan will be implemented and completed by December 31, 2021.[73]

C. Proposed Policies and Legislation in Michigan

Prior to Governor Whitmer's executive directive, Michigan lawmakers at both state and municipal levels attempted to address the issue of racism.[74] Both the Michigan House of Representatives and Senate

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64. *Id.*
65. *Id.*
66. *Id.*
67. *Id.*
68. *Id.*
69. *Id.*
70. *Id.*
71. *Id.*
72. *Id.*
73. *Id.*
74. *See, e.g.*, Washtenaw Cnty. Bd. of Comm'rs., *A Resolution Declaring Racism as a Public Health Crisis in Washtenaw County*, WASHTENAW CNTY. MICH. (July 1, 2020), https://www.washtenaw.org/DocumentCenter/View/17212/20-114-Declaring-Racism-as-a-Public-Health-Crisis [http://web.archive.org/web/20201211004629/https://www.washtenaw.org/DocumentCenter/View/17212/20-114-Declaring-Racism-as-a-Public-Health-Crisis]. *See also* H. R. Res. 25, 100th Leg., Reg. Sess. (Mich. 2019); S. Res. 27, 100th Leg., Reg. Sess. (Mich. 2019).

introduced resolutions in June of 2020 calling for racism to be declared a public health crisis in Michigan, citing the history of racism in Michigan and the devastating effects that COVID–19 has had on Black communities.[75] Neither the House nor the Senate resolutions became law, but Governor Whitmer answered their request with her directive two months later.[76]

Ignited by the response to the murder of George Floyd, Detroit City Council Members, in collaboration with community organizations, announced policy plans for a "Detroiters' Bill of Rights" in July of 2020.[77] The council members and organizations intend for the Detroiters' Bill of Rights to be included in the city's charter, which can be viewed as the city's constitution.[78] The main goal of the Detroiters' Bill of Rights is to "address issues at the intersection of inequity, survival, and quality of life, including water access, safety, recreation, and affordable housing."[79] Although the Detroiters' Bill of Rights does not have a specific health focus, it addresses several aspects of life that are systemically connected to population health.[80] The policymakers have created eight core rights that they want to be included in Detroit's charter, which are the rights to (1) water and sanitation; (2) environmental health; (3) safety; (4) live free from discrimination; (5) recreation; (6) access and mobility; (7) housing; and (8) the fulfillment of basic needs, such as food and utilities.[81] The group is additionally calling for the creation of commissions and offices to address issues such as "environmental justice, immigrant and refugee affairs, and disability rights."[82] They also recommend the establishment of a "water affordability program, public health fund, and a low-income fare for people who use public transit."[83] Detroit voters will be able to vote on the above amendments to the Detroit city charter in 2021.[84]

These actions at both the state and local levels are an important step toward recognizing racism as a public health crisis in Michigan. This

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75. H. R. Res. 25, 100th Leg., Reg. Sess. (Mich. 2019); S. Res. 27, 100th Leg., Reg. Sess. (Mich. 2019).

76. *See supra* Part II.B.

77. Nushrat Rahman, *Bill of Rights for Detroiters Could Be First Change to City Charter in 8 Years*, DETROIT FREE PRESS (July 29, 2020, 9:30 PM), https://www.freep.com/story/news/local/2020/07/29/detroit-bill-of-rights-city-council/5531860002/ [http://web.archive.org/web/20210201015346/https://www.freep.com/story/news/local/2020/07/29/detroit-bill-of-rights-city-council/5531860002/].

78. *Id.*

79. *Id.*

80. *See id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

recognition allows policy makers and their advisors to think more deeply about the issues at hand and consider what can be done from a policy perspective to support anti-racist public health efforts. However, the failure of these efforts to officially be passed in the Michigan Legislature may reflect that this concept is not sufficiently recognized amongst Michigan legislators. Although Governor Whitmer's executive directive covers many of the requests in the proposed legislation,[85] passing the legislation would be a meaningful step toward committing to the achievement of anti-racist public health outcomes.

D. Other State and Federal Actions

The several protests during the summer of 2020 addressing racial justice ignited much change throughout the country. As a result of this societal movement, thirty-seven states had policies put in place (at one level of government, at least) to address racism as a public health crisis as of August 2021.[86] These policies have been enacted in several different ways, such as through local government legislation, executive orders issued by mayors and governors, and county policies passed by county commissioners or County Board of Health resolutions.[87] For example, on June 11, 2020, King County in Washington State, which includes Seattle, declared racism to be a public health crisis and outlined several anti-racist policy priorities for the county.[88] King County's code already contained anti-discrimination ordinances concerning discrimination in contracting;[89] fair employment practices;[90] a priority hire program;[91] and discrimination in places of public accommodation.[92] The declaration aims to take a step further in combatting the issue of racism in King County by viewing the problem through a public health lens.[93]

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85. *See* Exec. Directive No. 2020-09, *supra* note 6.

86. *Analysis: Declarations of Racism as a Public Health Crisis*, AM. PUB. HEALTH ASS'N (Oct. 2021), https://www.apha.org/-/media/Files/PDF/topics/racism/Racism_Declarations_Analysis.ashx [https://web.archive.org/web/20220106132412/https://apha.org/-/media/Files/PDF/topics/racism/Racism_Declarations_Analysis.ashx].

87. YEARBY ET AL., *supra* note 28, at 7.

88. *Racism as a Public Health Crisis in King County*, KING COUNTY, https://www.kingcounty.gov/elected/executive/constantine/initiatives/racism-public-health-crisis.aspx [http://web.archive.org/web/20210201015525/https://www.kingcounty.gov/elected/executive/constantine/initiatives/racism-public-health-crisis.aspx] (last visited Nov. 14, 2020).

89. KING COUNTY, WASH., KING COUNTY CODE, § 12.17 (2020).

90. *Id.* at § 12.18.

91. *Id.* at § 12.18A.

92. *Id.* at § 12.22.

93. KING COUNTY, *supra* note 88.

As stated above, Michigan was the first state to declare racism a public health crisis, but Nevada was soon to follow. Nevada Governor Steve Sisolak also signed an executive proclamation on August 5, 2020, which declared racism to be a public health crisis.[94] His proclamation highlighted how racial inequalities manifest in mental health services, education, and career opportunities.[95] Other states have also followed this trend started by Michigan, as California, Colorado, Minnesota, New Mexico, and Ohio currently have statewide legislation pending meant to combat racism.[96] Wisconsin Governor Tony Evers also declared racism to be a public health crisis in media briefings, although a more formal and concrete approach to the issue is yet to come at a statewide level.[97] Additionally, certain counties and cities in Indiana, Maryland, Massachusetts, Missouri, and Pennsylvania either passed or are considering passing declarations that proclaim racism as a public health crisis.[98]

Although many states and municipalities only began implementing policies directed at racism from a public health perspective during the summer of 2020, other non-governmental advocacy groups throughout the country had already been analyzing and attempting to address this issue.[99] For example, in 2017, the University of Wisconsin's Population Health Institute and the Wisconsin Public Health Association convened a group that consisted of community organizations, grassroots movements, government agencies, and academics.[100] Those who attended the gathering were encouraged to think about how racism has greatly affected community and individual health disparities and what role the community can play in addressing these disparities.[101] In 2018, the Wisconsin Public Health Association passed a resolution to declare racism a public health

94. YEARBY ET AL., *supra* note 28, at 7–8.

95. *Id.*

96. *Id.*

97. Zac Schultz, *Gov. Evers Declares Racism a Public Health Crisis*, PBS WIS., (June 4, 2020), https://pbswisconsin.org/news-item/gov-evers-declares-racism-a-public-health-crisis/ [http://web.archive.org/web/20201228212618/https://pbswisconsin.org/news-item/gov-evers-declares-racism-a-public-health-crisis/].

98. Christine Vestal, *Racism is a Public Health Crisis, Say Cities and Counties*, THE PEW CHARITABLE TRUSTS (June 15, 2020), https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/06/15/racism-is-a-public-health-crisis-say-cities-and-counties [http://web.archive.org/web/20210114131850/https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/06/15/racism-is-a-public-health-crisis-say-cities-and-counties].

99. *See, e.g.*, *Healthiest Wisconsin 2020*, WIS. DEP'T OF HEALTH SERVS. (July 2010), https://www.dhs.wisconsin.gov/publications/p0/p00187.pdf [http://web.archive.org/web/20201017134922/https://www.dhs.wisconsin.gov/publications/p0/p00187.pdf].

100. *Id.* at 7.

101. *Id.*

crisis in the State.[102] The resolution also included a call to action for the creation of policies that will directly address the issue of racism as a public health crisis and systemic racism in general.[103] As previously mentioned, Wisconsin's governor has declared racism a public health crisis during media briefings.[104] Additionally, the Wisconsin localities of Appleton, Milwaukee, Milwaukee County, and Madison all either passed, or are considering, declarations that racism is a public health crisis.[105]

Several bills and resolutions are also pending at the federal level regarding racism as a public health crisis. Ohio U.S. Senator Sherrod Brown and Connecticut U.S. Representative Jahana Hayes, along with several other senators and representatives, introduced a bicameral resolution titled "A Resolution Declaring Racism a Public Health Crisis" in July of 2020.[106] This resolution would force the United States to reckon with its racist roots and also establish strategies to combat racial health disparities nationwide.[107] Additionally, Massachusetts U.S. Senator Elizabeth Warren and Massachusetts U.S. Representative Ayanna Pressley have sponsored the Anti-Racism and Public Health Act of 2020.[108] One goal of this Act is to establish a National Center on Anti-Racism and Health at the Centers for Disease Control and Prevention, as well as a law enforcement violence prevention program.[109] The established center would "declare racism a public health crisis, research the impact of racism on health and wellbeing, and develop interventions to dismantle structural racism."[110] In addition to researching the impacts on racism and developing interventions, the Act would allocate funds to state and local governments so they can also research anti-racism efforts.[111] The Act also importantly provides definitions to terms such as "structural racism,"[112]

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102. *2018 Resolution: Racism is a Public Health Crisis*, WIS. PUB. HEALTH ASS'N, (May 2018), https://cdn.ymaws.com/www.wpha.org/resource/resmgr/2018_folder/WPHA_Racial_Equity_Resolutio.pdf [http://web.archive.org/web/20200925214608/https://cdn.ymaws.com/www.wpha.org/resource/resmgr/2018_folder/WPHA_Racial_Equity_Resolutio.pdf] (last visited Jan. 31, 2021).

103. *Id.*

104. Schultz, *supra* note 97.

105. Vestal, *supra* note 98.

106. S. Res. 655, 116th Cong. (2020); H. R. Res. 1069, 116th Cong. (2020).

107. YEARBY ET AL., *supra* note 28, at 8.

108. Anti-Racism in Public Health Act of 2020, S. 4533, 116th Cong. (2020).

109. *See* YEARBY ET AL., *supra* note 28, at 8.

110. *Id.*

111. *Id.*

112. Structural racism, as defined by the National Museum of African American History and Culture, is an "overarching system of racial bias across institutions and society." *Being Antiracist*, NAT'L MUSEUM OF AFRICAN AM. HIST. & CULTURE, https://nmaahc.si.edu/

"antiracism,"[113] and "antiracist."[114] These terms are frequently used when discussing racial issues, and providing definitions for these terms is crucial for successfully addressing racism. By providing these definitions, people who read the legislative text can participate in a common understanding of what the terms mean in U.S. society.[115]

E. Health in All Policies Framework and Systems Thinking

One analytical framework used to address health inequities that manifest as a result of policy choices, and may be useful to implement in Michigan and throughout the country, is called Health in All Policies (HiAP).[116] HiAP means exactly what its name conveys—ensuring that policymakers consider health outcomes when making policy decisions, regardless of what the policy is ostensibly about (such as economics or transportation, for example).[117] The analysis of all policies through a public health lens is done to avoid potentially harmful impacts on health outcomes and to build upon improving population health and health equity.[118] The HiAP framework encourages performing health analyses on all proposed legislation or policies[119] in the same way that a legislature may perform a fiscal analysis on proposed legislation.[120] Therefore, policymakers must consider the health implications of any decisions they may make at an early stage, with the goal of avoiding harmful impacts.[121]

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learn/talking-about-race/topics/being-antiracist [http://web.archive.org/web/20210201020604/https://nmaahc.si.edu/learn/talking-about-race/topics/being-antiracist] (last visited Jan. 13, 2022). The Act has adopted this definition of "structural racism." The Act goes on to explain that in the United States, structural racism "has negatively affected communities of color, especially Black, Latinx, Asian American, Pacific Islander, and American Indian and Alaska Native people, to expand and reinforce White supremacy." S. 4533 § 2(1).

113. According to the Act, "antiracism" is defined as "a collection of antiracist policies that lead to racial equity, and are substantiated by antiracist ideas." S. 4533 § 3(1).

114. According to the Act, "antiracist" is defined as "any measure that produces or sustains racial equity between racial groups." *See id.* at § 3(2).

115. *See* S. 4533.

116. WORLD HEALTH ORG., *supra* note 9.

117. *See id.* at 1–2.

118. *Id* at 1. The achievement of health equity can be described as "when every person has the opportunity to 'attain his or her full health potential' and no one is disadvantaged from achieving this potential because of social position or other socially determined circumstances." *Id*. at 3.

119. *Id.*

120. In Michigan, a senate fiscal agency is required to prepare a fiscal analysis for each bill that is scheduled for a hearing before a standing committee of the senate. MICH. COMP. LAWS § 4.1502 (2018). There is also a house fiscal agency that is required to perform the same procedure for bills scheduled for a hearing before a standing committee of the House of Representatives. MICH. COMP. LAWS § 4.1602.

121. *See* WORLD HEALTH ORG., *supra* note 9.

The HiAP approach inherently adopts a systems thinking mindset.[122] Systems thinking can be described as the analysis of ostensibly independent factors (such as education, transportation, and housing) to determine how these factors interact and cumulatively result in various social outcomes (such as population health).[123] By considering the effects of policies that are not necessarily directly linked to public health but ultimately have the potential to impact public health, HiAP considers how the inner workings of systems have an overall effect on population health.[124] HiAP aims to address the parts of a system that serve to improve the health of only a portion of individuals, rather than the population at large, and reform those parts so that they work to the benefit of all individuals.[125] By engaging with other industries, community organizations, and governmental entities outside of the local, state, or federal health departments, HiAP encourages collaboration amongst these groups in order to achieve positive outcomes in population health for all.[126]

HiAP may be a more proactive approach to combatting health inequities, recognizing that in order to combat racism—especially racism's impact on public health—lawmakers need to consider the health impacts of all laws and policies prior to their passage in order to ensure that they will not harm individual or community health.[127] Not only can the HiAP framework be used as an approach to identify racial disparities in policies, but recognizing racism's threat to public health can be considered an example of the HiAP framework at work.[128] To put it differently, acknowledging racism's effect on how policies play out is an example of identifying a policy's impact on population health.[129]

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122. *See id; see also* john a. powell et al., *Systems Thinking and Race: Workshop Summary* THE CAL. ENDOWMENT (2011), https://belonging.berkeley.edu/sites/default/files/TCE_Star_WP_Training%20material%20Final%20Flint.pdf [http://web.archive.org/web/20210201152258/https://belonging.berkeley.edu/sites/default/files/TCE_Star_WP_Training%20material%20Final%20Flint.pdf].

123. *See* powell et al., *supra* note 122.

124. *See* WORLD HEALTH ORG., *supra* note 9.

125. *Id.* at 3–4.

126. *Id.* at 1–2.

127. *See id.*

128. *See id.*

129. *See id.*

III. ANALYSIS

A. Governor Whitmer's Plan Is a Step in the Right Direction, But Ultimately Falls Short

There are several aspects of Governor Whitmer's plan that will prove valuable in combatting racism's effects on public health. Governor Whitmer is correct in acknowledging the importance of data collection in minority communities and how critical it is to have recent, accurate, and relevant data in order to create effective policy initiatives.[130] Medical research in particular is often conducted on primarily white populations of European American descent, leaving the health implications for Black individuals and other racial-ethnic minorities severely understudied.[131] For example, research on asthma's effects on African American populations is extremely lacking, resulting in African American children having a mortality rate due to asthma that is ten times higher than that of non-Hispanic white children.[132] Researchers have determined that of all the genetic links to asthma found in European American populations, only five percent of them are applicable to African American populations.[133] The scientific knowledge that is currently being used to treat Black and other minority individuals does not reflect what is necessary to treat certain illnesses according to the specific genetics of and environmental impacts on a population.[134] It additionally does not address other systemic issues that have an impact on an individual's health in specific populations, such as access to affordable and healthy food and housing options; access to educational resources; and access to a clean and healthy environment to live in.

There are several theories as to why Black populations are understudied in medical research, but one common theory suggests that Black individuals are distrustful of the medical industry.[135] This theory stems, in part, from the Black community's reaction to the abhorrent

130. *See* Exec. Directive No. 2020-09, *supra* note 6.

131. Natalie Jacewicz, *Why Are Health Studies So White?*, THE ATLANTIC (June 16, 2016), https://www.theatlantic.com/health/archive/2016/06/why-are-health-studies-so-white/487046/ [http://web.archive.org/web/20210201171251/https://www.theatlantic.com/health/archive/2016/06/why-are-health-studies-so-white/487046/].

132. *Id.*

133. *Id.*

134. *See id.*

135. Darcell P. Scharff et al., *More than Tuskegee: Understanding Mistrust About Research Participation*, 21(3) J. HEALTH CARE POOR UNDERSERVED 879 (2020).

mistreatment of Black individuals during the Tuskegee syphilis study,[136] as well as discriminatory behaviors that are apparent throughout health systems that exist today.[137] Although the Tuskegee syphilis study is a more recent example of how racism impacts the public health of Black communities, it is important to recognize the historical roots that lead to these outcomes. Legalized slavery was supported by a façade created by white Southerners and others that believed Black individuals were of a different race than human. They used this belief as a means of justifying their designation of Black individuals as chattel.[138] Additionally, white medical educators and researchers often used Black individuals "for dissection, surgery, and bedside demonstrations."[139] These historical

136. The Tuskegee syphilis study was conducted by the U.S. Public Health Service in 1932. The study took place on the campus of Tuskegee Institute, located in Macon County, Alabama. *About the USPHS Syphilis Study*, TUSKEGEE UNIV., https://www.tuskegee.edu/about-us/centers-of-excellence/bioethics-center/about-the-usphs-syphilis-study [http://web.archive.org/web/20210228023550/https://www.tuskegee.edu/about-us/centers-of-excellence/bioethics-center/about-the-usphs-syphilis-study] (last visited Jan. 13, 2022). The main goal of the study was to observe the history of syphilis in Black men. *Id.* The official title of the study was "Tuskegee Study of Untreated Syphilis in the Negro Male," but this title was withheld from study participants. *Id.* Participants were told that they were being treated for "bad blood," a term used by locals to describe various medical ailments, including anemia, fatigue, and syphilis. *Id.* The total participant pool included 600 Black men, with 399 of the men in the experimental group and 201 in the control group. *Id.* Many of the participants were "poor and illiterate sharecroppers from the country." *Id.* Participants who joined the study were provided with "medical exams, rides to and from the clinics, meals on examination days, free treatment for minor ailments and guarantees that provisions would be made after their death in terms of burial stipends paid to their survivors." *Id.* At the time the study began, there was no cure for syphilis. *Id.* However, although penicillin became the customary treatment for syphilis in 1947, this antidote was withheld from participants in both the experimental and control group of the study. *Id.* In 1972, the Associated Press broke news of the story, making it widely known that a nontherapeutic "study" prevented southern Black men from receiving treatment for syphilis. *Id.* In response to the public outcry regarding the study, the Assistant Secretary for Health and Scientific affairs created an Ad Hoc Advisory council to review the details of the study. *Id.* The panel found that the men willingly participated in the study but were not provided with informed consent prior to doing so, meaning that they did not understand the full implications of participating in the study. *Id.* This lack of informed consent resulted in several of the male participants dying, and their wives, children, and other individuals becoming infected with syphilis. *Id.* The panel found the study to be "ethically unjustified." *Id.* A class action lawsuit was then filed. *Id.* The U.S. government settled the suit and promised to provide free medical services "to the survivors of the study, their wives, widows, and children." *Id.* Free burial services were additionally provided to study survivors. *Id.*

137. Scharff, et al., *supra* note 135.

138. Stephen B. Thomas & Erica Casper, *The Burdens of Race and History on Black People's Health 400 Years After Jamestown*, 109 AM. J. PUB. HEALTH 1346, 1346 (Oct. 2019).

139. *Id.*

factors, along with many others, have led to the less than subpar treatment of Black individuals from a medical perspective up through the present day.[140]

By utilizing a systems thinking perspective, we can recognize that these theories place complete blame on the individual for not enrolling in research studies without considering the systemic barriers to participation.[141] These systemic barriers may include the inability to take sufficient time off of work to visit with a physician and adhere to the requirements of a clinical trial; inability to pay for parking and associated transportation costs; lack of reliable transportation, including public transportation; and the conducting of studies in low-diversity neighborhoods or at academic institutions where Black individuals and other racial-ethnic minorities may not live nearby.[142]

Mistrust may play a role in lower enrollment rates amongst Black individuals in medical research studies, but that is only one amongst several reasons for lower enrollment.[143] By collecting comprehensive data from minority communities about different aspects of life, including employment, education, and housing, and considering the various systemic barriers to researching Black populations as outlined in the example above, we can start to form a better idea about how various components of the system interact and cumulatively lead to disparate health outcomes in minority communities.

Additionally, bringing marginalized communities to the table during these planning conversations is critical to ensure that the targeted communities accept all plans created as a result of the executive directive.[144] Instead of adopting an entirely paternalistic role when combatting public health issues, Governor Whitmer aims to co-power with racial-ethnic minority communities in order to identify problems and potential solutions to those problems. This sort of community-driven response may lead to more responsive policies and practices than a traditional paternalistic response might.[145] Additionally, Governor Whitmer stresses that any policies created in order to gain better access to

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140. *See id.*

141. *See* powell et al., *supra* note 122.

142. Jacewicz, *supra* note 131.

143. *Id.*

144. JANE DAILLY & ALAN BARR, HEALTHY COMMUNITIES, MEETING THE SHARED CHALLENGE: UNDERSTANDING A COMMUNITY-LED APPROACH TO HEALTH IMPROVEMENT 34 (2008), https://static1.squarespace.com/static/5943c23a440243c1fa28585f/t/5bfd61e021c67c2cdd6a326d/1543332329487/Understanding [http://web.archive.org/web/20210201183851/https://static1.squarespace.com/static/5943c23a440243c1fa28585f/t/5bfd61e021c67c2cdd6a326d/1543332329487/Understanding].

145. *Id.* at 2.

prevention and treatment must be both culturally and linguistically competent.[146] Ensuring that those qualities are present in all developed policies and programs may lessen the currently existing inequalities in health care.[147] Without this level of community involvement, though, it may be impossible to craft effective, long-lasting, and comprehensive solutions to the problems that communities face.[148]

Although Governor Whitmer's executive directive—especially the portions regarding data collection and analysis as well as community engagement and advocacy—allows Michigan to take an important first step toward achieving racial equity in public health, additional actions could ensure the realization of this goal. While one of the goals of the executive directive is to develop plans, programs, and policies to address root causes of inequities in Michigan,[149] the executive directive could give clearer direction as to who is subject to incorporating and adhering to those initiatives in their day-to-day practice. Currently, the executive directive does not address whether private institutions will have to adopt (or should at least be encouraged to adopt) the future policy decisions that will be made in response to the directive. Considering that government entities employ less than five percent of Michigan's workforce,[150] it is vital that these policies are put into effect in the private sector as well as other industry sectors. This is especially true for the implicit bias training initiative, as the requirement to have undergone implicit bias training currently only applies to state employees and some contractors affiliated with state employees.[151]

Private sector industries may incorporate implicit bias training into their business practices in one of two ways: (1) they willingly incorporate implicit bias training into business practices, perhaps because of public pressure to do so or their realization that it can be a meaningful and valuable tool in cultivating a healthy workspace, or (2) the State legally requires them to incorporate implicit bias training. For the second option to happen, legislators must enact a law requiring implicit bias training for private sector industries. Given the current political climate in Michigan

146. Exec. Directive No. 2020-09, *supra* note 6.

147. *See id.*

148. DAILLY & BARR, *supra* note 144, at 6.

149. *Id.*

150. *Michigan Industry Employment by Sector: December 2020*, MICH. DEP'T OF TECH., MGMT. & BUDGET, https://milmi.org/datasearch/industry-employment-by-sector [http://web.archive.org/web/20210201185753/https://milmi.org/datasearch/industry-employment-by-sector] (last visited Feb. 1, 2021). As of December 2020, Michigan's workforce included 11,506,200 individuals, with 563,200 individuals employed in the government sector—4.89% of the total work force in the State.

151. Exec. Directive No. 2020-09, *supra* note 6.

and the extremely polarized state of the legislature, this will likely be a difficult task to undertake. Instead, MDHHS could consider creating guidance on implicit bias training and its impact on equitable public health outcomes. Community organizations could use this guidance to appeal to industry leaders to require implicit bias training for all employees.

Future directives issued by Governor Whitmer should aim to have a larger impact by requiring more involvement on behalf of state departments and agencies, as well as the private sector and other industries. The requirement of undergoing implicit bias training is not enough. The section of the directive regarding policy and planning implies that all departments and agencies under the control of the State of Michigan will be required to adopt any policies or plans created,[152] but this should be made more explicit in order to inform departments and agencies of their requirements under the directive. The current directive also does not encourage collaboration amongst state departments and agencies with entities not controlled by the State.[153] By failing to encourage collaboration, gaps and deficiencies in the plan to combat racism's effects on public health may emerge and stifle the progress of the initiative. Private industries may not be legally required to collaborate with the State in adopting policies and plans related to health equity, but once again, MDHHS and other state departments and agencies may release guidance explaining the importance of collaboration. This guidance can bolster the demands of community members who want to see health equity policies and plans incorporated in the private sector.

When viewed in a vacuum, a policy may appear to be sufficient to solve certain targeted problems. However, it is critical to consider how these policies work on a larger scale, and how the implementation of these policies by various entities may actually result in the unintended effect of perpetuating racist systems. Further, policies may not be one-size-fits-all—policies must be adapted to the specific department or agency in which they will be utilized to ensure that the goals of the policy are met by taking into account the existing institutional structures. After considering the existing structures within a department or agency, policies can be adapted and targeted to address certain aspects of the structure that need to be dealt with in order to realize the greater policy goal.

152. *Id.*
153. *See id.*

B. Why Michigan Needs to Implement a Health in All Policies Framework That Incorporates Systems Thinking

Utilizing a HiAP approach and adopting a systems thinking mindset can address several of the issues in the executive directive outlined in the section above. Although creating plans to eliminate root causes of inequities that eventually lead to disparate health outcomes is an important goal, it is additionally important to create a proactive system to ensure that those roots do not form again. By applying a HiAP approach, causes of health inequities can be addressed throughout the greater system, resulting in beneficial health outcomes in all future adopted policies. By incorporating systems thinking, those tasked with combatting racism's effects can take a step back and look at the larger picture by ensuring that policies passed through a HiAP framework are actually functioning within the system as a whole.

As noted above, collaboration is key amongst state departments, agencies, and non-governmental entities in order to achieve the overall goal of the directive: the elimination of racism's effects on public health. The directive requires MDHHS to work in partnership with all state departments and agencies, but not non-governmental entities.[154] In a HiAP framework, MDHHS can work as a hub, taking on the lead role of combatting racism's effects on public health.[155] MDHHS can advocate for various policy positions that other departments and agencies can adopt, such as ensuring the availability of clean water supplies to all Michiganders and that our education system, especially in poorer socioeconomic areas, receives the necessary funding and resources.[156] Additionally, MDHHS can collect the necessary data required by the directive while also working with other state departments and agencies to ensure that they also collect data relating to their primary functions.[157] For example, the Michigan Department of Transportation may collect data relating to public transportation availability in communities across the State, and then use that data to create health outcome analyses for all proposed department policies that will impact transportation availability.

If MDHHS were to act alone in combatting racism's effects, the plan would ultimately fail. As discussed throughout this Note, racism's effects are systemic, seeping into each aspect of our day-to-day lives.[158] By requiring collaboration amongst state departments and agencies, the

154. *Id.*
155. *See* WORLD HEALTH ORG., *supra* note 9.
156. *Id.*
157. *Id.*
158. *See supra* Part II.A.

system as a whole can begin to address the root causes of racism and its effect on public health. However, including the private sector and other non-governmental industries in the conversation would create a more comprehensive solution to the problems presented by racism. By engaging each of the larger industries in this discourse, more expansive and sweeping solutions can be formed that may ultimately have a larger and more effective impact on combatting the problem at hand. After all, the system consists of more than just the government actors involved.[159]

C. The Creation of Actionable Legal Rights

In addition to implementing a HiAP framework in Michigan, it is critical to ensure that a right to health is codified in the State, and even at the federal level, along with actionable redress for the violation of that right. The Michigan Constitution does not provide Michiganders with any specific health rights—instead, public health and general welfare are only considered to be "matters of primary public concern."[160] The proposed Detroiters' Bill of Rights attempts to go a step further than the Michigan Constitution by providing Detroiters with a right to "environmental health."[161] Even if Michigan was to amend its constitution to add a right to health, though, this would be entirely symbolic unless a Michigander has access to avail themselves of some legal redress should their right to health be violated.

In order for legal redress to occur, the legislature must outlaw the unwanted behavior. These laws would need to specifically identify the unwanted behavior that is sufficiently tailored so as to be enforceable, without debate as to what behavior the law actually prohibits. Additionally, the laws will need to include whatever penalties may be imposed on those who violate it, such as a fine or jail time. Legislators may even consider requiring community service with an organization that works to advance the goals of health equity as an alternative form of penance. The creation of actionable rights may also work to hold non-governmental institutions more accountable for their actions, as they are not subject to the requirements outlined in Governor Whitmer's directive. The creation of both criminal and civil penalties may lead to greater compliance in ensuring the right to health for Michiganders.

However, it may be challenging to pinpoint the precise language necessary in order for these laws to be as effective as possible. Imprecise language may lead to inadvertent outcomes, such as increasing the arrest

159. powell et al., *supra* note 122, at 5.
160. MICH. CONST. of 1963, art. IV, § 51 (1964).
161. Rahman, *supra* note 77.

rate for individuals from marginalized backgrounds for behavior that legislators did not intend to make criminal. Additionally, for criminal violations, it is important to make sure that the laws are not strict liability statutes, which find individuals guilty regardless of what mindset the individual is in when committing the violation. Strict liability statutes may lead to the over policing of individuals, and not actually resolve the root problem of helping individuals learn why their actions may result in disparate health outcomes for individuals of marginalized backgrounds.

Additionally, it is important that we do not needlessly contribute to Michigan's ever-growing criminal code, or even the state's civil code. People may consider a civil infraction to be much more harmless than a criminal infraction, mainly due to the fact that civil infractions rarely require a jail sentence.[162] However, civil infractions may still impose high monetary penalties on an individual who violates the law,[163] which can lead to a cycle of debt if the individual is unable to pay the fine.[164] The criminal justice system in America disproportionately affects minority communities.[165] This disproportionate effect derives from many factors, including the racial bias of criminal justice practitioners and underfunded segments of the criminal justice system, such as indigent defense programs, punitive criminal programs, and the diversion of public funds from rehabilitation programs.[166] Minorities are also disproportionately targeted in the civil system for offenses such as traffic violations—and officers may give as many citations as possible just to generate revenue for the jurisdiction, further contributing to the unequal policing of minority individuals.[167] Considering that both the civil and criminal justice systems have inherent biases against minority communities, especially Black communities, it would be imprudent to create more avenues for Black

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162. *See Crimes and Civil Infractions*, MACKINAC CTR. FOR PUB. POL'Y, (Feb. 27, 2019), https://www.mackinac.org/26329 [http://web.archive.org/web/20210406015718/https://www.mackinac.org/26329].

163. *See id*.

164. Torie Atkinson, *A Fine Scheme: How Municipal Fines Become Crushing Debt in the Shadow of the New Debtor's Prisons*, 51 HARV. C.R.-C.L. L. REV. 190, 217 (2016).

165. Nazgol Ghandnoosh, *Black Lives Matter: Eliminating Racial Inequity in the Criminal Justice System*, THE SENTENCING PROJECT (Feb. 3, 2015), https://www.sentencingproject.org/publications/black-lives-matter-eliminating-racial-inequity-in-the-criminal-justice-system/ [http://web.archive.org/web/20210202023308/https://www.sentencingproject.org/publications/black-lives-matter-eliminating-racial-inequity-in-the-criminal-justice-system/].

166. *Id.*

167. *See Targeted Fines and Fees Against Communities of Color: Civil Rights And Constitutional Implications* U.S. COMM'N ON C.R. (Sept. 2017), https://www.usccr.gov/pubs/2017/Statutory_Enforcement_Report2017.pdf [http://web.archive.org/web/20201216180802/https://www.usccr.gov/pubs/2017/Statutory_Enforcement_Report2017.pdf].

individuals to unnecessarily interact with a broken justice system.[168] Only a properly functioning, unbiased justice system can responsibly undertake the enforcement of a right to health.

Governor Whitmer should ensure that policies created in response to her executive directive address the broken criminal justice system. Instead of creating civil and criminal penalties for the violation of a right to health, the State of Michigan and its coalition partners under the directive may decide to address this issue in terms of a social problem. Thorough and consistent education as to how racism plays a role in public health may encourage individuals to respect the inherent fairness of having a healthy life as a human being. By creating a society which respects the right to a healthy life for all, we may need to rely less on the justice system to enforce any future right regarding this issue. Although this may be a lofty goal to achieve, Governor Whitmer can take the first steps by creating comprehensive and easily accessible educational programs about public health.

D. Impact on Appropriations

In her executive directive, Governor Whitmer calls for the application of more funds from both state and federal sources to combat the issue of racism's impact on public health.[169] The proposed Detroiters' Bill of Rights[170] and pending legislation in Michigan[171] also request that more funds be applied to achieve the outlined goals. However, all of these documents fail to describe exactly how and from where these funds may be procured. Additionally, none of the documents address how the acquisition of funds will impact the current apportionment of funds. Governor Whitmer, the Detroit City Council, and Michigan legislators need to provide more clarity regarding how they expect to obtain these funds.

While it is important to raise funds in order to support the many plans that Governor Whitmer and other governing bodies in Michigan have set out, the apportionment of funds to other departments and agencies that have a large impact on everyday life must not be lessened—this includes

168. *See id.*; *See also Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System*, THE SENTENCING PROJECT (April 19, 2018), https://www.sentencingproject.org/publications/un-report-on-racial-disparities/ [http://web.archive.org/web/20210222215321/https://www.sentencingproject.org/publications/un-report-on-racial-disparities/].

169. Exec. Directive No. 2020-09, *supra* note 6.

170. Rahman, *supra* note 77.

171. H.R. Con. Res. 25, 100th Leg., Reg. Sess. (Mich. 2019); S. Con. Res. 27, 100th Leg., Reg. Sess. (Mich. 2019).

funding for transportation, education, and environmental causes, amongst other things. When looking at budget apportionment issues through a systems thinking lens, we can begin to appreciate how, for example, an increase in funding to MDHHS coupled with a decrease in funding to the Michigan Department of Education may ultimately hamper the progress made in achieving equity in health outcomes. Governor Whitmer should ensure that no funds are taken away from critical system resources and should instead look to alternative sources of funding. The State may accomplish this by creating a wealth tax, or imposing other alternative methods of taxing.

At the federal level, any future COVID–19 relief bill, such as the Coronavirus Aid, Relief, and Economic Security (CARES) Act[172] and the Coronavirus Response and Relief Supplemental Appropriations Act of 2021,[173] should apportion part of the funding toward further research of racism's impact on the COVID–19 response (or, in some situations, lack thereof). Federal funds from possible future relief bills can also target communities of a certain demographic and health status background, who have been hit harder by the pandemic and are in greater need of aid. In addition to providing support for communities in need, enacting this sort of legislation at the federal level further elevates the conversation, drawing attention to the issue at hand.

IV. CONCLUSION

The United States continues to grapple with how to face the reality of racial disparities that the COVID–19 pandemic has shined a light upon, and the country will be tackling the issue of health inequity for quite some time. However, even after the pandemic becomes a distant memory, our society will still need to actively, as well as proactively, combat the effects racism has on public health. Governor Whitmer's directive, especially the sections regarding data collection and analysis and coalition building, will allow Michiganders to gain a deeper understanding of the issue and of the steps necessary to eliminate racism's impact on public health. These tools may lead to public health focused interventions and legislation at the state level. Additionally, they will hopefully allow a more diverse set of voices to make public health decisions that will have an impact throughout the State.

Although Michigan is making critical strides toward achieving health equity, it is necessary that we take the further step to implement a HiAP approach statewide. The adoption of a HiAP approach will protect all

172. Coronavirus Aid, Relief, and Economics Security Act, Pub. L. No. 116-136 (2020).
173. Consolidated Appropriations Act, Pub. L. No. 116-260, Div. M (2020).

Michiganders, regardless of their socioeconomic or racial-ethnic status, from policies that result in adverse public health outcomes. All Michiganders will benefit from critically approaching policymaking to ensure that all policy decisions will result in positive health outcomes. By implementing a HiAP framework throughout the State, we can dismantle systems of oppression from a public health perspective, creating a healthier Michigan for generations to come. Furthermore, the HiAP approach should be adopted at both the state and federal level throughout the country to ensure that the goal of true health equity can become realized for all Americans.