

Welcome to the Hall Center for Law & Health Virtual Grand Rounds Series

November 4, 2021



Professor Nicolas P. Terry, LL.M.
Director
Hall Center for Law & Health



Brittany Kelly, J.D., M.S.W., L.S.W. Associate Director Hall Center for Law & Health

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Upcoming Hall Center Events 2022 Spring Series

Thursday, February 24, 2022: Spring Virtual Grand Rounds

Featuring: Aaron S. Kesselheim, MD, JD, MPH, Professor of Medicine, Harvard Medical School; Director, Program On Regulation, Therapeutics, And Law (PORTAL), Division of Pharmacoepidemiology and Pharmacoeconomics, Brigham and Women's Hospital, Boston, MA

Friday, March 25, 2022: McDonald-Merrill-Ketcham Memorial Lectureship and Award for Excellence in Law and Medicine (In-Person)

Lecturer/Award Recipient: Elizabeth W. Sepper, JD, LLM, BA, Professor of Law, University of Texas at Austin School of Law

Tuesday, April 5, 2022: Spring In-Person Grand Rounds

Featuring: Deirdre Madden, PhD, Professor of Law, University College Cork School of Law, Ireland

MORE INFORMATION COMING SOON: https://mckinneylaw.iu.edu/news-events/index.html

In order to get CLE credit, we must be able to monitor your participation throughout today's lecture.

Three Polls

 To monitor engagement, there will be three polls throughout the event. Our speaker will alert you when it is time for a poll. The poll will pop up on your screen. You are not being graded on your answer, but rather whether or not you respond. Each poll will stay up for 2 minutes, so please do not miss your chance to answer.

No Call-Ins

• Ensure you are joining the webinar from the Zoom application (desktop or mobile) to enable participation in the polling throughout the webinar for CLE credit. Please note joining the webinar from a web browser is not compatible and doing so will result in not receiving CLE credit.

Q&A for Speaker Questions

 On the bottom of your screens, you should see the Q&A feature. You can use that to pose questions to our speaker. If you see that someone has asked a question that you are interested in, signify that to us by using the "upvote" feature. At the end of the lecture, our featured speaker will reserve 10 minutes to answer questions posted there.

Email for Technical Issues

• If you are having technical difficulties today, report them to Brittany Kelly at bjglaze@iu.edu via email after the event.

Full Screen Mode & Closed Captioning

- Our speaker will be sharing her screen so that you can follow along with the power point presentation. We recommend viewing the presentation "full-screen" mode.
- Closed captioning is available. To view, click the "closed captioning" button at the bottom of your screen.



Brietta R. Clark, J.D., is a Professor of Law and J. Rex Dibble Fellow at Loyola Marymount University Loyola Law School in Los Angeles. She teaches in the areas of health care law, reproductive justice, bioethics, and torts. Clark's research focuses on health care access, specifically the structural and individual forces that shape health and create inequity in our health delivery and financing systems. She has written and provided commentary on issues such as health reform, Medicaid access, immigrant health, reproductive and sexual health barriers, prison health care, and health literacy. She is also a coauthor of the Eighth Edition of the Furrow et al. Health Law casebook. Clark provides community education on health reform and remains active in the health professional and legal communities, including assisting organizations seeking to protect health care access and quality in the face of hospital mergers, insurance benefit design and provider network practices, and professional licensing regulation.

TRUST, RACIAL (IN)EQUITY, & HEALTH

Brietta Clark, Professor of Law LMU Loyola Law School, Los Angeles



ROADMAP

- Trust and Race in Popular Health Care Discourse
- Lessons from the Tuskegee Syphilis Study
- Trust as a Structural Determinant of Health
 - Unequal Distribution of Health Care Resources
 - Unequal Treatment & Interventions

In Tuskegee, Painful History Shadows Efforts To Vaccinate African Americans

February 16, 2021 · 5:00 AM ET



"A lingering mistrust of the medical system among many Black people is rooted in the infamous study."



The Atlanta Journal-Constitution

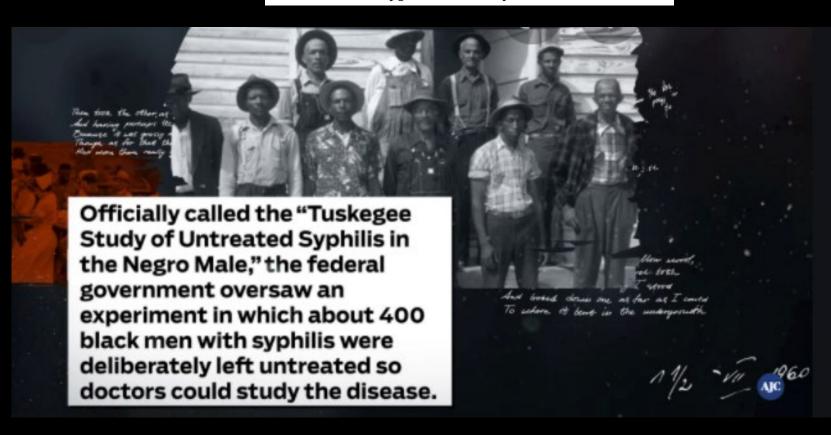
Ahmaud Arbery Case Atlanta Mayoral Race COVID-19 Opinion

Stay informed and know what's really going on. Subscribe for 99¢.

At Tuskegee, U.S. experimented on Black men with syphilis for 40 years

THE TUSKEGEE **SYPHILIS** STUDY

1932 - 1972



Objectification, Dehumanization, Discrimination

Racialized Medicine Lack of Communication &

Active Deception

Harmful & Subordinating Interventions

ETHICS & LAW

Nonmaleficence

Medical harm;
 Medical malpractice

Autonomy

 Battery; violations of Informed Consent

Justice

Limits/Failures of
 Civil Rights &
 Constitutional Protections

TRUST AS A STRUCTURAL DETERMINANT OF HEALTH

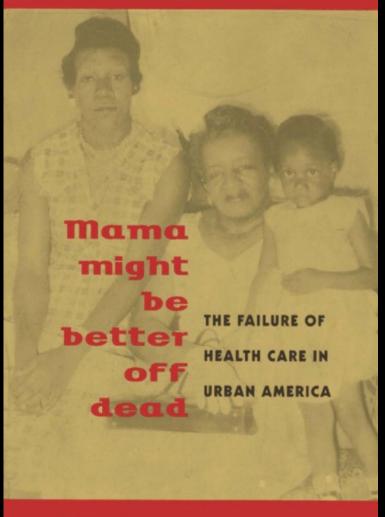


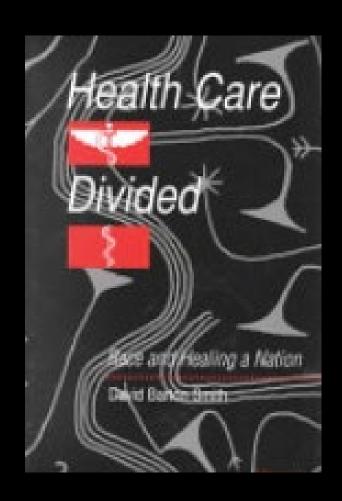
THE UNEQUAL DISTRIBUTION OF HEALTH CARE RESOURCES

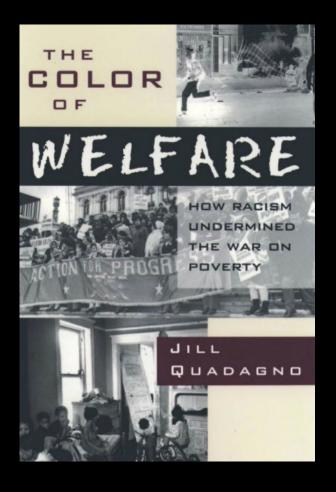
STRUCTURAL DISCRIMINATION IN HEALTH CARE

"A provocative examination of our health care delivery for the poor."

—Alex Kotlowitz, author of There Are No Children Here







THE PROMISES & FAILURES OF CIVIL RIGHTS LAWS

OCR Impotence & Regulatory Neglect

 Shielding of Facially Neutral Policies & Practices from Meaningful Judicial Scrutiny

 Deliberate Disregard of Racially Harmful Effects & Less Discriminatory Alternatives

> Brietta R. Clark, Hospital Flight From Minority Communities: How Our Existing Civil Rights Framework Fosters Racial Inequality in Healthcare, 9 DePaul J. Health Care L. 1023 (2005) Available at: https://via.library.depaul.edu/jhcl/vol9/iss2/5

THE FIGHT FOR KILLER KING

"People here are so emotional because they feel threatened. . . . People are scared. There are car wrecks on the freeway - they're scared. Most of these folks don't have insurance - they're scared. They've made AK-47s and Uzis legal again - they're scared. . . . This hospital was born from that kind of pain."

Jesse Jackson at community protest of closure, *cited in* Mitchell Landsberg et al., Reaction to King/Drew Plan Loud and Clear, L.A. Times, Nov. 16, 2004

THE FIGHT FOR KILLER KING

"Community activists, who fought so hard for the hospital's creation, are consumed with the fear that it could be closed. . . . Strong willed and fiercely protective . . . a coterie of African America leaders, most now in their 70s and 80s, defend King/Drew with the same intensity that they once devoted to the civil rights movement. To them it is part of the same struggle."

Mitchell Landsberg & Jack Leonard, King/Drew's Trauma Unit Ordered Shut, L.A. Times, Nov. 24, 2004, at C1

Care

PODCASTS

By Blake Farmer, Nashville Public

APRIL 6, 2020

REPUBLISH THIS STORY

HEALTH CARE

Health providers' scramble for staff and supplies reveals sharp disparities

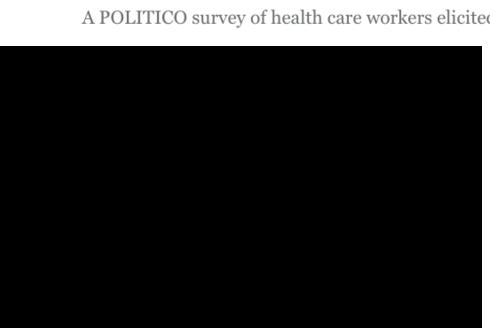
A POLITICO survey of health care workers elicited dozens of stories from the front lines across the country.



The Striking Racial Divide in How Covid-19 Has Hit Nursing Homes

Homes with a significant number of black and Latino residents have been twice as likely to be hit by the coronavirus as those where the population is overwhelmingly white.

The New Hork Times



Los Angeles Times

BY SOUMYA KARLAMANGLA

SEPT. 22, 2015 3:59 AM PT

How the new King hospital hopes to put its 'Killer King' image 'far behind'



The New Hork Times

Dying of Covid in a 'Separate and Unequal' L.A. Hospital

Inside an overwhelmed facility in the worst-hit part of California, where the patriarchs of two immigrant families were taken when they fell sick.

https://www.nytimes.com/2021/02/08/us/covid-los-angeles.html

UNEQUAL TREATMENT & HARMFUL INTERVENTIONS



BUCK v BELL, 1927

Justice Oliver Wendell Holmes Jr.

"The lower court found] that Carrie Buck is the probable potential parent of socially inadequate offspring . . . , that she may be sterilized without detriment to her general health and that her welfare and that of society will be promoted by her sterilization. . .

It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. . . .

Three generations of imbeciles are enough."

OFFICIAL GOVERNMENT STERILIZATION PROGRAMS

Los Angeles Times

State Issues Apology for Policy of Sterilization

Va. Apologizes To the Victims Of Sterilizations

Oregon's governor is set to say the state was wrong when it forcibly sterilized residents of state institutions decades ago. Virginia's governor made a similar apology earlier this year. But few of those who were sterilized are still alive. NPR's Joseph Shapiro reports.

Official apology for eugenics program moves ahead in Vermont Legislature

FORCED STERILIZATIONS DID NOT END

Relf v. Weinberger (D. D.C. 1974) - forced sterilization of two Black sisters only 12 and 14 years old by a federally-funded family planning clinic in Alabama

"Over the last few years, an estimated 100,000 to 150,000 low-income persons have been sterilized annually under federally funded programs. . . . Although Congress has been insistent that all family planning programs function on a purely voluntary basis, there is uncontroverted evidence in the record that minors and other incompetents have been sterilized with federal funds and that an indefinite number of poor people have been improperly coerced into accepting a sterilization operation under the threat that various federally supported welfare benefits would be withdrawn unless they submitted to irreversible sterilization.

Patients receiving Medicaid assistance at childbirth are evidently the most frequent targets of this pressure, as the experience[]of Mrs. Waters [who] was actually refused medical assistance by her attending physician unless she submitted to a tubal ligation after the birth."

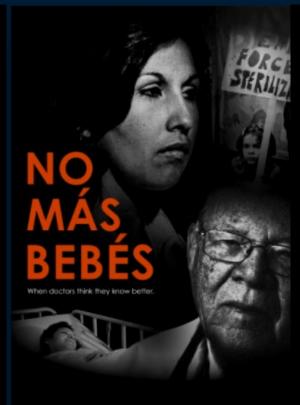
FORCED STERILIZATIONS DID NOT END

No Más Bebés tells the story of a little-known but landmark event in reproductive justice, when a small group of Mexican immigrant women sued county doctors, the state, and the U.S. government after they were sterilized while giving birth at Los Angeles County-USC Medical Center during the late 1960s and early 1970s. Madrigal v. Quilligan (9th Cir. 1981)

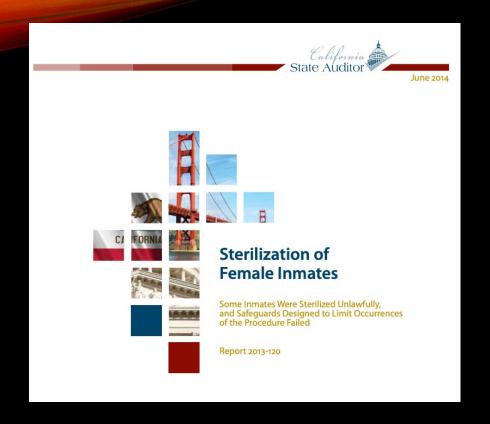
County Apologizes for Forced Sterilizations 1968-1974

Aug 7, 2018





FORCED STERILIZATIONS DID NOT END



Immigration Detention and Coerced Sterilization: History Tragically Repeats Itself

The ICE detention story reflects a long pattern in the United States of the coerced sterilization of marginalized populations, particularly of Black, Latinx, and Indigenous peoples.

Maya Manian,

Visiting Professor, American University Washington College of Law

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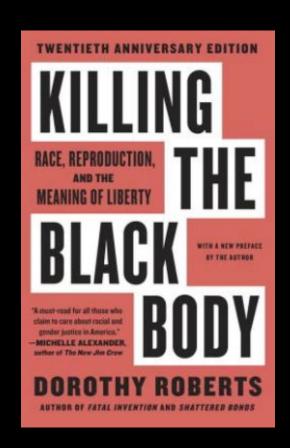


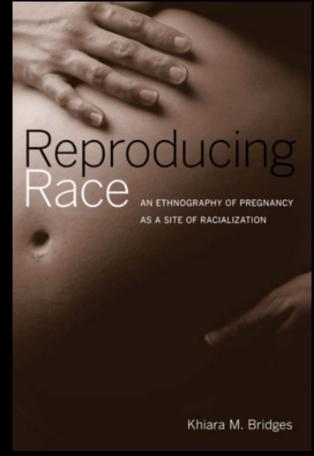
September 29, 2020

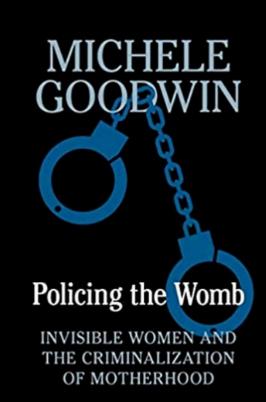
The recent news of a <u>whistleblower's allegations</u> that a for-profit ICE detention center forced sterilization procedures on immigrant women shocked many people and drew comparisons to Nazi sterilization campaigns. The ICE detention story reflects a long pattern in the United States of the coerced sterilization of marginalized populations, particularly of Black, Latinx, and Indigenous peoples. In fact, the Nazi's borrowed ideas for their sterilization regimen from eugenic sterilization laws adopted in the U.S. in the early 20th century.

PUNISHING PREGNANCY

SURVEILLANCE, CONTROL, & POLICING IN HEALTH CARE







Arrests of and Forced Interventions on Pregnant Women in the United States, 1973–2005: Implications for Women's Legal Status and Public Health Lynn M. Paltrow & Jeanne Flavin, J Health Polit Policy Law (2013) 38 (2): 299–343.

OBSTETRIC RACISM

Listening to Mothers in California:

A POPULATION-BASED SURVEY OF WOMEN'S CHILDBEARING EXPERIENCE



Carol Sakala Eugene R. Declero Jessica M. Turon

Video: The Story
Behind the Numbers

Routledge
Taylor & Francis Group



Medical Anthropology

Cross-Cultural Studies in Health and Illness

ISSN: 0145-9740 (Print) 1545-5882 (Online) Journal homepage: https://www.tandfonline.com/loi/gmea20

Obstetric Racism: The Racial Politics of Pregnancy, Labor, and Birthing

Dána-Ain Davis



- PERCEIVED BIAS IN CARE (consistent w/ implicit bias & health disparities research)
- HARSH LANGUAGE & ROUGH HANDLING (painful)
- DISMISSAL OF CONCERNS OF SELF-REPORTS OF PAIN & other PROBLEMS
- PERCEIVED PRESSURE TO HAVE INTERVENTIONS ("Forced" "Harassed" "Bullied")
- INFORMATION WITHHOLDING; MISLEADING INFORMATION
- "UNOFFICIAL PUNISHMENT" through information withholding for trying to assert autonomy ("being difficult or non-compliant")
- FAILURE TO OFFER/PROVIDE SUPPORTIVE RESOURCES (esp mental health)

DISCRIMINATION,
DISRESPECT,
ABUSE,
COERCION,
PUNISHMENT

IMPLICATIONS FOR REPRODUCTIVE HEALTH & SOCIAL NEEDS INTERVENTIONS?

Provider Bias in Long-Acting Reversible Contraception (LARC)
Promotion and Removal: Perceptions of Young Adult Women

Jenny A. Higgins, PhD, MPH, Renee D. Kramer, MPH, and Kristin M. Ryder, MA, MPH, CHES

Am J Public Health. 2016 November; 106(11): 1932-1937

By BALTIMORE SUN EDITORIAL BOARD

JAN 02, 2019 AT 11:30 AM

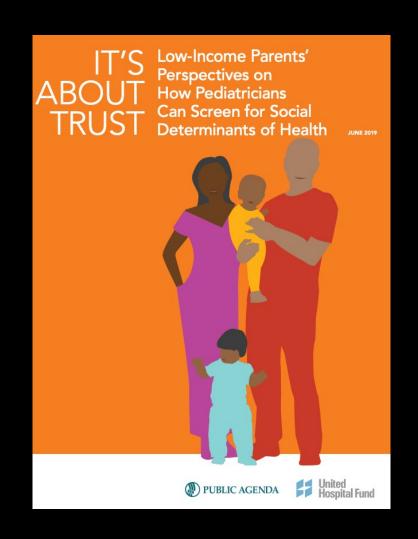
As long-lasting birth control becomes more popular, make sure it's not forced on low-income women

The Dangerous Rise of the IUD as Poverty Cure

The notion that limiting women's reproduction can cure societal ills has a long, shameful history.

The New Hork Times

Jan. 2, 2019



BEYOND REPRODUCTION



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Cultural Competency

Funding and Programs







Minority Population Profiles

Black/African American

American Indian/Alaska Native

Asian American

Hispanic/Latino

Native Hawaiian/Other Pacific Islander

Minority Population Profiles

These profiles provide detailed demographic, language fluency (where relevant), education, economic, insurance coverage and health status information, as well as full census reports.







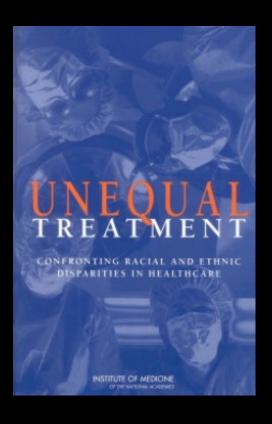


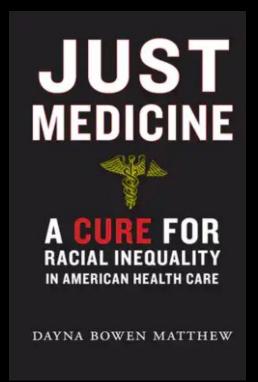


A Pathfinder to Resources

The following pathfinders walk users through some key articles, reports, and resources that touch upon disease social determinants of health, racial justice, and other important topics. These resources were selected by the Q Resource Center's Knowledge Center team and may be helpful to those who are working to improve the health racial and ethnic minorities residing in the United States.

- Black/African American Health in the United States [PDF 425KB]
- American Indian & Alaska Native Health in the United States [PDF 350KB]
- Asian American Health in the United States and U.S. Territories [PDF 320KB]
- Hispanic/Latino Health in the United States [PDF 443KB]
- Native Hawaiian/Pacific Islander Health in the United States and U.S. Territories [PDF 277KB]





I Am a Racially Profiling Doctor













By Sally Satel

May 5, 2002

The New York Times



Hidden in Plain Sight — Reconsidering the Use of Race Correction in Clinical Algorithms

August 27, 2020

N Engl J Med 2020; 383:874-882

TRUST AS A STRUCTURAL DETERMINANT OF HEALTH:

COVID-19 & BEYOND