EXAMINATION OF PSYCHIATRIC HEALTH DISPARITIES & SELECTED LAWS

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INTRODUCTION

Providing adequate healthcare to individuals in the United States is an ambitious goal. Healthcare is at the confluence of medicine, politics, economics, philosophy, ethics, and the law. Many poignant questions are brought forth when examining this multifaceted issue: does every individual deserve access to adequate healthcare? How does one quantify, establish, attribute, and enforce a uniform cost to healthcare? Is optimal healthcare only to be enjoyed by those with abundant resources? Some, including Dr. Martin Luther King, Jr., have contended that healthcare is a human right. Academics and politicians have spent many years attempting to conjure up answers to these fundamental questions. During these times of heated and often ineffectual rhetoric, we are still without remedies to many of the healthcare disparities plaguing vulnerable groups.

"Of all the forms of inequality, injustice in health is the most shocking and the most inhuman because it often results in physical death." More than fifty years after those remarks were made, inequities in healthcare remain. Indeed, healthcare disparities have been observed across many areas of medicine and among different demographic groups. This article has been tailored to examine two healthcare disparities observed in the realm of mental health. First, there is a disparity seen in the treatment of Attention-Deficit/Hyperactivity Disorder (ADHD). Cultural views unfamiliar with the disease may serve to create obstacles that lead to worse outcomes. Second, some communities have been blighted by firearm violence. Psychiatrists have often been called upon in the aftermath of shootings to answer whether firearm violence and mental illness are linked. Some consideration will be made to highlight selected state and federal laws that serve to influence, augment, or ameliorate these disparities.

The Centers for Disease Control and Prevention defines health disparities as "preventable differences in the burden of disease, injury, violence, or opportunities to achieve optimal health that are experienced by socially disadvantaged populations." Many factors are involved in creating

Charlene Galarneau, Getting King's Words Right, J. of Health Care for the Poor and Underserved 5, 6 (Feb. 2018).

Ctrs. for Disease Control & Prevention, U.S. Dep't of Health and Human Servs., *Health Disparities*, https://www.cdc.gov/healthyyouth/disparities/index.htm (last visited Oct. 11, 2019).

or exacerbating health disparities. Socioeconomic status, inadequate insurance coverage, and inequity in access to healthcare services are a few examples of influential factors.³ Particularly, the interplay between these complex factors has led to persistent healthcare disparities seen among racial and ethnic minority populations.⁴

MENTAL HEALTH DISPARITIES AMONG MINORITY POPULATIONS

When examining mental health disparities, we see discrepancies even among the youngest of people. ADHD is a neurological disorder characterized by hyperactivity, impulsivity, and inattention.⁵ The pattern of behavior seen in ADHD is displayed before age 12.6 If untreated, this condition has the potential to impact the trajectory of a child's life. Some of the behaviors exhibited by school-aged children with ADHD include: the inability to sit still, talking excessively, losing school supplies, poor attention, difficulty completing tasks, and avoiding activities that require prolonged concentration. ⁷ Classically, untreated children with this disorder do poorly in school.⁸ Indeed, it is easy to see how a child with ADHD can become disenchanted with academic endeavors. Furthermore, these children are at increased risk for being suspended from school. The trend of rule breaking and subsequent punishment is played out throughout these children's lives. Specifically, children with ADHD are more likely to get into trouble with law enforcement.¹⁰ Academic difficulty, coupled with discord with police, may lead to poorer outcomes for such individuals. Adequate therapy can decrease disruptive behavior and improve school performance. 11 However, some children do not receive adequate treatment and may suffer the consequences of this throughout their lives. Children in racial and ethnic minorities are less likely to be diagnosed with ADHD.¹²

See generally Kevin Fiscella & Mechelle R. Sanders, Racial and Ethnic Disparities in the Quality of Health Care, 37 ANN. REV. PUB. HEALTH 375, 375-94 (2016), https://www.annual reviews.org/doi/full/10.1146/annurev-publhealth-032315-021439?url_ver=Z39.88-2003&rfr_id=ori:rid :crossref.org&rfr_dat=cr_pub=pubmed.

See generally id.

⁵ AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 59-60 (5th ed. 2013).

⁶ *Id*.

Id

See generally Tanya E. Froehlich et al., Recognition, and Treatment of Attention-Deficit/Hyperactivity Disorder in a National Sample of US Children, 161 ARCHIVES OF PEDIATRICS & ADOLESCENT MED. 857 (2007).

⁹ Id.

Rachel G. Klein et al., Clinical and Functional Outcome of Childhood Attention-Deficit/Hyperactivity Disorder 33 Years Later, 69 ARCHIVES GEN. PSYCHIATRY 1295, 1301 (2012).

¹¹ See id. at 1302.

¹² *Id*.

Even more troubling, racial and ethnic minority children with the diagnosis of ADHD are less likely than whites to be taking prescription medication for the disorder. Indeed, there are practical obstacles to receiving healthcare. Lack of resources, insurance, and transportation are a few examples. However, patient or parent-driven factors may also restrict proper care. It is important to note that parents typically guide, choose, restrict, and influence their children's treatment. Sadly, ignorance may be an important factor that influences parents' approach towards treatment. A 2005 study by Bussing, et.al. reported on survey data of African American and white parents. During the study, 224 African American and 262 white parents were assessed for knowledge of ADHD. Surprisingly, only 69% of African American parents had heard of ADHD. In contrast, 95% of white respondents reported being aware of ADHD. It is easy to see how ignorance of ADHD as a disease entity (that requires treatment) could lead to disparity.

If some portions of the population are mystified by ADHD and the efficacy of medical treatment, it is also possible that some parents may be unaware of special accommodations their child may be entitled to. The Individuals with Disabilities Education Act (IDEA) makes accommodations for special educational needs for children with qualifying conditions. ¹⁷ ADHD is among the qualifying conditions covered by the IDEA. ¹⁸ Accommodations can include extended time for examinations or being allowed to take an exam in an isolated and quiet (minimally distracting) area. If a parent is ignorant or dismissive of ADHD, a child can go without the diagnosis, treatment, or accommodation he or she needs. This could perhaps hinder a child from reaching his or her full potential and subsequently lead to disparities in social, economic, and educational outcomes. Thus, it becomes exceedingly important to seek medical intervention early and appropriately maintain medical records.

Research has shown that African Americans are less likely to use outpatient mental health services. ¹⁹ Some factors have been put forth to explain these discrepancies. Reasons given have been that stigma,

Paul L. Morgan et al., Racial and Ethnic Disparities in ADHD Diagnosis from Kindergarten to Eighth Grade, 132 PEDIATRICS 85, 86 (2013).

See generally Regina Bussing et al., Knowledge and Information About ADHD: Evidence of Cultural Differences Among African-American and White Parents, 46 Soc. Sci. & Med. 919 (1998).

⁵ *Id.* at 922.

¹⁶ Id.

¹⁷ Individuals with Disabilities Act § 20 U.S.C.A. §§ 1400-1491 (West 2010).

¹⁸ *Id.* § 1414.

See Liat Ayalon & Jennifer Alvidrez, The Experience Of Black Consumers In The Mental Health System—Identifying Barriers To And Facilitators Of Mental Health Treatment Using The Consumers' Perspective, 28 ISSUES IN MENTAL HEALTH NURSING 1323 (2007), https://www.tandfonline.com/doi/abs/10.1080/01612840701651454.

unfamiliarity with mental health services, and distrust have led African Americans to underutilize these services. Due to this trend, African Americans are more likely to be seen in a psychiatric emergency room setting. That is to say, a lack of early intervention has likely led to extreme symptoms that have caused severe dysfunction needing immediate (emergency) attention.

In the United States, the 2010 Affordable Care Act was implemented to grant wider insurance coverage to individuals. Since its implementation, mental health coverage has increased for most Americans, including minority populations. Data from the National Health Interview Survey in 2014 showed that the Hispanic adult uninsured rate had fallen from 40.1% to 31.8%. Additionally, the uninsured rate fell from 25.5% to 17.2% for African Americans. However, despite this positive trend, only white and Hispanic individuals have shown an increase in their utilization of mental health services. This underscores the idea that insurance coverage alone does not eradicate health disparities. The solution, like the problem, has multiple factors. Limited coverage, financial means, and transportation all play roles in disparities. However, it is important to be sensitive to a particular individual's social and cultural views on mental health treatment.

The trend of underutilization of mental health services also extends to children and adolescents. Less than half of children with severe mental impairment accessed treatment services. ²⁶ Furthermore, there is a disparity seen among minority youth, namely that the percentage of white young people who accessed any mental health services was significantly higher than nonwhite youths. ²⁷ African American and Latino children and adolescents receive markedly less outpatient mental health and substance abuse treatment than their non-minority contemporaries. ²⁸

Mental health disparities are seen early on in child development. The developing fetus is particularly vulnerable to a number of drugs that may

²⁰ *Id*.

²¹ *Id*.

Stacey McMorrow et al., Uninsurance Disparities Have Narrowed for Black and Hispanic Adults Under the Affordable Care Act, 34 HEALTH AFFAIRS 1774, 1774 (2015), https://www.health.affairs.org/doi/full/10.1377/hlthaff.2015.0757.

²³ Ia

²⁴ Id.

Timothy B. Creedon & Benjamin Lê Cook, Access To Mental Health Care Increased But Not For Substance Use, While Disparities Remain, 35 HEALTH AFFAIRS 1017, 1019 (2016), https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2016.0098.

Mark Olfson, Benjamin G. Druss, & Steven C. Marcus, Trends in Mental Health Care Among Children and Adolescents, 372 New Eng. J. Med. 2029, 2029 (2015), https://www.nejm. org/doi/full/10.1056/NEJMsa1413512.

⁷ Id. at 2032.

Lyndonna Marrast, David U. Himmelstein & Steffie Woolhandler, Racial and Ethnic Disparities in Mental Health Care for Children and Young Adults, 46 INT'L J. HEALTH SERVICES 810, 810– 824 (2016), https://www.ncbi.nlm.nih.gov/pubmed/27520100.

cross the placenta.²⁹ This can be especially troublesome for developing babies whose mothers have a substance use disorder. Between 2007 to 2010, illicit drug use among pregnant women hovered between 4.4 to 5.1%.³⁰ Consequently, studies show that the negative effects of in utero exposure to illicit substances such as cocaine, tobacco, and marijuana result in child learning, behavioral, and developmental problems and persist into later childhood and adolescence.³¹

FIREARM VIOLENCE: A PUBLIC HEALTH AND MENTAL HEALTH CRISIS IN AMERICA

Gun violence is a public health issue. Gun violence has affected the physical and mental health of individuals and communities for generations. The topic is at the confluence of mental health and the law; it is a complex issue that often leads to heated discussion. The ill effects are seen across many socioeconomic classes and races. However, in exploring the matter of gun violence, some health disparities are observed. For example, according to a 2015 report by the Centers for Disease Control and Prevention, homicide ranks first as cause of death for African American males aged 15-34.³²

A study examining firearm violence in America in the first decade of this century found that 313,045 people died from firearm-related injuries. These numbers are larger than American combat fatalities during World War II. 34

The issue of gun ownership was important enough to this country's forefathers that it was explicitly included in the Constitution's Bill of Rights. However, could this country's forefathers have foreseen armor-piercing ammunition, high-powered firearms, and the frequent occurrence of mass shootings in America today?

This plays out legally in the argument of originalism versus modern perspective. Should the Constitution be interpreted strictly as it was originally intended, or should modern insight inform interpretation of the

Sonia Minnes, Adelaide Lang & Lynn Singer, Prenatal Tobacco, Marijuana, Stimulant, and Opiate Exposure: Outcomes and Practice Implications, 6 ADDICTION SCI. AND CLINICAL PRACTICE 57, 67-68 (2011), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3188826/.

Marylou Behnke & Vincent C. Smith, Prenatal Substance Abuse: Short- and Long-term Effects on the Exposed Fetus, 131 PEDIATRICS e1009, e1009 (2013), https://pediatrics.aap publications.org/content/131/3/e1009.

³⁰ *Id.* at e1010.

³² Centrs. for Disease Control and Prevention, U.S. Dep't of Health & Human Servs., Health Equity: Men's Health: Leading Cause of Death (LCOD) by Age Group, Black Males-United States (2015), https://www.cdc.gov/healthequity/lcod/men/2015/black/index.htm.

Garen J. Wintemute, The Epidemiology of Firearm Violence in the Twenty-First Century United States, 36 ANN. REV. PUB. HEALTH 5, 6 (2015), https://www.annualreviews.org/doi/full/ 10.1146/annurev-publhealth-031914-122535.

³⁴ *Id*.

document? The Supreme Court case, *District of Columbia v. Heller*, is a landmark case that addressed this issue. In 1976, a series of prohibitions were introduced in the District of Columbia. Handguns and unregistered long guns were prohibited. Additionally, guns that were stored in a home needed to be disassembled and have a trigger lock. Ultimately, the Supreme Court ruled that it was unconstitutional to prohibit handguns or require trigger locks and/or disassembly of stored guns. Exploring the full array of firearm laws is beyond the scope of this article. However, it is important to note the prevalence of both firearms and firearm violence. This is not done from a political stance. Rather, it is done to highlight the physical and mental health consequences, as well as health disparities, of seemingly ubiquitous firearm violence. For example, young Hispanic and African American males are at the highest risk for violent firearm injury. Pevery 17 minutes a person is killed due to firearm violence, and 87 people are killed each day. This translates to 609 individuals being killed every week on average.

Many families, friends, and survivors of firearm violence will have to endure the psychological trauma of experiencing firearm violence. It is easy to see how such experiences may lead to depression, anxiety, and/or posttraumatic stress disorder.

Often the blame for firearm violence is placed on those with mental illness. This group tends to be a vulnerable and disenfranchised group that often make for good scapegoats. Thus, the discussion after mass shootings often focuses on those with mental illness. This is likely due to common beliefs held in society, some of which are predicated on misinformation. According to a 2013 national public opinion survey, 46% of Americans believed that "[c]hildren with depression were viewed as more dangerous to themselves than children with ADHD." This sort of misunderstanding can prevail in the minds of some individuals despite evidence to the contrary. An additional European survey found that many persons consider individuals with schizophrenia to be inherently more dangerous than others in the general

Joyce Lee Malcolm, The Supreme Court and the Uses of History: District of Columbia v. Heller, 56 UCLA L. Rev. 1377, 1379 (2009).

District of Columbia v. Heller, 554 U.S. 570, 574 (2008).

³⁷ Id

³⁸ *Id.* at 635.

Jessica H. Beard et al., Quantifying Disparities in Urban Firearm Violence by Race and Place in Philadelphia, Pennsylvania: A Cartographic Study, 107 AM. J. Pub. HEALTH 371, 371 (2017), https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2016.303620.

See Margaret A. Winker, Kamran Abbasi & Frederick P. Rivara, Unsafe and Understudied: The US Gun Problem, BMJ (2016), https://www.bmj.com/content/352/bmj.i578.long.

⁴¹ *Id*.

⁴² Id.

Angela M. Parcesepe & Leopoldo J. Cabassa, Public Stigma of Mental Illness in the United States: A Systematic Literature Review, 40 ADMIN. AND POL. IN MENTAL HEALTH AND MENTAL HEALTH SERVS. RESEARCH 384, 388 (2013), https://link.springer.com/article/10.1007/s10488-012-0430-z.

population.⁴⁴ Even when presented with vignettes that described a patient with schizophrenia as nonviolent, survey respondents nevertheless reported that they viewed the individual as, "an overt threat to the wellbeing of others.",45

There are consequences to public perception. Indeed, public attitudes toward those with severe, persistent mental illness often play a role in shaping public policy. If the consensus is that people with schizophrenia or other forms of mental illness are a threat to the community, then the public will be less likely to advocate for those individuals. This may lead to the creation of legislation that restricts the liberties of this disenfranchised group. For example, there have been efforts to restrict gun ownership among those with mental health issues. Notably, the American Psychiatric Association has attributed only about 3-5% of all violence in the U.S. to those with mental health disorders. 46 The American Psychiatric Association's view favors mental-health related firearm restrictions based on individualized assessment rather than a categorical classification of mental illness or a history of a mental health-related adjudication.⁴⁷

Contrary to popular notion, individuals with mental health disorders are more likely to be victims of violent crimes. 48 Despite this, some gun control efforts have centered around the mentally ill. The Gun Control Act of 1968 prohibits gun ownership by any person who has been "adjudicated as a mental defective or committed to a mental institution."⁴⁹ The National Instant Criminal Background Check System (NICS), which was created in the 1993 Brady Handgun Violence Prevention Act, can be used to run background checks on gun applications.⁵⁰ Individuals deemed mentally defective or who have a history of being involuntarily committed to a mental institution can be registered, and thus prevented from gun ownership, by NICS.⁵¹

It is important to note that the known risk factors of violent crimes such as firearm violence include illegal drug/alcohol use, early-life trauma, and a previous history of violence. These risk factors for violence are the same for

Julia F. Sowislo et al., Perceived Dangerousness as Related to Psychiatric Symptoms and Psychiatric Service Use - A Vignette Based Representative Population Survey, 7 Sci. Reps. 1-7 (2017), https://www.nature.com/articles/srep45716.pdf.

Debra A. Pinals et al., American Psychiatric Association: Position Statement on Firearm Access, Acts of Violence and the Relationship to Mental Illness and Mental Health Services, 33 BEHAV. SCI. & L. 197 (2015), https://onlinelibrary.wiley.com/doi/abs/10.1002/bsl.2180.

Jessica Rosenberg, Mass Shootings and Mental Health Policy, 41 J. SOCIOLOGY AND SOCIAL Welfare 107, 109 (2014).

Id. at 111.

Jana R. McCreary, "Mentally Defective" Language in the Gun Control Act, 45 CONN. L. REV. 813,

individuals with or without mental illness.⁵² Though mental illness is not a strong risk factor for firearm violence, mental health professionals can become attuned to some of the more strongly linked risk factors for the perpetration of gun violence. Alcohol consumption, as stated earlier, has been liked to firearm violence in several ways. A 40-year-long study of the relationship between firearm violence and alcohol consumption showed strong relationships between the consumption of alcohol and firearm injury or death.⁵³ This study showed that over one third of the individuals who died from firearm violence acutely consumed alcohol before their death.⁵⁴

Regarding screening and prevention of violence, psychiatrists and other mental health professionals should also explore psychosocial issues such as community violence and domestic violence. From 1993 to 2007, 70% of intimate partner homicide victims were female.⁵⁵ Additionally, 14% of all homicides in the U.S. are committed by intimate partners.⁵⁶

There is a need for more research to explore psychiatric and public health components of gun violence; however, the case is different regarding acts of suicide. At the time of their death, most individuals who commit suicide have diagnosable psychiatric disorders.⁵⁷ From a firearm violence prevention standpoint, it is prudent for mental health providers to explore alcohol consumption habits, access to guns, and suicidality in order to identify and possibly stymie future acts of gun violence.

Currently, the full scope of health disparities created by firearm violence is somewhat underappreciated. Regrettably, Congress has limited federal funding to use on research of firearm violence as it pertains to public health. This can be attributed in part to the Dickey Amendment, a provision to a 1996 spending bill that prohibits funding to any research that may even remotely advocate for gun control. Interestingly, the Dickey Amendment came to be soon after an infamous article was published finding that, rather than being used as a protective measure, firearms in the house are strongly associated with a high risk of homicide by either a family member or an

⁵² See generally R. K. BAILEY, AT GUNPOINT: FIREARMS VIOLENCE FROM A PSYCHIATRIST'S PERSPECTIVE (2018).

⁵³ See Charles C. Branas, Seunghoon Han & Douglas J. Wiebe, Alcohol Use and Firearm Violence, 38 EPIDEMIOLOGIC REVIEWS 32, 32 (2016).

⁵⁴ Id at 32

SHANNAN CATALANO ET AL., US DEPT. OF JUSTICE, BUREAU OF JUSTICE STATISTICS SELECTED FINDINGS: FEMALE VICTIMS OF VIOLENCE 3 (2009), https://www.bjs.gov/content/pub/pdf/fvv.pdf.

id. at 2.

Paul S. Appelbaum, *Public Safety, Mental Disorders, and Guns*, 70 JAMA PSYCHIATRY 565, 565 (2013), https://jamanetwork.com/journals/jamapsychiatry/fullarticle/1674804.

Allen Rostron, The Dickey Amendment on Federal Funding for Research on Gun Violence: A Legal Dissection, 108 AM. J. PUB. HEALTH 865, 865 (2018), https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2018.304450.

acquaintance.⁵⁹ Soon after the publication of CDC funded articles, the NRA made clear that the CDC had to avoid any studies that could be perceived as anti-gun efforts.⁶⁰

Examination of some noteworthy studies published before and despite the Dickey Amendment yields some interesting results. In 1995, one article examined gun use (as a protective measure) in the event of a homeinvasion.⁶¹ Another article concluded that a gun that is kept in the home is used less than 2% of the time when a home invasion does occur.⁶² Furthermore, gun owners may be killed or injured by their own weapon. Living in a home where a gun is present increases the likelihood of being the victim of homicide. 63 Some estimates report that nearly 700 people per year die from accidental shootings in the U.S.⁶⁴ "A study of all gunshot injuries in Galveston, Texas, over a three-year period found that only two were related to residential burglary or robbery."65 In one of the two home invasion instances, the homeowner was shot and killed by a burglar.⁶⁶ This result is incongruous with the prevailing idea that gun ownership leads to increased personal safety and protection.

CONCLUSION

In conclusion, despite the vast resources that are available in the United States, healthcare disparities still exist. This paper has examined healthcare disparities in the realm of mental health.

Due to the stigma and nature of mental health disorders, many individuals may be deprived of rights and privileges that most of us enjoy. As is the case with many disparities, the poor and indigent tend to suffer the most. Early intervention and recognition are paramount. This is particularly true for children. A child's trajectory in life can be impacted by mental health disorders. Criminality, risky behavior, and avoidance of academic pursuits can be seen with conditions such as Attention-Deficit/Hyperactivity Disorder. However, this condition (and many others) can be managed by medications.

See Arthur L. Kellermann et al., Gun Ownership as a Risk Factor for Homicide in the Home, 329 NEW ENG. J. MED. 1084 (1993), https://www.nejm.org/doi/full/10.1056/NEJM199310073291506.

Rostron, supra note 59, at 856.

See A. L. Kellermann et al., Weapon Involvement in Home Invasion Crimes, 273 J. Am. MED. ASS'N. 1759 (1995), https://www.ncbi.nlm.nih.gov/pubmed/7769769.

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Douglas J. Wiebe, Homicide and Suicide Risks Associated with Firearms in the Home: A National Case-Control Study, 41 ANNALS EMERGENCY MED. 771, 775 (2003).

David Hemenway, Risks and Benefits of a Gun in the Home, 5 Am. J. LIFESTYLE MED. 502, 503 (2011), https://journals.sagepub.com/doi/abs/10.1177/1559827610396294.

⁶⁵ Id

Id.

Ignorance, stigma, and denial prevent many individuals from accessing treatment. In order to remedy mental health disparities effectively, efforts must be made to educate patients, their families and the community at large. Public perception weighs heavily on the field of psychiatry. Many illnesses are still dismissed or downplayed. Worse still, many of vulnerable individuals who suffer from severe mental health issues are viewed as threats to society. Often, it is these individuals who are victims of crime and abuse.

Public perception informs the law of our society as well. Individuals with mental illness have long been scapegoated as the cause of firearm violence. Firearm violence is a public health issue that creates both physical and psychological suffering. Efforts to research gun violence have been stymied by federal law. Solving mental health disparities is complex and starts with recognition of the problem. Unfortunately, disparities have been created through ignorance, misinformation and social customs. Engaging in discussion and promoting awareness is needed to bring attention to these issues. Like many things in psychiatry, the first step is to openly talk about the problem.