



The Leadership
Conference

The Leadership
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Education Fund

Holding the Line:

Combating Racial Discrimination in a Divided America

July 2022

“Holding the Line: Combating Racial Discrimination in a Divided America” is a project of The Leadership Conference on Civil and Human Rights and The Leadership Conference Education Fund.

The Leadership Conference is a coalition of more than 230 national organizations working to build an America as good as its ideals. By activating the power of the coalition, The Education Fund and our partners share innovative research and information nationwide — and ultimately, move the needle on civil and human rights.

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The report was designed by Celeste Jacobs.

The United States is today facing a coordinated campaign by extremist forces to weaken the power of people historically pushed to the margins. This report documents the harm done and offers a blueprint to ensure that all people are afforded civil and human rights protections under the U.S. Constitution and in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination. The work ahead will require each of us to do our part to stop the erosion of our rights and save our democracy. We hope this report will be useful to policymakers and advocates as we work toward our collective goal of building a just and inclusive nation for all.

A handwritten signature in black ink that reads "Maya Wiley". The signature is written in a cursive, flowing style.

Maya Wiley

President and CEO

The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund

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INTRODUCTION

The Leadership Conference on Civil and Human Rights, a coalition of more than 230 national organizations working to promote and protect civil and human rights, is pleased to submit this report, “Holding the Line: Combating Racial Discrimination in a Divided America.” Since its inception in 1950, our coalition has worked to ensure that all people are afforded civil and human rights protections under the U.S. Constitution and in accordance with international human rights norms. This report provides additional information and offers recommendations for actions that will, if adopted, enhance the ability of the United States to comply with the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

Since the committee’s last review of the United States’ compliance in 2014, our nation endured the contentious and polarizing presidency of Donald Trump. His administration aggressively rolled back civil rights protections, fanned the flames of hate, and enacted divisive policies to preserve and perpetuate white supremacy — some of which are detailed in this report.

His racist policy priorities — including on issues like health care access, immigration, voting, and the criminal-legal system — and his violent, white supremacist rhetoric culminated in the unprecedented attack on the U.S. Capitol building and our democracy on January 6, 2021. The big lie perpetrated by the former president and his supporters has fueled dozens of racially discriminatory anti-voter laws passed by state legislatures across the nation. This remains an ongoing threat to our democracy, to civil and human rights, and to the advancement of racial justice in the United States.

To combat these threats and to assist in the United States’ compliance with CERD, the Biden administration should create a stable federal body or structure focused on the implementation of human rights treaty obligations. They should establish an interagency mechanism coordinated by the White House through the Domestic Policy Council and the

National Security Council, Department of State, and Department of Justice. This mechanism should be tasked with ensuring, in consultation with civil society, that domestic agencies swiftly implement recommendations from regional and international human rights bodies.

We strongly recommend the creation of a national plan of action to address racial discrimination and fully implement CERD. And we urge the administration to take concrete steps to examine the need for the establishment of a National Human Rights Institution, as most other countries have done. Indeed, taking these steps would be consistent with and advance the president’s overall goals and his Executive Order 13985 on “Advancing Racial Equity and Support for Underserved Communities.”

Additionally, we call on the administration to issue an executive order establishing a commission to study reparations proposals for African Americans. While we very much appreciate that the president signed legislation last year to make Juneteenth a federal holiday, a commission to study reparations proposals would be another meaningful response to the institutional racism endured by Black people and will finally acknowledge how pervasive the impact of slavery is on almost every institution and structure in the United States today.

Beyond that, the U.S. Congress can take additional steps as outlined in our report to thwart racial discrimination, advance civil rights, and ensure compliance with CERD.

Civil and human rights must be measured by a single yardstick, both at home and abroad. While this report does not reflect the complete agenda of every Leadership Conference member organization, it does highlight many of the issues that are at the top of our coalition’s agenda. We hope this report will be useful to the international community in assessing our nation’s compliance with CERD and that it serves as a public education tool to aid in protecting and promoting racial justice throughout the United States.

RACIAL PROFILING, EXCESSIVE USE OF FORCE, AND THE CRIMINAL JUSTICE SYSTEM

2014 CERD Concluding Observations 8, 17, and 20

The current state of much of the American criminal-legal system has been a stain on our constitutional promise of neutral justice, as well as our democracy. This system replicates and reinforces patterns of racial and economic discrimination that can be traced from slavery, legal segregation and the continuing forms of exclusion that result in explicit and implicit bias, and practices and policies that continue unnecessary and disproportionate contact with the criminal-legal system. The result is a criminal-legal bureaucracy that denies millions of people the opportunities, legal equality, and human rights they deserve while at the same time fueling the world's highest incarceration rate and civil penalties that deepen impoverishment and, in too many states, disenfranchise people returning to communities after felony convictions. Our overreliance on incarceration and criminalization as the primary mechanisms to advance public safety have had devastating impacts on the communities we represent. Racial discrimination and disparities persist at every stage of the criminal-legal system. The United States is the world's leading jailer with nearly two million people behind bars.¹ Even in the face of intractable police unions, political gridlock, and disparate treatment,² federal agencies have myriad tools at their disposal. They can use executive action, policy guidance, and the conditioning of grants to significantly reduce disparities and transform the administration and functioning of the criminal-legal system. Highlighted below are three key areas where executive and legislative action could make a significant impact. In addition to the recommendations below, The Leadership Conference is a signatory to the shadow report that the American Civil Liberties Union and The Sentencing Project will submit to the CERD Committee in 2022.

Racial Profiling. Law enforcement officers, whether federal, state, or local, have substantial discretion when determining whether a person's behavior is suspicious enough to warrant further investigation, which can and does lead to legally justified racial profiling under the current application of the law. Racial profiling in the United States began expanding

before the terror attacks of September 11, 2001, in several contexts — street-level crime, counterterrorism efforts, and immigration law enforcement. It has significantly expanded in their wake as well.

The most recent federal attempt to reduce racial profiling was introduced in 2014 when the Obama administration issued "Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity" (2014 guidance), which expanded protected categories yet left troubling exceptions and loopholes, including that the guidance does not apply to state and local law enforcement and retains exceptions for the Transportation Security Administration and U.S. Customs and Border Protection. Further, the 2014 guidance failed to ban the practice of "mapping;"³ data gathering; and surveillance of racial, ethnic, and religious minorities.⁴

Racial profiling is a pervasive issue in the United States that negatively impacts the day-to-day lives of Black and Brown people and undergirds the racial discrimination across the entire criminal-legal system.⁵ The gaps in the 2014 guidance allow law enforcement to legally engage in racial profiling — and the loopholes should be closed. Congressional legislative action should be taken to officially ban racial profiling in the United States.

Pretextual Stops and Traffic Enforcement. In some cases, law enforcement's use of pretextual stops and traffic enforcement are the first point of contact for people of color, especially Black, Latino, and Native people, in the criminal-legal system.⁶ Pretextual stops allow officers to stop a driver or pedestrian for a minor violation in an attempt to discover some more serious violation or crime.

The legal allowance of pretextual stops and traffic enforcement endangers lives and initiates encounters that can devolve quickly into police use of force.⁷ Law enforcement officers utilize this strategy frequently, stopping on average 50,000 motorists per day across the country, which adds up to more than 20 million stops per year.⁸ These stops disproportionately impact people of color. For example, White drivers are 20 percent less likely to be stopped than Black drivers as a share of the population. When stopped, White drivers are searched 1.5 to two times less often than Black drivers but are more likely to have drugs, guns, or other contraband.⁹

The Department of Transportation and other federal agencies currently spend more than \$600 million a year in traffic-related grant funding to states. These grant programs require departments to engage in traffic enforcement and by doing so fuel an enforcement mechanism that hugely impacts communities of color and does not reduce crime or make roadways safer.¹⁰ To reduce racial disparities and the increased likelihood of dangerous traffic conditions, the federal government needs to create incentives to innovate traffic safety in a way that shifts resources from a law enforcement model to a civilian traffic safety model.

Police Use of Force. Police continue to use a broad spectrum of force against members of the public, and force is used disproportionately against communities of color and Black people. Black people are more than three times as likely as White people to be killed during a police encounter.¹¹ Since the beginning of 2015 to June 10, 2022, 7,426 people were killed by police in the United States. At least 40 percent of the people killed were people of color.¹² In addition to the myriad examples of police killings of unarmed Black men and women over the last century, there are even more instances of police using non-lethal levels of force, particularly in overpoliced Black and Brown communities in the United States.¹³ These lower levels of force, which include strikes, kicks, takedowns, and taser discharges, cause high levels of trauma not only for people who experience it directly but also across entire communities that experience high frequencies of aggressive police behavior and brutality.¹⁴

Police use of force is particularly troubling in combination with the current legal structure that consistently fails to hold police accountable for their dangerous behavior. This is particularly evident in legal norms like qualified immunity, which protects officers from being held personally accountable for their misconduct. The current legal standard also makes it exceptionally difficult to hold officers accountable if they express that they were afraid for their lives during an encounter.¹⁵ Individual and community trauma is such a concern that President Biden included a provision in a recent executive order, “Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety,” specifically calling for a nationwide study of the physical, mental, and public health impacts of the use of force on communities.¹⁶

Data collection and reporting. There is no national requirement or standard for collecting and reporting police activity data.^{17, 18} This is true for all aspects of policing in the United States and includes use of force, misconduct, arrests, pretextual traffic, and pedestrian stops. Consequently, no one knows enough about when, where, and how often police are interacting with the public or the important details about the nature of those interactions. Due to the lack of mandatory data collection, media outlets like *The Washington Post* and *The Guardian* have created their own data collection projects. One egregious example of the alarming lack of oversight and standards in police data collection comes from Minneapolis. When a Minneapolis police officer murdered George Floyd, the killing was originally recorded in the Minneapolis police report as a “medical incident.”¹⁹

The national data collection infrastructure that does exist under-collects information and is voluntary. The FBI’s national database on police use of force, which began collecting data in January 2019,²⁰ only collects data on three types of force: “police killings of subjects,” “serious bodily injury,” and “firearm discharges.” This shortlist leaves out many common ways that police use force, such as strikes, kicks, takedowns, and taser discharges that people, particularly in Black and Brown communities, experience regularly. Additionally, there is no national requirement for the more than 18,000 police departments in the country to report their data to the FBI. Even federal law enforcement agencies were not required to report into the FBI database until very recently and failed to participate.^{21, 22} Voluntary participation has proven to be a significant challenge, one that threatens the already truncated usefulness of the FBI database.²³

In-custody deaths are another area where improved data collection is not only necessary but required by law. The Death in Custody Reporting Act was passed in its most recent form in 2013, but it has yet to be fully implemented. Lack of implementation has serious consequences. No one in the United States knows how many people die annually in government custody. Due to the racial disparities that exist in the criminal-legal system, Black and Brown communities are most impacted by this lack of data and poor notification infrastructure for families of people who die in custody.

Progress and Steps Forward

Since 2014 there have been some measures taken to reduce racial disparities within the criminal-legal system through executive and administrative action, federal legislation, civil unrest, and state-level litigation. Several positive changes were highlighted in the Biden administration's 2021 CERD report, including that the federal prison population has declined. But there have also been intentional steps taken, especially during the Trump administration, to undermine civil rights, embolden police brutality, and dismantle effective tools used by the federal government to regulate police practices. Specifically, the Trump administration significantly reduced the overall use of consent decrees and tried to withdraw from already negotiated consent decrees; ended the Community Oriented Policing Services' Collaborative Reform Initiative; rescinded Obama-era efforts to limit police department procurement of weapons from the U.S. military; and supported outsized, militarized responses to peaceful protests.²⁴

In May 2020, George Floyd was murdered by a Minneapolis police officer. After years of witnessing police killing unarmed Black people, this heinous act was a tipping point that enraged the public and spurred widespread protests. For months, across the United States and the world, people gathered to protest police brutality and demand accountability. As mentioned in the Biden administration's 2021 CERD report, the government became more involved after George Floyd's killing. The offending officers either have been or are being prosecuted for their crimes at the state level and now at the federal level. The Justice Department has initiated an investigation into the Minneapolis Police Department. In 2021, Congress attempted to negotiate a piece of police reform legislation but failed and has been unable to pass meaningful reform since. While some accountability in the criminal-legal system has been shown through these measures, these reactive strategies do nothing to prevent future brutalization or discrimination. Successful legislative action is needed at the state and federal levels to shrink the footprint of law enforcement in the lives of Black and Brown communities.

On May 25, 2022, on the second anniversary of the killing of George Floyd, President Biden signed the executive order on "Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety." It lays out the first steps toward an accountability framework for

policing. Among a long list of administrative steps, it requires all federal law enforcement agencies to report their use of force data to the FBI for the national data collection, highlights the need for more engagement on the issue of co-response or alternative responses to mental health crises, and requires DOJ to study the impact of police use of force on communities of color.²⁵

In September 2021, DOJ initiated a review of Title VI, a provision of the 1964 Civil Rights Act that "prohibits recipients of federal financial assistance from discriminating against any person on the basis of race, color, or national origin."²⁶ In June 2022, as a consequence of the review, Assistant Attorney General Vanita Gupta directed the DOJ to take steps to improve the implementation and enforcement of Title VI.²⁷ If the DOJ is successful, especially in managing Title VI compliance as it relates to the billions of dollars in grant funds distributed annually to state and local police departments, there could be a significant impact on racial discrimination.

Recommendations

The U.S. Congress should pass comprehensive police reform legislation that meaningfully addresses the issues highlighted in this report. The legislation should focus on police accountability; ban racial profiling and pretextual stops; eliminate the use of federal funding for traffic enforcement; establish a robust, mandatory national use of force database that is available to the public; require and fund the full implementation of DCRA; and tie all federal grant funds to compliance with Title VI.

Racial Profiling

- DOJ should revise the 2014 guidance to close all remaining gaps including loopholes that allow for profiling at airports and border regions by Customs and Border Protection and the Transportation Security Administration in the revised guidance.
- DOJ should issue revised guidance that explicitly prohibits data-gathering and "mapping" of racial, ethnic, and religious communities. The FBI must immediately discontinue this practice, provide transparency on how the FBI's mapping operation has been developed and deployed, and publicly disclose maps that the FBI has produced with an explanation of how the agency has used the information in its law enforcement and intelligence activities.

- To meaningfully eliminate racial profiling by law enforcement, revised guidance must include state and local law enforcement agencies. DOJ should use Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act of 1968 to condition federal funds to state and local law enforcement agencies on whether the agency has adopted policies prohibiting racial profiling.
- The U.S. Congress should take legislative action to prohibit racial profiling.

Pretextual Stops and Traffic Enforcement

- DOT and the NHTSA should shift responsibility away from law enforcement for traffic safety, thereby shrinking the footprint of law enforcement in the lives of civilians, especially people of color. This should include the DOT and NHTSA ending engagement with non-funded programs like the Data-Driven Approaches to Crime and Traffic Safety.

Police Use of Force

- DOJ should establish national categories and definitions of law enforcement use of force so that departments can begin to collect and report data in a standardized way.
- The administration, politicians, civil rights advocates, and communities should demand changes to the law that will address accountability loopholes like qualified immunity and require a higher standard for justification of use of force than an officer stating that they feared for their life during an encounter.

Data Collection and Reporting

- DOJ should require robust data collection and reporting on federal police-community encounters and law enforcement activities, including stops and frisks, whether or not there was an arrest, issuance of a summons, or desk appearance ticket.
- DOJ should require that all data collection captures all demographic categories and can be disaggregated.

- DOJ should collect and make public all important police activity data including arrests, pretextual and traffic stops, use of force, and misconduct. Data collected should be robust and, in the matter of use of force, include information on all uses of force, not just those that are lethal or lead to serious bodily injury. Data collection and reporting should be mandatory for all federal agencies as well as all state and local departments that receive federal grant funds. All federal efforts at data collection need to be reported to the public in a timely manner and available in a format that allows for disaggregation. Data should remain publicly available by jurisdiction so that comparisons can be made over time.
- DOJ should fully implement the Death in Custody Reporting Act of 2013.
- DOJ should fully implement Title VI and require that all federally funded programs in the criminal-legal system, including police departments, comply with Title VI.
- State and local governments should make police activity reporting mandatory and available to the public.

RACIST HATE SPEECH AND HATE CRIMES

2014 CERD Concluding Observation 9

The United States has experienced an alarming increase in hate crimes and violent white supremacy since the previous U.S. government report in 2014. According to 2020 data, reported hate crimes have reached the highest level since 2001. From the murders of nine worshippers at the Mother Emanuel African Methodist Episcopal Church in Charleston, South Carolina, in June 2015 to the violent white supremacist and neo-Nazi rally in Charlottesville, Virginia, in August 2017 to the recent murders of Black shoppers at the Tops Friendly Market — the community’s only supermarket — in Buffalo, New York, violence and organized hate is visible and rising. So emboldened is hate-driven extremism that

even the insurrection on the U.S. Capitol in January 2021 owes its violence, in no small part, to white supremacists and white nationalists. Both subtle and more overt racist rhetoric — including the “great replacement” theory with its origins in antisemitism and its fearmongering on changing racial demographics and former President Donald Trump using words and insinuations that China was to blame for the COVID-19 pandemic — have been given cover from some public and elected officials. This has helped to create false legitimacy, implied permission, and even calls to action that hate groups are using to recruit new adherents, often online.

For four years, President Trump used the bully pulpit of the presidency to fan the flames of hate, roll back critical civil rights protections, and push racist and divisive policies and programs aimed at sowing division. The impact of this racist rhetoric is evident in the FBI’s annual hate crime statistics:

- 2015 saw a nearly 7 percent increase in hate crimes from 2014. Likely correlated with the increase in racist and inflammatory rhetoric from the 2016 election cycle, this increase was driven by a sharp rise in anti-Muslim hate crimes, which increased 67 percent from 2014 to 2015.²⁸
- During Trump’s first year in office, reported hate crimes increased almost 5 percent, with nearly 60 percent being motivated by race, ethnicity, or ancestry bias.^{29, 30}
- The sharpest increase in hate crimes reported since the last U.S. government report in 2014 occurred in 2017, which had a nearly 17 percent increase in hate crimes from the previous year.
- 2018 and 2019 were the two deadliest years on record for hate crimes in the United States and included the mass murders at Tree of Life Synagogue and at a Wal-Mart in El Paso, Texas.^{31, 32}
- The most recent data from the FBI demonstrates that Trump’s last year in office, 2020, saw the highest number of reported hate crimes since 2001.³³ This was in large part driven by increases in anti-African American/anti-Black hate crimes and anti-Asian hate crimes. Anti-African American/anti-Black hate crimes increased by nearly 20 percent from 2019 to 2020.³⁴

- On March 2, 2021, FBI Director Christopher Wray testified before the Senate Judiciary Committee, stating: “The top threat we face from DVEs [Domestic Violent Extremists] continues to be those we identify as Racially or Ethnically Motivated Violent Extremists (RMVEs), specifically those who advocate for the superiority of the white race, and who were the primary source of ideologically motivated lethal incidents of violence in 2018 and 2019.”³⁵

Progress and Steps Forward

President Biden took office in the midst of a hate crime crisis and began taking action to address it, specifically the alarming increase in anti-Asian hate crimes. During the global COVID-19 pandemic, anti-Asian hate crimes and hate incidents saw a sharp increase, with nongovernmental organizations documenting more than 10,000 anti-Asian American and Pacific Islander hate incidents from March 2020 to December 2021 alone.³⁶

On May 20, 2021, President Biden signed the COVID-19 Hate Crimes Act, which requires a designated employee of DOJ to facilitate an expedited review of hate crimes related to the COVID-19 pandemic and required DOJ to issue guidance with the Department of Health and Human Services aimed at raising awareness of hate crimes during the pandemic. The COVID-19 Hate Crimes Act includes the Khalid Jabara and Heather Heyer NO HATE Act, which establishes grants for state-run hate crime reporting hotlines and authorizes grants for state and local governments to implement the National Incident-Based Reporting System (NIBRS). The law also allows a court to order educational classes or community service as a condition of supervised release.³⁷

FBI Director James Comey had signed a recommendation in 2016 that the Uniform Crime Reporting (UCR) program sunset its traditional Summary Reporting System (SRS) and transition to NIBRS by January 1, 2021. NIBRS provides for more comprehensive data, including better data on hate crime incidents and bias-motivations. As of May 2022, the FBI reports 65 percent³⁸ of law enforcement agencies in the United States contribute to NIBRS, including 31 states that are partial NIBRS reporting states.³⁹

Recommendations

Naming White Supremacist Hate

- Public officials from across government should use their bully pulpits to denounce racist speech, speak out against hate crimes, and share messages of inclusion. Data has shown that while hate crimes may mirror the political climate, when public officials speak out against hate crimes, hate crimes can decline. President Biden specifically named white supremacy and mentioned that silence is complicity in his remarks in the aftermath of the deadly anti-Black hate crime in Buffalo, New York. President Biden, the attorney general, the director of the FBI, and members of Congress should continue to speak out against hate crimes and white supremacy.

Data Collection

- To ensure an accurate picture of what communities are experiencing across the country, the Biden administration must support mandatory hate crime reporting, and Congress must act to pass a law mandating hate crime data collection and reporting. Data drives policy, yet many individuals targeted for hate do not feel safe reporting crimes to law enforcement. Until hate crime data collection and reporting are made mandatory by Congress, DOJ should require law enforcement agencies that receive federal funding to report hate crime data to the UCR program.

Reporting and Compliance

- All offices of civil rights in federal agencies should review all recipients of federal financial assistance (FFA) to make sure there is language access in all materials about hate incidents and crimes, including information about reporting when FFA is distributed. DOJ should use its existing Title VI enforcement authorities across all agencies to ensure that all recipients of FFA are ensuring language access in all materials about hate incidents and crimes.

- Robust enforcement of Title VI in connection to hate crimes extends to schools and college campuses. As a part of Title VI enforcement, these civil rights offices should also address the needs of students targeted for hate, understanding how this may contribute to increased drop-out rates. School districts and institutions must understand their obligations concerning unlawful discrimination at schools before students return to schools. The Educational Opportunities Section of the Civil Rights Division should work with the Department of Education's Office for Civil Rights (OCR) to ensure that campuses comply with hate crimes reporting requirements connected to Clery obligations, which require colleges to disclose crime statistics that happen on campus.⁴⁰ Clery Act reporting is mandatory; the FBI Hate Crime Statistics Act crime data collection system is entirely voluntary. Yet, there are colleges and universities that report their data to the Department of Education and not the FBI — even though the definition of what data is to be collected for both reports is identical.

- Until all law enforcement agencies have transitioned to NIBRS and are deemed NIBRS compliant by DOJ, DOJ should fully implement grant provisions of the COVID-19 Hate Crimes Act and Jabara-Heyer NO HATE Act that would provide incentives and support for law enforcement agencies to transition to NIBRS.

Community-Based Organizations

- DOJ should deploy the Community Relations Service (CRS), a DOJ entity that supports communities in conflict with mediation and other tools, and the Civil Rights Division to ensure that civil rights and community organizations have input in defining public safety and effective hate crimes reporting methods and are included in training development.⁴¹ Community organizations can serve as a safe place for hate crimes survivors to find support. In some cases, community groups can also serve as bridges to local law enforcement for hate crimes reporting because they effectively garner community trust.

- DOJ should also create or redirect grants and discretionary funds to support local community organizations so that they can continue to serve people targeted for hate crimes. This would also allow community organizations to respond more effectively to hate incidents, enabling law enforcement to focus on hate crimes and strengthen communities without additional law enforcement presence. Improving data requires long-term investments in holistic services for those targeted for hate to enable people to feel safe enough in their communities to report hate incidents and crimes. Grants must include social services such as mental health support, housing support, food security, educational programs for children, and investment in cultural events.
- DOJ should support the creation of continued work of hate crimes working groups composed of community-based organizations, civil rights leaders, and police officials housed in every U.S. attorney's office (USAO) across the country. Under Attorney General Janet Reno, every USAO created a Hate Crimes Task Force. While many ended after her term as attorney general, others lasted across different administrations and priorities. For example, the task force for the Eastern District of California is a prime example of implementation of a task force that effectively engages diverse community leaders and state and local law enforcement leaders in regular meetings where all parties can develop relationships outside of crisis situations. In addition, career attorneys and administrative staff should help lead the Hate Crimes Task Force for continuity across administrations. CRS can support U.S. attorneys in the creation and facilitation of these task forces.
- All Countering Violent Extremism (CVE) programs, and programs relying on the same flawed science that undergirds CVE programs, must be eliminated.⁴² Not only are these programs ineffective and discriminatory, but they also securitize relationships with communities, undermine efforts to build the trust necessary for communities to report hate incidents and hate crimes, and as a result significantly inhibit the USAO's ability to work collaboratively with targeted communities. Similarly, all Office of Community Oriented Policing Services and Office

of Justice Programs funding for law enforcement should include reminders about Title VI obligations pertaining to hate crimes reporting.

RIGHT TO VOTE

2014 CERD Concluding Observation 11

The right to vote and to participate fully in the electoral process is integral to the foundation of American democracy. As the Supreme Court said more than a century ago, the right to vote is a “fundamental political right, preservative of all rights.”⁴³ The right to be free from discrimination in voting is protected by the U.S. Constitution and by the Voting Rights Act (VRA) of 1965, which has been reauthorized five times by Congress with strong bipartisan majorities and signed into law by a Republican president on each occasion. However, this foundational right is under unprecedented attack and VRA protections have been eroded.

The problems with voting discrimination highlighted in the 2014 CERD report have increased exponentially. The devastating impact of the Supreme Court's 2013 ruling in *Shelby County v. Holder* continues to reverberate around the country as states and local jurisdictions adopt discriminatory laws without seeking preclearance by DOJ. In 2021, the Supreme Court substantially weakened Section 2 of the VRA in *Brnovich v. Democratic National Committee*, limiting the ability to litigate voting rights cases.⁴⁴ Voting discrimination has only increased in intensity after the 2020 election, which ignited invalid claims of voting fraud and culminated in the violent insurrection at the U.S. Capitol on January 6, 2021.

The falsehoods surrounding the “Big Lie” propagated by former President Trump and his supporters — that the 2020 presidential election was stolen — have increased threats to the franchise for voters of color, both in being able to cast a vote and to have that vote count. The assault on democracy has taken new and dangerous forms and now includes efforts to partisanize elections, strip the power of state and local elected officials, harass and intimidate both election officials and voters, and challenge the outcomes of elections. The very integrity and legitimacy of our election processes are being called into question.

Voting Discrimination Unleashed by *Shelby County* Persists in Virulent Forms

The *Shelby County* ruling effectively eliminating Section 5's preclearance requirement opened the floodgates to voting discrimination with an intensity that has continued to this day. In 2021, The Leadership Conference published reports on the state of voting rights in 13 states across the country and introduced them into the U.S. congressional record.⁴⁵ They document the "current conditions" surrounding voting discrimination and highlight the pervasiveness and persistence of voting discrimination in the absence of Section 5's preclearance requirement. A report by The Leadership Conference Education Fund found that, after *Shelby County*, thousands of polling places were shuttered or moved, primarily in states previously covered by Section 5 of the VRA.⁴⁶

The Assault on Democracy Intensified After the 2020 Election

State Anti-Voter Laws. The assault on democracy has significantly escalated since the 2020 presidential election. In 2021 alone, state legislatures introduced 440 voting bills that restricted the freedom to vote.⁴⁷ Thirty-four laws with anti-voter measures were enacted in 19 states.⁴⁸ These laws roll back early voting, restrict mail-in voting, add new hurdles for voter registration, impose harsh voter identification requirements, increase barriers for voters with disabilities, strip power from state and local election officials, and allow partisan actors to interfere with election processes or even reject election results entirely.⁴⁹ In early 2022, lawmakers in numerous states introduced more restrictive voting legislation than last year, including bills designed to undermine the electoral process.⁵⁰

Harmful Redistricting. In addition, for the first time since 1965, electoral maps are being designed without the full protections of the VRA. Legislators are drawing and adopting brazenly partisan and racially discriminatory plans to accomplish political gain at the expense of voters of color. For example, although 95 percent of the growth in Texas's population in the past decade was attributable to people of color, the Texas legislature redrew federal and state legislative districts to increase the influence of White voters and diminish the voting strength of communities of color.⁵¹

Threats Toward Election Officials. There is an alarming rise in threats toward election officials and the election process itself, which jeopardize the operation and functioning of our democracy.⁵² The same conspiracy theories, falsehoods, and violence that fueled a deadly attack on the U.S. Capitol now pose threats to democracy at the state and local level, targeting election officials from front-line poll workers to vote counters to secretaries of state. One recent study found that half of election officials are concerned about safety and nearly one in three know of a colleague who has quit partly due to safety concerns, increased threats, or intimidation.⁵³

Election Interference. Efforts to interfere with impartial election administration and to discount or challenge election results are on the rise with politicians working hard at the state and local levels to install partisan actors to interfere with election processes or even reject election results entirely. Georgia's new law removed Secretary of State Brad Raffensperger — whom Donald Trump notoriously told to "find 11,780 votes" to nullify President Biden's win — from his position as chair of the state election board and authorized the Republican-led legislature to appoint the chair.⁵⁴ Arizona's partisan, post-election review — which only confirmed original election results — was intended to intimidate communities of color growing in political strength and create widespread distrust in our electoral system, and has become a model for adoption by other states seeking to do the same.⁵⁵

Barriers for Indigenous Voters. Indigenous voters face distinct barriers to full participation in democracy. The geographic isolation of tribal lands is often compounded by poverty, lack of access to transportation, and poor roads that reduce the ability to connect to voting services often located off reservation. Native American and Alaska Native voters tend to have non-traditional mailing addresses, lack home mail delivery service, and have reduced access to affordable and reliable broadband. Restrictive laws that abolish early voting, curtail in-person voting, and reduce opportunities to vote by mail only compound the structural deficiencies already facing this community, which hinder their participation in political life.⁵⁶

Language Access Issues. Language access issues continue to hinder participation in the political process. Section 203 of the VRA requires jurisdictions to offer language assistance if certain

thresholds of voters with limited English proficiency are met.⁵⁷ In 2021, the Census Bureau found that 331 jurisdictions required Section 203 coverage with more than 24 million voting age citizens that need language assistance, representing an increase of 22.3 percent from 2016.⁵⁸ Additionally, the recent wave of restrictive voting laws exacerbate the challenges faced by language minority voters, as they are often voters of color.

Barriers for Voters with Disabilities. Voters of color with a disability⁵⁹ face compound barriers to political participation as a result of newly enacted voting laws. Restrictions on mail-in ballots and bans or limits on ballot drop boxes translate into reduced voting opportunities for people with disabilities.⁶⁰ Prohibitions on absentee ballot collection efforts are particularly harmful to disabled voters as many states are making third-party assistance illegal.⁶¹ Other significant impediments include onerous voter ID requirements, limitations on early voting, and inaccessible polling places and voting machines.⁶²

Disenfranchised D.C. Voters. The disenfranchisement of Washington, D.C.'s nearly 700,000 residents continues to be a stain on our democracy. For more than 200 years,⁶³ residents of our nation's capital have lacked representation in Congress and have therefore been denied a voice in federal legislative decision-making. That a majority of these residents are people of color⁶⁴ perpetuates the underlying racial animus toward the district that has existed since its founding. The lack of voting representatives in Congress is a deprivation of the fundamental right to vote.

Felony Disenfranchisement. Today, state laws bar more than 5.2 million citizens convicted of felony offenses from casting a ballot. In some states, more than 20 percent of the African-American population is not permitted to vote due to felony convictions, and across the nation one out of 13 African-American adults cannot vote because of a felony conviction. Many state felony disenfranchisement laws were passed after the Civil War to disempower African Americans by linking the right to vote to a criminal-legal system deeply infected by racism.⁶⁵

Incarcerated people are also stripped of their voices in our democracy when it comes to drawing voting maps — they are counted as residents of their prison districts rather than of the districts they call home. This practice, known as “prison-based

gerrymandering,” distorts our democratic process by artificially inflating the district population count and the political influence of that district as result.

Protecting Democracy at the Federal Level. For democracy to work for all of us, it must include all of us. The ability of all who are eligible to participate in our political process has been severely threatened by restrictive voting laws and practices that jeopardize the functioning and outcome of our elections. Congress attempted to address these grave threats to democracy with comprehensive voting legislation. Last year, the U.S. House of Representatives passed the John R. Lewis Voting Rights Advancement Act of 2021 to update, restore, and strengthen essential provisions of the VRA. The House also passed the For the People Act of 2021, which expanded access to the ballot box by creating automatic voter registration, restoring the voting rights of formerly incarcerated people, modernizing the nation's voting systems, and adopting other democracy-reform measures.

In early 2022, the Senate considered the Freedom to Vote: John R. Lewis Act, which would have restored and strengthened essential provisions of the VRA to eliminate barriers to political participation for communities of color, including preventing the adoption of discriminatory voting practices before they are implemented. Additionally, the bill would have set a basic federal foundation for voting access for all Americans. It would require states to modernize voter registration by instituting automatic and same-day registration; strengthen voting by mail, early voting, and ballot access; protect against discriminatory purges; restore voting rights to citizens with past convictions once their term of incarceration is completed; ban partisan gerrymandering; and prevent state election subversion. The bill also included the Native American Voting Rights Act, which protects voting rights for Indigenous communities.

Unfortunately, the Freedom to Vote: John R. Lewis Act failed to even receive an up-or-down vote in the Senate, leaving the state of federal voting rights legislation in the United States unchanged. Therefore, it is even more imperative that the Biden administration use its full authority to enforce federal voting rights laws and require federal agencies to do everything within their power to protect and promote the fundamental right to vote.

Recommendations

- Congress should pass the Freedom to Vote: John R. Lewis Act to restore and strengthen the VRA, provide national standards and other baseline reforms to improve voting access for all eligible Americans, protect against discriminatory actions, and protect Native voting rights and the right to vote on Indian lands.
- Congress should pass the Washington, D.C. Admission Act to grant statehood to D.C. and to ensure that its more than 700,000 residents, a majority of whom are people of color, have voting representation in Congress.
- The Biden administration should fully enforce and strengthen the executive order on “Promoting Access to Voting”⁶⁶ by ensuring that federal agencies are promoting the right to vote, mitigating discrimination and other barriers to voting, and expanding access to voter registration and accurate election information by taking concrete steps to actively help eligible Americans register to vote.
- The Biden administration should sufficiently fund DOJ’s Civil Rights Division to ensure strong and continued enforcement of voting rights laws.
- DOJ should vigorously enforce the VRA to combat all forms of discrimination in voting at the state and local levels.
- DOJ should vigorously enforce the Americans with Disabilities Act and the Help America Vote Act to ensure voters with disabilities have accessible voter registration, absentee voting, and in-person voting and options to cast a private, independent ballot.
- DOJ should vigorously enforce the VRA on behalf of language minority voters to ensure their access to the political process and to eradicate discrimination against language minority voters. Specifically, this refers to enforcement of the minority language and right to assistance provisions in Sections 4(e), 203, and 208 of the VRA, including by proactively engaging with Section 203 jurisdictions once new determinations are made through letters and consultation, and enforcement actions when necessary.
- DOJ should vigorously enforce the National Voter Registration Act. This should include those provisions requiring state agencies to provide voter registration during transactions involving public assistance, services for people with disabilities, and drivers’ license constituents, and those providing safeguards against improper registration purges.
- The Biden administration should support, and Congress should pass, the Democracy Restoration Act to restore voting rights to all currently and formerly incarcerated citizens to ensure that no one ever loses the right to vote. Ensure currently incarcerated people — including people detained before trial — have access to absentee ballots or onsite polling stations so they can exercise their franchise. Provide individuals in prison with adequate and complete information regarding voting eligibility and registration while incarcerated and prior to release.
- States should prohibit prison-based gerrymandering by drawing voting maps using data that count incarcerated people at their home addresses, not where they are confined.

DISCRIMINATION AND SEGREGATION IN HOUSING 2014 CERD Concluding Observation 13

U.S. constitutional protections fall short of meeting CERD’s definition of discrimination in that they, among other things, do not explicitly address practices with discriminatory effects that are not proven to be intentional.⁶⁷ However, U.S. civil rights laws provide more specific protections from racial discrimination in housing.

- The Fair Housing Act applies to both private and government actors, and it does encompass a discriminatory effects standard to allow remedies in cases where an intent to discriminate has not been established. The same is true of the Equal Credit Opportunity Act. The Fair Housing Act also requires that the government take affirmative measures to remediate discrimination and segregation in the implementation of its housing programs.⁶⁸ While this law potentially provides a strong tool for CERD compliance, additional action remains necessary to ensure full enforcement and implementation (including through regulations, guidance, and program redesign).
- The Community Reinvestment Act of 1977 serves as another mechanism to remediate discriminatory “redlining” and segregation in mortgage lending and other financial services by incentivizing banks to meet the needs of all communities — including low- and moderate-income neighborhoods — in the areas in which they operate. As is the case with the Fair Housing Act, the regulations implementing this law are essential and are currently in the process of being revised.
- Meanwhile, Title VI of the Civil Rights Act of 1964 prohibits discrimination in federally funded programs (including housing programs), but it falls short of its potential as a tool for CERD compliance. “Discriminatory effects” discrimination is not privately enforceable under Title VI. While federal agencies generally have regulations implementing Title VI, the Department of the Treasury (which runs the Low-Income Housing Tax Credit program) lacks any such civil rights regulations.

Lasting Legacy of Housing Segregation. Access to housing is central to economic and personal security and to social inclusion, yet it remains shaped by racial discrimination throughout the United States. Throughout the country, affordable housing — at least close to job opportunities, public transit, quality health care, and other essentials — is in critically short supply. Many communities throughout the United States remain marked by a high degree of racial segregation and concentrated poverty, creating inequality in access to education, employment, and healthy public spaces and perpetuating gaps in opportunity for successive generations. Other

communities have experienced widespread displacement as a result of urban gentrification and inadequate supply that have priced many low- and moderate-income families out of neighborhoods. These inequities were worsened by the impact of predatory lending practices and widespread residential foreclosures on minority communities and by the inadequate response of federal and state policymakers to prevent further economic losses.

More than a decade after the 2008 housing crisis, the gap between Black and White homeownership is as wide as it was when redlining and other racially discriminatory practices in housing were legal. And despite the enactment of fair housing and fair lending laws over the last 50 years, important components of these laws have yet to be fully implemented or enforced. The COVID-19 pandemic and the resulting economic hardships in communities of color have only worsened racial homeownership and wealth disparities, as people of color have disproportionately experienced further setbacks in their income, savings levels, and other credit underwriting factors and have been unable to secure a mortgage or refinance their loans. And the growing use of new technologies such as artificial intelligence and machine learning in credit underwriting also carries with it the potential to worsen existing disparities.

Housing discrimination remains a major barrier to home rental and ownership opportunities for people of color in the United States. In 2020, 7,268 complaints of housing discrimination based on race, color, or national origin combined were filed with the Department of Housing and Urban Development (HUD) and affiliated fair housing organizations and agencies.⁶⁹ In March 2022, a federally commissioned report confirmed the persistence of systemic racial bias in home appraisals, with homes in Black census tracts being significantly more likely to receive an appraisal value lower than the contract price than homes in White census tracts.⁷⁰

The rulemaking, implementation, and enforcement relating to the Fair Housing Act has been in a tremendous amount of flux since the last periodic report. In 2015, the U.S. Supreme Court ruled that the Fair Housing Act could be enforced in discrimination cases that relied on evidence showing a disparate impact rather than intentional discrimination.⁷¹ In 2019, however, HUD proposed a rule under the decision

that would have placed a burden of proof on plaintiffs that was too high for most complaints to survive. Notably, even a number of banks and other housing industry stakeholders urged HUD to not move forward with the rulemaking. In 2021, under the current administration, HUD rescinded the 2019 rule and proposed reinstating an earlier version of the rule.

Similarly, in 2015 HUD published a rule implementing the “affirmatively furthering fair housing” requirements of the Fair Housing Act. This was the first significant regulation that required the federal government and HUD-funded recipients to outline and undertake meaningful actions to undo decades of housing discrimination. In 2018, however, HUD suspended this rule and proposed a new version that would have severely undercut the goals of the law. In 2021, HUD began a new rulemaking process based substantially on the 2015 version of the rule.

In 2020, the Office of the Comptroller of the Currency (OCC) proposed and rushed through regulations that would have significantly weakened the Community Reinvestment Act (CRA). It would have given banks CRA credit for lending and investments that had little if anything to do with serving communities of color. The other two banking regulators that oversee the CRA, the Federal Reserve and the Federal Deposit Insurance Corporation, declined to join in the rulemaking. In 2021 the rule was rescinded, and in May 2022 all three regulators started the process over with a new jointly proposed regulation.

In 2021, HUD released a legal opinion and statement clarifying the instances under which Special Purpose Credit Programs (SPCPs) are permissible under the Fair Housing Act. SPCPs, allowed under federal law since 1976 but largely unused due to a lack of regulatory clarity, provide an important way for lenders to target and meet the credit needs of economically disadvantaged groups, including groups that share a common characteristic such as race, national origin, or sex.

Since the last periodic report, the government-sponsored enterprises Fannie Mae and Freddie Mac have not lived up to their obligations to support a housing finance market for borrowers of color and other underserved groups. For example, while Black and Latino/a people represent 13.4 percent and 18.5 percent of the U.S. population, respectively, less than 4 percent of Fannie Mae and Freddie Mac loan

purchases for 2018 and 2019 were from Black borrowers and less than 10 percent were from Latino borrowers.

During the COVID-19 crisis, Congress has provided significant emergency assistance to renters and homeowners who have been at risk of eviction or foreclosure. This assistance has proven in many cases to be an important lifeline to families of color. Yet in too many instances, the funds have been slow to reach those who most need it. At the same time, there is still a dire need for new investments in the supply of affordable housing and for down payment assistance to help new potential homeowners.

In the past year, we have seen a key increase in the diversity of policymakers overseeing federal housing policy. For the first time in its history, the Federal Reserve has two Black members serving on the board of governors, and Black women simultaneously serve as the secretary of HUD, director of the Federal Housing Finance Agency, president of the Government National Mortgage Association (“Ginnie Mae”), and director of the Office of Management and Budget.

In the years since the 2008 housing crisis, efforts to hold responsible parties accountable have yielded mixed results. Some of the largest financial institutions entered into settlements and paid substantial fines for the contributions they or their subsidiary companies made to the wave of predatory lending practices. But given the complexity of the laws and the breadth of parties who played a part in the crisis, many other actors evaded responsibility. Efforts to keep borrowers in their homes yielded mixed results, saving some borrowers from foreclosure. Yet where those efforts failed, the results raised new concerns about discriminatory patterns in loan servicing and property maintenance and led to a significant nationwide increase in investor-owned housing that has made it more difficult for potential new homeowners, particularly those of color, to enter the market. To make matters worse, from the outset of the housing crisis, some political actors constructed and promulgated false narratives among policymakers and the public about what caused the crisis, attempting to pin the blame on federal policies aimed at increasing minority homeownership (namely, the Community Reinvestment Act and the Affordable Housing Goals) that in fact could have promoted more sustainable homeownership had they been more fully utilized.

Recommendations

- Congress should enact legislation and provide appropriate funding to advance the creation of more affordable, accessible, and safe housing to fill the affordable housing gap for all individuals. This should include relief for homeowners and renters facing hardships as a result of the pandemic and economic crisis, funding aimed at closing the racial gap in homeownership, and full funding for HUD programs promoting affordable housing for low-income individuals.
- The Federal Housing Finance Agency should ensure full enforcement of the duty to serve rule and affordable housing goals, ensure full funding of the Housing Trust Fund and Capital Magnet Fund, and implement the use of alternative credit scoring models to responsibly increase access to mortgage credit.
- The Consumer Financial Protection Bureau should reverse the prior administration's rulemaking on the Home Mortgage Disclosure Act and restore vigorous oversight and enforcement of the Equal Credit Opportunity Act. The administration should create cooperative agreements among federal agencies to ensure the use of artificial intelligence in housing and credit markets do not create discriminatory barriers to opportunity.
- Congress should enact legislation to ensure that the Fair Housing Act, Equal Credit Opportunity Act, Home Mortgage Disclosure Act, and other key civil rights and consumer protection laws are fully and fairly enforced.
- Congress should enact legislation that promotes inclusive and sustainable financial products in a rapidly changing industry, including consumer protections against abusive small-dollar lending, credit scoring, forced arbitration, overdraft, and debt collection practices.
- Congress should appropriate enough funding to fully staff HUD's Office of Fair Housing and Equal Opportunity at a minimum of 750 full-time-equivalent employees.
- Congress and the administration should provide thorough oversight of Fair Housing Act enforcement and rulemakings, including the use of disparate impact doctrine and the implementation of the Fair Housing Initiatives Program; COVID-19-related protections against evictions and foreclosures; Equal Credit Opportunity Act enforcement and CFPB structure; Home Mortgage Disclosure Act reporting; FHA modernization; local land use rules and their impact on affordable housing supply; access to credit issues, including alternative credit scoring and technology; and exploration of methods to increase access to mortgage credit for historically excluded borrowers, including through the use of special purpose credit programs.

EDUCATION

2014 CERD Concluding Observation 14

Nearly 70 years after *Brown v. Board of Education* required the provision of public education to all people “on equal terms,”⁷² children of color, children with disabilities, and children in low-income communities are routinely denied equitable access to funding,⁷³ the most effective teachers,⁷⁴ advanced curricula and courses,⁷⁵ and extracurricular activities.⁷⁶ Together, these injustices perpetuate segregation, with its longstanding barriers that prevent students of color from receiving a high-quality education, leading to lower rates of high school graduation⁷⁷ and college attendance and completion.⁷⁸

- Passed on the heels of the Civil Rights Act of 1964, the Elementary and Secondary Education Act (ESEA) was developed to address poverty and limited educational opportunity for people of color.⁷⁹
- The implementation and enforcement of the Every Student Succeeds Act (ESSA) is central to advancing our shared vision of an inclusive and diverse system of high-quality public education that enables every student to live up to their potential. Without a robust and thoughtful implementation of ESSA, students will continue to be denied the full protections they need and are entitled to under federal law.

→ The U.S. Department of Education’s Office for Civil Rights (OCR) has a unique responsibility to enforce core nondiscrimination statutes in schools. These statutes, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, prohibit discrimination in schools on the bases of race, color, national origin (including language status), sex (including sexual orientation, gender identity, and pregnancy or parenting status), disability, and age.⁸⁰

Criminalization in K12 Schools. Federal support for school-based law enforcement and other harmful policies and practices, such as corporal punishment, seclusion, and restraint, directly undermines academic success, criminalizes children, and interferes with proven and evidence-based efforts to build positive relationships in schools and climates conducive to learning and child well-being. Specifically, zero tolerance policies, in-school and out-of-school suspensions, expulsions, threat assessment teams, school-based law enforcement, referrals to law enforcement, and school-based arrests create and sustain the school-to-prison pipeline.⁸¹ Due to explicit and implicit bias ingrained in current school safety and discipline policies and enforcement of those policies, the behaviors of children of color, children with disabilities, and LGBTQ youth (and especially children at the intersections of these identities) are disproportionately criminalized.⁸²

→ The direct consequence of police in schools, coupled with the systemic biases and failures of police departments across the country, is the criminalization of typical child and adolescent behavior,⁸³ with deep and disturbing racial implications.^{84, 85} While Black children are only 15 percent of all children in school nationwide, they make up 33 percent of the children arrested, despite research showing that children of color do not misbehave more than their white counterparts.^{87, 88, 89}

→ Corporal punishment is a harmful and dangerous practice, which is explicitly allowed in 19 states and disproportionately harms Black children and children with disabilities.⁹⁰ The use of corporal punishment has been most freely used in schools with students who have a larger percentage of students who are identified as Black.⁹¹ Even those

jurisdictions that generally prohibit corporal punishment usually allow the use of restraints, inclusive, and sometimes even aversive, on students with disabilities.⁹²

→ Students with disabilities are routinely subjected to dangerous, dehumanizing restraint and seclusion practices in public schools.⁹³ In 2009, the U.S. Government Accountability Office found that there was little to no oversight of these practices.^{94, 95} These practices are used more often and disproportionately on Black youth and youth of color with disabilities.^{96, 97}

→ A recent report on school discipline by the Center for Civil Rights Remedies found that, though fewer students in California’s public K12 schools were suspended in the 2018-19 school year than in the 2011-12 school year, large racial disparities remained, especially between Black students and White students.⁹⁸

→ In response to criminalization and hardening efforts in schools, the civil rights community developed “Civil Rights Principles for Safe, Healthy, and Inclusive School Climates,” a roadmap for policymakers concerned with the learning, well-being, and safety of all students.^{99, 100}

College Opportunity. In 2019, White families had an average of \$983,400 in family wealth, nearly six times that of Hispanic families (\$165,000) and seven times that of Black families (\$142,500).¹⁰¹ Due to these differences in wealth, Black and Latino students borrow significantly more money than their White peers to finance higher education.^{102, 103, 104}

→ However, given high costs of attendance and limitations to the current Pell Grant, this primary source of grant aid for lower-income students is not enough to protect students from high debt loads. Pell Grant recipients, the vast majority of whom have family incomes under \$40,000,¹⁰⁵ are more than twice as likely as other students to have student loans.

→ The \$1.7 trillion student loan crisis is crushing individuals, families, and our economy, and the weight of this burden is disproportionately borne by women and Black and Latino¹⁰⁶ borrowers.¹⁰⁷ Policymakers intentionally shifted away from publicly funding our higher education system to

a primarily debt-financed system just as students of color and women gained access.¹⁰⁸ According to recent research, upon graduating, Black borrowers typically owe 50 percent more than their White classmates, and four years later Black students owe 100 percent more.^{109, 110, 111} Since wealth takes generations to build, student debt harms not just the student, but their parents as well, and student debt thus compounds an intergenerational crisis.^{112, 113}

- Low-income students and students of color are over-represented at for-profit institutions that have historically preyed on students and families, particularly people of color, leaving them saddled with high debt loads and low-quality degrees.¹¹⁴
- Higher education remains the surest path to social and economic mobility, which is why it is critically important for communities that have historically been excluded from these opportunities to be fully and affirmatively included. Moreover, not only does affirmative action promote equality in college admissions and lead to better wages for historically marginalized communities, but it also benefits all students who attend college and better prepares them for their future success in society. Recent affirmative action bans have negatively impacted women, African Americans, Latinos, Asian Americans, and Native Americans.¹¹⁵ On July 3, 2018, former Secretary of Education Betsy DeVos rescinded guidance on the constitutional use of race to achieve diversity in K12 schools and higher education.¹¹⁶ Affirmative action policies have also faced repeated attacks in litigation, despite the Supreme Court's validation of this approach on multiple occasions.¹¹⁷

K12 Fiscal Equity. Children, parents, and teachers have long recognized — and court cases at every level have repeatedly held — that schools and districts educating a larger share of children in low-income communities and children of color have less access to the educational resources needed to support student success than their more affluent peers.¹¹⁸ A 2018 report found that school districts serving a large population of students of color receive \$1,800 less per pupil than school districts serving fewer students of color.¹¹⁹ The same report found that school districts serving a large population of students from low-income families receive \$1,000 less per pupil than school districts serving more affluent students.¹²⁰

- Equitable access to prepared, compensated, and culturally sustaining staff is essential to ensuring educational equity for all students.^{121, 122} Prior to the COVID-19 public health crisis, public schools in the United States were among the most inequitably funded of any in the industrialized world.¹²³ COVID-19 exacerbated existing resource inequities that placed marginalized children and their families at risk during the pandemic, including lack of access to funding; prepared, compensated, and culturally sustaining staff; adequate facilities that could be retrofitted based on COVID-19 safety protocols; school meals; appropriate instructional materials; instructional time; internet and connected devices; and much more.¹²⁴
- While the funding provided in ESSA is targeted at schools with high numbers or high percentages of children in low-income communities, this federal funding represents a small share of all the money spent in public education.¹²⁵
- State education funding does, to some extent, fill funding gaps created by regressive local school funding — structures in which districts in wealthier areas receive more money and other resources than districts with less property wealth. This is due to somewhat progressive state funding formulas that allocate greater state-level resources to high-poverty districts.¹²⁶ A considerable and growing body of research clearly demonstrates that increasing funding in high-poverty school districts has profound positive outcomes on people while they are students and into their adulthood.¹²⁷
- Today, schools are as segregated and as inequitably resourced as they were 50 years ago, which directly connects to housing discrimination and school funding inequities.¹²⁸ Segregation hoards critical resources for schools in White communities. This is due in large part to the inequitable structure of school finance. Although school funding structures vary from state to state, about 45 percent of school funding is derived from local sources, which are most often property taxes.¹²⁹ This is problematic because wealthier communities with significantly higher property values can raise more money for their schools even with a lower tax rate.¹³⁰

Progress and Steps Forward

The Biden administration inherited a Department of Education that rolled back basic civil rights, compounding already profound disparities in funding; resources; adequate teaching; and learning outcomes facing low-income students, students of color, Native students, students with disabilities, English learners, LGBTQ students, sexual assault survivors, and other marginalized students.

In the Biden administration's first year, the administration provided significant targeted funding to support the educational success of marginalized students, helped enact legislation to support students reeling from the compounded disparities brought about by the pandemic,¹³¹ and made clear that understanding and enforcing civil rights is a true priority by protecting and enhancing the Civil Rights Data Collection (CRDC).¹³²

However, this progress has been uneven. While this administration has paused payments on federal student loans, it has made no progress and no commitment to cancel the crushing student debt facing millions of people. Furthermore, the Biden administration continues to only make partial progress on the need to adequately resource OCR and to provide safe, healthy, and inclusive school climates for all students. Additional resources are urgently needed to meet the federal government's obligations to students. As recent threats of violence targeting Historically Black Colleges and Universities (HBCUs) have shown, investments and focus are still urgently needed to secure equal educational opportunity for all students.

Recommendations

- The Biden administration should double the size of OCR in order to rebuild and expand the office's ability to meet its policymaking, enforcement, and data collection responsibilities; rescind and replace OCR's case processing manual; strengthen and reissue guidance documents such as those clarifying schools' obligations to ensure disciplinary policies and practices are nondiscriminatory, those supporting the constitutional use of race in achieving diversity in K12 schools and higher education, and other topics critical to equal educational opportunity.
- The Department of Education should preserve and increase the scope, frequency, and public accessibility of the CRDC to support the work of the department and others in ensuring equal educational opportunity and compliance with federal civil rights law. OCR should make the survey annual instead of biennial and should use the CRDC's user-friendly interface to make information from other Department of Education data sets more readily available to the public.¹³³
- Congress should enact legislation to provide safe, healthy, and inclusive school climates, including by ending federal funding for school-based law enforcement; banning the use of seclusion, restraint, and corporal punishment; and incentivizing broad reform that decreases exclusionary discipline.¹³⁴ Furthermore, the Title VI school discipline guidance should limit the presence and role of school-based law enforcement, given the near impossibility of administering such a program in a nondiscriminatory manner.
- The Biden administration should cancel student loan debt. Given the disproportionate student loan debt held by Black and Latino students, broad cancellation of student loan debt — coupled with reforms to our debt-financed system of higher education — is crucial to advancing racial justice. Efforts to narrow the scope of cancellation would disproportionately harm the most marginalized borrowers and have the opposite effect they are intended to have.
- The Department of Education should implement and enforce the following provisions outlined in ESSA to advance resource equity: a) the fiscal requirements that ensure equity within school districts, b) equal access to quality instruction by an equitable distribution of teachers, and c) local improvement plans for schools that identify resource inequities. Specifically, the department should announce an intent to ensure compliance with the provisions in order to ensure equal opportunity to learn and actions the agency will take to address noncompliance with the ESSA requirements that advance resource equity.

→ The Biden administration should develop a comprehensive plan to address racial segregation in schools and communities, with concrete goals, timelines, and impact assessment mechanisms, and Congress should increase federal funding for programs that promote racially integrated learning environments for students, including a substantial increase in funding for the Magnet Schools Assistance Program, and a new “Fostering Diversity” grants program to support state and local efforts to plan for and implement greater racial and socioeconomic integration in public schools.

RIGHT TO HEALTH AND ACCESS TO HEALTH CARE

2014 CERD Concluding Observation 15

The COVID-19 pandemic has highlighted and exacerbated long-standing racial inequities. According to data from the Centers for Disease Control and Prevention (CDC), people of color are disproportionately likely to lack access to care and have faced higher risks for COVID-19 infection, hospitalization, and death.¹³⁵ For example, African Americans are dying from COVID-19 at about 1.5 times their prevalence in the U.S. population. Latino communities are also experiencing much higher rates of infection as well as Native Americans on reservations.¹³⁶

Access to Health Care. As noted in the 2014 Concluding Observation para 15, the passage of the Affordable Care Act (ACA) in 2010 was a milestone in expanding health care coverage for millions of Americans. Unfortunately, since then, the number of people receiving health coverage has fluctuated. During the Trump administration, many families could not afford the increased premiums, and the alternatives were either cheaper plans with very little coverage or no coverage at all. When the Biden administration took office in 2021, it worked with Congress to pass the American Rescue Plan (ARP), which provided enhanced premium tax credits (APTCs) to lower and moderate income people, making purchasing quality health care on the ACA marketplace much more affordable. In addition, the time period to purchase health care was extended and the support of navigators to work with

communities to help people sign up was increased. These efforts resulted in 14.5 million people signing up for ACA plans, enabling many African Americans and Latino adults to access affordable care.¹³⁷

And with the expansion of Medicaid, taken up by 38 states and the District of Columbia, millions of lower income adults (below 138 percent of poverty) have gained access to health coverage. Despite these gains, however, there are still 2.2 million adults without access in the 12 states that have refused the expansion — eight of which are in the South and have long histories of racial discrimination.¹³⁸ More than 60 percent of those without access to coverage are people of color, even though people of color comprise just 41 percent of the population in non-expansion states.¹³⁹ The ACA and subsequent legislation, including the ARP, provided additional and very generous financial incentives to states to take up the Medicaid expansion and thereby close the Medicaid coverage gap. However, no additional states have taken the Medicaid expansion. Earlier this year as part of a broad economic package, the U.S. House of Representatives included a provision that would make adults in these states eligible for access to the ACA marketplace with fully subsidized premiums. The Senate has not yet acted on this proposal.

Closing the Medicaid coverage gap would also help address the Black maternal health crisis. Black women are 2.5 times more likely to die as a result of childbirth than White women.¹⁴⁰ Black women are three to four times more likely to experience pregnancy-related deaths than White women.¹⁴¹ States that expanded Medicaid have seen improved access to preconception and prenatal services that make pregnancy and birth safer for parents and babies. Medicaid expansion is associated with reduced rates of maternal death, particularly for Black women.

The ACA also included a far-reaching anti-discrimination provision, Section 1557, which prohibits discrimination in health care based on race, ethnicity, sex (including sexual orientation and gender identity), disability, and age. In 2015, the Obama administration issued strong regulations implementing this nondiscrimination law. However, the Trump administration not only failed to enforce these rules, but also repealed part of the rules, particularly those related to sexual orientation and gender identity. The Biden administration is in the process of developing new rules.

Reproductive Justice. This June, in the *Dobbs v. Jackson Women's Health Organization* decision six Supreme Court justices stripped away the constitutional right to abortion established in *Roe v. Wade* — a right established nearly 50 years ago and reaffirmed subsequently in *Planned Parenthood v. Casey*. As many as 28 states could now ban or further limit abortion, which would block more than half the people in the United States who could become pregnant from their right to an abortion.¹⁴² These bans will only further exacerbate racial and socioeconomic disparities in health outcomes, as pregnant people with resources to travel to states that allow abortion services can do so while those with less resources cannot.¹⁴³

Even with *Roe* and *Casey* in place, abortion rights and access had been steadily under attack. Despite large public support for access to abortion, lawmakers across 19 states enacted 108 restrictions on abortion in 2021 — including the Mississippi law at issue in *Dobbs* — and 37 more have been enacted similar laws so far this year in 10 states.¹⁴⁴ Today, nearly 90 percent of U.S. counties have no abortion provider,¹⁴⁵ forcing people to incur onerous costs to travel long distances for care or pushing care entirely out of reach.¹⁴⁶ And we can expect more.

Recommendations

- The federal government, led by the Office of Management and Budget, working with the Census Bureau, other agencies including the CDC, and community stakeholders and others, should develop protocols for data disaggregation for race and ethnicity (and other key characteristics) for the Department of Health and Human Services (HHS) and other federal agencies.¹⁴⁷
- Congress must pass legislation to make APTCs permanent to continue subsidies for affordable health care coverage and close the Medicaid coverage gap so that low-income adults in the 12 non-expansion states have access to affordable, quality health care for the first time.
- The Biden administration should finalize the 1557 regulations expeditiously and substantially increase resources for the HHS Office for Civil Rights so they can enforce the anti-discrimination protections among health providers and respond to complaints of discrimination.

- Congress must pass the Women's Health Protection Act to codify *Roe* and make abortion legal pre-viability nationally. Congress must also repeal the Hyde amendment, which bars the use of federal funds, including Medicaid, to pay for abortions. The Biden administration must identify ways to provide financial support to people who have to seek legal abortions outside their state. For example, some have suggested possibly providing resources for traveling out of state and enabling abortion clinics to operate on federal properties.¹⁴⁸ Congress must pass the Black Maternal Health Omnibus Act, a package of 12 bills that address a multitude of factors that are responsible for the unnecessary deaths of Black pregnant people and the near misses.

IMMIGRANTS

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In the continued absence of comprehensive immigration reform legislation,¹⁴⁹ the United States has continued to aggressively enforce immigration laws — many of which block access to asylum and other forms of relief and status¹⁵⁰ — to the detriment of communities of color across the country. Following some reforms by the Obama administration, the Trump administration engaged in anti-immigrant cruelty in policy and practice. Systemic disparities in asylum decisions occurred, with significant declines in grant rates for asylum seekers from Africa, the Americas, the Caribbean, and South Asia.¹⁵¹ The extent of harm done to immigrants is still being calculated, as the Biden administration has made some changes in course. There were 1,059 immigration-related agency policies enacted during the Trump administration, with 777 remaining in effect, 58 partially in effect, and 225 no longer in effect.¹⁵² However, even the Biden administration's immigration record leaves much to be desired, and systemic issues of racial discrimination against migrants remain. For example, the Biden administration's continued use of Title 42 authority led to 51 percent of migrant encounters at the U.S.-Mexico border resulting in expulsions in March 2022. This disproportionately affected Black immigrants from Africa and the Caribbean.¹⁵³

The Muslim and African Travel Bans. On January 20, 2021, President Biden issued Proclamation 10141, which revoked Executive Order 13780 and other proclamations that had prevented certain people from entering the United States from primarily Muslim and African countries. Since then, no further travel

bans based solely on country of origin have been issued. However, U.S. visa sanctions on so-called recalcitrant countries — countries that deny or delay accepting deported nationals — operate in a similar fashion to the Muslim and African travel bans, and the majority of current visa sanctions affect countries in the Global South. People in countries with visa sanctions against their country of origin cannot acquire visas to travel to the United States. Relatedly, people who successfully applied to the Diversity Visa Program while the Muslim and African bans were in effect were barred from entering the United States. Although people from countries affected by the ban could continue to apply for the Diversity Visa Program while the ban was in effect, the United States said in March 2021 that those who were denied entry from 2017 to 2021 would have to reapply to the program entirely.¹⁵⁴ Finally, advocates have noted the apparent disparity in U.S. treatment of people fleeing Ukraine after the Russian invasion in February 2022, as opposed to people of color from other countries facing comparable civil strife, such as Cameroonian nationals fleeing violence and political instability in that country. The administration announced designations of Temporary Protected Status (TPS) for Ukraine and Cameroon simultaneously on March 3, 2022, approximately one week after the invasion of Ukraine but five years after intersecting crises in Cameroon began. Similarly, President Trump announced in 2017 that the United States would terminate TPS for Haitian nationals, despite inadequate improvement in the country's conditions since the devastating 2010 earthquake. This decision was not ultimately reversed until May 2021. Advocates have decried this disparity as part of “an inherent racism in U.S. immigration policy.”¹⁵⁵

Legacy of Family Separation and Zero Tolerance.

On February 2, 2021, President Biden issued Executive Order 14011, “Establishment of Interagency Task Force on the Reunification of Families,” which condemned the intentional separation of children from their parents or legal guardians under the previous administration’s use of the “zero tolerance policy,” and established a family reunification task force. Since 2021, the administration has published six progress reports¹⁵⁶ on the activities of the task force, the most recent of which notes that the task force has reunited just 147 separated children with their families in the United States along with the provision of behavioral health services. So far, 1,075 potentially eligible families have registered with the U.S. government; families must affirmatively come forward and reveal their separated status in order to be assessed for eligibility.

Naturalization and Legal Immigration. On February 2, 2021, President Biden issued Executive Order 14012, “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans.” As part of this effort, the administration has issued five policies encouraging a more welcoming and accessible naturalization process.¹⁵⁷ Results of these efforts remain pending.

Title 42 Authority and Expulsions. In March 2020, the United States utilized its obscure and rarely invoked Title 42 authority to require the summary expulsion of unauthorized single adults and family units arriving at land ports of entry, whether they intended to seek asylum or not, in a purported effort to control the spread of COVID-19. In March 2022, the United States terminated this order with respect to unaccompanied noncitizen children, allowing them to be processed at land ports of entry and, if applicable, to seek asylum in the United States.¹⁵⁸ On April 1, the United States announced its plans to terminate the Title 42 order with respect to single adults and family units beginning on May 23, 2022.¹⁵⁹ On May 20, a federal judge granted a preliminary injunction preventing the termination of the policy.¹⁶⁰ Expulsions under the Title 42 authority have led to more than 10,000 reported incidents of kidnapping, torture, rape, and other violent attacks on those expelled to Mexico.¹⁶¹ Furthermore, the Title 42 policy has a disproportionate impact on Black asylum seekers and migrants, who face widespread anti-Black violence and discrimination in Mexico.¹⁶² Since January 2021, the United States has removed more than 20,000 Haitian migrants on at least 208 expulsion and deportation flights to Haiti.¹⁶³ Notably, after the Russian invasion of Ukraine, the U.S. issued a memo authorizing the exemption of Ukrainian nationals from expulsions under Title 42 on a case-by-case basis.¹⁶⁴

Migrant Protection Protocols. On February 19, 2021, the United States also began phase one of the effort to begin processing people who were forced to “remain in Mexico” while their asylum claims were adjudicated under the Migrant Protection Protocols. On June 1, 2021, the United States terminated the Migrant Protection Protocols. However, on August 13, 2021, a federal court in Texas ordered the administration to reinstate the Migrant Protection Protocols “in good faith.” On October 29, 2021, the administration issued another memorandum terminating the Migrant Protection Protocols, which it can now implement following the Supreme Court’s decision in *Texas v. Biden*.¹⁶⁵

Operation Streamline and the Criminal

Consequence Initiative. Operation Streamline is now known as the Criminal Consequence Initiative (CCI), which is a criminal prosecutions program targeting individuals who illegally enter through defined locations. Noncitizens, whether they are seeking asylum or not, may be subject to criminal prosecution if they enter illegally, and noncitizens who attempt reentry after being ordered removed are subject to felony charges of reentry after removal.¹⁶⁶ Conviction rates for CCI prosecutions are extremely high, steadily increasing the population of already crowded federal prisons. Once convicted of an entry-related offense, migrants often become a higher priority for future criminal prosecution or deportation if they are subsequently apprehended and may face significantly higher barriers to immigration in the future.

Immigration Detention. In January 2021, President Biden issued an executive order phasing out contracts with private prison companies and not to renew contracts with privately operated criminal detention facilities.¹⁶⁷ The order did not apply to ICE detention facilities.¹⁶⁸ In 2021, nearly 80 percent of noncitizens detained in immigration custody were held at private facilities.¹⁶⁹ In March 2022, the United States announced that it would close or scale back use of four detention facilities due to dangerous conditions for detainees, including lack of adequate medical care, racial discrimination, excessive use of force, and other inhumane conditions.¹⁷⁰ Advocates have called on the Biden administration to extend its executive order to private immigration detention facilities.¹⁷¹ Multiple complaints have been filed alleging racial discrimination, medical neglect, and racist and retaliatory abuse experienced by Black immigrants and other immigrants of color in immigration detention facilities throughout the country.¹⁷²

Noncitizen Labor Conditions and Human

Trafficking. Although U.S. policy strives to protect migrant workers from exploitative and abusive working conditions and to ensure appropriate protections for workers engaged in harvesting and hazardous work in agriculture, abuses of agricultural and other workers remain an issue. For example, in November 2021, the United States announced the indictments of 24 defendants accused of a human smuggling and labor trafficking operation that “illegally imported Mexican and Central American workers into brutal conditions on South Georgia farms.”¹⁷³

Recommendations

- Congress must pass immigration reform that provides a pathway to citizenship for millions of undocumented individuals who have lived in the United States for an average of 14 years.
- Congress must strengthen asylum law, including measures that prevent the abuse of obscure authorities like Title 42 to enact virtual bans on asylum under dubious pretenses.
- Given legislative difficulties, the Biden administration must look actively for executive actions that can further immigration justice, such as:
 - Designate and re-designate where appropriate Temporary Protected Status for countries including, but not limited to: Cameroon, El Salvador, Ethiopia, Guatemala, Guinea, Haiti, Honduras, Lebanon, Mexico, Nepal, Nicaragua, Sierra Leone, Somalia, Syria, Venezuela, and Yemen. Provide automatic extensions where appropriate.
 - Direct U.S. Citizenship and Immigration Services and the Department of State to modernize their processing systems to efficiently process all pending and current immigration benefit applications.
 - Direct the Department of Homeland Security (DHS) to terminate all existing contracts with private prisons and county jails housing immigrant detainees and place a moratorium on all future such contracts or expansions.
 - Direct DHS and the Department of State to repair the harms of the Muslim and African bans by immediately and automatically reopening, reconsidering, and expediting all visa applications that were subject to the bans, including those previously denied under the prior administration.
- The Biden administration must protect noncitizen workers by restoring the Interagency Working Group for the Consistent Enforcement of Labor, Employment and Immigration Laws, and by creating a mechanism for undocumented and nonimmigrant workers involved in labor disputes to apply for deferred action.
- The Biden administration must end immigration-related criminal prosecutions for illegal entry or reentry into the United States under U.S. Code Sections 1324, 1325, and 13.

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[74] Cardichon, Jessica, Darling-Hammond, Linda, Yang, Min, et al. "Inequitable Opportunity to Learn: Student Access to Certified and Experienced Teachers." *The Learning Policy Institute*. February 12, 2020. <https://learningpolicyinstitute.org/product/crcd-teacher-access-report>; Partee, Glenda L. "Attaining Equitable Distribution of Effective Teachers in Public Schools." *Center for American Progress*. April 2014. <https://cdn.americanprogress.org/wp-content/uploads/2014/04/TeacherDistro.pdf>; Adamson, Frank and Darling-Hammond, Linda. "Addressing the Inequitable Distribution of Teachers: What it Will Take to Get Qualified, Effective Teachers in All Communities." *Stanford Center for Opportunity Policy in Education*. December 2011. <https://edpolicy.stanford.edu/sites/default/files/publications/addressing-inequitable-distribution-teachers-what-it-will-take-get-qualified-effective-teachers-all-0.pdf>.

[75] "Civil Rights Data Collection." *U.S. Department of Education Office for Civil Rights*. <https://ocrdata.ed.gov/>; Walston, J. and McCarroll, J. C. "Eighth-Grade Algebra: Findings from the Eighth-Grade Round of the Early Childhood Longitudinal Study, Kindergarten Class of 1998–99 (ECLS-K)." *National Center for Education Statistics*. 2010. <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2010016>; Deruy, Emily. "Where Calculus Class Isn't an Option," *The Atlantic*. June 7, 2016. <https://www.theatlantic.com/education/archive/2016/06/where-calculus-class-isnt-an-option/485987/>; Theokas, Christina and Saaris, Reid. "Finding America's Missing AP and IB Students." *The Education Trust*. June 2013. https://edtrust.org/wp-content/uploads/2013/10/Missing_Students.pdf.

[76] Putnam, Robert D. "Inequity Outside the Classroom: Growing Class Differences in Participation in Extracurricular Activities." *Voices in Urban Education*. 2015. Vol. 40. Pgs. 7-14. <https://www.hks.harvard.edu/publications/inequity-outside-classroom-growing-class-differences-participation-extracurricular>; Little, Priscilla. "Taking a Systemic Approach to Access and Equity in Afterschool." *John W. Gardner Center for Youth and Their Communities, Stanford Graduate School of Education*. May 26, 2016. <https://gardnercenter.stanford.edu/news/taking-systemic-approach-access-and-equity-afterschool>.

[77] The 2017-18 adjusted cohort graduation rate for public high school students by race/ethnicity: American Indian/Alaska Native, 74 percent; Asian/Pacific Islander, 92 percent; Hispanic, 81 percent; Black, 79 percent; White, 89 percent. National Center for Education Statistics. "Public High School Graduation Rates." *Institute for Education Science, National Center for Education Statistics*. May 2020. https://nces.ed.gov/programs/coe/indicator_coi.asp.

[78] College enrollment rates of 18–24-year-olds, by race/ethnicity, 2018. Two or more races, 44 percent; American Indian/Alaska Native, 24 percent; Pacific Islander, 24 percent; Asian, 59 percent; Hispanic, 36 percent; Black, 37 percent; White, 42 percent. "College Enrollment Rates." *Institute of Education Sciences, National Center for Education Statistics*. 2020. https://nces.ed.gov/programs/coe/pdf/coe_cpb.pdf; six-year graduation rate for first-time, full-time students attending four-year institutions, cohort 2010, by race/ethnicity: Two or more races, 60 percent; American Indian/Alaska Native, 39 percent; Pacific Islander, 51 percent; Asian, 74 percent; Hispanic, 54 percent; Black, 40 percent; White, 64 percent. Status and Trends in the Education of Racial and Ethnic Groups. "Indicator 23: Postsecondary Graduation Rates." *Institute of Education Sciences, National Center for Education Statistics*. February 2019. https://nces.ed.gov/programs/raceindicators/indicator_red.asp.

[79] ESEA was developed in response to the demands of communities during the civil rights movement that more be done by the federal government. Equal access to education has long been a cornerstone of the civil rights movement.

[80] These statutes also prohibit intersectional discrimination in schools for people who experience discrimination at the intersection of these identities. Congress passed these laws in response to the widespread denial of equal protection and equal opportunity by states, districts, and schools. Although considerable progress has been made in the decades since these laws were passed, they continue to serve a vital function in the face of ongoing discrimination.

[81] Whitaker, Amir et al. "Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students." *American Civil Liberties Union*. 2019. https://www.aclu.org/sites/default/files/field_document/030419-aclus-chooldisciplinereport.pdf; "Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities." *U.S. Commission on Civil Rights*. July 2019. <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>; Okonofua, Jason A. and Eberhardt, Jennifer L. "Two Strikes: Race and the Disciplining of Young Students." *Psychological Science*. 2015. Vol. 26. Iss. 5. Pgs. 617-624. <https://journals.sagepub.com/doi/abs/10.1177/0956797615570365>; "K-12 Education: Discipline disparities for black students, boys, and students with disabilities." *U.S. Government Accountability Office*. March 2018. <https://www.gao.gov/assets/700/690828.pdf>; Marquez, Nikki and Prandini, Rachel. "The School to Prison to Deportation Pipeline: The Relationship Between School Delinquency and Deportation Explained." *Immigrant Legal Resource Center*. February 2018. https://www.ilrc.org/sites/default/files/resources/school_delinq_faq_nat-rp-20180212.pdf; "Unjust: LGBTQ Youth Incarcerated in the Juvenile Justice System." *Movement Advancement Project, Center for American Progress, and Youth First*. June 2017. <https://www.lgbtmap.org/criminal-justice-youth-detention>.

[82] White students or those who do not have a disability or are not LGBTQ and who engage in the same behavior are treated far more leniently. The disproportionate criminalization of behavior is more pronounced for children who live at the intersection of these identities, especially students of color with disabilities. "Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities." *U.S. Commission on Civil Rights*. 2019. <https://www.usccr.gov/files/pubs/2019/07-23-Beyond-Suspensions.pdf>

[83] “Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students.” *American Civil Liberties Union*. 2019. https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf (listing 25 most common behaviors that lead to school arrest and criminal charges. The number one criminal charge is “disrupting school” for “spraying perfume, fake burping, fake fart spray, refusing to change a t-shirt, and criticizing an officer”); “Police In Schools Are Not The Answer To The Newtown Shooting.” *Advancement Project, Alliance for Educational Justice, Dignity in Schools Campaign, NAACP Legal Defense and Educational Fund, Inc.* March 2018 (re-release). <http://dignityinschools.org/wp-content/uploads/2018/03/Police-In-Schools-2018-FINAL.pdf>.

[84] Increased police presence in schools has caused devastating harm to young people’s futures and educational outcomes.

[85] Theriot, Matthew T. “School Resource Officers and the Criminalization of Student Behavior.” *Journal of Criminal Justice*. 2009. Vol. 37. Pgs. 280–287. <https://www.sciencedirect.com/science/article/abs/pii/S0047235209000464>; Nance, Jason P. “Students, Police, and the School-to-Prison Pipeline.” *University of Washington Law Review*. 2016. Vol. 93. Pgs. 919-987. <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1782&context=facultypub>

[86] “Which Students Are Arrested the Most?” *Education Week*. 2017. <https://www.edweek.org/ew/projects/2017/policingamericas-schools/student-arrests.html#/overview>.

[87] “Police In Schools Are Not The Answer To The Newtown Shooting.” *Advancement Project, Alliance for Educational Justice, Dignity in Schools Campaign, NAACP Legal Defense and Educational Fund, Inc.* March 2018 (re-release). <http://dignityinschools.org/wp-content/uploads/2018/03/Police-In-Schools-2018-FINAL.pdf> (“[P]olice officers perceive Black youth differently than they do white youth, and this bias, not any actual difference in behavior, leads to the over-criminalization of students of color. Police see Black children as less ‘childlike’ than their White peers and overestimate the age and culpability of Black children accused of an offense more than they do for white children accused of an offense.”).

[88] A child may be disciplined both by the school and by law enforcement, and studies show that students who are suspended or expelled are then up to three times more likely to become involved with the juvenile legal system; “School-to-Prison Pipeline [Infographic].” *American Civil Liberties Union*. <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/school-prison-pipeline-infographic>

[89] Students who face arrests are less likely to graduate, succeed academically, and have stable employment. All of these factors then increase one’s likelihood of coming into contact with either the juvenile or criminal legal system; Nance, Jason P. “Students, Police, and the School-to-Prison Pipeline.” *University of Washington Law Review*. 2016. Vol. 93. Iss. 2. Pgs. 919-987. <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1782&context=facultypub>

[90] Gershoff, E. T. and Font, S. A. “Corporal Punishment in U.S. Public Schools: Prevalence, Disparities in Use, and Status in State and Federal Policy.” *Social Policy Report*. 2016. Vol. 30. Pgs. 1-37. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5766273/>.

[91] Ibid.

[92] Restraint practices are disproportionately used on children with disabilities of color. Ibid.

[93] No federal law governs the use of restraint and seclusion as of 2022. A suite of legislation has been introduced in the 117th Congress, which all make important improvements to schools to keep children safe and support their educational success, including S. 1858/H.R. 3474, the Keeping All Students Safe Act. This bill protects children and prohibits any school receiving federal funding from secluding a child; using mechanical restraint; using chemical restraint; and using prone, supine, or physical restraint that restricts breathing, stops blood flow to the brain, or is life threatening. The bill also provides grants to invest in professional development, training, and certification for evidence-based, effective school climate policies and procedures for school personnel. This bill has not yet advanced in the legislative process.

[94] There were also student deaths that could be connected to the use of seclusions and restraints. “Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers” *Government Accountability Office*. 2009. <https://www.gao.gov/assets/gao-09-719t.pdf>

[95] Public reports on seclusion by news media in the U.S. have revealed that it, too, both traumatizes and even can physically harm children. Richards, Jennifer S., Cohen, Jodi S., and Chavis, Lakeidra. “The Quiet Rooms.” *ProPublica*. Nov. 19, 2019. <https://features.propublica.org/illinois-seclusion-rooms/school-students-put-in-isolated-timeouts/>

[96] For example, in the 2017-2018 school year, the U.S. Department of Education’s Civil Rights Data Collection, a brief summarizing data collected on this issue by the federal government, reported that students with disabilities made up 80% of all students subjected to seclusion and restraint despite being only 13% of the student body. “Civil Rights Data Collection: The Use of Restraint and Seclusion on Children with Disabilities in K-12 Schools.” *U.S. Department of Education, Office for Civil Rights*. October 2020. Pgs. 6-11. <https://www2.ed.gov/about/offices/list/ocr/docs/restraint-and-seclusion.pdf>

[97] Black students (for example) were 26% of those with disabilities subjected to physical restraint and 34% of those with disabilities subjected to mechanical restraint, despite making up only 18% of students with disabilities. Ibid.

[98] In the 2011-12 school year, Black students (per 100 enrolled) lost 64 days of instruction due to suspensions while White students lost 17 days. In the 2018-19 school year, Black students (per 100 enrolled) lost 36 days of instruction due to suspensions while White students lost 10 days. Losen, D. J., & Martinez, P. “Is California Doing Enough to Close the School Discipline Gap?” *UCLA: The Civil Rights Project / Proyecto Derechos Civiles*. 2020. <https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/is-california-doing-enough-to-close-the-school-discipline-gap>

[99] The principles highlight supportive approaches to improving school climates — such as restorative and trauma-responsive practices, positive behavioral interventions and supports, mental health care, and additional counselors, nurses, and social workers. “Civil Rights Principles for Safe, Healthy, and Inclusive School Climates.” *The Leadership Conference on Civil and Human Rights*. 2019. https://civilrights.org/wp-content/uploads/2021/02/Civil-Rights-Principles-for-Safe-Healthy-and-Inclusive-School-Climates_2.pdf

[100] These supportive approaches have proven to be effective at producing a safe and supportive learning environment, including by helping students address the root causes of conflict and reducing school infractions. Nance, J. "Dismantling the School-to-Prison Pipeline." *Arizona State Law Journal*. 2016. Vol. 48. Pg. 353 (citing Steinberg, M. Allensworth, E., and Johnson, D. "What Conditions Support Safety in Urban Schools?: The Influence of School Organizational Practices on Student and Teacher Reports of Safety in Chicago." *The Civil Rights Project / Proyecto Derechos Civiles*. (2015)). 2016. https://arizonastatelawjournal.org/wp-content/uploads/2016/07/Nance_Final.pdf; "Student and Teacher Safety in Chicago Public Schools: The Roles of Community Context and School Social Organization." *Consortium on Chicago School Research at the University of Chicago Urban Education Institute*. May 2011 <https://consortium.uchicago.edu/sites/default/files/2018-10/SAFETY%20IN%20CPS.pdf>

[101] Bhutta, N., Chang, Andrew C., Dettling, Lisa J., Hsu, Joanne W. "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances." *The Federal Reserve*. September 28, 2020. <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm>.

[102] This has a far-reaching impact on the future of these students, such as preventing them from purchasing cars, houses, and even starting families.

[103] Smith, Kelly A. "Survey: Student Loan Debt Delays Major Financial Milestones for Millions." *Bankrate*. February 27, 2019. <https://www.bankrate.com/loans/student-loans/rates/>.

[104] Among these students there is nearly a 50 percent default rate, showing the long term consequences of student borrowing and the myriad economic barriers confronting Black and Latino students; Miller, Ben. "New Federal Data Show a Student Loan Crisis for African American Borrowers." *Center for American Progress*. October 16, 2017. <https://www.americanprogress.org/article/new-federal-data-show-student-loan-crisis-african-american-borrowers/>.

[105] "Students at Greater Risk for Loan Default." *The Institute for College Access & Success*. April 2018. https://ticas.org/files/pub_files/students_at_the_greatest_risk_of_default.pdf.

[106] Because of inadequate data disaggregation, there is insufficient data about specifically marginalized groups of Asian American Pacific Islander students including Southeast Asian American students. For instance, more than half of Vietnamese American, Hmong American, Cambodian American, and Laotian Americans have not attended college and these Southeast Asian American households are more likely to live below the poverty line than the national average. Students in any of these categories may also face barriers to college access, degree attainment, and student loan repayment because of marginalization they experience as people with disabilities or because they are LGBTQ. See "Fact Sheet: Why Are Southeast Asians Not Going to College?" *Southeast Asia Resource Action Center*. February 2013. <http://www.searac.org/wp-content/uploads/2018/04/Increase-Access-to-Higher-Education-Why-Are-Southeast-Asian-Americans-Not-Going-to-College.pdf>.

[107] "Quicksand: Borrowers of Color and the Student Debt Crisis." *Center for Responsible Lending, UnidosUS, the National Association for the Advancement of Colored People, the National Urban League, and the Leadership Conference Education Fund*. September 2019. <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-quicksand-student-debt-crisis-jul2019.pdf>.

[108] Harrington, A and Huelsman, M. "Delivering on Debt Relief: Proposals, Ideas, and Actions to Cancel Student Debt on Day One and Beyond: Introduction: The Urgency and Equity of Student Debt Cancellation." *Student Borrower Protection Center, Demos, and University of California at Irvine School of Law*. November 2020. <https://protectborrowers.org/wp-content/uploads/2020/12/Delivering-on-Debt-Relief.pdf>.

[109] Perry, A & Romer, C. "Student debt cancellation should consider wealth, not income." *Brookings Institution*. February 25, 2021. <https://www.brookings.edu/essay/student-debt-cancellation-should-consider-wealth-not-income/>.

[110] Data reveals that "student debt disproportionately harms wealth-poor households and, in particular, wealth-poor Black households." *Ibid*.

[111] In 2019, the median wealth for Black families was \$24,100 and \$36,100 for Latino families, considerably less than that of the median for White families at \$188,200. Bhutta, N., Chang, Andrew C., Dettling, Lisa J., Hsu, Joanne W. "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances." *The Federal Reserve*. September 28, 2020. <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm>.

[112] Parent PLUS debt is particularly burdensome for families of color; Baum, S., Blagg, K., & Fishman, R. "Reshaping Parent PLUS Loans: Recommendations for Reforming the Parent PLUS Program." *Urban Institute*. April 2019. <https://www.urban.org/research/publication/reshaping-parent-plus-loans-recommendations-reforming-parent-plus-program/view/full-report>; William Darity, Jr, et al. "What We Get Wrong About Closing the Racial Wealth Gap." *The Samuel DuBois Cook Center on Social Equity at Duke University*. April 2018. <https://socialequity.duke.edu/portfolio-item/what-we-get-wrong-about-closing-the-racial-wealth-gap/>; Nam, Yunju; Hamilton, Darrick; Darity Jr., William A., Price, Anne E. "Bootstraps are for Black Kids: Race, Wealth and the Impact of Intergenerational Transfers on Adult Outcomes." *The Samuel DuBois Cook Center on Social Equity at Duke University*. September 2015. <https://socialequity.duke.edu/portfolio-item/bootstraps-are-for-black-kids-race-wealth-and-the-impact-of-intergenerational-transfers-on-adult-outcomes/>.

[113] In addition to borrowers of color, women are also burdened by student debt. Women hold two-thirds of the country's student debt and on average borrow \$3,000 more than men to attend college — yet because of the wealth and wage gap, women find it harder to repay their loans and the burden is heaviest on Black women. "Higher Education, Recession, and COVID-19: What Students and Student Borrowers Need from a Federal Stimulus Package." *National Women's Law Center*. April 2020. <https://nwc.org/wp-content/uploads/2020/04/COVID-Stimulus-and-Higher-Ed-Factsheet.pdf>.

[114] “The State of For-Profit Colleges.” *Center for Responsible Lending*. December 2, 2021. <https://www.responsiblelending.org/research-publication/state-profit-colleges>.

[115] In a recent study in California, researchers found that the ban on affirmative action in public university admissions led to a decline in systemwide underrepresented group enrollment by at least 12 percent. This decline in enrollment did not only lead to fewer students from underrepresented groups being enrolled in selective public institutions, it also led to inequitable outcomes in degree attainment and salary stagnation. Zach Bleemer. “The Impact of Proposition 209 and Access-Oriented UC Admissions Policies on Underrepresented UC Applications, Enrollment, and Long-Run Student Outcomes.” *University of California – UC Office of the President: Institutional Research and Academic Planning*. August 2020. <https://www.ucop.edu/institutional-research-academic-planning/files/uc-affirmative-action.pdf>.

[116] Anderson, Nick and Balingit, Moriah. “Trump Administration Moves to Rescind Obama-Era Guidance on Race in Admissions.” *The Washington Post*. July 3, 2018. https://www.washingtonpost.com/local/education/trump-administration-moves-to-rescind-obama-era-guidance-on-race-in-admissions/2018/07/03/78210e9e-7ed8-11e8-bb6b-c1cb691f1402_story.html.

[117] In spite of well-established precedent, the Supreme Court granted cert on cases challenging Harvard and the University of North Carolina’s affirmative action programs. The civil rights community hopes and expects the Biden Administration to continue to support the compelling interest in achieving diversity, and the continued need for affirmative action programs.

[118] Federal, state, and district policies and practices have denied students of color, Native students, and low-income students access to the educational resources they need and deserve to learn, grow, and thrive.

[119] “Funding Gaps: An Analysis of School Funding Equity Across the U.S. and Within Each State.” *The Education Trust*. February 2018. <https://s3-us-east-2.amazonaws.com/edtrustmain/wp-content/uploads/2014/09/20180601/Funding-Gaps-2018-Report-UPDATED.pdf>.

[120] *Ibid.*

[121] Students of color, students in low-income communities, students with disabilities, English learners, and students at the intersection of these identities are especially susceptible to receiving instruction by out-of-field (or not trained in the subject they are teaching), ineffective, and inexperienced teachers. Cardichon, J., Darling-Hammond, L., Yang, M., Scott, C., Shields, P. M., & Burns, D. “Inequitable Opportunity to Learn: Student access to certified and experienced teachers.” *Palo Alto, CA: Learning Policy Institute*. 2020.

<https://learningpolicyinstitute.org/product/crdc-teacher-access-report>; Goldhaber, D., Lavery, L., & Theobald, R. “Uneven playing field? Assessing the teacher quality gap between advantaged and disadvantaged students.” *Educational Researcher*. June 1, 2015. Vol. 44. No. 5. Pgs. 293-307.

https://journals.sagepub.com/doi/pdf/10.3102/0013189X15592622?casa_token=VNKVEtVBeH4AAAAA:0xvw9C5XIPar4wwjs-l68l4-VF_vopKID_KNf6MjXpEZEfBfKJd8B8-m7k3b12GayqVs-xon4LVSTg; Lankford, H., Loeb, S., & Wyckoff, J. “Teacher sorting and the plight of urban schools: A descriptive analysis.” *Educational Evaluation and Policy Analysis*. March 1, 2002. Vol. 24. No. 1. Pgs. 37–62. https://journals.sagepub.com/doi/pdf/10.3102/01623737024001037?casa_token=gB-EhgrPQQA AAAA:-zJ4D0td7jXLPfRo8v8AIRYdaJr_wN7PsPODIRNXh_TGEbOi5-pe38mecSLTYMqMN2oceBNegZXEzQ.

[122] The pandemic has subsequently worsened the current inequities in accessing prepared, compensated, and culturally sustaining staff. Rodriguez-Delgado, Cresencio, Kai-Hwa Wang, Frances, Hays, Gabrielle, and Chavez, Roby. “Schools across the country are struggling to find staff. Here’s why.” *PBS News Hour*. November 23, 2021.

<https://www.pbs.org/newshour/education/schools-across-the-country-are-struggling-to-find-staff-heres-why>; Lieberman, Mark. “How Bad Are School Staffing Shortages? What We Learned by Asking Administrators.” *Education Week*. October 12, 2021.

<https://www.edweek.org/leadership/how-bad-are-school-staffing-shortages-what-we-learned-by-asking-administrators/2021/10>; Steiner, Elizabeth D. and Ashley Woo. “Job-Related Stress Threatens the Teacher Supply: Key Findings from the 2021 State of the U.S. Teacher Survey.” *Santa Monica, CA: RAND Corporation*. 2021. https://www.rand.org/pubs/research_reports/RRA1108-1.html.

[123] State and local education funds were routinely used in a way that provided greater funding to school districts with a higher concentration of White children than of children of color.

[124] These inequities to resources during the pandemic have had catastrophic consequences for marginalized children who have lost significant educational opportunity during long-term school closures.

[125] The overwhelming majority of funding is from the state and local government.

[126] In some states, such as Ohio, New Jersey, and Massachusetts, high-poverty school districts actually receive more funding per pupil than wealthy districts; Baker, Bruce D., Farrie, Danielle, and Sciarra, David. 2018.

[127] Johnson, Rucker C. 2015; Jackson, C. Kirabo, Johnson, Rucker, and Persico, Claudia. 2014.

[128] National progress was made to desegregate schools through efforts from the 1960s to the 1980s. These efforts were mandated by the 1954 Brown decision and built on by the Civil Rights Act of 1964, the ESEA of 1965, and the domestic programs of the Great Society. The majority of the progress was made in the South, where in 1964 a mere 2.3 percent of Black students attended majority White schools. By 1988, that figure skyrocketed to nearly 44 percent. Integration allowed access to resources and reduced barriers to high-quality education, leading to significant growth in academic achievement for Black and Latino students, increasing long-term educational attainment, health, and earnings. However, these integration efforts were short-lived, as courts chipped away at local desegregation efforts and court orders were allowed to lapse. Orfield, Gary et al. “Brown at 60: Great Progress, a Long Retreat and an Uncertain Future.” *The Civil Rights Project*. 2014. <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/brown-at-60-great-progress-a-long-retreat-and-an-uncertain-future/Brown-at-60-0518-14.pdf>; Johnson, Rucker. “The Grandchildren of Brown: The Long Legacy of School Desegregation.” *University of California, Berkeley*. March 15, 2012. https://gsppi.berkeley.edu/~ruckerj/RJabstract_BrownDeseg_Grandkids.pdf; Johnson, Rucker C. “Children of the Dream: Why School Integration Works.” *New York: Basic Books*. 2019; Reber, Sarah J. “School Desegregation and Educational Attainment for Blacks.” *National Bureau of Economic Research*. June 2007. <https://www.nber.org/papers/w13193>; Reber, Sarah J. 2007; Johnson, Rucker C. “Long-run Impacts of School Desegregation & School Quality on Adult Attainments.” *National Bureau of Economic Research*. September 2015. <https://www.nber.org/papers/w16664>; Johnson, Rucker C. 2015; Tuttle, Cody. “The Long-run Economic Effects of School Desegregation.” *University of Maryland, College Park: Department of Economics*. October 17, 2019. http://econweb.umd.edu/~tuttle/files/tuttle_busing.pdf; Reardon, Sean F. et al. “Brown Fades: The End of Court-Ordered School Desegregation and the Resegregation of American Public Schools.” *Journal of Policy Analysis and Management*. Fall 2012. Vol. 31. No. 4. Pgs. 876-904. <https://www.jstor.org/stable/41653800?seq=1>; “Nonwhite School Districts Get \$23 Billion “Less Than White Districts Despite Serving The Same Number of Students.” *Ed Build*. <https://edbuild.org/content/23-billion>; Chang, Ailsa and Mehta, Jonaki. “Why U.S. Schools Are Still Segregated – And One Idea To Help Change That.” *National Public Radio*. July 7, 2020. <https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/07/07/888469809/how-funding-model-preserves-racial-segregation-in-public-schools>; U.S. Commission on Civil Rights. 2018.

[129] “Public School Revenue Sources.” *U.S. Department of Education National Center for Education Statistics*. May 2022. https://nces.ed.gov/programs/coe/indicator_cma.asp.

[130] “Building Equity: Fairness in Property Tax Effort for Education.” *Ed Build*. February 21, 2017. <https://edbuild.org/content/building-equity>.

[131] The 2021 American Rescue Plan included \$122.8 billion dollars to support schools and students.

[132] Since 1968, the U.S. Department of Education has conducted the CRDC to collect data on key information in our nation’s public schools in ensuring equal educational opportunity and compliance with federal nondiscrimination law.

[133] In February 2022, The Leadership Conference and 38 organizations wrote in response to the notice published in the Federal Register on December 13, 2021, regarding a proposed Civil Rights Data Collection (CRDC) Information Collection Request (ICR) for the 2021-22 school year. “Leadership Conference Comments on Civil Rights Data Collection.” *The Leadership Conference on Civil and Human Rights*. February 11, 2022. <https://civilrights.org/resource/leadership-conference-comments-on-civil-rights-data-collection/>.

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