

CHAPTERS 18-30

AB 3121 TASK FORCE RECOMMENDATIONS FOR POLICY REFORM

Chapter 18

I. INTRODUCTION WITH RECOMMENDATIONS

This section sets forth proposals that have broad applicability and are not limited to addressing the subject matter of only one chapter of the Interim Report. AB 3121 invokes the international standards of remedy for wrongs and injuries caused by the state. The Task Force has followed those standards as embodied in the UN Principles on Reparation. In the chapters that follow here, the Task Force sets forth its recommendations to the Legislature regarding policies needed to cease and redress the harms delineated in Part I of this report. These policy changes must be implemented in some form in order for any California reparations regime to be able to satisfy the international reparations framework's requirement that there be both rehabilitation and guarantees of non-repetition. Some of the recommended policies are also intended to provide restitution to augment the Task Force's recommendations for restitution and compensation set forth in Part IV, Chapter 17, of this report. As the UN Principles recognize, true reparations cannot be made without fulfillment of *all five* of the international standard's required pillars: (1) Restitution; (2) Compensation; (3) Rehabilitation; (4) Satisfaction; and (5) Guarantee of Non-Repetition.¹

Part I of this Report details the gross human rights violations that the United States committed against those whom it subjected to slavery. As the Legislature has recognized in AB 3121² and as Part I documents, emancipation from enslavement did not bring an end to the badges and incidents of slavery. Through lynching and other racial terror, the Black Codes, Jim Crow laws, disenfranchisement, segregation, discrimination, exclusion, and neglect in every facet of life, government at all levels perpetuated the legacy of slavery. By all measures, from health to wealth, Black Americans as a group, and especially Descendants of those enslaved, today live with the persistent consequences of this legacy—consequences that include a shorter life expectancy and a vast wealth gap, borne of stolen labor, disenfranchisement, mass incarceration, the pathologization of Black families, inadequate and biased health care, constrained education and employment opportunities, unjust takings, redlining, and destruction of Black-owned businesses and cultural institutions.³ Mass enslavement may have ended, but the

¹ See Chapter 14 for a more fulsome discussion of the international law framework for reparations.

² Among the findings of the Legislature, AB 3121 recognizes that:

Following the abolition of slavery, the United States government at the federal, state, and local levels continued to perpetuate, condone, and often profit from practices that continued to brutalize and disadvantage African Americans, including sharecropping, convict leasing, Jim Crow laws, redlining, unequal education, and disproportionate treatment at the hands of the criminal justice system. As a result of the historic and continued discrimination, African Americans continue to suffer debilitating economic, educational, and health hardships....

Gov. Code § 8301(a)(5)-(6).

³ For more detailed discussion and documentation, see Chapters 1 through 13.

badges and incidents of slavery have not. Descendants of those who were enslaved have uniquely carried the weight of the harms and atrocities visited upon their ancestors, as trauma and loss have passed from generation to generation.

The persistent badges and incidents of slavery are the result of an all-encompassing web of discriminatory laws, regulations, and policies on the part of government. The harms to Black Americans have not been accidental—they have been by design. The legacy of slavery lives on, and yet to this point, there has been no comprehensive effort to disrupt and dismantle institutionalized racism, stop the harm, and address the specific injuries caused to Descendants and the larger Black community. This is not to say that nothing has changed. But as Malcolm X expressed, “If you stick a knife in my back nine inches and pull it out six inches, there’s no progress. If you pull it all the way out, that’s not progress. Progress is healing the wound that the blow made.”⁴

This report, and the Task Force’s recommendations to the Legislature, are intended to begin that healing process. The Legislature directed the Task Force to develop reparations proposals that in addition to providing compensation will bring about appropriate “forms of rehabilitation or restitution to African descendants” and address “[t]he lingering negative effects of the institution of slavery” and the ensuing and continuing effects of “discrimination on living African Americans and on society in California and the United States.”⁵ AB 3121 requires that we look to history to memorialize the horrors Black people have experienced in our country and in our state, but to do so in service of looking ahead and providing concrete, common-sense, and necessary recommendations to end, once and for all, the discriminatory harm and suffering that African Americans, and especially those descended from enslaved individuals, have uniquely endured and continue to experience in every walk of life.

In accordance with the statute, the Task Force has formulated recommendations as to “[h]ow California laws and policies that continue to disproportionately and negatively affect African Americans as a group and perpetuate the lingering material and psychosocial effects of slavery can be eliminated,” how the resulting “injuries ... can be reversed, and how to provide appropriate policies, programs, projects, and recommendations for the purpose of reversing the injuries.”⁶ These recommendations speak to the harms discussed in Chapters 1 through 13—Enslavement, Racial Terror, Political Disenfranchisement, Housing Segregation and Unjust Takings, Separate and Unequal Education, Racism in Environment and Infrastructure, Pathologizing Black Families, Control Over Creative, Cultural, and Intellectual Life, Stolen Labor and Hindered Opportunity, An Unjust Legal System, Mental and Physical Harm and Neglect, and The Wealth Gap. Part III, Chapter 14, also addresses the last of these subjects.

⁴ Malcolm X, <https://www.facebook.com/theshabazzcenter/videos/if-you-stick-a-knife-in-my-back-9-inches-and-pull-it-out-6-inches-thats-not-prog/10159147606541532/> (last checked Mar. 21, 2023) (quoted in Darrity Jr. & Mullen, *Defining Reparations* (June 1, 2021) p. 22, <https://oag.ca.gov/system/files/media/task-force-agenda6-060121.pdf> (last checked Mar. 21, 2023).

⁵ Gov. Code §§ 8301(a), 8301.1(b)(3)(C), (D), (G).

⁶ Gov. Code § 8301.1(b)(3)(C)-(D).

In making its recommendations, consonant with the statute and in recognition that the legacy of slavery weighs most directly and heavily on Descendants, the Task Force has given “[s]pecial [c]onsideration for African Americans [w]ho are Descendants of [p]ersons [e]nslaved in the United States.” The Task Force urges that the Legislature do the same in carrying the Task Force’s recommendations forward, including in providing general monetary reparations specifically for those who are able to establish Descendant lineage.

Following the Legislature’s lead in enacting AB 3121, the Task Force has also considered the impact of historic and ongoing discrimination on the larger community of Black Californians. The UN Principles on Reparation take an expansive view of what it means to be a “victim.” The terms includes “persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law.”⁷ The term has been interpreted to include “not only the person who was the direct target of the violation, but any person affected by it directly or indirectly.”⁸

As this Report has documented, little of slavery’s legacy has receded. To be Black in America today is to be part of a collective that bears the badges and incidents of slavery and suffers the “lingering material and psychosocial effects of slavery” and the injuries that their perpetuation cause. The Task Force has determined that monetary reparations, as restitution and compensation for slavery and its ensuing and continuing atrocities and harms, should go to those who can trace their lineage to persons who were enslaved. Policies necessary to achieve Rehabilitation, while also affording special consideration to Descendants, should have the scope needed bring repair to all those who have endured the harms outlined in this Report and to ensure that the Guarantee of Non-Repetition for those harms is fully realized.

The enormity of the task before California and the Nation cannot be overstated. The policies recommended here, while wide-ranging, are not exhaustive—they are only a start. The harms to be repaired have been more than 400 years in the making. Their undoing will require ceaseless vigilance and a commitment to continually learn and meet the challenge ahead. Their undoing will also require what the Legislature courageously did not mask in enacting AB 3121, and that is consideration of race. As Justice Sotomayor has written:

Race matters. Race matters in part because of the long history of racial minorities’ being denied access to the political process.... Race also matters because of persistent racial inequality in society—inequality that cannot be ignored and that

⁷ United Nations General Assembly, [*Adopted Resolution 60/147: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*](#), (March 21, 2006) p.5.

⁸ International Commission of Jurists, [*The Right to a Remedy and Reparation for Gross Human Rights Violations: A Practitioners’ Guide*](#) (Revised Edition, 2018) p. 34.

has produced stark socioeconomic disparities. And race matters for reasons that really are only skin deep, that cannot be discussed any other way, and that cannot be wished away. Race matters to a young man's view of society when he spends his teenage years watching others tense up as he passes, no matter the neighborhood where he grew up.... Race matters because of the slights, the snickers, the silent judgments that reinforce that most crippling of thoughts: "I do not belong here."... The way to stop discrimination on the basis of race is to speak openly and candidly on the subject of race, and to apply the Constitution with eyes open to the unfortunate effects of centuries of racial discrimination.⁹

As the Task Force heard in expert testimony, California has become a "Don't Say Black"¹⁰ state due to the operation of Proposition 209. But wishful "color blind" thinking will not dissolve a system of oppression that centers on race and has dehumanized and brutalized on the basis of race. Time and again, policies that have not been specifically directed to repair harm to African Americans have succeeded only in not repairing the harm done to African Americans. The Task Force, channeling the voices of the hundreds of individuals who testified or offered public comment in Task Force meetings or who participated in community listening sessions, urges the Legislature to ensure an end to the persistent, generational harms and atrocities experienced by Black Californians. This time *must* be different.

A. California American Freedman Affairs Agency

As documented in Part II of this report, government at all levels, including California's state-level governmental agencies, has been complicit in the atrocities committed against African Americans in our country and in our state. And throughout the country's history government programs designed to benefit the general public either intentionally or unintentionally excluded or minimized any benefits flowing to African Americans, especially those descended from enslaved people. When African Americans are not an exclusive focus of reparative policies and programs, throughout history they invariably end up at the back of the line and receive proportionately less of the benefits than others. In order to ensure that this time is different, and that there will be focus on efforts flowing from the work of this Task Force, we recommend that the Legislature create an agency that is exclusively dedicated to the Descendants' interests and needs. Complex new functions will be needed to implement the Task Force's recommended reparations scheme, including determinations of eligibility and administration of payments and other new programs that are part of the monetary component of the Task Force's recommendations. Additionally, as discussed below, the Task Force recommends that the Legislature provide such an agency with an oversight role in ensuring existing state agencies properly implement the Legislative enactments resulting from the Task Force's recommendations where those recommendations fall within the scope of those existing agencies'

⁹ *Schutte v. Coalition to Defend Affirmative Action, Integration and Immigrant Rights and Fight for Equality by Any Means Necessary (BAMN)* (2014) 572 U.S. 291, 380-381 (Sotomayor, J., dissenting).

¹⁰ Testimony of Dr. Margaret Fortune to the Task Force (Mar. 3, 2023), <https://oag.ca.gov/ab3121/meetings/032023>, <https://www.youtube.com/watch?v=0TW0kCGMqdo> (last checked Mar. 21, 2023).

authority. Finally, there will be a need in some instances for such an agency to provide direct services to fill gaps or augment existing services, to ensure that Descendants' needs are fully met, free of bias, delay, or neglect.

For these reasons, the Task Force recommends that the Legislature establish the California American Freedmen Affairs Agency ("Agency"), the mission of which will be to provide perpetual special consideration to descendants of persons of African descent who were enslaved in the United States, and the American Freedmen ("Descendant")¹¹ community in California.

The Task Force also believes that it is essential for the Legislature to fully fund and staff the Agency to carry out its mission and obligations, and these resources should be allocated and authorized in perpetuity. The Task Force recommends that the Agency be headquartered in Sacramento, and have satellite offices all around the state to ensure that Descendants are able to obtain services and support wherever they may reside.

In order to be properly vested with the authority to directly perform critical functions and services through the identified branches or offices, the Agency should include at least the following:

- 1) A genealogy branch to support potential reparations claimants by providing access to expert genealogical research to confirm reparations eligibility.
- 2) An office of strategic communications/media affairs, to assist the Descendant community, the media, and the greater public to understand the vital work performed by the Agency as it serves the Descendant community and provides streamlined access to information and services.
- 3) A community support branch, to improve accessibility, transparency, and public trust in California's reparations program and its claims process.
- 4) An office of immediate relief to provide expedited assistance with the reparations claims process.
- 5) A business affairs office to: (a) provide ongoing education and assistance related to a potential new state Freedmen's Savings & Trust Bank; (b) support entrepreneurialism and financial literacy; (c) provide business grants and assistance with procuring business licenses; (d) train and hire unhoused Descendants in housing construction and related trades with apprenticeship programs; and (e) establish public-private reparative justice-oriented partnerships.
- 6) An office of the chief financial officer, to provide policy leadership in strategic planning, budgeting, and financial management at the Agency. The officer's duties should include: (a) processing claims for direct compensation in the five atrocity areas; (b) conducting

¹¹ In this chapter, "Descendant" means African American descendants of a Chattel enslaved person, or descendants of a free Black person living in the United States prior to the end of the 19th Century, pursuant to the Task Force's motion passed on March 29, 2022. See Meeting Minutes, March 29, 2022 Meeting of the AB 3121 Task Force Study to Study and Develop Reparations Proposals for African Americans, available at <<https://oag.ca.gov/system/files/media/task-force-meeting-minutes-032922-033022.pdf>>.

internal audits for management purposes, to evaluate the efficiency, economy, effectiveness, financial aspects, or other features of the Agency, its branches, and programs; (c) conducting external audits for contract or grant administration; (d) assisting in the establishment of a state-sponsored or state-chartered Freedmen's Savings & Trust Bank to service the Descendant community; and (e) potentially collaborating with 501(c)(4) organizations. This office should also administer a compensation fund, that the Task Force recommends be created by the Legislature, for all direct Descendants of American slaves forced to labor specifically in the state of California.

- 7) A Racial Justice Act (RJA) Commission or similar independent body, to track, monitor, and analyze data generated by the RJA process.
- 8) A creative, cultural, and intellectual affairs branch, to address the disruption of Descendant cultural centers in the name of redevelopment, and to address the history of censorship of Descendant-produced media and arts. The duties of this branch should include: (a) building, restoring, and maintaining American Freedmen/African American/Descendant cultural/historical sites, creative centers, public displays, and monuments; (b) advocating for and monitoring removal of harmful relics; (c) supporting knowledge production and archival research with community archives and repositories; (d) supporting legacy families; (e) providing support for Descendants in the arts, entertainment, and sports industries, including identifying and removing barriers to advancement into leadership and decision-making positions in these industries; (f) supporting Descendants in news publications, arts (including film, radio, television, art, podcasting, and new media), and lifestyle activities; and (g) supporting parity in sports participation, coaching, management, and ownership.
- 9) A data research and collection branch, to identify and analyze trends in past, current, and potential future badges and incidents of chattel slavery, and to advise the Governor, Legislature, and other state and local governmental entities as to policy changes designed to heal and repair the Descendant community from these badges and incidents.
- 10) A civic engagement/self-determination branch to support ongoing political education on African American history and political engagement, and to support civic engagement, political participation, and self-determination among the Descendant community.
- 11) An office of general counsel to provide legal advice, counsel, and services to the Agency and its officials, to ensure that the Agency's programs are administered in accordance with applicable legislative authority. The office would also advise the head of the Agency on legislative, legal, and regulatory initiatives and serve as an external liaison on legal matters with other state agencies and other entities.

Where not acting directly in furtherance of the recommendations of this report, the Agency should be authorized to engage in oversight and monitoring of those state agencies tasked with engaging in direct implementation of recommendations already falling within the scope of their existing authority. The oversight and monitoring should include at least the following:

- 1) An education branch, to provide oversight and monitoring of the payment of tuition to the state's community colleges, California State University schools, and University of California schools for California residents who are Descendants, and to ensure that existing state educational agencies eliminate Descendants' barriers to higher education, and build infrastructure for the operation of new Freedmen schools, colleges, and universities. The education branch would also provide oversight and monitoring of educational grants and otherwise support education initiatives focused on Freedmen.
- 2) A social services and family affairs branch, to provide oversight of state agencies' efforts to identify and mitigate the ways that current and previous policies implemented by existing agencies have damaged and destabilized Descendant families. The Agency's oversight would include: (a) monitoring of existing state agencies' recruitment and training of Descendants in industries that assist Descendant seniors, such as healthcare systems; (b) providing housing advocates and housing attorneys to assist with housing and homelessness; (c) providing financial and social support services for housing unhoused relatives; (d) developing a hotline to report harms related to housing; (e) providing financial support services to support Descendant homeownership; (f) ensuring treatment for trauma and family healing services to strengthen the family unity; and (g) providing Descendant-informed mental health and stress resiliency services, financial planning services, career planning, and civil and family court services.
- 3) With regard to medical services provided or funded by the state, a medical services oversight branch, to monitor the state's efforts to provide technical assistance for community wellness centers in local Descendant communities across the state to: (a) decrease mental health stigma; (b) teach stress reduction and resilience tools; (c) create communal spaces; (d) support cultural and racial socialization to support mental health; (e) provide community-defined evidence and promising practices prevention and early intervention mental health programs; and (f) offer mental health and health screening and referrals.
- 4) A labor and employment branch to oversee and monitor labor and employment discrimination and benefits claims involving the Descendant community handled by other state-level complaint investigation and adjudication agencies.
- 5) A development branch, to provide oversight and monitoring of state-sponsored and funded infrastructure development, to ensure that Descendants receive a proportionate share of the development of housing (e.g., subdivisions, multi-family, mixed used), business/commercial districts, and towns/cities. In addition to Allensworth, Black towns such as Teviston, Fairmead, Cookseyville, Bowles Colored Colony, South Dos Palos, and Sunny Acres all existed in California's Central Valley, and should receive the same investment from the state.
- 6) A legal affairs branch, to: (a) provide oversight and monitoring of state agencies that provide legal services to Descendants, including in criminal cases, and oversight and

monitoring of state entities that receive, document, and investigate hate crimes, and ensure that such entities provide a hotline and database for the Descendant community; (b) advocate for civil and criminal justice reforms, including, but not limited to, youth and adult decarceration programs, abolition, housing and houselessness legal services; and (c) monitor provision of civil legal services and providing such services, including free arbitration and mediation services and other forms of conciliation courts, to the extent needed to close the justice gap.

- 7) A community-based organization (CBO) branch, to oversee and monitor the state's collaboration with community-based organizations, and to oversee and audit state funds disbursed to identified CBOs, to ensure that a sufficient portion of said funding is directed toward the Descendant community.

B. Repeal Proposition 209

California voters passed Proposition 209, now enshrined in California's constitution, in 1996. The measure bars the state from "discriminat[ing] against or grant[ing] preferential treatment on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, and public contracting."

Since its passage, Proposition 209 has had far-reaching impact on efforts to remediate entrenched systemic anti-Black bias and discrimination. The Equal Justice Society commissioned a study to determine the impact of Proposition 209 in the area of public contracting. The study concluded that between \$1 billion to \$1.1 billion in contract dollars was lost annually by businesses owned by women and people of color due to Proposition 209.¹² With respect to education and the end of race-conscious admissions at the University of California, admissions declined for applicants from underrepresented groups, including African Americans, at every campus.¹³ In the area of public employment, the evidence is mixed with less harmful impact shown in some areas, but with disparities persisting in areas such as hiring and promotion to senior positions;

More broadly, Proposition 209 is widely viewed as an impediment to the adoption of remedial measures.¹⁴ The chilling effect has been far-reaching. In November 2020, Proposition 16 appeared on the general election ballot asking California voters to amend the California Constitution to repeal Proposition 209. Proposition 16 failed to achieve enough support to pass.¹⁵

In recognition of the systemic discrimination faced by Descendants and the larger Black community and the barriers to justice and repair imposed by Proposition 209, the Task Force recommends that the Legislature take steps within its authority to seek the repeal Proposition

¹² Lohrentz, [The Impact of Proposition 209 on California's MWBEs](#) (Jan. 2015) Equal Justice Society (as of Dec. 1, 2022).

¹³ [The Impact of Proposition 209 In California](#) (Sept. 4, 2020) University of California Academic Affairs (as of Dec. 1, 2022).

¹⁴ For a discussion of harms associated with Proposition 209, see Chapter 10, page 347, and Chapter 13, page 466 of the Interim Report.

¹⁵ Associated Press, [Prop 16 California Affirmative Action Measure Trailing](#) (Nov. 4, 2020) CBS Broadcasting Inc. (as of Dec. 1, 2022).

209. This effort must continue until California’s constitution has been cleansed of this racism-entrenching measure.

C. Conduct Racial Impact Analyses

Two proposals recommend that the Legislature require racial impact analyses. These proposals build on recognition that racism is a public health emergency. There have been recent relevant developments at the state level by the Legislature and the Governor.

Senate Concurrent Resolution No. 17 was chaptered with the Secretary of State on April 30, 2021, declaring March 21, 2021, as the International Day for the Elimination of Racial Discrimination. In the resolution, “the Legislature declares racism to be a public health crisis and will actively participate in the dismantling of racism[.]”¹⁶

Senate Bill (“SB”) 17 was introduced in 2020 by Senator Dr. Richard Pan and was amended through August 2022.¹⁷ SB 17 would have declared racism to be a public health crisis (and was amended to recognize Senate Concurrent Resolution No. 17) and would have created a Racial Equity Commission.¹⁸ SB 17 died on the inactive file on August 31, 2022.¹⁹

On September 13, 2022, Governor Newsom issued Executive Order N-16-22, which: (1) established the state’s first Racial Equity Commission, developed with Senator Pan and organizations that sponsored SB 17; and (2) directed state agencies and departments to take additional actions to address disparities for historically underserved and marginalized communities by implementing equity analyses and considerations in their mission, policies, and practices.²⁰ The Racial Equity Commission is required to: develop resources, best practices, and tools for furthering racial equity and develop a statewide Racial Equity Framework; provide technical assistance, upon request by a state agency, on implementing strategies for racial equity consistent with the framework; engage and collaborate with policy experts and community members to conduct analyses and develop tools; and prepare an annual report, with the first completed on or after December 1, 2025, but no later than April 1, 2026, and annually thereafter.²¹

1. **Require Legislative Policy Committees to Conduct Racial Impact Analyses of All Proposed Legislation and Require the Administration to Include a Comprehensive Racial Impact Analysis for All Budget Proposals and Proposed Regulations**

The first proposal recommends the Legislature take steps within its authority to require a racial impact assessment for all future legislation, including potential amendments to the

¹⁶ [Sen. Conc. Res. No. 17](#) (2021-2022 Reg. Sess.) as chaptered Apr. 30, 2021.

¹⁷ Sen. Bill No. 17 (2021-2022 Reg. Sess.).

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ Governor’s Exec. Order N-16-22 (Sep. 13, 2022).

²¹ *Ibid.*

California Constitution. The aim of this proposal is to ensure that future legislation does not perpetuate the state's history of discrimination against Descendants, and to ensure that there is a long-term and ongoing commitment to remedying and avoiding the harms caused by the history and trauma of state-sponsored discrimination against Descendants across all sectors. This proposal recommends the Legislature create a process whereby proposed legislation must undergo a racial impact analysis while in committee. This proposal also includes a recommendation that this assessment be in writing and include findings of the impact proposed legislation might have on Descendants and Black Californians. Similar assessments should also be made by any state agency involved in the rulemaking process. Also, the racial impact analyses should continue after enactment of legislation, with the requirement that data be gathered to empirically establish the racial impact of implemented policies; and if there is a verified disparate impact on the descendant community there should be a process for amending the policy to cure the verified disparity.

This proposal would address the history of Black codes and how existing criminal laws have a disproportionate impact on Descendants and Black Californians. The implementation of zoning ordinances, licensing laws, fire and safety codes, and anti-nuisance provisions were tools of discrimination against Black business owners and their Black customers. Racial impact statements are a tool for lawmakers to evaluate potential disparate impacts of proposed legislation prior to adoption and implementation.²² Similar to fiscal or environmental impact statements, a racial impact statement would enable policy decision-makers to anticipate and address racial or ethnic disparities arising from implicit bias and systemic racism and discrimination.²³ It would also assist in the consideration of alternative policies to accomplish the goals of proposed legislation without causing or contributing to avoidable racial and ethnic disparities.²⁴

2. Incorporate Disparate Impact Analysis in Legislation and Government Contracting

The second proposal recommends the Legislature include a disparate impact analysis for designated legislation and government contracts. Specific elements include:

- Requiring the Legislature to analyze all public safety and housing bills for disparate impact on historically disenfranchised and system-impacted populations;²⁵
- Requiring the Law Revision Commission (or Hoover Commission or other appropriate entity) to develop a framework to review California Codes for disparate impacts and recommend revisions to the Legislature; and

²² Porter, *Racial Impact Statements* (June 16, 2021) The Sentencing Project (as of Dec. 1, 2022).

²³ Hunter, et al., *How to Use the Racial Impact Statement Tool to Eliminate Disparities and Disproportionality* (Sept. 2, 2013) State Interagency Team Workgroup to Eliminate Disparities & Disproportionality, Beyond the Bench Conference (as of Dec. 1, 2022).

²⁴ *Ibid.*

²⁵ See H.Res. No. 29 (2021-2022 Reg. Sess.). This bill encourages lawmakers to incorporate equity impact analyses into legislative proposals.

- Mandating that Government contracting through the request for proposal (“RFP”) process require large contractors to include disparate impact analyses in their bids related to public safety and housing.

D. Agency Transparency

The Task Force has heard concerns from members of the public about responsiveness and transparency regarding the treatment and disposition of complaints raising civil rights concerns, including from Black community members in particular. Responding to the concerns raised, the Task Force recommends that the Legislature direct the Civil Rights Department and the Department of Education to collect anonymized data for all complaints transmitted to each respective agency, including: (1) the race, gender, age, and other critical demographic information of complainants, (2) a description of the complaint(s); (3) any action taken by the agency in response to the complaint(s); and (4) the disposition of the complaint. This proposal further recommends that this data be transmitted to the California American Freedman Affairs Agency for the Agency to create and publish dashboards that allow the public to view the collected data.

E. Legislative Findings

When enacting the Task Force’s recommendations, the Legislature should: (1) declare the State’s compelling and statewide interest in remedying the longstanding and ongoing harm caused by chattel slavery and the badges and incidents of slavery that persist, as documented by the Task Force’s reports and any other supplemental findings the Legislature finds necessary; (2) where applicable, identify the specific harms caused by chattel slavery and its legacy that the statute seeks to remedy and explain how the government was involved in such discrimination; and (3) for those provisions that may be subject to strict scrutiny, demonstrate that the policies involved have been narrowly tailored to remedy that harm.

F. Transmit AB 3121 Task Force Report to the President and Congress

The Task Force recommends that the Legislature transmit the Task Force's Final Report and findings to the President and the Congress, with a recommendation that the federal government create a Reparations Commission for Descendants/African Americans/American Freedmen through statute or executive action.

Chapter 19

II. ENSLAVEMENT

This section details policy proposals to address harms set forth in Chapter 2, Enslavement, of the Interim Report.

- Enact legal resolution affirming the State’s protection of Descendants of enslaved people and guaranteeing protection of the civil, political, and socio-cultural rights of Descendants of enslaved people
- Amending the California Constitution to prohibit involuntary servitude
- Payment of fair market value for labor provided by incarcerated (whether in jail or prison) persons
- Emphasize the “Rehabilitation” in the California Department of Corrections and Rehabilitation (CDCR)
- Abolish the death penalty
- Prohibit private prisons from benefiting from contracts with CDCR to provide reentry services to incarcerated or paroled individuals

A. Enact legal resolution affirming the State’s protection of Descendants of enslaved people and guaranteeing protection of the civil, political, and socio-cultural rights of Descendants of enslaved people

According to the international legal framework laid out in the UN Principles on Reparation, full and effective reparations must include, among other things, satisfaction and a guarantee of non-repetition. To satisfy these requirements, the Task Force recommends the Legislature issue a legal resolution affirming the State’s protection of Descendants. The resolution should also guarantee the protection of the civil, political, and socio-cultural rights of Descendants.

B. Amending the California Constitution to prohibit involuntary servitude

As discussed in Chapter Two, “Enslavement,” not only does the legacy of slavery persist in its impact on the Descendant community, but the actual fact of state-sanctioned slavery continues to exist in California. Even though the California Constitution prohibits slavery, it still permits involuntary servitude as a form of criminal punishment.²⁶ Article I, section 6 of the California Constitution states: “Slavery is prohibited. Involuntary servitude is prohibited except to punish crime.”²⁷ This “exception” is particularly disturbing given the disproportionate number of Black Californians enmeshed in the criminal justice system in our State. Indeed, approximately 58,000 incarcerated persons are assigned jobs in the states’ prisons, and they work an average of 6.5 hours per day and 32 hours per week.²⁸ An additional 7,000 work for the California Prison Industry Authority, which creates products and provides services to state entities.²⁹ These individuals work in various industries, including food service, clerical work,

²⁶ See Cal. Const. art. I, § 6; Cal. Penal Code § 2700.

²⁷ Cal. Const. art. I, § 6.

²⁸ California Senate Committee on Appropriations, [Committee Report on ACA 3 \(Kamlager, 2020-2021\)](#) at p. 2-3 (as of March 14, 2023).

²⁹ *Id.* at p. 3.

custodial work, and construction.³⁰ With the exception of firefighters, these incarcerated individuals are typically paid less than \$1.00 per hour.³¹ In sum, state-sanctioned slavery persists throughout California for tens of thousands of incarcerated individuals.

Former State Senator Sydney Kamlager introduced Assembly Constitutional Amendment (ACA) 3, which did not pass.³² ACA 3 would have defined slavery to include involuntary servitude and forced labor compelled by the use or threat of physical or legal coercion.³³ The Task Force now recommends amending the California Constitution to end involuntary servitude, thus dissolving a remnant of slavery and a continued cause of racial inequality.

C. Payment of fair market value for labor provided by incarcerated (whether in jail or prison) persons

According to a recent report, 1.2 million people are incarcerated and nearly 800,000 people are forced to work against their will while being paid pennies on the dollar.³⁴ Incarcerated workers generate \$2 billion in goods and \$9 billion worth of prison maintenance services, yet are only paid, on average, between 0.13 and 0.52 cents per hour.³⁵ The Task Force recommends the payment of the fair market value for the labor provided by incarcerated persons, whether they are in jail or prison. State Senator Steven Bradford introduced a similar proposal, Senate Bill (SB) 1371.³⁶ SB 1371 would have required the Secretary of the CDCR to adopt a 5-year implementation schedule to increase the compensation for incarcerated individuals working under CDCR's jurisdiction.³⁷

D. Emphasizing “Rehabilitation” in the California Department of Corrections and Rehabilitation (CDCR)

Approximately two-thirds of people recidivate, meaning they will return to prison within three years, either through new offenses or parole violations.³⁸ Most prison jobs do not prepare incarcerated persons to get jobs on the outside.³⁹ According to a recent report, most of the jobs incarcerated people are required to work are jobs that have no real-life application outside of

³⁰ *Id.* at p. 2.

³¹ *Ibid.* at p. 2-3.

³² Assem. Const. Amend. No. 3 (2021—2022 Reg. Sess.).

³³ *Ibid.*

³⁴ ACLU, *Captive Labor: Exploitation of Incarcerated Workers*, [Captive Labor: Exploitation of Incarcerated Workers | News & Commentary | American Civil Liberties Union \(aclu.org\)](#) (2022) (as of Jan. 20, 2023).

³⁵ *Ibid.*

³⁶ Sen. Bill No. 1371 (2021-2022 Reg. Sess.).

³⁷ *Ibid.*

³⁸ Duara, [Prison rehab: Can California learn anything from Norway?](#) CalMatters (Jun. 10, 2022) (as of Jan. 20, 2023).

³⁹ *Ibid.*

prison.⁴⁰ The Task Force recommends passing a law requiring the CDCR to make education, substance use and mental health treatment, and other rehabilitative programs, such as relevant job training, the priority for incarcerated people. The goal of this recommendation is for CDCR to emphasize rehabilitation to reduce recidivism. The law should provide funding to CDCR for these rehabilitative services because a Legislative Analyst’s Office report showed that less than 3.5 percent of what is spent on incarcerating an inmate goes towards rehabilitative services.⁴¹ Rehabilitation programs have proven to be effective in reducing recidivism.⁴² One federal prison study found that, “on average, inmates who participated in correctional education programs had 43 percent lower odds of recidivating than inmates who did not.”⁴³

E. Abolition of the death penalty

The death penalty has not only been applied in an unfair and unjust manner, especially against Black people, but it is also immoral and inhumane. The Task Force recommends the Legislature amend the California Constitution to abolish the death penalty in all cases. In 2021, the California Committee on Revision of the Penal Code issued a report recommending abolishing the death penalty and dismantling death row.⁴⁴ According to the committee, the death penalty in California has become too costly and has been imposed arbitrarily in a discriminatory fashion.⁴⁵ Specifically, the death penalty has been applied in an unfair and unjust manner, particularly against poor people and people of color (particularly Black people).⁴⁶ Additionally, innocent people are far too often sentenced to death.⁴⁷ In 2019, Governor Newsom declared a moratorium on executions in California.⁴⁸ In 2020, Assemblymembers David Chiu and Marc Levine introduced ACA 2, which would have led to the abolition of the death penalty, but the bill died in committee.⁴⁹ At the time of this writing, 23 states have abolished the death penalty and three states, including California, have moratoriums on its use.⁵⁰

F. Prohibit private prisons from benefiting from contracts with CDCR to provide reentry services to incarcerated or paroled individuals

⁴⁰ ACLU, *Captive Labor: Exploitation of Incarcerated Workers*, [Captive Labor: Exploitation of Incarcerated Workers | News & Commentary | American Civil Liberties Union \(aclu.org\)](#) (2022) (as of Jan. 20, 2023).

⁴¹ California Legislative Analyst’s Office, [How much does it cost to incarcerate an inmate?](#) (2021-2022) (as of Jan. 20, 2023).

⁴² Jensen, [Community reentry program for prisoners reduces recidivism](#) CalMatters (Sept. 23, 2021) (as of Jan. 20, 2023).

⁴³ Davis et al., [Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults](#) The RAND Corporation (2013) (as of Jan. 20, 2023).

⁴⁴ Death Penalty Representation Project, [California Adopts Report Recommending Death Penalty Abolition](#) Committee on Revision of the Penal Code (June 16, 2021) (as of Jan. 20, 2023).

⁴⁵ *Ibid.*

⁴⁶ ACLU, [The Case Against the Death Penalty](#) (2012) (as of Jan. 20, 2023).

⁴⁷ *Ibid.*

⁴⁸ Governor’s Exec. Order No. N-09-19 (March 13, 2019).

⁴⁹ Assem. Const. Amend. No. 2 (2021—2022 Reg. Sess.).

⁵⁰ Death Penalty Information Center, [States with and without the death penalty – 2021](#) (2023) (as of Jan. 20, 2023).

Notwithstanding the steps California has taken to get out of the private prison business, the State remains heavily invested in backing for-profit correctional services, including facilities that closely resemble the private prisons the State has sought to move away from funding.⁵¹ The Task Force recommends eliminating one major state funding stream to private prison companies by barring state-funded contracts with for-profit correctional companies for the provision of reentry services.

Chapter 20

III. RACIAL TERROR

This section details policy proposals to address harms set forth in Chapter 3, Racial Terror, of the Interim Report.

- Establish and Fund Community Wellness Centers in Black Communities
- Fund Research to Study the Mental Health Issues within California's Black Youth Population, and to Address Rising Suicide Rates among Black Youth
- Expand the Membership of the Mental Health Services Oversight and Accountability Commission (MHSOAC) and Require the Appointment of an Expert in Reducing Disparities in Mental Health Care Access and Treatment to the MHSOAC
- Fund Community-Driven Solutions to Decrease Community Violence at the Family, School, and Neighborhood Levels
- Proposals to Address Discrimination, Harassment, and Violence Against Black Californians Who Identify or Appear as LGBTQ+ and to Reduce Disparities in Mental Health and Health Care Outcomes for Black members of the LGBTQ Community.
- Implement Procedures to Address the Over-diagnosis of Emotional Disturbance Disorders, Including Conduct Disorder, in Black Children
- Proposals to Disrupt the Mental Health Crisis and County Jail Cycle
- Eliminate Legal Protections for Peace Officers Who Violate Civil or Constitutional Rights
- Assess and Remedy Racially Biased Treatment of Black Adults and Juveniles in Custody in County Jails, State Prisons, Juvenile Halls, and Youth Camps

A. Establish and Fund Community Wellness Centers in Black Communities

As discussed in Chapter 3 of Part II of this Report, throughout the history of the United States, racial terror has played a critical role in reinforcing the caste structure that was established during slavery. Enslavement was followed by decades of violence and intimidation intended to subordinate formerly enslaved people and their descendants across the United States.⁵² Racial terror, especially lynchings and the threat of lynching, pervaded every aspect of

⁵¹ Soriano, [Private prison firms make big money in California](#), Capitol Weekly (Dec. 13, 2021) (as of Jan, 24, 2023).

⁵² Interim Report Chapter 3 at p. 94.

Black life during and after slavery.⁵³ “California is no exception; the state, its local governments, and its people have played a significant role in enabling racial terror and [allowing] its legacy to persist here in California.”⁵⁴

In addition to physical assault, threats of injury, and destruction of property, racial terror inflicts psychological trauma on those who witness the harm and injury.⁵⁵ Black people continue to experience the effects of trauma induced by racial terror today.⁵⁶ That trauma manifests as heightened suspicion and sensitivity to threat, chronic stress, decreased immune system functioning, and an increased risk for depression, anxiety, and substance use.⁵⁷

Despite a significant need for mental health interventions to address the effects of historical and current racial trauma, Black Californians experience a range of mental health disparities.⁵⁸ Driving these disparities are problems of access, quality of care, misdiagnosis, inadequate research, and poorer mental health outcomes.⁵⁹ Further, due to the lack of prevention and early intervention programs (PEIs) that prevent serious mental illness in adults, African Americans are more likely to have their first contact with the mental health system through a hospital emergency room or the criminal justice system.⁶⁰ For Black children, PEIs are also lacking, resulting in African American children being over-diagnosed with emotional disturbance disorders.⁶¹

Additional barriers include stigma within the community associated with seeking mental health treatment and distrust of the mental health system, which stems from the discrimination that Black Californians have experienced when they have sought treatment.⁶² The lack of licensed Black mental health professionals or culturally congruent mental health professionals who can provide effective services to California’s Black residents increases that distrust.⁶³

The Task Force recommends that the Legislature enact legislation to establish and fund Community Wellness Centers (CWCs) within historically African American neighborhoods and in other communities in each city and county where significant numbers of African Americans reside. These CWCs would serve three functions:

⁵³ Interim Report Chapter 3 at p. 94.

⁵⁴ Interim Report Chapter 3 at p. 119.

⁵⁵ Interim Report Chapter 3 at p. 119.

⁵⁶ Interim Report Chapter 3 at p. 118.

⁵⁷ Interim Report Chapter 3 at p. 118.

⁵⁸ Cal. Pan-Ethnic Health Network, [Existing Disparities in California’s System of Specialty Mental Health Care](#) (2019) (as of Nov. 29, 2022).

⁵⁹ [California Reducing Disparities Project: African American Population Report “We Ain’t Crazy. Just Coping With a Crazy System” Pathways into the Black Population for Eliminating Mental Health Disparities](#) (2012) p. 28. (as of Nov. 29, 2022).

⁶⁰ *Ibid.*

⁶¹ *Id.* at p. 91.

⁶² *Id.* at p. 50.

⁶³ Barriers to mental health care in Black communities include lack of providers from diverse racial/ethnic backgrounds, lack of culturally competent providers, and general distrust of the health care system. Am. Psychiatric Assn., [Mental Health Disparities African Americans](#) (2017) p. 3 (as of Nov. 29, 2022); see also Boris Lawrence Henson Foundation, [African American Cultural Competency Training](#) (as of Nov. 29, 2022).

First, the CWCs would serve as a source for educating the community about mental health to remove the stigma from experiencing mental health issues and seeking treatment. The CWCs would collaborate with religious leaders, who have traditionally served as a mental health resource for members of their communities,⁶⁴ and with community-based organizations (CBOs) to educate community members on mental health issues. The CWCs would also partner with CBOs to offer programs on parenting, processing grief and loss, substance abuse, and intimate partner violence (IPV).

Second, the CWCs would provide PEI mental health programs that are supported by community-defined evidence practices (CDEPs).⁶⁵ The programs would focus on trauma-informed services anchored in addressing racial stress and trauma. Examples of CDEPs include support groups and healing circles.⁶⁶ Support groups and healing circles are examples of CDEPs practices that have been used by the African American community to address stress from racial terror and trauma. These practices are rooted in a cultural perspective that has helped African Americans develop resilience in the face of historical and current racial terror and trauma.

In addition to communal practices like racial healing circles, the CWCs will also provide programming that focuses on instilling a positive racial identity in Black children, beginning as early as age three.⁶⁷ The development of a positive racial identity is a protective factor against racism. “Racial socialization and racial identity have been documented as culturally strength-based assets—resources that enhance adaptive coping—that are particularly important and protective for Black families.”⁶⁸ Specifically, a positive racial identity has been linked to higher resilience, self-efficacy, and self-esteem.⁶⁹ A recent study indicated that Black adolescents experienced 5.21 racist incidents on average per day, including in schools.⁷⁰ These experiences lead to short-term increases in depressive symptoms.⁷¹ Developing a positive racial and ethnic

⁶⁴ [African American Population Report](#), *supra*, at p. 31 (noting that about 10 percent of African Americans who develop behavioral disorders access services through churches).

⁶⁵ Community Defined Evidence Practices (CDEPs) are a set of practices found to yield positive results as determined by community consensus over time. These practices may or may not have been measured empirically (by a scientific process) but have reached a level of acceptance by the community. CDEPs take a number of factors into consideration, including a population’s worldview and historical and social contexts that are culturally rooted. It is not limited to clinical treatments or interventions. CDEPs are a complement to evidence based practices and treatments, which emphasize empirical testing of practices but often do not consider cultural appropriateness in their development or application. See, e.g., *id.* at Forward.

⁶⁶ The [Community Healing Network](#) (as of Nov. 29, 2022) developed a specific version of a racial healing circle called Emotional Emancipation Circles (EECs) in collaboration with The Association of Black Psychologists (ABPsi). EECs are “liberatory” spaces in which Black people share stories and deepen their understanding of the impact of historical forces on their sense of self-worth, their relationships, and their communities, while learning essential emotional wellness skills. *Ibid.*

⁶⁷ See White & Young, [Positive Racial Identity Development in Early Education: Understanding PRIDE in Pittsburgh](#) (2016) University of Pittsburgh School of Education p. 5 (noting that social biases in children begin to form as early as three to five years, with three-year-olds attributing more positive traits to the dominant societal race and five-year-olds attributing negative traits to non-dominant races) (as of Nov. 29, 2022).

⁶⁸ Carlo et al., [Culture-Related Adaptive Mechanisms to Race-Related Trauma Among African –American and US Latinx Youth](#) (2022) *J. Adversity and Resilience Science* (as of Nov. 29, 2022).

⁶⁹ [Positive Racial Identity Development in Early Education](#), *supra*, at p. 4.

⁷⁰ English et al., [Daily Multidimensional Racial Discrimination Among Black U.S. American Adolescents](#) (2020) *66 J. Applied Developmental Psych.* 1, 12 (as of Nov. 29, 2022).

⁷¹ *Ibid.*

identity has been shown to weaken the effects of both teacher discrimination and other daily discrimination.⁷²

In developing the programming, the CWCs would collaborate with CBOs that promote programs that foster positive racial identity in Black children, like cultural programs and visual and performing arts programs, to offer those programs at the CWCs. The programs would also have a parental education component to provide resources to help parents become more knowledgeable about the importance of fostering a positive racial identity and tools to do so at home. At a minimum, the programs should: 1) expose Black children to historical figures and information about Black Americans' accomplishments, capacities, values, and culture; 2) redefine and reframe the definitions of success, strengths, and accomplishments by not using standards and definitions based on Euro-American culture and worldview, i.e., measuring success in terms of family commitment, survival of the community, demonstration of spiritual and moral integrity, and the efficacy of civil rights efforts in combatting discrimination; and 3) expose Black children to Black people in positions of power and control, including those in other countries using film and other media.

In addition to providing PEI programming, the CWCs would also serve as community gathering spaces for cultural celebrations and other opportunities for the residents to be in community with one another, which is healing unto itself.

Third, the CWCs would serve as access points for screening and referrals to the appropriate level of care for both mental health and medical care. Each CWC would be staffed by a licensed mental health professional who is culturally congruent with the African American culture,⁷³ who would provide screening and appropriate referrals for people in the community, and who, if requested, would provide urgent mental health interventions. This would include screening for depression and suicide risk for children and adolescents, the group for whom suicide rates have increased the most. The licensed mental health professional would also have knowledge about PEIs, including those supported by CDEPs. This proposal would also require sufficiently increased funding for mental health services provided in traditional clinical settings, as well as outpatient and inpatient services, to absorb the increased referrals from the CWCs. County departments of mental health across the state would be required to provide CBOs with access to PEI resources at the county level, align county priorities with non-evidence based intervention opportunities, and provide annual accountability updates to demonstrate the extent to which the cultural and contextual needs of Black residents in their county are addressed.

The staff of the CWCs will also include a culturally congruent general medical provider and a culturally congruent health care advocate. A 2022 survey of Black Californians about their experiences with accessing medical care revealed that about one-third of the respondents experienced racial discrimination from a healthcare provider.⁷⁴ About one-fourth of respondents

⁷² [Positive Racial Identity Development in Early Education](#), *supra*, at p. 4; see also [Culture-Related Adaptive Mechanisms to Race-Related Trauma Among African –American and US Latinx Youth](#), *supra*.

⁷³ See [African American Cultural Competency Training](#), *supra*.

⁷⁴ Cummings, [Executive Summary Listening to Black Californians: How the Health Care System Undermines Their Pursuit of Good Health](#), Cal. Health Care Foundation (Oct. 2022) at p. 1 (as of Nov. 29); see also van Ryn and Burke, [The Effect of Patient Race and Socio-Economic Status on Physicians' Perceptions of Patients](#) (Mar. 2000) 50 Soc. Sci. Med. 813, 813-828 (describing a study that determined physicians tended to perceive African Americans and members of low and middle socioeconomic status groups more negatively on a number of

reported avoiding care because of concerns about being treated unfairly or disrespectfully when accessing medical care.⁷⁵ The respondents requested that the medical healthcare system implement several changes to improve care for Black Californians. Those improvements included increasing Black representation among health care leadership and the health care workforce, establishing more Black-led, community-based clinics, and expanding community-based education on how to navigate the health care system and advocate for quality care for Black Californians.⁷⁶

To address these concerns, the CWCs would be staffed by a medical provider who is culturally congruent with African American culture and would be able to screen adults and children for medical conditions, including those that may present as mental illness,⁷⁷ and refer them out for appropriate medical treatment. Further, each CWC would be staffed by a culturally congruent healthcare advocate or a medical social worker, who will assist members of the community in navigating the medical and mental health systems to ensure not only access, but also to provide advocacy when community members experience discrimination or otherwise do not receive respectful, proper care.⁷⁸ The Office of Health Equity (OHE), which is housed in the California Department of Public Health⁷⁹ would be required to collect data regarding the number of people using the medical screening and referral services at CWCs to assess whether there is a need for additional resources for a specific CWC or community.

B. Fund Research to Study the Mental Health Issues within California's Black Youth Population, and to Address Rising Suicide Rates among Black Youth.

Anxiety, depression, and suicide rates have been rising among Black children and teenagers in recent years.⁸⁰ The COVID-19 pandemic has only compounded these issues by disrupting the lives of adolescents and limiting their social activities.⁸¹ Sixty-two percent of Black teen girls said they need help for emotional and mental health problems such as feeling sad, anxious, or nervous, compared to 45% of all teen girls.⁸² The rates for suicide for Black children has also increased significantly when compared to the suicide rates for white children.

dimensions than they did white patients and patients of upper socioeconomic status; study also found that physicians assessed a patient's likelihood of adhering to medical advice based on the patient's race) (as of Nov. 29, 2022).

⁷⁵ [Executive Summary Listening to Black Californians: How the Health Care System Undermines Their Pursuit of Good Health](#), at p. 2.

⁷⁶ *Ibid.*

⁷⁷ Some medical illnesses and their associated medications have side effects that can "masquerade" as psychological disorders. See Magnani, [Psychological Masquerade: Physical Illness and Mental Health](#) (as of Nov. 29, 2022).

⁷⁸ See Welf. & Inst. Code, § 5830, subd. (c)(2) (authorizing funding for programs that promote advocacy for underserved populations including advocacy to improve access to mental health services); see also Cal. Health and Safety Code, § 131019.5 subd. (c)(2).

⁷⁹ Office of Health Equity [Information](#), (as of Jan. 23, 2023).

⁸⁰ Kamleiter, [Helping African American kids and teens with mental health](#) (Sept. 23, 2020) Children's Minnesota.

⁸¹ *Ibid.*; Abdi, [Bridging the Mental Health Care Gap for Black Children Requires a Focus on Racial Equity and Access](#) (May 31, 2022) Child Trends (hereinafter "Bridging the Mental Health Care Gap").

⁸² [A Child is a Child, Snapshot: California Children's Health, Black Children's Health](#) (Feb. 2022) The Children's Partnership (hereinafter "Black Children's Health").

Specifically, suicides rates among white children have dropped from the 1993-1997 to the 2008-2012 periods, but rates have steadily increased among Black elementary school-aged children.⁸³

Thirty-seven percent of elementary school-aged children who died by suicide were Black as were 12% of the early adolescents who died by suicide.⁸⁴ Between 2014 and 2020, the death-by-suicide rates among Black youth has doubled and is now twice the statewide average.⁸⁵ Almost one in four (22%) Black seventh graders has considered suicide — twice the rate of white students and the highest of any group in seventh grade.⁸⁶ As of 2018, suicide is the second

some cases, substance abuse are risk factors.⁹⁰ Multigenerational cultural trauma, community violence, adverse childhood experiences (“ACEs”), stress-response patterns, systemic and institutional violence, and bullying may also play a role.⁹¹ Compounding these issues are

Black youth are less likely than white youth to receive mental health treatment, even after a suicide attempt.⁹³ Combined with a risk of higher rates of misdiagnoses among Black people, psychiatric diagnostic tools that have explicitly racist origins, and a lack of sufficient Black medical professionals, many Black students understandably do not trust the American medical system, which may prevent them from seeking help for mental health issues.⁹⁴ Research also

Exposure to online

⁸³ Grills, et al., *Black Child Suicide: A Report* (Oct. 15, 2019) National Cares Mentoring Movement, p. 5

⁸⁴ Grills, et al., *Black Child Suicide: A Report* (Oct. 15, 2019) National Cares Mentoring Movement, p. 5.

⁸⁵ Black Children’s Health, *supra*, fn. **Error! Bookmark not defined.**

⁸⁶ *Ibid.*

⁸⁷ Gordon, [Addressing the Crisis of Black Youth Suicide](#) (2020) National Institute of Mental Health, (as of Jan. 23, 2023).

⁸⁸ Grills et al., [Black Child Suicide: A Report](#) (2019) National CARES Mentoring Movement p. 7 (as of Jan. 23, 2023).

⁸⁹ [Ring the Alarm: The Crisis of Black Youth Suicide in America](#), *supra*, at pp. 14-15.

⁹⁰ [Ring the Alarm: The Crisis of Black Youth Suicide in America](#), *supra*, at pp. 14-15.

⁹¹ Grills et al., [Black Child Suicide: A Report](#) (2019) National CARES Mentoring Movement p. 10, *supra*.

⁹² [Addressing the Crisis of Black Youth Suicide](#), *supra*.

⁹³ *Ibid.*

⁹⁴ Quirk, [Mental Health Support for Students of Color During and After the Coronavirus Pandemic](#) (Jul. 28, 2020) Center for American Progress (hereinafter “Mental Health Support for Students of Color”).

⁹⁵ Assari et al., [Discrimination Increases Suicidal Ideation in Black Adolescents Regardless of Ethnicity and Gender](#) (2017) 7 Behavioral Sciences 1, 6 (as of Jan. 23, 2023); see also Brooks et al., [Capability for Suicide: Discrimination As a Painful and Provocative Event](#) (2020) 50 Suicide Threat Behavior 1173, 1173-80 (research study determined that discrimination increased risk of suicide in Black adults.

racial traumatic events, such as police killings and videos of people being beaten, was associated with an increase in depression, post-traumatic stress symptoms, and suicide risk.⁹⁶

Existing research indicates that “[saving] the lives of Black children and youth [requires] greater investment in protective factors, including social and emotional supports . . . while simultaneously addressing structural racism; the social determinants of their health, mental health stigma, and help-seeking; and [providing] culturally tailored treatment opportunities.”⁹⁷ The following proposals provide a multi-prong approach to researching suicide risk and prevention strategies for Black youth and for addressing the overall mental health of Black youth.

The Task Force recommends that the Legislature amend the Mental Health Services Act (MHSA) to authorize the Office of Health Equity (OHE), which is housed in the California Department of Public Health, to establish and fund practice-based suicide prevention research centers throughout California to study suicide risk and prevention in Black youth. The National Institute of Mental Health (NIMH) issued a Notice of Special Interest to fund research focused on the risk and prevention of suicide in Black youth.⁹⁸ OHE is authorized by Health and Safety Code, section 131019.5 to lead the effort to reduce health and mental health disparities to vulnerable communities, including Black Californians. Like the NIMH, the OHE has the authority to direct and fund research on suicide and risk prevention in California, including specific research on suicide risk and prevention in Black youth. The Legislature can amend the MHSA to require that OHE establish and fund suicide risk and prevention research centers throughout California.

The Task Force recommends that the Legislature amend Title 5, Division 1, Chapter 2, subchapter 3 of the California Code of Regulations (Health and Safety of Pupils) to require mandatory annual screening for depression symptoms in all school children beginning in kindergarten. The American Academy of Pediatrics recommends the use of a self-report tool which includes items that screen for suicidal ideation and risk. A self-report tool designed to measure core depressive symptoms in children and adolescents can be used for initial screenings without requiring extensive testing for each child.⁹⁹ Black youth that are presenting with significant depression symptoms should be screened in addition to the mandatory screening required for all students. The guidelines for assessing depression symptoms in schools must note that there is a lack of cultural relevance in empirically-supported approaches to assessing

⁹⁶ [Ring the Alarm: The Crisis of Black Youth Suicide in America](#), *supra*, at p. 15 (citing Tynes et al., [Race-Related Traumatic Events Online and Mental Health Among Adolescents of Color](#) (2019) 65 J. of Adolescent Health 371, 376 (2019)).

⁹⁷ Grills et al., [Black Child Suicide: A Report](#) (2019) National CARES Mentoring Movement pp. 27-28, *supra*.

⁹⁸ [NOT-MH-20-055: Notice of Special Interest \(NOSI\) in Research on Risk and Prevention of Black Youth Suicide \(nih.gov\)](#)

⁹⁹ An example of a self-report tool is [The Short Mood and Feelings Questionnaire](#) (SMFQ), a 13-item self-report questionnaire designed to measure core depressive symptoms in children and adolescents aged 6-17 years old. One study found that children self-report tools were valid and reliable in screening children for depression. Reynolds et al., [Measuring Depression In Children: A Multimethod Assessment Investigation](#) (1985) 13 J. Abnorm Child Psych. 513, 513–526. In the same study, parent assessment tools were not found to be reliable. *Ibid*.

depression in Black children and adolescents, and that Black children and adolescents may express symptoms differently than other populations.¹⁰⁰

The Task Force recommends that the Legislature enact legislation to increase funding for counselors, social workers, and mental health professionals who are culturally congruent with African American culture at public schools throughout California to increase the support available to students. Relatedly, this proposal also recommends state funding for schools to provide “[s]paces and programming aimed at breaking down mental health stigma.”¹⁰¹ A recent study indicated that students are willing to seek help from school counselors, but a significant barrier to access is the limited availability of counselors.¹⁰² In expanding the number of counselors available at each school, the legislation also would require that sufficient funding be provided to schools with African American student populations so that those schools have the same counselor to student ratio as schools in the wealthiest school districts in California. To address and mitigate any stigma some students may experience in seeking help, care must be taken to allow those accessing mental health services to be inconspicuous.

The Task Force also recommends that the Legislature enact legislation to provide funding for confidential peer counseling and/or peer support groups in each school throughout California to help students who are struggling with depression or experiencing discrimination in the school, but may be reluctant to seek help from a school counselor. Studies indicate that peer counseling and peer support groups are beneficial to students experiencing depression.¹⁰³ More important, providing confidential peer support groups at school could be an important PEI protocol for those students at risk for suicide.¹⁰⁴

The Task Force recommends that the Legislature enact legislation to provide schools with additional funding to establish healing circles or sharing circles for African American students

¹⁰⁰ Rutgers University, [Depression In Black Adolescents Requires Different Treatment](#), Science Daily (Jan. 18, 2018) (as of Jan. 23, 2023).

¹⁰¹ This proposal directly incorporates some of the recommendations listed in a Center for American Progress report. (See Quirk, [Mental Health Support for Students of Color During and After the Coronavirus Pandemic](#) (Jul. 28, 2020) Center for American Progress (hereinafter “Mental Health Support for Students of Color”).)

¹⁰² McKinney et al., [Youth-Centered Strategies for Hope, Healing and Health](#) (May 2022) National Black Women’s Justice Institute and The Children’s Partnership p. 18 (as of Jan. 23, 2023).

¹⁰³ Group Cognitive Behavioral Therapy (G-CBT) and group interpersonal psychotherapy were both effective in reducing depressive symptoms in adolescents. Nardi et al. [Effectiveness Of Group CBT In Treating Adolescents With Depression Symptoms: A Critical Review](#) (Jan. 2016) Internat. J. Adolescent Medical Health (as of Jan. 23, 2023). “Successful G-CBT outcomes were related to the presence of peers, who were an important source of feedback and support to observe, learn, and practice new skills to manage depressive symptoms and improve social-relational skills.” *Ibid.*

¹⁰⁴ [Ring the Alarm: The Crisis of Black Youth Suicide in America](#), *supra*, at p. 24 (describing a successful peer-to-peer program at the University of Virginia, [Project Rise](#), which is focused on helping Black students on campus with a myriad of issues).

who may be experiencing discrimination at school.¹⁰⁵ Healing and sharing circles are examples of CDEPs¹⁰⁶ that have been shown to help Black people process racial trauma.

The Task Force recommends that the Legislature enact legislation to fund training in “anti-racist and trauma-informed mental health practices” for teachers and school personnel in public schools throughout California.¹⁰⁷

The Task Force recommends that the Legislature enact legislation to fund training for teachers and school personnel in social and emotional learning (“SEL”) programs to teach them SEL techniques to help students cope with their anxiety and emotions.¹⁰⁸

The Task Force recommends that the Legislature enact legislation to fund implementation of the University of California San Francisco (“UCSF”) HEARTS program or an equivalent program at high-need schools. “HEARTS is a whole-school, prevention and intervention approach that utilizes a multi-tiered system of supports (MTSS) framework to address trauma and chronic stress at the student level, staff level, and school organizational level.”¹⁰⁹

C. Expand the Membership of the Mental Health Services Oversight and Accountability Commission (MHSOAC) and Require the Appointment of an Expert in Reducing Disparities in Mental Health Care Access and Treatment to the MHSOAC

The MHSOAC is the body charged with overseeing the Mental Health System of Care Act for adults and older adults.¹¹⁰ The provision establishing the MHSOAC provides for 16 voting members.¹¹¹ One of the responsibilities of the MHSOAC is to develop strategies to overcome stigma and discrimination and to increase access to mental health services for underserved

¹⁰⁵ Mizock & Harkins, *Diagnostic Bias and Conduct Disorder: Improving Culturally Sensitive Diagnosis*. (2011) 32 Child & Youth Services, 243, 248.

¹⁰⁶ As explained *supra*, CDEPs are practices that a (historically marginalized) community has mutually agreed to be healing, though not typically empirically validated by Western standards. [Youth-Centered Strategies for Hope, Healing and Health](#), *supra*, at p. 21.

¹⁰⁷ Mental Health Support for Students of Color, *supra*.

¹⁰⁸ *See ibid.*

¹⁰⁹ [Program Overview](#), UCSF HEARTS, University of California San Francisco. Additionally, the stated goals of HEARTS include: (1) increasing student wellness, engagement, and success in school; (2) building staff and school system capacities to support trauma-impacted students by increasing knowledge and practice of trauma-informed classroom and school-wide strategies; (3) promoting staff wellness through addressing burnout and secondary traumatic stress; and (4) interrupting the school to prison pipeline through the reduction of racial disparities in disciplinary office referrals, suspensions, and expulsions. (*Ibid.*) To achieve these goals, HEARTS services include: (1) professional development training and consultation for school personnel and community partners; (2) workshops for parents/caregivers; and (3) individual psychotherapy for trauma-impacted students. (*Ibid.*)

¹¹⁰ Welf. & Inst. Code, § 5845, subd. (a).

¹¹¹ *Ibid.*

groups.¹¹² In 2017, Governor Brown vetoed legislation that would have added an expert in reducing mental health disparities to the MHSOAC.¹¹³

The MHSOAC acknowledged in 2022 that structural racism has caused racial disparities to persist in California’s mental health system.¹¹⁴ At its November 17, 2022, meeting, the MHSOAC approved its Racial Equity Plan, which is the MHSOAC’s “initial step” to address the demonstrated disparities in access to mental health services and disparities in treatment that result from structural racism.¹¹⁵

In this “initial step,” the MHSOAC states that it will solicit the help of subject-matter experts in identifying “best practices of policy research that address disparities” and in evaluating and modifying its Racial Equity Plan to meet its “racial equity vision.”¹¹⁶ The acknowledgement that the MHSOAC has to consult with outside experts on the issue of reducing disparities indicates that adding an expert in reducing mental health disparities to the MHSOAC is necessary to address issues of racial disparities.

The Task Force recommends that the Legislature reintroduce legislation to amend Welfare and Institutions Code section 5845, subdivision (a) to increase the number of voting members from 16 to 17. In addition, the Legislature would amend subdivision (a)(5) to require the Governor to appoint an expert in reducing disparities in access to mental health services for people of color and LGBTQ communities—including mental health disparities for the Black population—as a MHSOAC member. Appointing an additional member who has expertise in reducing disparities fits with the overall purpose of the MHSA.¹¹⁷ And doing so aligns with the Racial Equity Plan approved by the MHSOAC on November 17, 2022.¹¹⁸

D. Fund Community-Driven Solutions to Decrease Community Violence at the Family, School, and Neighborhood Levels in Black Communities

As detailed in Part II of the report, the racial terror inflicted on the Black community has influenced the use of violence within the community.¹¹⁹ As a result, Black communities experience violence at the family, school, and community levels. Exposure to violent crime damages “people’s health and development,” and pushes “communities into cycles of decay.”¹²⁰ And although rates of violent crime have declined significantly, Black communities are disproportionately affected by it.¹²¹ The data indicates that limited resources and “concentrated disadvantage” influences the rate of violence within a neighborhood.¹²² Concentrated

¹¹² Welf. & Inst. Code, §§ 5830, 5845, subd. (d)(8).

¹¹³ [Assem. Bill No. 850](#), vetoed by Governor, Oct. 2, 2017 (2017-2018 Reg. Sess.).

¹¹⁴ Mental Health Services Oversight and Accountability Commission Meeting November 17, 2022, [Meeting Agenda: Item 8](#), pp. 1-2 (as of Nov. 29, 2022).

¹¹⁵ *Id.* at pp. 3-5.

¹¹⁶ *Id.* at p. 5.

¹¹⁷ Welf. & Inst. Code, §§ 5830, 5845.

¹¹⁸ [Meeting Agenda: Item 8](#), *supra*, at pp. 2-5.

¹¹⁹ Interim Report Chapter 3 at p. 118.

¹²⁰ HUD USER, [Neighborhoods and Violent Crime](#) (2016) at *Highlights* (as of Nov. 29, 2022).

¹²¹ *Ibid.*

¹²² *Ibid.*

disadvantage is a sociological term used to describe neighborhoods or communities without critical resources, such as access to quality healthcare and education, and high percentages of residents who are poor.¹²³ Investing in programs that increase inclusion and belonging within the community, support education, help residents acquire skills, and increase access to jobs can reduce violent crime within neighborhoods.¹²⁴

The Task Force recommends that the Legislature enact legislation to establish and fund a state-funded grant program to fund community driven solutions to decrease community violence at the family, school, and neighborhood levels in Black communities. The grant program will award grants to community-based organizations CBOs that offer programs to address violence in historically Black communities and in communities where there is a significant Black population. The grant program would operate similarly to the Ready to Rise Program in Los Angeles and would provide sufficient funding to each program to ensure that the full panoply of services can be provided at the level needed. The Task Force recommends that the legislation the Legislature enacts require that the grant program prioritize funding for programs that use practices that are supported by CDEPs to focus on violence prevention within the youth population. Programs that promote socialization, emotional regulation techniques, and social and cultural competence in early-school-age children have been shown to reduce violence among youth.¹²⁵ These include programs that partner with schools to create a trauma-informed, safe, supportive, and equitable learning environment for everyone within the school community.¹²⁶

The legislation should also prioritize funding for programs that focus on youth empowerment by teaching skills in a variety of areas, including, but not limited to, computer coding, political advocacy, culinary arts, performing arts, and sports. Funding would be provided for equipment and transportation for all children, regardless of means, so that poverty would not serve as a barrier to participation nor as a source of stigma for children who may lack the resources to pay for equipment and supplies.

Programs that provide services to children and families who have been victims of violence or otherwise exposed to violence would also receive priority for grant funding.¹²⁷ One

¹²³ Carpiano et al., [Concentrated Affluence, Concentrated Disadvantage, and Children's Readiness for School: A Population-Based, Multi-Level Investigation](#) (2009) 69 *Social Science & Medicine* 420, 420-432 (as of Nov. 29, 2022).

¹²⁴ [Neighborhoods and Violent Crime](#), *supra*, at *Strategies from the Evidence*.

¹²⁵ [African American Population Report](#), *supra*, at p. 191.

¹²⁶ For an example, see the UCSF HEARTS program, an intervention program that is “largely aimed at school climate and culture change through building capacity of school personnel around implementing trauma-informed practices, procedures, and policies.” [Program Overview](#), Univ. of Cal., San Francisco (as of Nov. 29, 2022).

¹²⁷ Unaddressed exposure to violence, racism, and other adverse childhood experiences (ACEs) can lead to toxic stress, which can impede learning and lead to a host of other negative outcomes. See, e.g., Center on the Developing Child, Harvard University, [ACEs and Toxic Stress: Frequently Asked Questions](#) (as of Nov. 29, 2022). “[Y]outh with [traumatic experiences] have deficits in key areas of the [prefrontal cortex] responsible for cognitive control[,] attention, memory, response inhibition, and emotional reasoning—cognitive tools that may be necessary for learning.” Carrion and Wong, [Can Traumatic Stress Alter the Brain? Understanding the Implications of Early Trauma on Brain Development and Learning](#) (2012) 51 *J. Adolesc. Health* S23, S26 (as of Nov. 29, 2022). Trauma also affects areas of the brain responsible for concentration, goal-setting and long-term planning, and classroom behaviors. Wolpow et al., [The Heart of Learning and Teaching: Compassion, Resiliency, and Academic Success](#) (2009) p. 12 (as of Nov. 29, 2022).

example are peer-to-peer programs, which have demonstrated promise in helping victims of violence and their families heal from their experience.¹²⁸ The Task Force also recommends that the legislation specify that funding would be prioritized for CBOs that provide mental health support services, including PEI programs like healing circles,¹²⁹ peer-to-peer support groups,¹³⁰ and other practices supported by community-defined evidence to people residing within historically African American neighborhoods and in communities in each city and county where significant numbers of Black Californians live. The Task Force further recommends that the legislation not include a requirement that a client or customer have a mental health diagnosis to qualify for mental health support services under the grant program.

The Task Force recommends that the legislation also prioritize funding for programs with demonstrated success in gang prevention, gang intervention, and the disruption of gang violence, as well as programs that partner adults within the community with children to escort them along safe routes to and from school to avoid “hot spots,” areas in the community where gang activity is likely to take place.¹³¹ The Task Force also recommends that the legislation that establishes and funds the grant program also prioritize funding for programs that ameliorate the physical characteristics of neighborhoods that correlate to an increase in violence, including programs that invest in rehabilitation of structures and public spaces within neighborhoods to strengthen community connection.¹³² One research study indicated that the presence of commercial properties, vacant lots, and abandoned buildings correlate to an increase in violent crime.¹³³ For this reason, the Task Force recommends that funding is prioritized for programs and CBOs that focus on ameliorating these conditions within historically Black communities and in other communities where significant numbers of African Americans reside. This would include programs that invest in rehabilitation of structures and public spaces within neighborhoods to strengthen community connection.¹³⁴

¹²⁸ Bartone et al., [Peer Support Services for Bereaved Survivors: A Systematic Review](#) (2019) (as of Nov. 29, 2022) (“Of the 32 studies meeting all inclusion criteria, most showed evidence that peer support was helpful to bereaved survivors, reducing grief symptoms and increasing well-being and personal growth. Studies also showed benefits to providers of peer support, including increased personal growth and positive meaning in life.”).

¹²⁹ See e.g., The [Community Healing Network](#) Emotional Emancipation Circles (EECs), one form of healing circles developed in collaboration with The Association of Black Psychologists (ABPsi)

¹³⁰ Bartone et al., [Peer Support Services for Bereaved Survivors: A Systematic Review, supra](#) (2019) (as of Nov. 29, 2022)

¹³¹ Research suggests that “violent crime occurs in a small number of hot spots,” either particular street intersections or blocks. See *Neighborhoods and Violent Crime, supra*, at *Extent of Violent Crime*.

¹³² See Sharkey, *Uneasy Peace: The Great Crime Decline, The Renewal Of City Life, And The Next War On Violence* (2018) p. 144. Sharkey posits that the most fundamental change that took place in U.S. cities that led to a decline in violent crime was the reclaiming, and subsequent transformation, of public spaces, by local community organizations that provided social services and safe spaces for young people, created stronger neighborhoods, and confronted violence.

¹³³ Anderson et al., [Reducing Crime by Shaping The Built Environment With Zoning: An Empirical Study of Los Angeles](#) 161 U. Pa. L. Rev. (2013) 699, 721-723 (as of Nov. 29, 2022).

¹³⁴ See Sharkey, *Uneasy Peace: The Great Crime Decline, The Renewal Of City Life, And The Next War On Violence* (2018) p. 144. Sharkey posits that the most fundamental change that took place in U.S. cities that led to a decline in violent crime was the reclaiming, and subsequent transformation, of public spaces, by local community organizations that provided social services and safe spaces for young people, created stronger neighborhoods, and confronted violence.

E. Address Discrimination and Victimization of Black LGBTQ Youth and Adults, to Reduce Economic Disparities for the Black LGBTQ Population, and to Reduce Disparities in Mental Health and Health Care Outcomes for Black LGBTQ Adults and Youth

Black people who identify as LGBTQ¹³⁵ or Same Gender Loving (SGL)¹³⁶ live at the intersection of multiple forms of discrimination, as anti-Blackness and anti-LGBTQ sentiment compound to result in a higher incidence of discrimination, harassment, and violence in every setting including schools, workplaces, the mental health system, and the health care system. The compounding effects of discrimination for Black LGBTQ individuals are reflected in the gaps in education,¹³⁷ economic advancement, police interactions, and mental and physical health outcomes.¹³⁸ Not only do the outcomes for Black LGBTQ individuals lag behind those for white people but also behind outcomes for Black people who are non-LGBTQ.

Black LGBTQ Youth

The educational system in particular has been hostile to LGBTQ youth.¹³⁹ One study of a national survey of Black LGBTQ students found that the majority of Black LGBTQ students felt unsafe at school because of their sexual orientation while 30% felt unsafe because of their race.¹⁴⁰ Transgender and gender non-conforming Black students experienced greater levels of harassment than their cisgender LGBTQ peers.¹⁴¹ Because of the harassment they experienced, nearly a third of Black LGBTQ students surveyed missed at least one day of school in the previous month because they felt unsafe.¹⁴² The harassment and victimization Black LGBTQ

¹³⁵ Traditionally, LGBTQ stood for Lesbian, Gay, Bisexual, Transgender, and Queer community. Some sectors of the LGBTQ community use Q to refer to “Questioning” and others use it to refer to “Queer.” (Mikalson et al., *First, Do No Harm: Reducing Disparities for Lesbian, Gay, Bisexual, Transgender, Queer and Questioning Populations in California*, The California LGBTQ Reducing Mental Health Disparities Population Report (2012).)

¹³⁶ Same-Gender Loving (SGL) is an alternative term used by some African Americans to describe their sexual orientation because they view the terms “gay” and “lesbian” as primarily white terms. “Same-sex loving” is also used. (Douglas and Turner, [How Black Boys Turn Blue: The Effects of Masculine Ideology on Same-Gender Loving Men – Psychology Benefits Society](#) Psychology Benefits Society (April 20, 2017).

¹³⁷ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. xvii

¹³⁸ Mahowald, Black LGBTQ Individuals Experience Heightened Levels of Discrimination, (Jul. 13, 2021) Center for American Progress.

¹³⁹ Black LGBTQ students experienced verbal harassment, physical harassment, and physical assault at school. (GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) pp. 13-15.)

¹⁴⁰ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) pp. xvi; 13

¹⁴¹ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 15

¹⁴² GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) pp. 13-

students experienced resulted in “lower levels of school belonging, lower educational aspirations, and greater levels of depression.”¹⁴³

Research also suggests that Black students in general are disproportionately disciplined at school and that Black LGBTQ students are at an even greater risk for being disciplined inappropriately or disproportionately.¹⁴⁴ Black LGBTQ students who attended majority Black schools were more likely to experience “out-of-school discipline” than Black LGBTQ students at majority white schools.¹⁴⁵ One study indicated that Black LGBTQ students were subject to school discipline even when they were being victimized.¹⁴⁶ And Black LGBTQ students also experienced discipline based on discriminatory school policies like being prevented from using their preferred name or pronouns, using the restroom or locker room that aligned with their gender identity, expressing public displays of affection, or prevented from starting a Gay-Straight Alliance (GSA) student organization at their school.¹⁴⁷

Despite the levels of harassment and discrimination experienced because of their LGBTQ status and race, there are few school resources available for Black LGBTQ students. When these students complain to teachers and school personnel about being assaulted or harassed, the response is often for the students to just “ignore it.”¹⁴⁸ Although there is evidence that GSAs allowed LGBTQ students to feel more connected to their schools and improve the overall climate of a school for LGBTQ students,¹⁴⁹ LGBTQ students at majority Black schools were less likely to have access to a GSA.¹⁵⁰ Less than half of the Black LGBTQ students who responded to a 2017 school climate survey reported having a supportive school administration.¹⁵¹ The lack of supportive resources in majority Black schools could be traced to a lack of funding given that Black schools have disproportionately low levels of funding compared to majority white schools.¹⁵²

LGBTQ students who experienced an unsupportive and unsafe school environment, one in which they experience both homophobic and racist harassment, had poorer academic outcomes and decreased psychological well-being.¹⁵³ These negative effects reverberate beyond

¹⁴³ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 15

¹⁴⁴ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 23

¹⁴⁵ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 24

¹⁴⁶ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 25

¹⁴⁷ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 25

¹⁴⁸ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 18

¹⁴⁹ Centers for Disease Control and Prevention, [Protective Factors for LGBTQ Youth](#) (2019)

¹⁵⁰ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 26.

¹⁵¹ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 30

¹⁵² GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. 38

¹⁵³ See GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) pp. 20, 37

high school. Many do not plan on pursuing college or other post-secondary education.¹⁵⁴ And many experience greater levels of depression.¹⁵⁵

Black LGBTQ youth are in a mental health crisis. In a recent survey, 44% percent of Black LGBTQ youth and 59% of Black transgender nonbinary¹⁵⁶ youth reported that they considered suicide in the previous 12 months. Twenty-five percent of transgender or non-binary youth reported attempting suicide in the same period.¹⁵⁷

Black LGBTQ youth experience higher rates of victimization than non-LGBTQ Black youth, with transgender and non-binary youth experiencing higher rates of victimization than their LGBTQ cisgender peers.¹⁵⁸ Seventy-seven percent have felt discriminated against because of their gender identity compared to 56% of their Black lesbian, gay, bi and queer peers.¹⁵⁹ Forty percent have been physically threatened or harmed because of their identity.¹⁶⁰ And although a key factor in suicide prevention is social support from family members, Black transgender and nonbinary youths were “far less likely than their Black lesbian, gay, bi and queer peers to receive it.”¹⁶¹

Research indicates that Black youth are less likely than white youth to receive outpatient mental health treatment, even after a suicide attempt.¹⁶² In a survey conducted by the Trevor

¹⁵⁴ GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. xviii

¹⁵⁵ See GLSEN and the National Black Justice Coalition, [Black LGBTQ Youth in U.S. Schools](#) (2020) p. xvii

¹⁵⁶ People who identify as Nonbinary do not identify their gender as man or woman. Gender Nonconforming means that an individual’s physical appearance or behaviors do not align with a specific gender. ([CDC Adolescent and School Health: Terminology](#))

¹⁵⁷ Ramirez, A 'Crisis': 1 in 4 Black Transgender, Nonbinary Youths Attempted Suicide in Previous Year, Study Finds, USA Today (Feb. 28, 2023).

¹⁵⁸ Ramirez, A 'Crisis': 1 in 4 Black Transgender, Nonbinary Youths Attempted Suicide in Previous Year, Study Finds, USA Today (Feb. 28, 2023).

¹⁵⁹ Ramirez, A 'Crisis': 1 in 4 Black Transgender, Nonbinary Youths Attempted Suicide in Previous Year, Study Finds, USA Today (Feb. 28, 2023).

¹⁶⁰ Ramirez, A 'Crisis': 1 in 4 Black Transgender, Nonbinary Youths Attempted Suicide in Previous Year, Study Finds, USA Today (Feb. 28, 2023).

¹⁶¹ Ramirez, A 'Crisis': 1 in 4 Black Transgender, Nonbinary Youths Attempted Suicide in Previous Year, Study Finds, USA Today (Feb. 28, 2023).

¹⁶² Gordon, [Addressing the Crisis of Black Youth Suicide](#) (2020) National Institute of Mental Health, (as of Jan. 23, 2023)

¹⁶³ Price-Feeney, Green, & Dorison, [All Black Lives Matter: Mental Health of Black LGBTQ Youth Trevor Project](#) (2020) Trevor Project p. 10.

¹⁶⁴ Price-Feeney, Green, & Dorison, [All Black Lives Matter: Mental Health of Black LGBTQ Youth Trevor Project](#) (2020) Trevor Project p. 10.

concerns around parental permission.¹⁶⁵ Black transgender and nonbinary youth cited concerns with finding an LGBTQ competent provider and previous negative experiences with providers as reasons for not obtaining care.¹⁶⁶ Other reasons Black LGBTQ youth did not access mental health care included issues related to trust, fear, and ineffectiveness of potential treatment.¹⁶⁷

To address the issues facing Black LGBTQ youth in education and mental health, the Task Force recommends that the Legislature enact the following pieces of legislation.

First, the Task Force recommends that the Legislature enact legislation to require the Department of Education to develop an effective anti-bullying and anti-harassment model policy for all ages and grade levels that is anti-racist and LGBTQ-inclusive. The policy should specifically include language that addresses race, ethnicity, sexual orientation, perceived sexual orientation, gender, gender identity, and gender expression. It is further recommended that the Legislature require the Department of Education to develop an evidence-based model policy for all ages and grade levels to address physical bullying and social bullying. The legislation also should require local school agencies and school districts to adopt and implement the model policies developed by the Department of Education and provide reimbursement for costs associated with implementing the policies.

The Task Force recommends that the Legislature enact legislation requiring all public school personnel, staff, and administrators statewide to receive training to increase cultural competence and cultural sensitivity around the treatment of students perceived to be LGBTQ, Black LGBTQ students, Black students, and personnel and staff who identify as LGBTQ. The training should focus on the specific health and safety of each sub-group within the LGBTQ community and intersecting identities.¹⁶⁸

The Task Force also recommends that the Legislature enact legislation requiring public school districts to fund and approve a GSA at the school if at least one student requests

¹⁶⁵ Price-Feeney, Green, & Dorison, [All Black Lives Matter: Mental Health of Black LGBTQ Youth Trevor Project](#) (2020) Trevor Project p. 10.

¹⁶⁶ Price-Feeney, Green, & Dorison, [All Black Lives Matter: Mental Health of Black LGBTQ Youth Trevor Project](#) (2020) Trevor Project p. 10.

¹⁶⁷ Price-Feeney, Green, & Dorison, [All Black Lives Matter: Mental Health of Black LGBTQ Youth Trevor Project](#) (2020) Trevor Project p. 10.

¹⁶⁸ LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at p. 177

¹⁶⁹ The Centers for Disease Control identified GSAs as a protective factor for LGBTQ youth. ([Protective Factors for LGBTQ Youth.](#))

To increase school connectedness and address depression, the Task Force also recommends that the Legislature enact legislation to fund peer-to-peer group programs and healing circles within public schools throughout California for Black LGBTQ youth.

To address the mental health crisis that is currently facing Black LGBTQ youth, the Task Force recommends that the Legislature pass a resolution stating that Black transgender and nonbinary youth suicide is a public health crisis and enact legislation to fund state-wide research on the issue of suicide risk and prevention in LGBTQ youth, including Black transgender and Black nonbinary youth. The Task Force recommends that the legislation funding the research also require that the Office of Health Equity (OHE), which is housed in the California Department of Health, collect data on suicide in Black LGBTQ youth in California. The legislation should also provide funding to support a public media campaign to disseminate the data the OHE collected and the results of the research conducted to educate Black communities on the protective factors research shows lowers the risk of suicide for Black LGBTQ youth.¹⁷⁰

The Task Force also recommends that the Legislature enact legislation to provide funding for public health campaigns and public education campaigns, which rely on trusted voices trusted by Black LGBTQ youth, to promote mental health wellness and provide information on accessing mental health care within historically Black communities, schools, churches, and in other spaces where Black LGBTQ youth gather.¹⁷¹

To address disparities in mental health for Black LGBTQ youth, the Task Force recommends that the Legislature enact legislation to increase funding to expand publicly-funded mental health treatment programs for Black LGBTQ youth. In addition, funding should be provided for community-based organizations (CBOs) that are providing mental health treatment services in historically Black communities or have served the Black LGBTQ youth population. Funding should also be included in the legislation to fund the collection of demographic data by the publicly-funded mental health treatment programs and CBOs for the population served disaggregated by age, race, gender, and sexual orientation.

Because research indicates that a significant number of Black LGBTQ youth who want to access confidential mental health care without a parent's permission are unable to, the Task Force recommends that the Legislature enact legislation that will allow mental health providers to treat Black LGBTQ youth under age 18, who may otherwise not receive care because parental permission is required.¹⁷²

A significant number of Black LGBTQ youth were unable to access mental health care because they were unable to find a Black mental health provider or a provider that specialized in working with Black LGBTQ youth. The Task Force, therefore, recommends that the Legislature create and fund recruitment programs in California that recruit diverse candidates for Ph.D. and PsyD psychology programs and professional counselors and therapists training programs committed to serving Black LGBTQ youth and adults in historically Black communities and in

¹⁷⁰ All Black Lives Matter [Trevor Project](#) p. 17

¹⁷¹ Breaking Barriers [Trevor Project](#) pp. 21-22

¹⁷² Breaking Barriers [Trevor Project](#) p. 20

other communities where a significant number of Black people reside. The Task Force also recommends that the Legislature include funding in the legislation for cultural competence and anti-racist training for all candidates in the program. That training would include, at a minimum, training protocols on examining and challenging a mental health professional's personal biases and understanding the role racial bias and heterosexual bias and oppression play in causing and exacerbating the mental health concerns that impact Black LGBTQ youth and caused that population to seek therapy.¹⁷³ The Task Force further recommends that the Legislature include adequate funding for the programs to collect and disseminate data disaggregated by race, gender, age, and sexual orientation of the candidates who were admitted into these programs, successfully matriculated through the programs, and are providing mental health services to Black LGBTQ youth after graduating.

The Task Force recommends that the Legislature enact legislation requiring annual competence and cultural sensitivity training that certifies that a mental health professional is certified to work with culturally diverse populations, including specifically, Black youth and Black LGBTQ youth.¹⁷⁴

Black LGBTQ Adults

The difficulties Black LGBTQ people face extend to the workplace. Studies indicate that LGBTQ individuals experience high rates of discrimination and harassment in hiring practices and in the workplace.¹⁷⁵ For example, studies have shown that employers are less likely to reach out to perceived LGBTQ job candidates for interviews.¹⁷⁶ Seventy-eight percent of Black LGBTQ individuals who responded to a survey conducted by the Center for American Progress in 2020 reported that discrimination affected their ability to be hired.¹⁷⁷ For white LGBTQ individuals, that number was 55%.¹⁷⁸ Even when they were hired, racism and heterosexism affected the ability of 56% of Black LGBTQ individuals to maintain their jobs.¹⁷⁹

As detailed in Part II and Part V of the Report, the income disparity between Black and white Californians is significant. The income disparity is worse for Black LGBTQ adults. "Across all economic indicators ... Black LGBTQ adults have a lower economic status than

¹⁷³ Breaking Barriers [Trevor Project](#) p. 21

¹⁷⁴ LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at p. 176

¹⁷⁵ Mahowald, *Black LGBTQ Individuals Experience Heightened Levels of Discrimination*, (Jul. 13, 2021) Center for American Progress.

¹⁷⁶ Mahowald, *Black LGBTQ Individuals Experience Heightened Levels of Discrimination*, (Jul. 13, 2021) Center for American Progress.

¹⁷⁷ Mahowald, *Black LGBTQ Individuals Experience Heightened Levels of Discrimination*, (Jul. 13, 2021) Center for American Progress.

¹⁷⁸ Mahowald, *Black LGBTQ Individuals Experience Heightened Levels of Discrimination*, (Jul. 13, 2021) Center for American Progress.

¹⁷⁹ Mahowald, *Black LGBTQ Individuals Experience Heightened Levels of Discrimination*, (Jul. 13, 2021) Center for American Progress.

Black non-LGBTQ adults.”¹⁸⁰ For example, Black LGBTQ adults have higher unemployment rates compared to Black non-LGBTQ adults.¹⁸¹ According to one study in 2017, 39% of Black LGBTQ adults in the United States had a household income of less than \$24,000 a year compared to 33% of Black non-LGBTQ adults.¹⁸² And more Black LGBTQ adults live in low-income households¹⁸³ than Black non-LGBTQ women.¹⁸⁴

Disparities in outcomes for LGBTQ Black individuals exist in the mental health and healthcare systems as well. “Consistent discrimination takes a significant toll on individuals’ mental and physical health. Physiologically, harassment and mistreatment have been shown to lead to cortisol dysregulation, which affects a wide range of bodily functions. As a result, Black LGBTQ individuals often experience mental and physical health challenges.”¹⁸⁵

Both Black LGBTQ men and Black LGBTQ women are more likely to have been diagnosed with depression than Black non-LGBTQ men and women.¹⁸⁶ Black lesbians have a higher rate of suicide than other LGBTQ groups.¹⁸⁷ But are less likely to seek out traditional professional mental health help than their white counterparts.¹⁸⁸ Black transgender youth are also in a mental health crisis. “One in 4 Black transgender or nonbinary youths attempted suicide in the previous year, a figure more than twice the rate of their Black cisgender peers.”

¹⁸⁰ Choi et al., [Black LGBT Adults In The US: LGBT Well-Being At The Intersection Of Race](#) (2021) U.C.L.A. Law Williams Inst. 16

¹⁸¹ Choi et al., [Black LGBT Adults In The US: LGBT Well-Being At The Intersection Of Race](#) (2021) U.C.L.A. Law Williams Inst. 16

¹⁸² Choi et al., [Black LGBT Adults In The US: LGBT Well-Being At The Intersection Of Race](#) (2021) U.C.L.A. Law Williams Inst. 16

¹⁸³ Low income is defined as reporting an income household size ratio at or below the 200% federal poverty level (FPL).

¹⁸⁴ Choi et al., [Black LGBT Adults In The US: LGBT Well-Being At The Intersection Of Race](#) (2021) U.C.L.A. Law Williams Inst. 16

¹⁸⁵ Mahowald, Black LGBTQ Individuals Experience Heightened Levels of Discrimination, (Jul. 13, 2021) Center for American Progress.

¹⁸⁶ Choi et al., [Black LGBT Adults In The US: LGBT Well-Being At The Intersection Of Race](#) (2021) U.C.L.A. Law Williams Inst. 18

¹⁸⁷ LGBTQ Reducing Disparities Project, First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California (2012) at p. 54

¹⁸⁸ LGBTQ Reducing Disparities Project, First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California (2012) at p. 54

¹⁸⁹See LGBTQ Reducing Disparities Project, First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California (2012) at pp. 159-160.

harmed at every stage in the mental health system including referral, history-taking and assessment, and the intervention process.¹⁹⁰ In one survey, Black LGBTQ clients reported that they were very dissatisfied with the treatment they received across a range of issues including race and ethnicity concerns, trauma, sexual orientation concerns, and grief.¹⁹¹ Black LGBTQ individuals indicated that providers did not know how to help with their sexual orientation concerns or inappropriately focused on their sexual orientation when that was not the reason they sought treatment.¹⁹² Some respondents to the survey also reported that their mental health provider made negative comments about their gender identity/expression.¹⁹³ Another barrier to

Doctors often lack awareness of LGBTQ patients' needs as well, in large part because more than half of medical school curricula do not provide information about the health issues and treatment of LGBTQ people beyond work related to HIV. This leaves Black LGBTQ people facing compounded forms of stigma at the doctor's office, and they often encounter substandard care, harsh language, and even physical mistreatment. In a recent survey conducted by the Center for American Progress, 15 % of Black LGBTQ people reported some form of negative or discriminatory treatment from a doctor or healthcare provider in the previous year. Fourteen percent of Black LGBTQ people reported that they had to teach their doctor about their sexual orientation to get appropriate care. Seven percent reported that a doctor refused to see them because of their sexual orientation, and 11% reported that the doctor who treated them "was visibly uncomfortable" because of the patient's sexual orientation.

To address the discrimination against Black LGBTQ individuals in hiring and retention that directly impacts their economic outcomes the Task Force recommends that the Legislature amend SB 993, which requires all employers in California with at least 100 employees to file an annual payee data record showing the number of employees by race, ethnicity, and sex in specified job categories, to require all employers to include the sexual orientation of each

¹⁹⁰ See LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at p. 55

¹⁹¹ LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at p. 161-162.

¹⁹² LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at pp. 160-161.

¹⁹³ LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at p. 161.

¹⁹⁴ See LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at p. 159.

employee in the specified category as well. The employee would provide that information voluntarily and the employer will be required to collect and store the demographic data separately from the employee's personnel records. The Task Force further recommends that Legislature also require the companies to provide data by race, sex, ethnicity, and sexual orientation for each employee promoted or advanced within the reporting period. The Task Force recommends that the Legislature enact legislation requiring each employer with at least 100 employees to submit to the California Department of Fair Employment and Housing (DFEH) a data record showing the number of positions within the company by race, ethnicity, sex, and sexual orientation. The companies would be required to include information for unselected applicants as well.

To assist Black LGBTQ employees who are terminated from positions, the Task Force recommends that the Legislature enact legislation to provide funding to community-based organizations that provide free job training services, job counseling, and free continuing education classes to Black LGBTQ individuals who were terminated from their positions. It is also recommended that the Employment Development Department include on its provider list job services providers who provide job services and training to Black LGBTQ candidates.

To increase the number of medical and mental health providers treating Black LGBTQ individuals the Task Force recommends that the Legislature enact legislation to fund grant programs that provide scholarships and loan forgiveness to physicians and mental health professionals who provide services to Black LGBTQ residents in historically Black communities through medical clinics, mental health treatment programs, and community-based organizations that provide mental health services in Black communities.

and oppression play in causing and exacerbating the mental health concerns that impact Black LGBTQ individuals and caused that population to seek therapy.¹⁹⁵ The Task Force further recommends that the Legislature include adequate funding for the programs to collect and disseminate data disaggregated by race, gender, age, and sexual orientation of the candidates who were admitted into these programs, successfully matriculated through the programs, and are providing mental health services to Black LGBTQ individuals.

The Task Force recommends that the Legislature enact legislation requiring annual competence and cultural sensitivity training that certifies that a mental health professional is certified to work with culturally diverse populations, including specifically, Black LGBTQ

¹⁹⁵ Breaking Barriers [Trevor Project](#) p. 21

populations.¹⁹⁶ One example of a set of practices that would allow practitioners to develop cultural competency skills in working the Black LGBTQ population is the Gay Affirmative Practice model.¹⁹⁷ The model addresses six areas that could help strengthen overall competency. Those areas include the attitude of the provider toward LGBTQ identity, that is, whether the provider views same-gender sexual desires and behaviors as a normal variation in human sexuality. The provider's knowledge about the patient/client that is, whether the provider automatically assumes heterosexuality and understands the coming out process. And finally, the provider's skills in being able to assess and deal with their own heterosexual bias and homophobia.

F. Implement Procedures to Address the Over-Diagnosis of Emotional Disturbance Disorders, Including Conduct Disorder, in Black Children

Black children are two-to-three times more likely to receive a diagnosis of Emotional Disturbance (ED) in schools and be placed in special education classes than white students.¹⁹⁸ Black children are also 2.4 times more likely than white children to receive a Conduct Disorder diagnosis.¹⁹⁹ Historically, the adolescents who have been over-diagnosed with Conduct Disorder, a subset of ED, are “urban,” low-income, and Black.²⁰⁰ Research indicates that white children who exhibit comparable behaviors that would lead to a Conduct Disorder diagnosis in Black that are deemed more treatable.²⁰¹

they walked, and how they dressed.²⁰²

children for prison and contribute to the school-to-prison pipeline.”²⁰³ The majority of Black

¹⁹⁶ LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at p. 176

¹⁹⁷ LGBTQ Reducing Disparities Project, *First Do No Harm: Reducing Disparities for Lesbian Gay, Bisexual, Transgender, Queer and Questioning Populations in California* (2012) at p. 63

¹⁹⁸ [Lifting the Voices of Black Students Labeled with Emotional Disturbance: Calling All Special Education Researchers](#), *supra*, at p. 2.

¹⁹⁹ *Diagnostic Bias and Conduct Disorder: Improving Culturally Sensitive Diagnosis*, *supra*, at p. 245.

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

²⁰² Clark, [Conduct Disorders in African American Adolescent Males: The Perceptions That Lead to Over-diagnosis and Placement in Special Programs](#) (2007) 33 Ala. Counseling Ass'n J. 1, 2 (as of Jan. 20, 2023); [Lifting the Voices of Black Students Labeled with Emotional Disturbance: Calling All Special Education Researchers](#), *supra*, at p. 3.

²⁰³ [Lifting the Voices of Black Students Labeled with Emotional Disturbance: Calling All Special Education Researchers](#), *supra*, at p. 2.

students who receive special education services under a referral of ED drop out of school, and 73 percent of those students are arrested within five years of dropping out.²⁰⁴

Studies suggest that Black children misdiagnosed with ED or its subset, Conduct Disorder, may be suffering from other conditions, for example, underlying mood or anxiety disorders or Autism Spectrum Disorder (ASD).²⁰⁵

Conduct problems or concerning behaviors also may be responses to environmental stressors.²⁰⁶ The textual commentary at the end of the criteria list for Conduct Disorder or ED in the DSM-IV²⁰⁷ excludes the diagnosis if conduct problems are a response to environmental stressors.²⁰⁸

To address both the over-diagnosing of ED and underdiagnosing of other conditions like mood disorders or ASD in Black children, the Task Force recommends that the Legislature amend California's Special Education regulations, sections 300.301, 300.304-300.306, which govern evaluations under the Individuals with Disabilities Educational Act (IDEA), to require clinicians in California to evaluate first whether the behaviors a child is exhibiting are related to environmental stressors. Requiring consideration of the impact of environmental stressors on a child's behavior would ensure consistent application of the textual commentary to the diagnosis in the DSM-IV and minimize the risk of a Conduct Disorder misdiagnosis.

The Task Force also recommends that the Legislature amend the regulations to require that a clinician evaluate a child for ASD or mood disorders, for which early interventions and supports can be critical, and which are less stigmatizing than ED or Conduct Disorder. The regulations would require a clinician making a diagnosis to certify that assessments for environmental stressors, ASD, or other conditions were completed before the diagnosis of ED was made. Parents and children would be entitled to appropriate statutory remedies where this step is omitted in an initial evaluation.

To increase the cultural competence of clinicians who diagnose and treat children, the Task Force recommends that the Legislature enact legislation to require those clinicians to complete continuing education or training on conducting culturally sensitive diagnosis and treatment of conduct problems, as part of the state's licensing requirements.²⁰⁹ Currently, psychologists are required to take four hours in cultural diversity or social justice.²¹⁰ The continuing education requirement described in this proposal is more specific. The requirement would require culturally sensitive training in diagnosing and treating emotional disturbance disorders in children, including Black children, and would apply to all psychologists, psychiatrists, and other mental health professionals involved in diagnosing and treating children and adolescents. Consistent

²⁰⁴ *Ibid.*

²⁰⁵ *Diagnostic Bias and Conduct Disorder: Improving Culturally Sensitive Diagnosis*, *supra*, at p. 245; Rentz, [Black and Latino Children Are Often Overlooked When It Comes to Autism](#) (2018) NPR (as of Jan. 23, 2023).

²⁰⁶ *Diagnostic Bias and Conduct Disorder: Improving Culturally Sensitive Diagnosis*, *supra*, at p. 245.

²⁰⁷ The DSM-IV is the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders, the leading treatise for the classification, diagnosis, and treatment of mental disorders in the field of psychiatry. See [DSM History](#), Am. Psychiatric Assn. (as of Jan. 25, 2023).

²⁰⁸ *Diagnostic Bias and Conduct Disorder: Improving Culturally Sensitive Diagnosis*, *supra*, at p. 249.

²⁰⁹ *Id.* at pp. 248-249.

²¹⁰ See Cal. Bd. of Psychology Continuing Education Reporting Form, [Continuing Professional Development Reporting Form - California Board of Psychology](#) (as of Jan. 25, 2023).

with the need for additional training for clinicians who work with Black children, the Task Force recommends that the Legislature amend the MHSAs to mandate that the OHE provide grants to mental health treatment professionals' member organizations to implement training and continuing education programs for their members on how to conduct culturally sensitive diagnoses of ED disorders, including Conduct Disorder. The curriculum for the training would impart the need for clinicians to take into account the following considerations to ensure an accurate diagnosis: 1) an examination of the clinician's cultural biases, 2) information about a child's cultural background, 3) awareness of the cultural biases of any diagnostic assessment measures being used, and 4) careful differentiation of the client's culture and circumstances from a mental disorder.²¹¹

To ensure that the children who are appropriately placed in special education programs benefit from their placements, the Task Force also recommends that the Legislature enact legislation requiring the California Department of Education to revise the special education curriculum to include in the special education curriculum interventions that have been proven to be effective in helping students diagnosed with ED benefit from their special education placements.²¹² Three interventions that have been proven to be beneficial for children placed in special education programs include 1) providing quality teacher feedback, including verbal praise, 2) allowing flexibility in the completion of academic tasks, and 3) using behavioral staff

G. Proposals to Disrupt the Mental Health Crisis and County Jail Cycle in Black Communities

the Bureau of Justice Statistics shows that more than one quarter of people in jail met the threshold for serious psychological distress and more than a third had been told by a mental health professional that they have a mental illness.²¹⁶ One explanation for these findings is the

²¹¹ *Diagnostic Bias and Conduct Disorder: Improving Culturally Sensitive Diagnosis*, *supra*, at pp. 248-249.

²¹² Lukowiak, *Academic Interventions Implemented to Teach Students with Emotional Disturbance* (2009) J. Am. Academy of Special Ed. Professors 63, 70 (as of Jan. 25, 2023).

²¹³ *Ibid.*

²¹⁴ Vera Institute of Justice, *Incarceration Trends in California* (Dec. 2019) (as of Feb. 8, 2023); see also NAACP *Criminal Justice Fact Sheet* (2023) (noting that Black people nationally are incarcerated at five times the rate of white people) (as of Feb. 8, 2023).

²¹⁵ Franco, *Prevalence of Mental Illness in California Jails is Rising: An Analysis of Mental Health Cases 7 Psychotropic Medication Prescriptions, 2009-2019* (Feb. 2020) Cal. Health Policy Strategies LLC p. 3; see also Collier, *Incarceration Nation* American Psychological Association Monitor on Psychology (Oct. 2014) (as of Feb. 8, 2023).

²¹⁶ Bronson & Berzovsky, *DOJ Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12 U.S.* Dept. of Justice Bureau of Justice Statistics (June 2017) pp. 4-5.

use of police and the criminal justice system as a response to mental health crises.²¹⁷ Oftentimes, police are involved in responding to mental health emergencies, with resulting incarceration and in many instances also use of force, where mental health professionals would have been better suited to address the situation.²¹⁸

Although Black people are more likely to be involved in the criminal justice system, there is evidence that, once incarcerated, they are less likely to be identified as having a mental health problem and are less likely to receive treatment.²¹⁹ Evidence shows that the mental health screening tools used in jails reproduce disparities, resulting in fewer Black people screening positive for mental health conditions and being referred to services to address their mental health needs.²²⁰ Once released, formerly incarcerated people are nearly 10 times more likely to be homeless,²²¹ which can significantly worsen mental health conditions.

services being provided to individuals who are experiencing behavioral health emergencies,²²³ the Task Force recommends that the Legislature enact legislation to require and fund the

²¹⁷ Scully, [Criminal Justice Reform Means Reforming the Mental Health System](#) National Alliance on Mental Illness Blog (March 5, 2021) (as of Feb. 8, 2023); see also Collier, [Incarceration Nation](#) American Psychological Association Monitor on Psychology (Oct. 2014) (as of Feb. 8, 2023).

²¹⁸ Watson et al., [Police Reform From the Perspective of Mental Health Services and Professionals: Our Role in Social Change](#) (2021) Vol. 72, Issue 9 Psychiatric Services pp. 1085-1086 (American Psychiatric Association) <<https://ps.psychiatryonline.org/doi/epdf/10.1176/appi.ps.202000572>>(as of Feb. 8, 2023); see Rafla-Yuan et al., [Decoupling Crisis Response from Policing — A Step Toward Equitable Psychiatric Emergency Services](#) (2021) N. Engl. J. Med. pp. 1769-1771 (describing incidents where people suffering mental health emergencies were seriously injured or killed by law enforcement) <https://www.nejm.org/doi/pdf/10.1056/NEJMms2035710?articleTools=true> (as of Feb. 8, 2023).

²¹⁹ Thompson, [Gender, Race, and Mental Illness in the Criminal Justice System Corrections and Mental Health Update National Institute of Corrections](#) pp. 4-5; see Schlesinger, [Racial Disparities in Pretrial Diversion: an Analysis of Outcomes Among Men Charged with Felonies and Processed in State Court](#) (2013) 3 Race and Justice pp. 223, 228 <<https://journals.sagepub.com/doi/pdf/10.1177/2153368713483320>> (as of Feb. 8, 2023).

²²⁰ See Prins et al., [Exploring Racial Disparities in The Brief Jail Mental Health Screen](#) (2012) Crim. Justice Behav.; see also [The Crisis Intervention Team Model of Police Response to Mental Health Crises: A Primer for Mental Health Practitioners - PMC \(nih.gov\)](#).

²²¹ Couloute, [Nowhere to Go: Homelessness among Formerly Incarcerated People](#) (Aug. 2018) Prison Policy Initiative (as of Feb. 8, 2023).

²²² The number 988 became operational in July 2022, as the new three-digit number for suicide prevention and mental health crises. (Substance Abuse and Mental Health Services Administration [988 Appropriations Report](#) (Dec. 2021) p. 2.) (as of Feb. 8, 2023).

²²³ Behavioral health emergencies include emergencies based on mental health and/or substance abuse issues. (Emergency Nurses Association, [Behavioral Health](#) (as of Feb. 8, 2023).)

establishment of Police-Mental Health Collaboration (PMHC) programs at law enforcement agencies throughout California. PMHCs are collaborative partnerships among law enforcement and mental health providers and often community-based organizations (CBOs) as well.²²⁴ PMHCs are designed to allow law enforcement to safely respond to behavioral health emergencies²²⁵ and have been shown to be effective in diverting individuals to appropriate mental health settings instead of jails, and without a concomitant increase in other harms.²²⁶ Key features of effective PMHC programs include training for law enforcement officers on recognizing signs and symptoms of mental illness, education to increase officer awareness of mental health resources within their community and collaboration with those resources, and training for officers in de-escalation techniques.²²⁷ Therefore, the Task Force recommends that the legislation enacted require law enforcement agencies to include the following protocols in their PMHC program at a minimum: training to enable officers to recognize the signs and symptoms of mental illness, education on the mental health resources available in that specific

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²²⁴ The U.S. Department of Justice PMHC Toolkit includes the following types of PMHC programs: The Crisis Intervention Teams model (CIT), which involves trained officers and trained call dispatchers collaborating with mental health providers to transport individuals to mental health treatment centers with a “no refusal policy” instead of county jail; the Mobile Crisis Team model, which involves a group of mental health professionals who respond to calls for service at the request of law enforcement officers; a Co-Responder Team model, which partners a specially trained officer with a mental health crisis worker to respond to mental health calls; a Proactive Team model, which involves behavioral health professionals and officers providing outreach and follow-up to repeat callers and high utilizers of emergency services; and a “Tailored Approach” where the agency selects various response options from the PMHC toolkit to build a comprehensive and robust program that responds to community’s specific needs. (Bureau of Justice Assistance, [Police-Mental Health Collaboration \(PMHC\) Toolkit \(as of Feb. 8, 2023\).](#))

²²⁵ Behavioral health emergencies include emergencies based on mental health and/or substance abuse issues. (Emergency Nurses Association, [Behavioral Health](#) (as of Feb. 8, 2023).)

²²⁶ See e.g., Rogers et al., [Effectiveness of Police Crisis Intervention Programs](#) (2019) 47 J. of Am. Academy of Psychiatry and the Law p. 418 and Watson & Fulambarker, [The Crisis Intervention Team Model of Police Response to Mental Health Crises: A Primer for Mental Health Practitioners](#) (Dec. 2012) Best Pract. Ment. Health (stating that research studies indicate that the CIT Model is effective in diverting people with mental health emergencies from jails to treatment settings); see also IACP / UC Center for Police Research and Policy, [Assessing the Impact of Co-Responder Team Programs: A Review of Research](#) pp. 6-8 (stating that research indicates that Co-Responder teams were effective in connecting individuals to mental health treatment resources and may result in fewer arrests than regular police intervention.) (as of Feb. 8, 2023). Research also indicates that diversion, whether at the initial contact with police or later in the legal process, may be one option for increasing access to and utilization of mental health services, “increasing time in the community, and reducing jail days, without a concomitant increase in arrests, substance use, or psychiatric symptoms.” Broner et al., [Effects of Diversion on Adults with Co-Occurring Mental Illness and Substance Use: Outcomes from a National Multi-Site Study](#) (2004) 22 Behav. Sci. Law p. 537 https://www.researchgate.net/publication/237354104_Effects_of_Diversion_on_Adults_withCo-OccurringMentalIllness_and_Substance_Use_Outcomes_from_a_National_Multi-Site_Study.

²²⁷ See, e.g., Bureau of Justice Assistance, [Police-Mental Health Collaboration \(PMHC\) Toolkit \(as of Feb. 8, 2023\).](#)

²²⁸ See Waters, [Enlisting Mental Health Workers, Not Cops, In Mobile Crisis Response](#) (Jun. 2021) Health Aff (Millwood) (assessing efficacy of local programs that dispatch health crisis workers and emergency medical technicians, instead of police, to people experiencing serious mental health distress); see also Meehan et al., [Do Police–Mental Health Co-Responder Programmes Reduce Emergency Department Presentations Or Simply Delay The Inevitable?](#) (2019) 27 Australasian Psychiatry at 18-20 (assessing co-responder model and concluding that the

The Task Force also recommends that the Legislature increase funding to courts to expand diversion and mental health collaborative court programs in each city and county. The Task Force further recommends that the Legislature enact legislation requiring the appropriate entity or agency, whether that is the district attorney or the court, to assess all individuals who have been diagnosed with or have a demonstrable mental illness that can be connected to their illegal behavior for entry into a diversion and mental health collaborative court program.²²⁹ The Task Force further recommends that the Legislature enact legislation and provide funding to

reentry process.²³²

co-responder model was effective in resolving immediate mental health crises and in diverting individuals away from emergency departments and inpatient facilities)

²²⁹A study of four mental health courts, two of which were in California, found that participants had lower rearrest rates and fewer incarceration days than the “treatment as usual” group. (California Administrative Office of the Courts, [Mental Health Courts: An Overview](#) (2012) p. 7.) Research also showed that mental health courts effectively link “mentally ill offenders with necessary treatment services,” which leads to participants having a “greater likelihood of treatment success and access to housing and critical supports than mentally offenders in traditional court.” (California Administrative Office of the Courts, [Mental Health Courts: An Overview](#) (2012) p. 5.) Mental health courts helped participants avoid “hospitalizations, rearrests, violence against others, and homelessness.” (California Administrative Office of the Courts, [Mental Health Courts: An Overview](#) (2012) p. 6.)

²³⁰ See *Connerly v. State Personnel Bd.* (2001) 92 Cal.App.4th 16, 53, 61-63 (holding data collection regarding minority business participation does not violate Proposition 209).

²³¹ [Community Health & Justice Project](#), Blueprint (Dec. 2022) p. 12; see Salas & Fiorentini, [Looking Back at Brad H: Has the City Met Its Obligation to Provide Mental Health & Discharge Services in the Jails?](#) ([nyc.ny.us](#)) (May 2015) New York City Independent Budget Office pp. 5-6 (discussing New York City’s obligations to provide direct mental health services and discharge planning and case management services to persons in custody at its jails before they are released).

²³² [Community Health & Justice Project Blueprint](#) (Dec. 2022) pp. 11-12; see Annie E. Casey Foundation, [Reentry Helping Former Prisoners Return to Communities](#) (2005) p. 30 (noting successful transition for individuals with mental health needs into the community requires collaboration between community mental health services and correctional facilities before release).

mental health services, medications, and permanent housing.²³³ The Task Force recommends that the Legislature provide additional funding to each ODR program to collect demographic data for the populations served disaggregated by age, race, and gender.

The Task Force recommends that the Legislature enact legislation to increase funding for community-based programs (CBOs) that provide mental health services, permanent housing, and mental health treatment planning to people recently released from county facilities, and provide those services in historically Black communities and in communities where significant numbers of African Americans reside. The Task Force further recommends that the Legislature provide additional funding to CBOs to collect demographic data for the populations served disaggregated by age, race, and gender.

The Task Force recommends that the Legislature enact legislation to establish and fund 24/7 receiving centers in each city and county that will provide the following services for recently released individuals:

- Serve as a welcoming station for recently released individuals who are waiting for assignment to a treatment center, after-treatment living facility, home, or other safe destination;
- Connect recently released individuals with wrap-around services provided by CBOs;
- Provide transportation services to safe destinations for recently released individuals.²³⁴
- The Task Force further recommends that the Legislature enact legislation to fund and require each locality to collect demographic data, disaggregated by race, gender, and age for the population served by the receiving centers to assess the need for additional resources.

The Task Force recommends that the Legislature enact legislation to increase funding for CBOs that provide wrap-around services, including, but not limited to, mental health services, housing, and treatment services, to individuals with mental health needs who were recently

²³³ [Community Health & Justice Project](#), Blueprint (Dec. 2022) p. 12; see also [Pettus-Davis & Kennedy, *Researching and Responding to Barriers to Prisoner Reentry: Early Findings From A Multi-State Trial*](#) (2018) Florida State University Institute for Justice Research, and Development p. 5 (describing results of a study of the 5-Key Model, a prisoner reentry model designed by formerly incarcerated individuals, practitioners, and researchers.) The 5-Key Model identifies five considerations necessary for successful reentry programs: healthy thinking patterns; meaningful work trajectories; effective coping strategies; positive social engagement; and positive interpersonal relationships. (Pettus-Davis & Kennedy, [Researching and Responding to Barriers to Prisoner Reentry: Early Findings From A Multi-State Trial](#) (2018).) Florida State University Institute for Justice Research and Development pp. 5-6.) Programs based on the 5-Key Model begin reentry preparation “as early as possible during an individual’s incarceration and continue the supports in the community after an individuals’ release from incarceration.” (Florida State University Institute for Justice Research and Development, [The 5-Key Model for Reentry](#).); see also Bianco, *Op-Ed: An L.A. Program Helps People Get Mental Health Care Instead Of Jail Time. Why Not Expand It?* Los Angeles Times (Jul. 18, 2022) (noting that ODR programs are effective in moving people with mental health issues out of jail and onto a path to permanent supportive housing, keeping them off the streets and out of hospitals and incarceration long term)

²³⁴ [Community Health & Justice Project](#), Blueprint (Dec. 2022) p. 12.

released from county jail or prison.²³⁵ This proposal further recommends that the Legislature ensure funding is provided to CBOs operated by staff that is culturally congruent with the African American community and CBOs that have a demonstrated history of providing satisfactory services in Black communities.²³⁶ The Task Force further recommends that the Legislature include within the legislation additional funding to require each county to collect and maintain demographic data on the CBOs that receive funding under this legislation, including the racial makeup of each CBOs staff.²³⁷

Finally, the Task Force recommends that the Legislature enact legislation to increase funding for culturally appropriate mental health treatment and services options for Black people released from county facilities regardless of whether they have a diagnosis of serious mental illness.

H. Eliminate Legal Protections for Peace Officers Who Violate Civil or Constitutional Rights

Under existing law, police officers who violate a person’s civil or constitutional rights—*e.g.*, through excessive force, unjustified shootings, or race-based policing—may be sued under state law (via the Tom Bane Civil Rights Act, Cal. Civ. Code § 52.1 et seq. or “Bane Act”) and federal law (via 42 U.S.C. § 1983). Under federal law, however, officers are protected by “qualified immunity,” which places an often-insurmountable burden on plaintiffs in such cases. Qualified immunity is not applicable under California state law, but the Bane Act (and related judicial precedent) does pose at least one major obstacle to relief: the requirement that a plaintiff prove not only that an officer violated a civil or constitutional right, but also that the officer “specifically intended” to violate the person’s civil or constitutional rights.²³⁸ This artificial legal hurdle is anathema to efforts to redress the history of police violence against the Black community.

The Task Force accordingly recommends strengthening the Bane Act by eliminating the requirement that a victim of police violence show that the officer “specifically intended” to commit misconduct. At least two bills have been advanced that would have enacted this proposal (Senate Bill 2 (Bradford, 2021-2022) and Assembly Bill 731 (Bradford, 2019-2020)), but neither has been enacted.²³⁹ The Act should also be amended to provide that unwanted touching or verbal assault can constitute a violation of its provisions.

²³⁵ [Community Health & Justice Project](#), Blueprint (Dec. 2022) pp. 11-12.

²³⁶ [Community Health & Justice Project](#), Blueprint (Dec. 2022) p. 12.

²³⁷ See *Connerly v. State Personnel Bd.* (2001) 92 Cal.App.4th 16, 53, 61-63 (holding data collection regarding minority business participation does not violate Proposition 209).

²³⁸ See, *e.g.*, *Cornell v. City and County of San Francisco* (2017) 17 Cal.App.5th 766, 801-04.

²³⁹ SB 2 was signed into law, but the elimination of “specific intent” had been amended out of a prior version. See Cal. Leg. Information, [SB-2 Peace Officers: Certification: Civil Rights](#) (as of Jan. 25, 2023). AB 731 was shelved. See Cal. Leg. Information, [SB-731 Peace Officers: Certification: Civil Rights](#) (as of Jan. 25, 2023).

I. Assess and Remedy Racially Biased Treatment of Black Adults and Juveniles in Custody in County Jails, State Prisons, Juvenile Halls, and Youth Camps

California’s prison and jail populations are disproportionately Black.²⁴⁰ The compounding negative effects of incarceration on the Black community are well-documented, but Black inmates may face additional biases—both explicit and implicit—while incarcerated. This discrimination could exist, for example, in the disciplinary system, credit awards, educational opportunities, physical and mental health, and the loss of parental rights, which would exacerbate the substantial harms imposed by incarceration, jeopardize reentry success, and further destabilize Black communities. To date, however, there has been no systematic assessment of the disparate impact of prison and jail policies and practices.

The Task Force recommends that the California Department of Corrections and Rehabilitation be subject to a comprehensive audit of its policies and practices, through the California State Auditor or another entity. At minimum, the audit would review practices related to: access to education programming; in-custody work opportunities that contribute to reduction in time served; retaliatory practices in response to filing of grievances or voicing concerns, including those related to racial disparities; in-custody deaths; loss of parental rights (*e.g.*, initiated by dependency court ordered hearings under Welfare & Institutions Code Sec. 366.26); and access, or lack thereof, to quality psychiatric and psychological services. The audit would be focused on determining whether racial disparities exist. As needed, the legislation could impose a data collection mandate and/or a dedicated task force. Similar audits and/or data collection requirements would be imposed for county jail and juvenile inmates.

Chapter 21

IV. POLITICAL DISENFRANCHISEMENT

This section details policy proposals to address harms set forth in Chapter Four, “Political Disenfranchisement” The Task Force recommends that the Legislature take the following actions:

- Require District-Based Voting and Independent Redistricting Commissions to Safeguard Against the Dilution of the Descendant Voting Bloc
- Increase Funding to Support the California Department of Justice’s Enforcement of Voting Rights in California
- Pass Legislation Aligning with the Objectives of AB 2576 and Establish Separate Funding to Support Educational and Civic Engagement Activities
- Provide Funding to NGOs Whose Work Focuses on Increasing Civic Engagement Among Descendants
- Declare Election Day a Paid State Holiday and Provide Support to Essential Workers to Increase Access to the Polls

²⁴⁰ See, e.g., Vera Institute of Justice, [Incarceration Trends in California](#) (Dec. 2019) (as of Jan. 20, 2023).

- Remove the Barrier of Proving Identity to Vote
- Increase Jury Participation of Persons with Felony Convictions and Discourage Judges and Attorneys from Excluding Potential Jurors Solely for Having a Prior Felony Conviction
- Increase Efforts to Restore the Voting Rights of Formerly Incarcerated Persons and Provide Access to Those Who Are Currently Incarcerated and Eligible to Vote

A. Require District-Based Voting and Independent Redistricting Commissions to Safeguard Against the Dilution of the Descendant Voting Bloc

Political gerrymandering has a disproportionate impact on Black voters. The experience of Black voters, which is documented in Chapter Four, “Political Disenfranchisement,” stems from the perception that Black voters pose a threat to the white political establishment, which historically aimed to maintain the racial hierarchy of enslavement. Researchers have found that the expansion and protection of Black political rights improved the socioeconomic position of Black Americans and may have indirectly created opportunities for Black American workers to move up the economic ladder.²⁴¹ The Voting Rights Act (VRA) is a national law that protects Black voters and others against attacks on their freedom to vote and their right to fair representation.²⁴² One of the law’s key enforcement mechanisms, Section 2, bans racial discrimination in voting.²⁴³ Because the U.S. Supreme Court has weakened other protections offered by the VRA, states and their subdivisions have the opportunity to pass more discriminatory maps that unfairly silence the voices of Black voters.²⁴⁴

The California Voting Rights Act of 2001 (CVRA) is the state law that expanded on the VRA by making it easier for voters to prove that their votes are being diluted in at-large elections.²⁴⁵ Upon a finding of a violation, a court is required to implement appropriate remedies, including the imposition of district-based elections that are tailored to remedy the violation.²⁴⁶ With respect to the CVRA, the number of by-district jurisdictions increased by making it easier for potential plaintiffs to force at-large-election jurisdictions into by-district elections.²⁴⁷ To date, over 170 cities and towns, over 300 school and community college districts, and over 50 hospital, fire, airport, water and other special districts shifted from at-large to by-district elections since the CVRA became law.²⁴⁸

²⁴¹ Aneja and Avenancio-Leon, [The Effect of Political Power on Labor Market Inequality: Evidence from the 1965 Voting Rights Act](#) (Sept. 2019) Washington Center for Equitable Growth (as of Dec. 5, 2022).

²⁴² 52 U.S.C.A. § 10101 et seq.

²⁴³ 52 U.S.C.A. § 10301.

²⁴⁴ See *Shelby County, Ala. v. Holder* (2013) 570 U.S. 529 [133 S.Ct. 2612, 186 L.Ed.2d 651].

²⁴⁵ Elec. Code, § 14025 et seq.

²⁴⁶ Elec. Code, § 14029.

²⁴⁷ [California’s Voting Rights Act Continues to Force More Local Governments into By-District Elections](#) (Undated) National Demographics Corporation (as of Dec. 5, 2022).

²⁴⁸ *Ibid.*

In order to address the harms associated with the historical political disenfranchisement of Black people, the Task Force recommends that the Legislature implement measures to protect the strength of the Descendant voting bloc and the larger African American voting bloc by requiring district-based voting and independent redistricting commissions whose maps have binding effect. These independent redistricting commissions should be comprised of members who are representative of the districts being drawn or redrawn and they should be equipped with resources that are both adequate for their mandate and equal to those afforded to similarly charged commissions. This proposal aims to address political gerrymandering, which has a disproportionately disenfranchising and vote-diluting impact on Black voters. At-large voting in particular poses second-generation barriers to equal voting.²⁴⁹ More equitable and representative results are produced when subdivisions elect their officials by district.²⁵⁰ Independent redistricting commissions put citizens and commissioners in charge of the process, removing politicking and partisan deal making.²⁵¹ When the responsibility of drawing district lines is left with incumbents, concerns about gerrymandering arise, and special interests and protecting incumbency may prevail over fair and equal representation. The City of Los Angeles, for example, currently appoints a commission to draw district maps; however, those maps are subject to revision by councilmembers, and, as revealed in recent news, attempts to gerrymander certain districts can still occur.²⁵²

B. Increase Funding to Support the California Department of Justice’s Enforcement of Voting Rights in California

State attorneys general are uniquely positioned to monitor and take action on voting rights concerns within their jurisdictions. Voting rights investigations and lawsuits, however, are unusually onerous to prepare, sometimes requiring as many as 6,000 hours in staff time combing through registration records in preparation for trial.²⁵³ Moreover, with respect to federal lawsuits, “[e]ven when favorable decisions have finally been obtained, some of the States affected have merely switched to discriminatory devices not covered by the federal decrees or have enacted difficult new tests designed to prolong the existing disparity between white and Negro registration.”²⁵⁴ These concerns, along with the perverse incentive to prolong litigation in these matters, result in relatively few attorneys willing to bring complex voting rights cases, and even fewer attorneys who have an opportunity to develop expertise to do these cases well.²⁵⁵ Consequently, state attorneys general, who have a unique combination of law enforcement and

²⁴⁹ See *Shelby County, Ala. v. Holder* (2013) 570 U.S. 529, 563 [133 S.Ct. 2612, 2635, 186 L.Ed.2d 651] (dis. opn. of Ginsburg, J.).

²⁵⁰ See Vankin, [District vs. At-Large Races: The Final Frontier of Voting Rights](#) (June 7, 2021) California Local (as of Jan. 13, 2023).

²⁵¹ [Independent Redistricting](#) (Undated) Unite America (as of Dec. 5, 2022).

²⁵² Washington, [What I Learned About Redistricting In LA And Why It Matters](#) (Oct. 28, 2022) Laist (as of Dec. 5, 2022).

²⁵³ *South Carolina v. Katzenbach* (1966) 383 U.S. 301, 314 [86 S.Ct. 803, 811, 15 L.Ed.2d 769]

²⁵⁴ *South Carolina v. Katzenbach* (1966) 383 U.S. 301, 314 [86 S.Ct. 803, 811, 15 L.Ed.2d 769]

²⁵⁵ Grossman, [The Case For State Attorney General Enforcement of the Voting Rights Act Against Local Governments](#) (2017) 50 U. MICH. J. L. REFORM 565, 592 (as of March 15, 2023).

local perspective, are better positioned in many ways to enforce, monitor, and investigate voting rights claims.²⁵⁶ This however, does not address the complexity and time resources required to undertake this work.

In order to root out and address the harms associated with the erosion of voting rights for Black voters, the Task Force recommends that the Legislature dedicate funding for the state's enforcement of the California Voting Rights Act and federal voting rights laws. This could include targeting at-large political subdivisions and reviewing efforts to transition to district-based representation where appropriate. This work might also include monitoring and collecting data on racially polarized voting, and publishing racially polarized voting analyses, a key component of demonstrating violations of the federal Voting Rights Act. The publication of racially polarized voting analyses may provide greater clarity and oversight of sensitive regions and lead to a concentration of resources for areas that are at risk of disenfranchising Descendant voters and African American voters more broadly. An enforcement campaign by the California Attorney General would seek to determine whether political subdivisions use the drawing or redrawing of district lines to substantially dilute or weaken the political power of African Americans, including Descendants.

C. Pass Legislation Aligning with the Objectives of AB 2576 and Establish Separate Funding to Support Educational and Civic Engagement Activities

As discussed in Chapter Four, “Political Disenfranchisement,” Black people faced increased threats to their liberty after the end of Reconstruction. Groups like the National Association for the Advancement of Colored People organized and mobilized to assert equal rights, including securing the guarantees of the Fourteenth and Fifteenth Amendments to the United States Constitution. To ensure that these efforts are not lost on younger generations, and to cultivate a sense of reverence in the journey of Black political power, the Task Force recommends that the Legislature provide funding and direction to support grants to county registrars of voters for programs that integrate voter registration and preregistration with civic education for high school students, including programs to allow students to serve as election workers, as was intended by AB 2576.²⁵⁷ Through this proposal, the Task Force intends for these programs to be institutionalized through legislation so that there is a long term and continued commitment to increase the importance of Descendant civic engagement by creating educational opportunities for young adults. This proposal, if adopted, would implement the objectives of AB 2576 and provide separate funding with the intent to support Descendant communities, who have historically experienced disenfranchisement.

²⁵⁶ See Grossman, [The Case For State Attorney General Enforcement of the Voting Rights Act Against Local Governments](#) (2017) 50 U. MICH. J. L. REFORM 565, 599 (as of March 15, 2023).

²⁵⁷ Assem. Bill No. 2576 (2021-2022 Reg. Sess.).

AB 2576 would have required the Secretary of State to provide grants to county elections officials or other specified entities for voter registration efforts in counties where voter registration is less than 80% of eligible voters.²⁵⁸ AB 2576 would have also required the Secretary of State to make grants for learning and outreach, and to county registrars of voters for programs that integrate voter registration and preregistration with civic education for high school students, including programs to allow students to serve as election workers. While some of these programs have been implemented under California Secretary of State, Dr. Weber, the aim of this recommendation is to institutionalize these programs such that they remain in place irrespective of future changes in administration. The Task Force recommends that the Legislature adopt the grant programs contemplated by AB 2576 with a directed focus on school districts and voting precincts whose eligible voting age populations do not reflect the proportionality of African American populations.

The Task Force recommends amendments to the Education Code and Elections Code, where appropriate, to provide opportunities for high school students to participate in live elections and take part in mock elections and other civic educational opportunities. The Task Force recommends that the Legislature establish a funding stream specifically for schools predominately attended by Descendants or establish annual funding for a broader statewide program. Student surveys for a similar program in Illinois have shown that 93 percent of students report being more likely to vote in the future, with 90 percent reporting that they would be willing to serve again in the future.²⁵⁹

D. Provide Funding to NGOs Whose Work Focuses on Increasing Civic Engagement Among Descendants

From Ella Baker to John Lewis, and from the Organization of Colored Ladies to the Student Nonviolent Coordinating Committee, Black people and organizations have long played an important role in organizing, educating, and registering Black voters. To support the initiatives in Part C above, the Task Force recommends that the Legislature provide a funding stream for local organizations that focus on increasing civic engagement among Descendants. Nongovernmental organizations in turn could provide support in campaign strategy training, political discourse seminars, and workshops offering support and training for those wishing to organize within their communities. Funding could also be used to support voter education and outreach campaigns in communities of low voter turnout and among youth to establish a pipeline of voter engagement. Selection and oversight of these organizations could be administered by the California American Freedman Affairs Agency, who may review grant proposals and program efficacy.

E. Declare Election Day a Paid State Holiday and Provide Support to Essential Workers to Increase Access to the Polls

²⁵⁸ *Ibid.*

²⁵⁹ [High School Student Election Judges](#) (Undated) Cook County Clerk's Office (as of Dec. 5, 2022).

The Task Force recommends that the Legislature declare Election Day a paid state holiday. The aim of this recommendation is to address the historical barriers to voting, including the financial burdens that disproportionately affect Black voters and limit their ability to access the polls. While many voters take advantage of vote by mail, California could use this day to organize state-sponsored events on Election Day to facilitate voting, such as free public transportation and informational bulletins. The Task Force further recommends as a potential expansion of this recommendation that primary elections also be included for holiday consideration. This would be in recognition of the history associated with excluding Black voters from state primary elections as discussed in Chapter Four, “Political Disenfranchisement.” For states, such as California, who are dominated by a single political party, primary elections essentially determine who would ultimately hold office.

Further, to increase the impact of making Election Day a paid holiday, the Task Force recommends establishing a funding stream for the publication of voter education materials, such as fact sheets dispelling the myth of voter fraud, and publications disseminating post-election statistics to promote confidence in state elections.

F. Remove the Barrier of Proving Identity to Vote

Claims of voter fraud have been used to justify laws that suppress Black voting—most prominently, voter identification laws. States disproportionately enforce voter ID laws against Black voters. This is so despite the fact that fraud is very rare. Indeed, voter impersonation is virtually nonexistent, and many instances of alleged fraud are, in fact, mistakes by voters or administrators.²⁶⁰ Voter ID laws have also served as a proxy for disenfranchising Black voters.²⁶¹ With respect to mail-in ballots, the votes of Black people were rejected at higher rates than those of white Americans in Nevada, Florida, and North Carolina.²⁶² While rejection rates vary widely by state, in 2018, California was in the middle of the pack with New York, Arkansas, and Kentucky leading the nation.²⁶³

The Task Force recommends that the Legislature direct the undertaking of a study to identify, examine, and address barriers to voter registration that have been enacted in response to myths of voter fraud, such as by documenting the limited availability of DMV services in rural areas and the cost of obtaining identification or supporting documents to prove identity. In most cases, a California voter is not required to show identification to a polling place worker before casting a ballot. However, those voting for the first time after registering to vote by mail and who did not provide a driver’s license number, California identification number, or the last four digits

²⁶⁰ [The Myth of Voter Fraud](#) (Undated) Brennan Center for Justice (as of March 15, 2023); See [Debunking the Voter Fraud Myth](#) (Jan. 2017) Brennan Center for Justice (as of March 15, 2023).

²⁶¹ See [Voter ID laws discriminate against racial and ethnic minorities, new study reveals](#) (June 25, 2020) University of California, San Diego (citing Hajnal and Lajevardi, et al., [A disproportionate burden: strict voter identification laws and minority turnout](#) (2022) *Politics, Groups, and Identities*, 10:1, 126-134) (as of Jan. 17, 2023).

²⁶² Lau and Nelson, et al., [Mail-in ballots flagged for rejection hit 21,000; Black, Latino voters rejected at higher rate](#), *L.A. Times* (Nov. 3, 2020) (as of Jan 17, 2023).

²⁶³ *Ibid.*

of their social security number on their registration form may be asked to show a form of identification when going to the polls.²⁶⁴ Additionally, a voter may have their qualification to vote challenged as not being the person whose name appears on the roster, at which point the voter may be required to affirm their identity to resolve the challenge.²⁶⁵

This recommendation seeks to recognize and address the harms in this area with respect to voter identification by cutting off an opportunity for voter disenfranchisement through identification requirements. The Task Force recommends providing Descendants with stipends or fee waivers to obtain government issued documents such as driver's licenses, identification cards, birth certificates, and passports to meet any voter registration or identification requirement that may be promulgated.

G. Increase Jury Participation of Persons with Felony Convictions and Discourage Judges and Attorneys from Excluding Potential Jurors Solely for Having a Prior Felony Conviction

In California, as of April 2020, the felony arrest rate of African Americans was 3,229 per 100,000 in the population.²⁶⁶ Overall, African Americans remain overrepresented in California's prison population.²⁶⁷ African American men are imprisoned at a rate ten times higher than that of white men, while African American women are imprisoned at a rate five times higher than that of white women.²⁶⁸ Across the United States, one-third of African American men have been convicted of a felony.²⁶⁹ This data suggests that there may also be an overrepresentation of African Americans who have been excluded from jury service because of their prior felony conviction.

Existing California law now allows those with a prior felony conviction and those who have completed probation and parole to participate in jury service as long as they are not a registered felony sex offender.²⁷⁰ One aim of this law was to ensure minorities, including Black people, truly have a jury of their peers. While the law in this area restored eligibility for jury service, the aim of this recommendation is to provide support to returning citizens so that they may *participate* in jury service. To accomplish this goal, the Task Force recommends that the Legislature propose guidance to the legal community disfavoring the disqualification of jurors based solely on their prior status as an incarcerated individual or a person's general opposition to the death penalty.²⁷¹ This might also include conducting ongoing surveys and analysis of excused

²⁶⁴ [What to Bring to Your Polling Place](#) California Secretary of State (as of Jan. 17, 2023).

²⁶⁵ See Elec. Code, § 14240 subd. (a)(1); see also Elec. Code, § 14243.

²⁶⁶ Gumbs and Hayes, et al., [Felony Arrests in California](#) (April 2020) Public Policy Institute of California (as of Dec. 5, 2022).

²⁶⁷ Gumbs and Goss, et al., [California's Prison Population](#) (July 2019) Public Policy Institute of California (as of Dec. 5, 2022).

²⁶⁸ *Ibid.*

²⁶⁹ Trilling, [Number of U.S. felons tripled in three decades](#) (Dec. 1, 2017) Harvard Kennedy School Shorenstein Center on Media, Politics, and Public Policy (as of Dec. 5, 2022).

²⁷⁰ Sen. Bill No. 310 (2019-2020 Reg. Sess.)

²⁷¹ A disproportionate number of Black jurors and jurors of faith, especially Catholics, are excluded from death penalty juries. See Hill and Stull, [The Sinister and Racist Practice Infecting Death Penalty Juries](#) (Aug. 30, 2022) ACLU (as of March 16, 2023).

jurors to identify trends. The Task Force further recommends that the Legislature implement measures or programs to provide greater support for those serving on juries, including free childcare and transportation during jury duty, and educational materials that highlight the importance of jury duty among Descendants and the implications of not serving on a jury.

To Support this recommendation, the Task Force recommends that the Legislature consider eliminating peremptory challenges altogether as is the case in Arizona,²⁷² or propose comments to existing rules emphasizing that a prior felony conviction is an invalid basis for the exercise of a peremptory challenge.

H. Increase Efforts to Restore the Voting Rights of Formerly Incarcerated Persons and Provide Access to Those Who Are Currently Incarcerated and Eligible to Vote

The right to vote is fundamental to American citizenship, but our unjust legal system has perpetuated the disenfranchisement of Black individuals, especially Descendants. That disenfranchisement has left this community at a comparative disadvantage in political representation, as discussed in Chapter Four, “Political Disenfranchisement.” In October 2022, the California Department of Justice issued two Information Bulletins that relate to the voting rights of persons with a criminal history. One Information Bulletin was sent to all local law enforcement agencies in California, detailing the categories of incarcerated individuals who are eligible to vote and those who are not eligible to vote.²⁷³ Incarcerated individuals in California who are not eligible to vote are those serving time in State Prison, Federal Prison, or are in County Jail under prison terms/conditions. Proposition 17 was approved in November 2020 and amended the California Constitution to permit people on parole for felony convictions the right to vote in California.²⁷⁴ Another Information Bulletin was sent to all county probation departments in California to ensure access to voting for eligible persons who are under the supervision of probation departments.²⁷⁵

In order to begin to correct this aspect of the legacy of an unjust legal system, the Task Force recommends that the Legislature enact legislation to *preserve and expand* the voting rights of incarcerated individuals. All eligible Californians deserve the right to vote, even those involved in the criminal justice system. Specifically, the Task Force recommends that the Legislature increase efforts to restore the voting rights of returning citizens who have completed their terms or are on parole by increasing access to voter registration and polling precincts. Legislation should require the California Department of Corrections and Rehabilitation (CDCR)

²⁷² Ariz. R. Crim. P. 18.4, 18.4; Ariz. R. Civ. P. 47(e); *In the Matter of Rules 18.4 and 18.5, Rules of Criminal Procedure and Rule 47(e), of the Arizona Rules of Civil Procedure* (2021) Ariz. Supreme Ct. No. R-21-0020 Order Amending Rules 18.4 and 18.5 of The Rules of Criminal Procedure, and Rule 47(e) of The Rules Of Civil Procedure, filed Aug. 8, 2021.

²⁷³ California Department of Justice, [Information Bulletin: Access to Voting for Eligible Persons With a Criminal History or Who are Incarcerated](#) (Oct. 11, 2022).

²⁷⁴ Cal. Const., art. II, §§ 2, 4.

²⁷⁵ California Department of Justice, [Information Bulletin: Access to Voting for Eligible Persons Under the Supervision of Probation Departments](#) (Oct. 11, 2022).

to affirmatively provide individuals being released from prison with voter registration information.²⁷⁶ The Task Force further recommends that the CDCR and Secretary of State receive funding to facilitate voting in correctional settings by either establishing polling sites within correctional facilities or providing access to mail-in voting while incarcerated, consistent with eligibility.²⁷⁷

Finally, the Task Force calls on the Legislature to take the re-enfranchisement movement further, and restore voting rights to all incarcerated persons, including those serving state or federal prison terms.

Chapter 22

V. HOUSING SEGREGATION AND UNJUST PROPERTY TAKINGS

This section details the policy proposals to address the harms set forth in Chapter 5, Housing Segregation, of the Interim Report.

- Prioritize Responsible Development and Environmental and Public Health in Communities and Housing Development
- Enact Policies Overhauling the Housing Industrial Complex
- Collect Data on Housing Discrimination
- Provide Anti-Racism Training to Workers in the Housing Field
- Expand Grant Funding to Community-Based Organizations to Increase Home Ownership
- Provide Property Tax Relief to Increase Home Ownership
- Provide Direct Financial Assistance to Increase Home Ownership
- Require State Review and Approval of Residential Land Use Ordinances by Municipalities with High Levels of Segregation
- Repeal Crime-Free Housing Policies
- Increase Affordable Housing for Black Californians
- Provide Restitution for Racially Motivated Takings
- Provide a Right to Return for Displaced Black Californians
- Provide Funding to Assist Black Californians With Making Residential Homeownership a Reality

A. Prioritize Responsible Development and Environmental and Public Health in Communities and Housing Development

The Task Force recommends the Legislature prioritize responsible development by enacting Statewide “Responsible Development” Standards to require new developments to enhance the surrounding contributing resources (i.e., prioritize a medical facility instead of a coffee shop), improve overall environmental quality, and advance climate justice. These Standards should lead to the development of more hospitals, community-based mental health facilities, urgent care

²⁷⁶ See Elec. Code, § 2105.5.

²⁷⁷ See, e.g., ACLU of Northern California and ACLU of Southern California, et al., [Voting in California Jails A Community Toolkit](#) (2021) (as of Feb. 17, 2023).

medical training programs, and first responder ambulance services in neighborhoods heavily populated by the Descendant community. Staff this expanded public health infrastructure with culturally competent providers.

- The Legislature should also support community-based programs and research groups that use the “housing first” and harm reduction models to work with chronically homeless-dually diagnosed populations suffering from mental illness and addiction due to self-medication. A “housing first” approach prioritizes providing permanent housing, therefore addressing people’s basic needs before attending to less critical needs like securing a job, budgeting properly, or attending to substance use issues.²⁷⁸

In tandem with “housing first” programming, the Legislature should fund mobile crisis units staffed with psychiatric experts to assist chronically unhoused people in lieu of criminalizing homelessness. Mobile crisis teams are often managed by community mental health organizations, hospitals, or government agencies like a health department and provide a range of comprehensive crises services such as administering medication, referring people to additional treatment, and providing follow-up support.²⁷⁹

B. Policies Overhauling the Housing Industrial Complex

The Task Force recommends the Legislature adopt several measures to overhaul the Housing Industrial Complex, including:

- Increase enforcement of mandatory acceptance of housing vouchers (e.g., Section 8).
- For historically redlined ZIP Codes, implement rent caps (not just rent control) and no increased rents for units that are either run-down, or did not do any improvements, etc. (i.e., landlords shouldn’t get to raise rents unjustifiably on units just because the market rate is increasing).
- Provide funding for developers, land trusts, and community based organizations (CBO) for affordable housing operated by or serving Descendants. Require disparity studies beforehand to provide justification for such funding.
- Create wellness centers and greenspaces.
- Redefine what qualifies as affordable housing by readjusting area median income limits for state subsidies.
- Provide funds for research on land grabs/land displacement/land theft (similar to historical preservation).
- Provide for a private right of action (or immediate action) against banks/private entities that knowingly/purposefully appraise Black-owned homes at lower values.
- Give compensation to redress predatory “housing industrial complex” issues – i.e., those having to pay higher costs on insurance, etc. due to race/contributing factors.

²⁷⁸ National Coalition to End Homelessness, *Housing First* (Mar. 2022).

²⁷⁹ Thomas, [How to Successfully Implement a Mobile Crisis Team](#) (Apr. 2021) Council of State Governments Justice Center (as of February 2, 2023).

C. Collect Data on Housing Discrimination

The Task Force recommends the Legislature collect data on housing discrimination by providing community-based organizations (CBO) with resources and fund capacity to collect anecdotal data (qualitative) of stories about ongoing housing discrimination and to conduct focus groups, etc.

The Legislature should also require governments to collect and *make transparent* quantitative data and statistics on housing disparity. This data should be racially disaggregated data, including disaggregated by descendant community. Finally, the Legislature should provide resources to CBOs and subject matter experts to periodically analyze the data and make recommendations for the remediation of continuing disparities exposed by the data.

D. Provide Anti-Racism Training

The Task Force recommends that the Legislature provide resources to community-based organizations with subject matter expertise in equity, cultural competence, and bias elimination to establish DEI certification programs for affordable housing contractors, providers, and decision makers. The Legislature should also fund housing-focused anti-racism education programs and communications to help communities move away from the NIMBY (Not in My Back Yard) mentality to the reparatory justice mentality of redressing past harms due to state action.

E. Expand First-Time Homeowner Grants and Increase Funding to Community-Based Organizations and Related Programs

Discriminatory policies, including redlining, have produced persistent and longstanding housing segregation and inequities in home ownership in California.²⁸⁰ Between 1934 and 1962, the federal government issued \$120 billion in home loans, 98 percent of which went to white people.²⁸¹ Between 1940 and 1960 in northern California, Black people received less than one percent of Federal Housing Authority loans.²⁸² By ensuring that funds flowed almost entirely to white Californians, the State has enabled discriminatory policies that produce persisting inequities today: in 2019, the percentage of Black Californians who owned homes was lower than the percentage of Black Californians in the 1960s, when forms of express housing discrimination were legal.²⁸³

²⁸⁰ See generally California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) pp. 162–192.

²⁸¹ Adelman, *Real Life/Affirmative Action for Whites/The Houses that Racism Built*, SF Gate (Jun. 29, 2003) (as of Nov. 23, 2022).

²⁸² California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) p. 182.

²⁸³ Cal. Housing Finance Agency, *Black Homeownership Initiative: Building Black Wealth* (as of Nov. 22, 2022).

To address housing discrimination, the Task Force recommends providing hyper-local grants or contracts to community-based organizations that focus primarily on providing financial and homeownership assistance to Descendants. This recommendation could include specific grant criteria or changes to existing local ordinances to ensure that community-based organizations—rather than government entities, for example—are the recipients of grants. This grant program will also facilitate a process for community-based organizations to buy property in historically Black neighborhoods and gathering spaces to act as a bulwark against Black pushout and displacement.

Additionally, the Task Force recommends the impose transparency and quality control mechanisms on these grants and contracts, including, for example, reporting requirements to assess whether the funds are being spent as intended. And it should allocate funding for disparity studies of public contracts and grants to community-based organizations seeking to provide financial aid (and other assistance) to increase homeownership among Descendants and Black Californians.

If the Legislature enacts this proposal, the Legislature will need to identify a state agency that will administer the grants—likely the Housing Finance Agency or Housing Community Development Agency²⁸⁴—and the Legislature may wish to define eligibility criteria for the recipient non-profit organizations.

F. Provide Property Tax Relief to Descendants, Living in Formerly Redlined Neighborhoods, Who Purchase or Construct a New Home

To address housing discrimination, the Task Force recommends providing property tax relief by allowing Descendants, who reside in formerly redlined neighborhoods, to transfer the assessed value of their primary home to a newly purchased or constructed primary residence. If the Legislature enacts these property tax cuts as part of housing reparations, the Legislature may want to consider accompanying proposals that would supplement any public school funding that would be lost from the reduced tax revenue.

Such a proposal follows the model of Proposition 19, which provides property tax relief to Californians who are severely disabled, victims of wildfires, or over the age of 55 when purchasing or constructing a new home.²⁸⁵ Under Proposition 19, such individuals who purchase or construct a new home in California “may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence[.]”²⁸⁶ A similar policy created for Descendants in formerly redlined neighborhoods would counteract the property tax barriers that have reinforced existing patterns of housing segregation.

²⁸⁴ Cf., e.g., Cal. Housing Finance Agency, [ADU Grant Program](#) (as of Dec. 1, 2022) (describing mortgage products “offered through private loan officers who have been approved and trained by our agency”).

²⁸⁵ [Cal. Stat. 2020, ch. 31](#).

²⁸⁶ *Id.* § 2.1(b)(1).

G. Provide Shared Appreciation Loans and Subsidized Down Payments, Mortgages, and Homeowner’s Insurance

As another proposal to address housing discrimination, the Task Force recommends providing financial aid to California Descendants who reside in formerly redlined neighborhoods to enable them to become homeowners by: (1) providing them shared appreciation loans for the purchase of homes anywhere in the State,²⁸⁷ with subsidized down payments; and (2) subsidizing mortgage payments and homeowner’s insurance fees. Shared appreciation loans could follow the model of the existing California Dream for All Shared Appreciation Loan Program, which seeks to increase homeownership among low- and moderate-income homebuyers, generally.²⁸⁸ Other jurisdictions, like the City of Evanston, Illinois, have also offered down payment and mortgage assistance as part of their efforts to enact reparations.²⁸⁹

Alternatively, the Legislature could provide such financial aid to Descendants in formerly redlined neighborhoods but further limit eligibility to first time homeowners or those who do not currently own a house, to maximize home ownership and focus on those most in need. Or, the Legislature could consider providing such financial aid to *any* California resident who is a Descendant (rather than solely to Descendants who reside in a formerly redlined area), to broaden the eligible recipients of such aid.

To the extent the State subsidizes down payments or homeowner’s insurance, rather than providing the money to the eligible Californian, the State should disburse the funds to the closing agent when an applicant closes on a home purchase; to the lender for a mortgage payment; or to the insurance company for a homeowner’s insurance payment—doing so would ensure maximum use of the subsidy to aid home ownership, as otherwise portions of the subsidy would become taxable income.²⁹⁰

H. Require State Review and Approval of All Residential Land Use Ordinances Enacted by Historically and Currently Segregated Cities and Counties

Residential zoning ordinances have been used for decades in California to prevent Black families, including Descendants, from moving into neighborhoods, maintaining residential

²⁸⁷ A shared appreciation loan (or mortgage) is one with a fixed interest rate set below prevailing market rates, where the borrower eventually pays a percentage of the appreciation of the home’s value to the lender. See Friend, *Shared Appreciation Mortgage* (1982) 34 *Hastings L.J.* 329, 339.

²⁸⁸ Cal. Stat. 2022, ch. 197, § 14; Cal. Housing Finance Agency, [California Dream for All Shared Appreciation Loan Program](#) (as of Nov. 22, 2022).

²⁸⁹ City of Evanston, [Evanston Local Reparations](#) (as of Nov. 22, 2022).

²⁹⁰ Cf. *ibid.* (explaining in its FAQ that direct payments to recipients of reparations would be subject to taxation). Though the State could exempt reparations subsidies from state taxes, it is not able to exempt the subsidy from federal income taxes.

segregation.²⁹¹ Various laws were also used to prevent additional housing from being built, effectively shutting out Descendants and their families.²⁹²

To address local zoning laws that reinforce and recreate the housing segregation that harms Descendants, the Task Force recommends that the State: (1) identify California cities and counties that have historically redlined neighborhoods and whose current levels of residential racial segregation are statistically similar to the degree of segregation in that city or county when it was redlined;²⁹³ (2) require identified cities and counties to submit all residential land use ordinances for review and approval by a state agency, with the agency rejecting (or requiring modification of) the ordinance if the agency finds that the proposed ordinance will maintain or exacerbate levels of residential racial segregation;²⁹⁴ and (3) remove this process of additional review and approval for identified cities or counties if the city or county eliminates a certain degree of housing segregation in its geographic territory.

Scholars have found that similar efforts by California to influence localities' residential zoning decisions—through State supervisory authority—has had some effect: in the early 1990s, about a quarter of California jurisdictions had Housing and Community Development-approved housing elements in place,²⁹⁵ whereas today, about 77 percent of California jurisdictions are compliant.²⁹⁶

As an alternative to State review and approval of ordinances in the localities described above, the State could adopt a post-hoc approach by creating an administrative appeal board to review challenges to developmental permitting decisions or zoning laws, reversing the denial of a development permit if the underlying zoning requirement is deemed to maintain or reinforce residential racial segregation.

I. Repeal Crime-Free Housing Policies

Crime-free housing policies have proliferated across California as part of a national trend adopted by landlords and public housing authorities to ban renting to individuals with a criminal

²⁹¹ Taylor, *Toxic Communities: Environmental Racism, Industrial Pollution, and Residential Mobility* (2014) p. 154; see also Baldassari and Solomon, [The Racist History of Single-Family Home Zoning](#), KQED (Oct. 5, 2020) (as of Nov. 27, 2022).

²⁹² Taylor, *supra*.

²⁹³ For example, the State could use the methodology the Brookings Institute used to compare racial segregation in formerly redlined cities to levels of racial segregation in those cities today. See Perry and Harshbringer, [America's Formerly Redlined Neighborhoods Have Changed, and So Must Solutions to Rectify Them](#) (Oct. 14, 2019) Brookings Institute (as of Nov. 23, 2022). The Department of Housing and Community Development also has, among its publicly available data tools, an “Affirmatively Furthering Fair Housing Data Viewer,” which includes data concerning segregation and integration. See Cal. Dept. of Housing and Community Development, [AFFH Data and Mapping Resources](#) (as of Nov. 28, 2022).

²⁹⁴ The reviewing agency could be either the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Justice, or some form of joint-partnership between these agencies.

²⁹⁵ Lewis, [California's Housing Element Law: The Issue of Local Noncompliance](#) (2003) Pub. Policy Institute of Cal., pp. 21–22 (as of Nov. 27, 2022) (19% were compliant in 1991, 37% by 1993).

²⁹⁶ Cal. Dept. of Housing and Community Development, [Housing Element Review and Compliance Report](#) (2019) (as of Nov. 27, 2022).

history, incorporate crime-free addendums into their lease agreements to facilitate evictions, and evict tenants who allegedly commit crimes or drug-related activities.²⁹⁷ Alongside crime-free housing policies, municipalities have often adopted chronic nuisance ordinances, which classify certain tenant activities like excessive noise or contact with the local police department as a nuisance and encourage or require landlords to evict tenants who engage in those activities.²⁹⁸ The result of these policies and ordinances is a disproportionately negative effect on people of color and heightened racial segregation in housing.²⁹⁹ According to the *Los Angeles Times*' analysis of eviction data for Los Angeles, Long Beach, Oakland, and Sacramento, nearly 80 percent of those targeted for eviction under crime-free housing ordinances from 2015 through 2019 were not white.³⁰⁰

The Task Force recommends that the Legislature require jurisdictions to review and modify or repeal any crime-free housing policies that result in disparate impacts or otherwise violate state or federal fair housing laws. The Legislature should also limit the scope of crimes and associations with criminal activity that qualify for eviction and require landlords to use look-back periods and individualized assessments of relevant mitigating factors like post-conviction rental history, nature of underlying conduct, age of the conviction, age at the time of conviction, and general post-conviction record when reviewing evictions. Landlords should be prohibited from evicting tenants based on any of the following:

- A previous arrest that did not result in a conviction;
- Participation in, or completion of, a diversion or a deferral of judgment program;
- A conviction that has been judicially dismissed, expunged, voided, invalidated, sealed, vacated, pardoned, or otherwise rendered inoperative, including, but not limited to, as is provided under sections 1203.4, 1203.4a, or 1203.41 of the Penal Code, or for which a certificate of rehabilitation has been granted pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code;
- A determination or adjudication in the juvenile justice system or information regarding a matter considered in or processed through the juvenile justice system;
- Information pertaining to a conviction, if consideration of that conviction would violate Section 12269 of Title 2 of the California Code of Regulations, or any successor to that regulation, as it reads on the date of the application for rental housing accommodations;

²⁹⁷ See Werth, *The Cost of Being "Crime Free": Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances* (2013) Sargent Shriver National Center on Poverty Law, pp. 2-4; Dillon et al., [Black and Latino Renters Face Eviction, Exclusion amid Police Crackdowns in California](#), L.A. Times (Nov. 19, 2020) (as of Nov. 22, 2022). Crime-free housing policies refer to both crime-free housing ordinances and crime-free housing programs, collectively.

²⁹⁸ See NYCLU and ACLU, [More than a Nuisance: The Outsized Consequences of New York's Nuisance Ordinances](#) (2018) p. 6.

²⁹⁹ Archer, *The New Housing Segregation: The Jim Crow Effects of Crime-Free Housing Ordinances* (2019) 118 Mich. L. Rev. 173, 208.

³⁰⁰ Dillon et al., [Black and Latino Renters Face Eviction, Exclusion amid Police Crackdowns in California](#), Los Angeles Times (Nov. 19, 2020) (as of Nov. 22, 2022).

- A conviction that is not directly related to one or more substantial, legitimate, nondiscriminatory purposes that support the owner’s business interests. In determining whether a criminal conviction is directly related, a practice should include consideration of the nature and severity of the crime and the amount of time that has passed since the criminal conduct occurred;
- Information pertaining to a conviction that occurred more than seven years before the date of the conviction; or
- Information indicating that an individual has been questioned, apprehended, taken into custody, or detained, or held for investigation by a law enforcement, police, military, or prosecutorial agency.³⁰¹

AB 2383 (Jones-Sawyer), introduced in 2022 but not enacted, prohibits landlords from inquiring about an applicant’s criminal record during the initial phase of the rental application. It also completely bans inquiries into certain types of criminal records, which are generally already prohibited under the Fair Employment and Housing Act regulations, such as arrests that did not result in a conviction, juvenile records, and convictions that were dismissed or expunged.³⁰² This policy would essentially replicate these provisions and apply them in the eviction context. The substance of AB 2383 should be resurrected in its own right, if it has not already been reintroduced, to protect prospective renters as well as tenants.

Finally, the Task Force recommends the Legislature makes affordable housing a fundamental right that requires legal representation in eviction proceedings for the Descendant community.

J. Increase Affordable Housing for Black Californians

Throughout California’s history, state and local governments displaced Black residents through various housing policies and prevented them from obtaining access to sufficient funds or credit to purchase a home.³⁰³ As a result, Black Californians are more likely to rent than own their homes, and thus own less assets and cultivate less intergenerational wealth.³⁰⁴ Building out affordable housing in areas of high poverty or high segregation can facilitate racial and economic residential integration.³⁰⁵ It can also help bridge the racial wealth gap. The Task Force recommends the Legislature increase affordable housing for Black Californians by requiring housing built pursuant to the Regional Housing Needs Allocation program (RHNA) to explicitly advance racial equity and address the housing needs of Descendants.

The California Housing and Community Development Department (HCD) issues a Regional Housing Needs Determination to each regional council of governments (COGs) in the

³⁰¹ This list is based on Assem. Bill No. 2383 (2021-2022 Reg. Sess.).

³⁰² California Assembly Bill No. 2383 (2022 Reg. Sess.).

³⁰³ California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) pp. 162-204.

³⁰⁴ Desilver, *As National Eviction Ban Expires, A Look at who Rents and who Owns in the U.S.* (August 2, 2021) Pew Research Center (as of Nov. 22, 2022).

³⁰⁵ Menendian et al., *Racial Segregation in the San Francisco Bay Area, Part 5* (Aug. 11, 2020) Othering & Belonging Institute.

state that requires the region to meet the housing needs of everyone in the community. The COGs then determine how much housing is needed in each city for each income category and develops the Regional Housing Needs Allocation (RHNA) and a Regional Housing Needs Plan (RHNP). The RHNA establishes the total number of housing units that each city and county must plan for in the eight-year planning period. Cities and counties then update the housing elements of their general plans to account for how the city and/or county will grow and develop. This involves zoning land to accommodate the region’s housing needs, identifying sites suitable for housing development, and issuing the quantity of housing permits that match their respective RHNA.

The housing element of the city’s general plan requires a fair housing assessment.³⁰⁶ This analysis must include each of the fair housing issue areas: (1) segregation and integration, (2) racially and ethnically concentrated areas of poverty (R/ECAPs), (3) access to opportunity, and (4) disproportionate housing needs, including displacement.³⁰⁷ Cities and counties have discretion to develop their own RHNA methodology that furthers the RHNA objectives, including affirmatively promoting fair housing.³⁰⁸ COGs must affirmatively further fair housing by “taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”³⁰⁹

The Task Force recommends the Legislation (1) require the RHNA objectives to be implemented in a race-conscious way that includes tangible goals and realistic targets for compliance; (2) enforce RHNA objectives and withhold funding streams if racial equity goals/targets are not met; (3) incorporate “the housing needs of Black” or “the housing needs of Black who are Descendants of Persons Enslaved in the United States” as a factor in RHNA methodology;³¹⁰ and (4) ensure that the construction of affordable housing is accompanied by adequate renter protections to prevent gentrification and displacement by requiring regional councils of government to make funding for new development projects conditional upon protecting existing renters.

K. Provide Restitution for Racially Motivated Takings

The State of California and local governments targeted property owned by African Americans in urban renewal and development projects for unjust uses of eminent domain, often without providing just compensation.³¹¹ As a result, the construction of public infrastructure

³⁰⁶ Gov. Code, § 65583, subd. (c)(10)(A).

³⁰⁷ Gov. Code, § 65583, subd. (c)(10)(A)(II).

³⁰⁸ Gov. Code, § 65584, subd. (d).

³⁰⁹ Gov. Code, § 65584, subd. (d)(5)(e).

³¹⁰ Gov. Code, § 65584.04, subd. (e).

³¹¹ California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) pp. 171-176.

disproportionately displaced and fractured African American communities.³¹² One example of many eminent domain takings is the construction of the Century Freeway in Los Angeles, which dislocated 3,550 families, 117 businesses, and numerous parks, schools, and churches in 1968.³¹³ Other examples of unjust takings include, but are not limited to, the Freeway 210 construction in Pasadena,³¹⁴ construction of the 10 Freeway in Santa Monica,³¹⁵ construction of Interstate 980 in Oakland,³¹⁶ construction of Interstate 5 in San Diego,³¹⁷ Burgess family land in Coloma that now comprises the Marshall Gold Discovery State Historic Park,³¹⁸ Bruce’s Beach in Manhattan Beach,³¹⁹ Russell City in Alameda County,³²⁰ the Fillmore District/Western Addition in San Francisco,³²¹ Sugar Hill in Los Angeles,³²² and Section 14 in Palm Springs.³²³

The Task Force recommends the Legislature restore state property taken during race-based uses of eminent domain to its original owners or provide another effective remedy where appropriate, such as restitution or compensation. To effectuate this idea, the Legislature should create a legislative agency, or utilize the California African American Freedman Affairs Agency proposed by the Task Force to: (1) research and identify California state properties acquired as a result of racially motivated eminent domain; (2) create a database of property ownership in the state; (3) review and investigate public complaints from people who claim their property was taken without just compensation; (4) distribute just compensation for the fair market value, adjusted for property price appreciation, of the property at the time of the taking; and (5) develop and implement a public education campaign regarding the cycle of gentrification, displacement and exclusion, the connection between redlining and gentrification, and the history of discriminatory urban planning in California.

The enactment of Senate Bill 796 (Bradford) in 2021 to transfer “Bruce’s Beach,” an Black-owned beach resort, back to its former owners is an example of this policy proposal in action. In 1924, the Manhattan Beach Board of Trustees voted to condemn Bruce’s Beach through the power of eminent domain to build a park and prevent Black beach goers from

³¹² California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) p. 171.

³¹³ Mohl, [The Interstates and the Cities: Highways, Housing, and the Freeway Revolt](#) (2002) Poverty and Race Research Action Council, p. 25.

³¹⁴ *Ibid.*

³¹⁵ California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) pp. 171-176.

³¹⁶ *Id.* at p. 176.

³¹⁷ *Ibid.*

³¹⁸ California Task Force to Study and Develop Reparation Proposals for African Americans, [Testimony of Jon Burgess](#) (Sept. 23, 2021).

³¹⁹ Xia, [Manhattan Beach Was Once Home to Black Beachgoers, but the City Ran Them Out. Now It Faces a Reckoning](#), L.A. Times (Aug. 2, 2020) (as of Jan. 10, 2023).

³²⁰ California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) pp. 175-176.

³²¹ California Task Force to Study and Develop Reparation Proposals for African Americans, [Testimony of Helen H. Kang](#) (Oct. 12, 2021).

³²² California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) p. 176.

³²³ Rode, [Palm Springs City Council Apologizes for Section 14, Moves to Remove Bogert Statue](#), Desert Sun (Sept. 30 2021) (as of Jan. 10, 2023).

frequenting the beach.³²⁴ The Bruce family was forcibly removed, preventing generational wealth accumulation. Senate Bill 796 amended the necessary deed provisions and tax code to facilitate the return of the public land to the Bruce family.

Regulation of the realty market can only be effective if the necessary information is publically available. Assembly Bill 889, which was introduced but did not pass in 2021, would require beneficial owner transparency for rental properties that are owned by LLC's and thus evade disclosure requirements by not revealing true owners on the deed.³²⁵ Passing this bill would help facilitate the identification of current property ownership to include in the database of state property ownership.

L. Provide a Right to Return for Displaced Black Californians

Throughout the 1900s, California state and local government agencies targeted majority-Black communities for urban renewal projects.³²⁶ Racially restrictive covenants simultaneously worked to segregate neighborhoods and prevent Black property ownership in white communities.³²⁷ State-sanctioned violence and racial terror reinforced and exacerbated the exile of Black residents from their communities.³²⁸ Redevelopment projects continue to displace Black residents in gentrifying neighborhoods today, perpetuating housing segregation harms.³²⁹

In response to displacement caused by redevelopment, the California Legislature codified a right for low- and moderate-income families to return to low- and moderate-income housing units in the redeveloped project area as part of the Community Redevelopment Law (CRL) in 1951.³³⁰ Cities have also developed their own eligibility programs for providing displaced persons and businesses preference in rental housing, home ownership, and business opportunities at the redeveloped sites.³³¹

The Task Force recommends the Legislature support a right to return for Descendants displaced by agency action, restrictive covenants, and racial terror. The right to return will give Descendant residents and business owners who were displaced by state and local agency redevelopment projects preference in renting or owning property in the area of redevelopment. The right to return extends to all agency-assisted housing and business opportunities in the

³²⁴ California Senate Bill No. 796 (2021 Reg. Sess.).

³²⁵ California [Assembly Bill No. 889](#) (2021 Reg. Sess.).

³²⁶ California Task Force to Study and Develop Reparation Proposals for African Americans, Interim Report (June 2022) pp. 173-176.

³²⁷ Reft, [How Prop 14 Shaped California's Racial Covenants](#) (Sept. 20, 2017), KCET (as of Feb. 8, 2023).

³²⁸ Archer, *Reparations and the Right to Return* (2021) 45 N.Y.U. Rev. L. & Soc. Change 343, 356.

³²⁹ California Task Force to Study and Develop Reparation Proposals for African Americans, Interim Report (June 2022) pp. 190-191.

³³⁰ Health and Saf. Code, §§ 33411.3, 34178.8. Initially, the CRL authorized the establishment of redevelopment agencies in communities to conduct urban renewal projects, but the Legislature dissolved those redevelopment agencies in February 2012. Current law allows dissolved redevelopment agencies to create successor housing entities to perform certain specified functions. The right to return for low- and moderate-income residents remains the same. Health and Saf. Code, § 34178.8.

³³¹ See e.g., City and County of San Francisco, [Learn about the Certificate of Preference \(COP\)](#) (Dec. 21, 2022) (as of Feb. 8, 2023); City of Portland, Oregon, [Preference Policy](#), N/NE Neighborhood Housing Strategy (as of Feb. 8, 2023).

redevelopment project area.³³² The right to return extends to the descendants of persons displaced by agency-assisted redevelopment.

The Task Force also recommends the Legislature gives preference in rental housing, home ownership, and business opportunities to Descendant residents and business owners who were displaced or excluded from renting or owning property in agency-assisted housing and business opportunities developed in or adjacent to communities formerly covered by restrictive covenants. This preference extends to all agency-assisted housing and business opportunities in the redevelopment project area formerly covered by a restrictive covenant. This preference extends to the direct descendants of persons displaced by agency-assisted redevelopment.

M. Provide Funding to Assist with Residential Homeownership

The Task Force recommends that the State provide funding through grants or otherwise to assist Descendants with making residential homeownership a reality.

Chapter 23

VI. SEPARATE AND UNEQUAL EDUCATION

This section details policy proposals to address harms set forth in Chapter 6, Separate and Unequal Education, of the Interim Report.

- Increase Funding to Schools Through the Local Control Funding Formula to Address Racial Disparities
- Fund Grants to Local Educational Agencies to Address the COVID-19 Pandemic's Exacerbating Impacts on Education Disparities
- Implement Systematic Review of School Discipline Data
- Improve Access to Educational Opportunities for All Incarcerated People
- Adopt Mandatory Curriculum for Teacher Credentialing and Trainings for School Personnel and Grants for Teachers
- Employ Proven Strategies to Recruit African American Teachers
- Require that Curriculum at All Levels Be Inclusive and Free of Bias
- Advance the Timeline for Ethnic Studies Classes
- Adopt a K-12 Black Studies Curriculum
- Adopt the Freedom School Summer Demonstration Pilot Program
- Reduce Racial Disparities in the STEM Fields for African American Students
- Expand Access to Career Technical Education for Descendants
- Reduce K-12 Public School Segregation by Enabling Students to Attend Schools in Other Districts
- Fund Free Tuition to California Public Colleges and Universities
- Eliminate Standardized Testing for Admission to Graduate Programs in the University of California and California State University Systems

³³² As used here, agency-assisted housing and business opportunities are created, controlled, operated, or at least partially funded through a local or state public entity's actions, subsidies, and/or abatements.

- Identify and Eliminate Racial Bias and Discrimination in Statewide K-12 Proficiency Assessments

A. Increase Funding to Schools Through the Local Control Funding Formula to Address Racial Disparities

As Chapter 6 establishes, “[a]s of the early 2000s and through today, the vast majority of Black children remain locked into schools separate from their white peers, and possibly more unequal than the schools that their grandparents had attended under legal segregation.”³³³ As the U.S. Government Accountability Office noted, even 60 years after *Brown v. Board of Education*, Black students are increasingly attending segregated, high-poverty schools where they face multiple educational disparities.³³⁴ Data from the U.S. Department of Education’s Office of Civil Rights collected from 2014 to 2018 confirm the same disparities — large and persistent opportunity gaps and fewer resources for Black students.³³⁵ To reiterate what is noted in Chapter 6, Black students are less likely to attend schools that offer advanced coursework and math and science courses, and less likely to be placed in gifted and talented programs.³³⁶ Further exacerbating these disparities is the severe and persistent funding disparity between school serving white students and those serving Black students.³³⁷ A 2021 report found that “[n]eighborhood poverty rates are highest in segregated communities of color (21%), three times more than in segregated white neighborhoods (7%).”³³⁸ At the same time, wealthy and often more predominantly white neighborhoods continue to fund their schools at greater levels, both because a percentage of funding for California schools comes from local property taxes and because wealthier communities can easily raise additional funds through donations and local bonds.³³⁹

The Task Force recommends the Legislature provide and direct additional funding to Black students, with a special consideration for those who are Descendants of persons enslaved in the United States, at the level needed to ensure that they have every resource needed to excel academically and close the opportunity gap. No student should have fewer opportunities because of race or due to a lack of resources that other students are afforded.

One way to provide this funding is the Local Control Funding Formula (“LCFF”). The LCFF was enacted in 2013-14 to provide schools with greater flexibility and authority over resources.³⁴⁰ The LCFF sets forth specific funding allocations to all school districts and charter schools in California. Supplemental grants are provided to schools with targeted disadvantaged pupils, specifically English learners, those meeting income requirements to receive a free or

³³³ California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) p. 218.

³³⁴ *Ibid.*

³³⁵ *Ibid.*

³³⁶ *Ibid.*

³³⁷ *Ibid.*

³³⁸ Menendian, Gambhir & Gales, [The Roots of Structural Racism Project: Twenty-First Century Racial Residential Segregation in the United States](#) (June 21, 2021) Othering & Belonging Institute (as of Dec. 1, 2022).

³³⁹ *Ibid.*

³⁴⁰ For more on LCFF, see Cal. Dept. of Ed., [LCFF FAQs \(as of Dec. 1, 2022\)](#).

reduced-price meal, foster youth, or any combination of those factors.³⁴¹ However, critics have noted that the LCFF does not focus specifically on Black students or require schools to ensure that funds are spent on high-needs students.³⁴² An example of a proposal that could have done this is AB 2774, which would have created new supplemental funding for California’s lowest performing subgroup of students who are not currently receiving funding.³⁴³ As the time of the bill’s introduction, African American students who would have benefited.³⁴⁴ Whether through an approach like AB 2774 or some other manner, the Task Force implores the Legislature to fund resources for Black students to address the persistent racial disparities and close the opportunity gap.

B. Fund Grants to Local Educational Agencies to Address Racial Disparities in Education, as Exacerbated by the COVID-19 Pandemic

The COVID-19 pandemic exacerbated preexisting disparities in academic growth and access and opportunities for students of color in public schools. In particular, students appear to be falling even further behind in math and reading.³⁴⁵ The evidence also shows that the academic growth gap has continued to widen for many African American students.³⁴⁶ Black students did not experience the recovery in growth in math and reading that their white peers experienced.³⁴⁷

Research from the U.S. Department of Education and other sources has shown impacts on education resulting from the pandemic. During the pandemic, Black adults, among others, disproportionately faced increased health risks and economic disruptions that impacted their families and students in particular.³⁴⁸ Technology barriers further worsened the existing inequality in the educational system. As of summer 2020, nearly a third of teachers in majority African American schools reported that their students lacked the technology necessary for virtual instruction; only one in five teachers said the same in schools with fewer than 10% of African American students.³⁴⁹

The pandemic has resulted in a mental health crisis for young children and teenagers and compounded the need for mental health services for Black students, among others, who

³⁴¹ See Cal. Dept of Ed., [Local Control Funding Formula Overview \(as of Dec. 1, 2022\)](#); Auditor of the State of California, [K-12 Local Control Funding](#) (Nov. 2019) p. 6 (as of Dec. 1, 2022) (hereinafter K-12 Local Control Funding).

³⁴² California Reparations Task Force Interim Report at p. 224.

³⁴³ Assem. Bill No. 2774 (2021-2022 Reg. Sess.).

³⁴⁴ [About AB 2774](#), Black in School Coalition (as of Mar. 17, 2023).

³⁴⁵ *Id.* at p. 15; Impact of the COVID-19 Pandemic, *supra*, at p. 8.

³⁴⁶ Education in a Pandemic, *supra*, at pp. 15–17; see also Impact of the COVID-19 Pandemic, *supra*, at p. 8; Dorn, et al., [COVID-19 and Learning Loss—Disparities Grow and Students Need Help](#) (Dec. 8, 2020) McKinsey & Co. (as of Nov. 27, 2022) [releasing a study that found by fall 2020, students “learned 67 percent of the math and 87 percent of the reading that grade-level peers would typically have learned,” which means a three-month learning loss in reading and a one and a half month loss in reading].

³⁴⁷ *Ibid.*

³⁴⁸ [Education in a Pandemic: The Disparate Impacts of COVID-19 on America’s Students](#) (June 9, 2021) U.S. Dept. of Ed., Office for Civil Rights, p. 11 (as of Nov. 27, 2022) (hereinafter “Education in a Pandemic”).

³⁴⁹ *Id.* at p. 13.

disproportionately rely on their schools for these services.³⁵⁰ Finally, the pandemic has had a significant impact on school systems as workplace attrition and teacher shortages are critical concerns.³⁵¹ Almost half of the public school teachers who stopped teaching after March 2020 left because of the pandemic, citing stress as the most common reason for their departure. School district administrators and principals also cited concerns about burnout and turnover.³⁵²

Based on the foregoing, the Task Force recommends the Legislature provide funding to the CDE to administer grants to local educational agencies (“LEAs”) for the following purposes.³⁵³ As part of receiving funding, LEAs would have to plan for how the following activities would be supported by the budget and identified in the Local Control and Accountability Plan (“LCAP”) and any grant materials, with a requirement to focus on reducing existing racial disparities.

As detailed in another proposal later in this chapter, funding could be used for positive and restorative discipline practices such as analyzing disciplinary data, shifting from zero tolerance approaches, and reconsidering and/or eliminating the presence of police and security in schools. In particular, it is recommended that school districts should take six weeks over the summer or at the beginning of the year to focus on restorative practices that address whole child needs.³⁵⁴ Funding could also be used to conduct regular wellness screenings and review data on attendance, engagement, and grades to identify and address the individual needs of students at the classroom, school, and district levels. Schools should administer diagnostic assessments and surveys to inform instructional planning (but not to hold students back or to track them) and measure school conditions and climate.³⁵⁵ Schools could also use existing resources such as the “Whole Child Policy Toolkit,” produced by the Learning Policy Institute.³⁵⁶

As detailed in another proposal in Chapter 3, funding could also be used to increase staffing and community-based partnerships to address students’ individualized learning and mental health needs. This could include providing full wraparound services for Black students across all California public schools, including appropriate mentoring, tutoring, and mental and physical health services. On a school district level, this could include high-dosage tutoring and investment in expanded learning opportunities and partnerships with community organizations. School districts could use this funding to provide mental health supports by establishing multidisciplinary teams and processes for implementing a comprehensive continuum of supports to: further student learning; promote student wellness and address barriers to learning; develop a

³⁵⁰ Education in a Pandemic, *supra*, at p. 12; Calderon, [U.S. Parents Say COVID-19 Harming Child's Mental Health](#) (June 16, 2020) Gallup (accessed Nov. 27, 2022) [noting that nearly three in ten parents (29%) surveyed said their child was “experiencing harm to [their] emotional health,” with 45% stating that the separation from teachers and classmates is a “major challenge of remote learning”].

³⁵¹ Impact of the COVID-19 Pandemic, *supra*, at pp. 10-11 [noting that a survey in early 2021 found nearly 70% of school principals said they could not meet their students’ mental health needs with the staff they had”]; Carver-Thomas, Leung-Gagne & Burns, [California Teachers and COVID-19: How the Pandemic is Impacting the Teacher Workforce](#) (Mar. 4, 2021) Learning Policy Institute (accessed Nov. 28, 2022).

³⁵² Impact of the COVID-19 Pandemic, *supra*, at pp. 10-11.

³⁵³ [COVID-19 Relief and School Reopening Grants](#) (as of Nov. 27, 2022) Cal. Dept. of Ed.

³⁵⁴ [Reimagine and Rebuild: Restarting School with Equity at the Center](#) (Apr. 2021) (as of Nov. 27, 2022) (hereinafter “Reimagine and Rebuild Brief”).

³⁵⁵ *Id.* at p. 5.

³⁵⁶ See, e.g., [Whole Child Policy Toolkit](#), Learning Policy Institute.

centralized, school- or district-wide referral and tracking system for students, teachers, and families to connect to appropriate resources; and review the effectiveness of interventions and supports collaboratively and systematically. School districts should increase their staff and work with community partners, with an emphasis on hiring and partnering with individuals who demonstrate cultural congruence with the student community to be served.³⁵⁷

The Task Force also recommends provide additional funding to the CDE to administer grants to organizations and researchers in California to fund further research and data collection efforts in order to assess the full impact of the pandemic on African American students in California. Further research would inform learning recovery in the short-term and improved performance and equity in the long-term.³⁵⁸

C. Systematic Review of School Discipline Data

Chapter 6, *Separate and Unequal Education*, detailed the ways in which Black and Descendant students are disproportionately subject to exclusionary discipline in school, which in turn leads to higher risk of drop out and juvenile justice involvement.³⁵⁹ Moreover, Black students are more likely to attend schools with law enforcement on campus and greater security measures, and Black students are also more likely to be arrested than their white peers.³⁶⁰ Commonly known as the “school-to-prison pipeline,” this dynamic has devastated the Descendant and the larger Black community by victimizing its youth.³⁶¹ A study at Princeton University found that Black students experience higher rates of suspension, expulsion, in-school arrests, and law enforcement referrals than white students.³⁶² Key findings of the U.S. Commission on Civil Rights majority are that “[s]tudents of color as a whole, as well as by individual racial group, do not commit more disciplinable offenses than their white peers — but African American students, Latino students, and Native American students in the aggregate receive substantially more school discipline than their white peers and receive harsher and longer punishments than their white peers receive for like offenses.”³⁶³ The Task Force accordingly recommends several measures to mitigate and ultimately end the school-to-prison pipeline.

The Legislature should address and remedy racially disparate discipline, particularly expulsions and suspensions, in California schools.³⁶⁴ First, the Task Force recommends requiring the California Department of Education (“CDE”) to implement a systematic review of public and

³⁵⁷ Reimagine and Rebuild Brief, *supra*, at p. 6.

³⁵⁸ Hough, et al., [The impact of the COVID-19 pandemic on students and educational systems: Critical actions for recovery, and the role of research in the years ahead](#) (Sept. 2021) Policy Analysis for California Education, at pp. 18–20 (as of Nov. 27, 2022) (hereinafter “Impact of the COVID-19 Pandemic”).

³⁵⁹ California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) pp. 218–219.

³⁶⁰ *Id.* at 219.

³⁶¹ *See id.*

³⁶² Kelly, *supra*.

³⁶³ Briefing Report, [Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities](#) (July 2019) U.S. Commission on Civil Rights (as of Jan. 20, 2023).

³⁶⁴ See [2023 Annual Report](#), *supra*, at p. 136 (“studies show that students of color, students with disabilities, and LGBTQ+ students are the most likely to experience disciplinary exclusion, when compared to their peers, without evidence of higher rates of problematic behavior”).

private school disciplinary records to determine levels of racial bias. This would include requiring every school to collect and review data on an annual basis and issue a public report annually analyzing the disparities in discipline. Every district or county board of education should hire a management-level employee to coordinate the public reporting of disparities in each school and be responsible for failures to report the required data. The Task Force recommends reporting on the status of implementation of these requirements to CDE as a part of the local control and accountability plan (“LCAP”) or on a more frequent basis. The Legislature should also provide funding to districts to implement these requirements and to the CDE and the DOJ for administrative investigations of any schools that have high levels of racial disparities.

Second, the Task Force recommends requiring the CDE to set statewide, school district, and/or local educational agency (“LEA”)-level numeric targets, both interim and long term, and interim timetables to end the disproportionate suspension, expulsion, and discipline-related transfer of Black K–12 California students, including Black students with disabilities, by 2032, starting with the school districts or LEAs with the highest rate of disproportionality. The CDE should also be required to use a data collection and monitoring system to allow for prompt identification of districts with highly disproportionate discipline of Black students, and a concrete plan for corrective intervention by the CDE. The CDE should be required to use all necessary mechanisms to achieve the 2032 goal, including an annual report of disproportionality statistics at the statewide, district, and LEA-level to the Legislature, Governor, and the public. The CDE should also be empowered to impose monetary sanctions at the district or LEA level.

Third, the Task Force recommends the CDE collect and publish publicly, in addition to suspension and expulsion data, data on students who are transferred to alternative schools, both voluntarily and involuntarily. Black students are overrepresented in alternative schools,³⁶⁵ which provide a substandard education. Attending an alternative school is associated with negative outcomes; students who attend alternative schools are less likely to graduate and less likely to attend college.³⁶⁶ Because transfers to alternative schools are often used as discipline and have the same effect of pushing out Black students through suspension and/or expulsion, transfer data should also be systematically reviewed by the CDE. The CDE shall include reducing the use of alternative school transfers in any goals related to ending the disproportionate discipline of Black students.

Finally, the Task Force recommends requiring schools to implement racially equitable disciplinary practices using culturally responsive positive behavioral interventions and supports (“CR-PBIS”) and provide state-mandated training on implicit bias, cultural competency, CR-PBIS, and related subject matter to school staff on an annual basis.

D. Improved Access to Educational Opportunities for All Incarcerated People

A report by the Vera Institute on Second Chance Pell Experimental Sites Initiative documents the positive impacts seen by postsecondary education in prison, such as positive self-worth and development, preparing for post-release jobs and successful reentry, public safety,

³⁶⁵ Wood et al., [Suspending our Future](#) (Feb. 17, 2021) Black Minds Project at p. 21 (as of March 17, 2023)

³⁶⁶ Warren, [Accountability for California’s Alternative Schools](#) (May 2016) Public Policy Institute of California at p. 3 (as of March 17, 2023).

safety inside prisons, and economic savings.³⁶⁷ These positive impacts also include racial equity, as the Vera report states that “[p]ostsecondary education is a primary avenue for upward mobility — especially among people of color, who disproportionately make up the prison population.”³⁶⁸ Vera also reports that “[p]eople who participate in education programs in prison are more likely to be employed after their release and to earn higher wages[.]”³⁶⁹

The Brookings Institute also has found that “postsecondary prison education programs are inextricably linked to advancing racial equity, especially given inequality in K-12 education that feeds low-income African American and Latinx students into the school-to-prison pipeline.”³⁷⁰ Additionally, “[i]ndividuals who enroll in postsecondary education programs are 48% less likely to be reincarcerated than those who do not, and the odds of being employed post-release are 12% higher for individuals who participate in any type of correctional education.”³⁷¹

The Task Force recommends funding for and improved access to educational opportunities for all incarcerated people in both juvenile and adult correctional facilities. This would include requiring all schools in the University of California and California State University system to join the Second Chance Pell Experimental Sites Initiative if it is expanded beyond the 2022-2023 award year. If it is not expanded beyond the 2022-2023 award year, establish a California state counterpart to this system. This would also include requiring California community colleges and California State University schools to partner with juvenile and adult correctional facilities to offer a specified number of classes per year for a formal educational program such as a GED, associate degree, or bachelor’s degree. Finally, it would include requiring the CDE to identify, assess, and monitor implementation of further measures needed to ensure the provision of high-quality education in detention settings, which includes education-based incarceration programs.³⁷² A proposal in Chapter 3 recommends California Department of Corrections and Rehabilitation conduct an audit of its policies and practices, including practices related to access to educational programming. Any disparities and gaps found in this audit should be used to support the institution of education-based incarceration.

³⁶⁷ Chesnut, et al., [Second Chance Pell: Five Years of Expanding Higher Education Programs in Prisons, 2016-2021](#) (May 2022) Vera Institute of Justice (as of Jan. 20, 2023) (hereinafter “Second Chance Pell”); see also Davis, et al., [Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults](#) (2013) RAND Corporation (as of Jan. 20, 2023) (finding that correctional education improves inmates’ outcomes after release and recommending, among other things, funding grants to enable correctional educators to partner with researchers and evaluator to evaluate their programs).

³⁶⁸ Second Chance Pell, *supra*.

³⁶⁹ Delaney and Montagnet, [Second Chance Pell: A Snapshot of the First Three Years](#) (April 2020) Vera Institute of Justice.

³⁷⁰ Gibbons and Ray, [The societal benefits of postsecondary prison education](#) (Aug. 20, 2021) The Brookings Institute.

³⁷¹ *Ibid.*

³⁷² As implemented in Los Angeles County, education-based incarceration “focuses on promoting intellectual growth” in individuals who are incarcerated and using that time “to study for success once their sentence is up.” (NPR Staff, [Sheriff’s Program Teachers Prisoners To Get Out of Jail](#), NPR (May 1, 2011) (as of Mar. 8, 2023); see also [Education Based Incarceration: Creating a Life Worth Living](#) (2012) Los Angeles County Sheriff’s Department (as of Mar. 8, 2023)).

E. Adoption of Mandatory Curriculum for Teacher Credentialing and Trainings for School Personnel and Grants for Teachers

A review of the statewide requirements on the Commission on Teacher Credentialing website shows that there are no requirements to complete trainings or courses on culturally responsive pedagogy, anti-bias training, or restorative practices prior to receiving a teaching credential.³⁷³ As noted in Chapter 6, “teacher preparation is inadequate in training teachers to be culturally-responsive and to carry those practices into the classroom in both the way they teach and the materials they use when they teach.”³⁷⁴ Culturally responsive instruction helps students feel valued and empowered, and builds students’ sense of belonging and self-confidence.³⁷⁵ A number of studies on brain science demonstrate that positive relationships in the classroom build motivation, create safe spaces for learning, build new pathways for learning, and improve student behavior.³⁷⁶

The Task Force recommends the adoption of mandatory curriculum for teacher credentialing and trainings for school personnel that include culturally responsive pedagogy, anti-bias training, and restorative practices.³⁷⁷ The Task Force also recommends identifying and supporting teachers who provide culturally responsive instruction and adopting new models for teacher development to improve teacher habits in the classroom. This can be accomplished by having the CDE issue a request for proposal for grants to go to teachers and schools to develop models based on best practices and to share examples of successes in their proposals. Teachers and schools would then report back to the California State Legislature on any models and outcomes, so that they might be scaled up.

F. Strategies to Recruit Black Teachers

As set forth in Chapter 6, recent studies have established the importance of students having at least one teacher who looks like them.³⁷⁸ While Black students comprise 5.07 percent of California’s student population, the percentage of Black teachers in California has declined from 5.1 percent in 1997-98 to 3.9 percent in 2021-2022.³⁷⁹ Black men comprise only one percent of

³⁷³ [Teaching Credentials Requirements \(as of Jan. 20, 2023\)](#) Cal. Com. on Teacher Credentialing; Culturally responsive pedagogy describes a method of teaching that calls for engaging students whose experiences and cultures have been excluded from mainstream settings. ([Understanding Culturally Responsive Teaching](#) (as of Nov. 23, 2022) New America (hereinafter “Understanding Culturally Responsive Teaching”).).

³⁷⁴ California Task Force to Study and Develop Reparation Proposals for African Americans, Interim Report (June 2022) p. 232.

³⁷⁵ Understanding Culturally Responsive Teaching, *supra*.

³⁷⁶ Kaufman, [Building positive relationships with students: What brain science says](#) (as of Nov. 23, 2022) Understood.

³⁷⁷ This could be modeled on California Government Code § 12950.1, which requires employers to provide sexual harassment training and education to employees.

³⁷⁸ Assem. Com. on Ed., Analysis of Assem. Bill 520 (2021-2022 Reg. Sess.) as amended March 25, 2021, p. 6–7 (research shows that “[t]eachers of color boost the academic performance of students of color”); Freedburg, [Despite Progress, California’s Teaching Force Far From Reflecting Diversity of Students](#), EdSource (Apr. 25, 2018) (as of Jan. 20, 2023); see also California Task Force to Study and Develop Reparation Proposals for African Americans, Interim Report (June 2022) p. 224.

³⁷⁹ [Fingertip Facts on Education in California](#) (2021-2022) Cal. Dept. of Ed. (as of Jan. 20, 2023); Assem. Com. on Ed., Analysis of Assem. Bill 520 (2021-2022 Reg. Sess.) as amended March 25, 2021, p. 6; [State](#)

teachers in California.³⁸⁰ The cost of teacher preparation programs have been identified as one of the major barriers impeding the pipeline of Black teachers, and experts have noted that the funding of these residency programs shows a real focus by the state to remove this barrier.³⁸¹ Studies have also found that Grow Your Own teacher programs lead to positive outcomes for diverse student populations.³⁸²

The Task Force recommends the Legislature remedy the ongoing harm by developing proactive strategies to recruit Black teachers to teach in K-12 schools in California. This would include establishing a program for University of California and California State University teacher credential programs like UC PRIME to be focused on teaching in schools that predominantly serve Black students.³⁸³ It would also include providing funding for and creating partnerships with the University of California and California State University teacher credential programs for teacher residency and Grow-Your-Own programs³⁸⁴ at the district level to recruit Black teacher candidates among high school students, paraprofessionals, and after-school program staff. Finally, it would include funding to establish an intensive teacher preparation support program with ongoing mentorship, tutoring, exam stipends, and job placement services and funding for districts to retain staff in Grow Your Own programs.

G. Requiring Curriculum at All Levels Be Inclusive and Free of Bias

As set forth in Chapter 6, redefining curriculum on Black and African experiences are particularly important in California,³⁸⁵ which according to 2021 Census Bureau data was home to the sixth largest Black population in the United States.³⁸⁶ According to an Education Week Research Center survey of mostly-white educators, one in five think their textbooks accurately reflect people of color.³⁸⁷ The United States has seen opposition from elected officials to

[*Superintendent Tony Thurmond, Assemblymember Mike Gipson, Educators and Scholars Urge Support for First-of-its-Kind Legislation to Diversify the Teaching Workforce*](#) (Apr. 13, 2021) Cal. Dept. of Ed (as of Jan. 20, 2023).

³⁸⁰ Sentinel News Service, [*Gipson Bill Supports Male Educators of Color: AB 520 Diversifies Teaching Workforce*](#), Los Angeles Sentinel (Apr. 15, 2021) (as of Jan. 20, 2023).

³⁸¹ Tadayon, [*How California districts seek to recruit, retain Black teachers amid shortage*](#) (Jan. 25, 2022) Lake County Record-Bee (as of Jan. 20, 2023) [profiling Michael Obah, who was supported by Oakland Unified's Grown Our Own teacher residency program that pays student teachers a \$15,000 stipend while they earn their credentials and apprentice under a mentor and received emotional support, job-site support, test preparation, interview assistance, and connections to Oakland schools for jobs].

³⁸² Grow Your Own, *supra*.

³⁸³ As explained below, UC PRIME (University of California's Programs in Medical Education) is an innovative training program at University of California medical schools that focuses on training medical professionals to meet the needs of California's underserved populations.

³⁸⁴ Grow Your Own teacher programs are partnerships among school districts, institutions of higher education, and community-based organizations to recruit and prepare community members to become teachers in local schools. (Xu, et al., [*Teacher Workforce Development: 'Grow Your Own' Teacher Programs*](#) (Oct. 2021) Penn State Social Science Research Institute (as of Jan. 20, 2023) (hereinafter "Grow Your Own").)

³⁸⁵ California Task Force to Study and Develop Reparation Proposals for African Americans, Interim Report (June 2022) p. 231.

³⁸⁶ [*Profile: Black/African Americans*](#) (Feb. 24, 2023) U.S. Department of Health and Human Services Office of Minority Health (as of Mar. 16, 2023).

³⁸⁷ Gewertz, [*Survey of Mostly-White Educators Finds 1 in 5 Think Textbooks Accurately Reflect People of Color*](#) (Jul. 2, 2020) Education Week (as of Feb. 15, 2023) [finding that "[e]ducators of color were more likely than

discussing the truth about slavery and critical race theory in public K-12 schools.³⁸⁸ Opponents contend these subjects divide Americans and place the blame on white Americans for current and historical harm to African Americans and nonwhite Americans.³⁸⁹ However, curriculum that includes Black history and experiences is important. Erasure of Black history and dehumanization of African Americans in school textbooks contribute to cultural and social alienation.³⁹⁰ Additionally, Black students can feel unimportant, invisible, and voiceless in classrooms where they do not see their experiences and history reflected in school curricula.³⁹¹

The Task Force recommends the Legislature remedy the ongoing harm by ensuring curriculum at all levels and in all subjects be inclusive, free of bias, and honor the contributions and experiences of all peoples, regardless of ethnicity, race, gender, or sexual orientation, by funding a department or center with appropriate specialty within the University of California or California State University system to review all curriculum and issue a public report or series of reports to the Governor and the California State Legislature on its findings and recommendations for curriculum changes.

H. Advance the Timeline for Ethnic Studies Classes

A peer-reviewed study published in the *Proceedings of the National Academy of Sciences* that was conducted with San Francisco Unified School District students found quantitative evidence of a long-term academic impact of ethnic studies.³⁹² The benefits for students who took an ethnic studies course in ninth grade lasted throughout high school and resulted in higher attendance, higher graduation rates, and increased enrollment in college.³⁹³ EdSource, quoting Thomas Dee, a professor at the Stanford Graduate School of Education and co-author of the research, noted that “not only did the strikingly large benefits from the course not fade after ninth grade, but the course produced ‘compelling and causally credible evidence’ of the power to ‘change learning trajectories’ of the students targeted for the study — those with below-average grades in eighth grade.”³⁹⁴

their white peers to answer ‘none’ or ‘a little’ when asked whether their schools’ or districts’ textbooks accurately and fully reflect the experiences of people of color”].

³⁸⁸ See Kaur, [Bills in Several States Would Cut Funding to Schools that Teach the 1619 Project. But They Mostly Aren’t Going Anywhere](#), *The Philadelphia Tribune* (Feb. 11, 2021) (as of Jan. 20, 2023); Bernstein, [Republican Lawmakers Introduce Bill to Defund ‘1619 Project’ Curricula in Schools](#), *Nat. Rev.* (July 14, 2021) (as of Jan. 20, 2023); Sawchuk, [What is Critical Race Theory, and Why is It Under Attack?](#), EdSource (May 18, 2021) (as of Jan. 25, 2023) (hereinafter “What is Critical Race Theory”).

³⁸⁹ What is Critical Race Theory, *supra*.

³⁹⁰ Verene A. Shepherd, Member of the UN Committee on the Elimination of Racial Discrimination (CERD), presentation to the United Nations, *Justice for People of African Descent through History Education: Addressing Psychological Rehabilitation* (Mar. 31–Apr. 4, 2014) p. 1.

³⁹¹ Richardson, *Tomorrow’s Super Teacher* (2021) p. 13.

³⁹² Fensterwald, [Research finds ethnic studies in San Francisco had enduring impact](#), EdSource (Sept. 7, 2021) (as of Jan. 20, 2023).

³⁹³ *Ibid.*

³⁹⁴ *Ibid.*

Governor Newsom signed a bill in October 2021 to require California high school students to take ethnic studies as a graduation requirement commencing in 2030.³⁹⁵ The Task Force recommends advancing the timeline for ethnic studies classes.

I. Adopt a K-12 Black Studies Curriculum

As set forth in Chapter 6, “[a]s important as how schools shape their curriculum concerning the history of how Black people in America is how schools teach the humanity of Black people before, during, and after enslavement.”³⁹⁶ This kind of curriculum requires teaching “about humanity’s origins in Africa thousands of years before either Arabs or Europeans encountered people of West and Central African ancestry” and that “African Americans’ stories did not begin with enslavement.”³⁹⁷ As noted earlier, this curriculum is especially important given that, as of 2021, California has the sixth largest Black population in the country.

The Task Force recommends adoption of a K-12 Black Studies curriculum that introduces students to concepts of race and racial identity, accurately depicts historic racial inequities and systemic racism, honors Black lives, fully represents contributions of Black people in society, and advances the ideology of Black liberation. The curriculum would be modeled on the approach taken by the San Francisco Unified School District.³⁹⁸ It would include:

University of California a-g approved courses for . . . high schools and required unit plans for PK-8 that introduce students to the concept of race, racial identity, African and African American history, equity, and systemic racism.” There would be at least three “a” courses: one on African history, culture, and geographies; one on African diasporic studies; and another on African American history and phases of African American resistance. At least one “b” course would be focused on classic and modern African, African American, and diasporic literature, while at least one “g” course would be youth-driven in curriculum development and implementation.³⁹⁹

The Task Force also recommends the establishment of a Black Studies Fund within the Instructional Quality Commission to fully fund this ongoing effort, which includes curriculum development, staff to administer the program, and educators to teach the curriculum. The Black Studies Fund staff would also review the original curriculum of the Freedom Schools of

³⁹⁵ Assem. Bill. No. 101 (2021-2022 Reg. Sess.).

³⁹⁶ California Task Force to Study and Develop Reparation Proposals for African Americans, Interim Report (June 2022) p. 231.

³⁹⁷ *Ibid.*

³⁹⁸ Press Release, [Board of Education Approves K-12 Black Studies Curriculum](#) (Oct. 20, 2020) SFUSD (as of Jan. 20, 2023).

³⁹⁹ *Ibid.*

Mississippi Summer Project and incorporate this curriculum where appropriate.⁴⁰⁰

The Task Force also recommends that CDE or another state agency work with SFUSD, the San Francisco State University Africana Studies Department, as well as longstanding organizations such as the NAACP and the Alliance of Black School Educators, to guide design and development of the curriculum.

J. Adopt a Freedom School Summer Program

Studies have found Black students gain less academically over the school year and lose more over the summer, a phenomenon referred to as summer learning loss.⁴⁰¹ Researchers have established that summer learning programs reduce summer learning loss, and there are certain practices that can help students succeed in summer programs, such as using an evidence-based curriculum, incorporating hands-on and recreational activities, and hiring effective teachers.⁴⁰² Additionally, a recent household survey found that Black families are participating in summer learning programs at record high levels, with half of Black families with children reporting that their child participated in a summer learning program in 2019.⁴⁰³ The survey found that while 1.9 million Black children participated in a summer learning program in 2019, parents reported that 2.3 million more Black children would have enrolled had a program been available to them.⁴⁰⁴

The Task Force recommends the adoption and funding of a Freedom School summer program. This could begin with a pilot program, as initially introduced by AB 2498 (Bonta) in the 2021-2022 Regular Session of the California State Legislature. AB 2498 proposed a pilot program of the Freedom School summer program that could be used as a model. As would have been the case under AB 2498, the Task Force recommends these summer programs develop summer literacy and learning loss mitigation programs for public school students. These programs would: celebrate students and the cultural richness of the diversity of the United States; increase the reading, writing, and comprehension abilities of students; and prevent learning loss during summer recesses. A number of studies from PACE and the RAND Corporation were cited in support of AB 2498 for the proposition that effective summer programs can improve academic, behavioral, and social and emotional learning outcomes.⁴⁰⁵ Finally, the Task Force

⁴⁰⁰ As background, the Freedom Schools of Mississippi Summer Project, a network of alternative schools sponsored by various civil rights groups led by the Student Nonviolent Coordinating Committee (“SNCC”), flourished briefly in the summer of 1964. (Perlstein, *Teaching Freedom: SNCC and the Creation of the Mississippi Freedom Schools* (1990) 30(3) *History of Education Quarterly* 297, 297 (as of Jan. 20, 2023).) Freedom Schools provided African American students with an education that public schools would not give them — “one that both provided intellectual stimulation and linked learning to participation in the movement to transform the South’s segregated society.” (*Ibid.*) The curriculum is still available online. (See *Mississippi Freedom School Curriculum* (as of Jan. 20, 2023) Education and Democracy.)

⁴⁰¹ Quinn and Polikoff, *Summer Learning Loss: What is It, and What Can We Do About It?* (Sept. 14, 2017) The Brookings Institution (as of Mar. 16, 2023).

⁴⁰² *Research in the Field*, U.S. Department of Education You for Youth (as of Mar. 16, 2023) [citing studies].

⁴⁰³ *Study: 2.3 Million Black Students Lack Access to Summer Learning Programs*, The Seattle Medium (Jun. 10, 2021) (as of Mar. 16, 2023) [citing survey].

⁴⁰⁴ *Ibid.*

⁴⁰⁵ *Ibid.*

recommends the Freedom School summer programs to incorporate, where appropriate, the curriculum of the Freedom Schools of Mississippi Summer Project, as referenced previously in this chapter.

K. Reduce Racial Disparities in the STEM Fields for African American Students

Racial disparities exist in science, technology, engineering, and math (“STEM”) education in California and nationwide.⁴⁰⁶ Black students lack access to critical STEM opportunities in middle school; for example, taking Algebra I in Grade 8 creates a pathway to the math classes in high school that are required for admission to many four-year colleges.⁴⁰⁷ According to 2018 data from the U.S. Department of Education Office for Civil Rights, for the 2015-16 school year, Black students constituted 17 percent of students in schools that offered Algebra I in Grade 8, but only 11 percent of the students actually enrolled.⁴⁰⁸ 85 percent of white students and 74 percent of Asian students who enrolled in Algebra I in Grade 8 passed the course, while 65 percent of Black students enrolled in Algebra I passed the course.⁴⁰⁹ Additionally, approximately 5,000 high schools with more than 75% Black and Latino student enrollment offered math and science courses at a lower rate than was the case for all high schools, with the difference being the greatest for advanced math, Calculus, and Physics.⁴¹⁰

A study conducted by The Education Trust noted that roughly two in five Black and Latino students aspire to go to college and name STEM subjects as their favorites, but less than three percent enrolling in STEM courses due to systemic barriers.⁴¹¹ These include funding inequities, education leaders’ reliance on a student’s persistence or assumptions about their intelligence, racialized tracking (not receiving the same opportunities as affluent and White students to enroll in advanced STEM courses), and reliance on single denominators of readiness (e.g., GPA or test scores).⁴¹² The Education Trust also issued a set of recommendations for state leaders on how to increase access to and success in advanced coursework for Black students.⁴¹³

This proposal adopts and directly incorporates the recommendations listed in reports published by The Education Trust and Kapor Center.⁴¹⁴ Limited revisions have been made to ensure this proposal is consistent with the other recommendations of the Task Force; these

⁴⁰⁶ The addition of the study of arts to “STEM” or “STEAM” is becoming increasingly popular. There is substantially more data on racial disparities in STEM education specifically, which is what provides the justification for this proposal. However, any policy recommendations from the Task Force will also include arts education.

⁴⁰⁷ *Inequities in Advanced Coursework: What’s Driving Them and What Leaders Can Do* (Sept. 2014), The Education Trust, p. 8 (hereinafter “Inequities in Advanced Coursework”).

⁴⁰⁸ *2015-16 Civil Rights Data Collection, STEM Course Taking* (Apr. 2018) U.S. Dep’t of Ed., p. 3 (hereinafter “STEM Course Taking”).

⁴⁰⁹ *Ibid.*

⁴¹⁰ *Ibid.*

⁴¹¹ Patrick, et al., *Shut Out: Why Black and Latino Students Are Under-Enrolled in AP STEM Courses* (Apr. 21, 2022) The Education Trust, p. 49 (as of Jan. 20, 2023) (hereinafter “Shut Out of AP STEM Courses”).

⁴¹² *Id.* at pp. 7, 14–15.

⁴¹³ *See id.*

⁴¹⁴ Shut Out of AP STEM Courses, *supra*, pp. 11, 14; Scott, et al., *Computer Science in California Schools: An Analysis of Access, Enrollment, and Equity* (June 17, 2019) Kapor Center, p. 15 (as of Jan. 20, 2023) (hereinafter “Computer Science in California Schools”).

revisions are identified in corresponding footnotes. Where language has been added, it is identified in italics. Accordingly, following the recommendations set forth in The Education Trust report, the Task Force recommends the Legislature:

(1) Enact[] more equitable enrollment policies and practices, such as: (i) requiring districts to use multiple measures to identify students for advanced coursework opportunities, including but not limited to expressed desire to enroll, exam scores, grades in relevant prerequisite courses, and recommendations from trusted school staff *who have taken implicit bias training*;⁴¹⁵ (ii) passing automatic enrollment policies for all advanced coursework opportunities (K-12) so that students identified for advanced coursework through any of the measures above are automatically enrolled in advanced coursework opportunities, with the option to opt out;⁴¹⁶ (iii) monitoring progress of automatic enrollment to ensure schools are implementing the policy in ways that increase enrollment in advanced courses for historically underserved students; (iv) and providing technical support for schools and districts struggling to enroll Black students in advanced coursework opportunities, especially those opportunities that are the foundation for future success (e.g., Algebra I and II, Biology, Physics, Chemistry);⁴¹⁷

(2) Eliminat[e] longstanding barriers to accessing advanced coursework opportunities by: (i) covering the cost of exams, transportation, books, and other required materials for advanced coursework; (ii) requiring districts and/or schools to notify families about advanced coursework opportunities available in the school and district, the benefits of enrolling in those courses, and the process around how to enroll, in the family's home language; (iii) providing funding to recruit or train teachers to teach advanced courses, especially in schools serving large concentrations of students of color and students from low-income backgrounds;

(3) Annually monitor[] disaggregated data on enrollment in advanced courses, by course type, and provide technical assistance to districts that are under-enrolling students of color in advanced courses (this data should be publicly reported on report cards, so that communities have a better understanding of course availability, enrollment, and success in advanced courses);

(4) Requir[e] districts to set and hold themselves accountable for public goals that, within an ambitious number of years, Black students will be fairly represented in

⁴¹⁵ This original clause contained PSAT/SAT scores. This language has been removed to ensure the proposal is consistent with the Task Force's other recommendations.

⁴¹⁶ For example, Illinois, Washington, and North Carolina have laws that require students meeting or exceeding expectations on the state exam to be automatically enrolled in the next most rigorous course offered in the school. (*Ibid.*)

⁴¹⁷ Shut Out of AP STEM Courses, *supra.*

access to and success in advanced coursework from elementary through high school;

(5) [Ensure] accountab[ility] for public goals that, within an ambitious number of years, Black and Latino students and students from low-income families will be fairly represented in access to and success in advanced coursework from elementary through high school; and

(6) Implement[] policies to support district and school leaders in creating safe, equitable, and positive learning environments in advanced courses by: (i) providing professional development and coaching for educators to create culturally affirming environments, build relationships with and understand their students, support students' academic success, and develop anti-racist mindsets; (ii) investing in preparing, recruiting, and supporting teachers and counselors of color, given the research that shows educators of color are more likely to refer students of color for advanced courses; (iii) requiring districts and schools to use culturally relevant, anti-racist pedagogy, practices, and curricula and provide technical assistance and funding for professional development; (iv) supporting engagement with families and members of underserved communities by requiring districts to survey students and families to understand their interests, aspirations, and experiences with school, especially related to STEM; (v) creating guidance for schools about identifying and partnering with community-based organizations that provide rigorous after-school and/or summer enrichment opportunities that expose underserved students to STEM and STEM careers.⁴¹⁸

Following the recommendations set forth in the Kapor Center report, the Task Force also recommends the Legislature:

(7) Utilize the Computer Science Strategic Implementation Plan (“CSSIP”) as a guidance document for expanding access to computer science in California;

(8) Increase participation of students from underrepresented backgrounds in CS education, especially Black, Latinx, Native American, rural, low-income, and female students *by prioritizing funding and developing initiatives for the most underserved schools and populations;*

(9) Establish rigorous CS teacher preparation, certification, and professional development for K-12 teachers;

(10) Ensure access to technology infrastructure to support CS education, *prioritizing districts and local education agencies (“LEAs”) with the highest needs;*

⁴¹⁸ Shut Out of AP STEM Courses, *supra*.

(11) Implement K-12 CS standards within all CS courses, *and integrated across subjects, by providing support for LEAs, administrators, and teachers*;

(12) Develop assessment, data collection, and accountability mechanisms to track the implementation and efficacy of CS education *and track equity gaps*;

(13) Ensure CS is prioritized as a high school graduation and college entry requirement; and

(14) Implement large-scale policies and initiatives that address systemic education inequity affecting student outcomes across subject areas.⁴¹⁹

Finally, the Task Force additionally recommends the Legislature:

(15) Provide state funding for districts to obtain the resources necessary to achieve equity of resources across the board, including but not limited to, hiring teachers, implementing advanced course offerings, purchasing technology, supplies, and equipment, and waiving the fees to take advanced placement (“AP”) exams.

L. Expand Access to Career Technical Education for Descendants

Discriminatory policies have created persisting inequalities in educational attainment and employment for Descendants.⁴²⁰ The Center for American Progress, for instance, notes that schools have historically tracked Black students into low-quality vocational programs “as an extension of Jim Crow-era segregation.”⁴²¹ High quality Career Technical Education (“CTE”) programs — which combine academic education with occupational training to prepare students for careers in current or emerging professions⁴²² — offer an essential tool to remedy this persisting discrimination.⁴²³

To address the ongoing effects of racial discrimination and inequality in employment, education, and wealth, the Task Force recommends: (1) collecting and disaggregating data about

⁴¹⁹ Computer Science in California Schools, *supra*.

⁴²⁰ See generally AB 3121 Reparations Task Force, *Interim Report* (June 2022) Ch. 6 Separate and Unequal Education; *id.* at ch. 10, Stolen Labor and Hindered Opportunity.

⁴²¹ Smith, *Advancing Racial Equity in Career and Technical Education Enrollment* (Aug. 28, 2019) Center for Am. Progress (as of Mar. 15, 2023); see generally McCardle, *A Critical Historical Examination of Tracking as a Method for Maintaining Racial Segregation* (2020) 45 *Intersectionality & The History of Ed.* 1, 1-12.

⁴²² See *Bridging the Skills Gap: Career and Technical Education in High School* (Sept. 2019) U.S. Dept. of Ed. (as of Jan. 9, 2023). CTE programs differ from traditional vocational programs in two main ways: (1) CTE programs span nearly every industry, see Flynn, *What is Career and Technical Education, and Why Does it Matter?*, Ed. Northwest (Feb. 2021) (as of Jan. 9, 2023); and (2) while vocational programs aimed to funnel students into the targeted career after high school, CTE programs prepare students for a career at whatever point they decide to, including after the attainment of a college degree, see Weingarten, *Vocational Education is Out: Career and Technical Education is In*, EdSurge (Feb. 16, 2015) (as of Jan. 9, 2023).

⁴²³ See Stevens et al., *Career-Technical Education and Labor Market Outcomes: Evidence from California Community Colleges* (May 2015) Center for Analysis of Postsecondary Ed. and Employment (as of Jan. 4, 2023) (finding “substantial” and “statistically significant” financial returns for students who specifically enrolled in CTE courses throughout California’s community colleges).

CTE enrollment in California by race;⁴²⁴ (2) funding and requiring all California public high schools and colleges to offer students access to at least one CTE program; and (3) creating a competitive grant program to increase enrollment of Descendants in STEM-related CTE programs (such as green technology) at the high school and college levels.⁴²⁵

For the requirement that all public high schools and colleges offer students access to at least one CTE program, schools could comply by partnering with another entity that has such a program available. For example, high schools could partner with nearby community colleges to enable their students to attend the community college's CTE courses.

For the competitive grants to increase enrollment of Descendants, these funds could support programs implementing strategies that the Urban Institute has recommended for increasing Black enrollment in CTE programs, including outreach, mentorship, equity-focused training for instructors, and providing potential students with access to adequate technology and software to access online CTE courses.⁴²⁶ As with other educational grants,⁴²⁷ the CDE would administer and award grants on a competitive basis to school districts, county superintendents of schools, direct-funded charter schools, and community colleges to increase descendant participation in STEM-related CTE programs, including electrical engineering, information technology, renewable energy, green technology, advanced manufacturing, health care, or cybersecurity.⁴²⁸

M. Improve Access to Public Schools

As set forth in the Task Force's first recommendation to address the harms identified in Part Two of this report on Separate and Unequal Education, the State must increase funding to ensure that schools serving Descendants provide the best possible public education available in the State. But in addition to quality schools, Descendants and their families have long been denied access to schools of their choice. As detailed in this report's chapter on Separate and Unequal Education, enslavement, segregation, redlining, and neighborhood gerrymandering have denied Black families meaningful and equitable access to a variety of high-quality schools.⁴²⁹

⁴²⁴ See Smith, [Advancing Racial Equity in Career and Technical Education Enrollment](#) (Aug. 28, 2019) Center for Am. Progress (as of Jan. 4, 2023) (recommending states increase equity in CTE by reporting data disaggregated by race).

⁴²⁵ CTE programs are also available to those already in the workforce — those programs typically follow apprenticeship models, and the Advisory Committee on Stolen Labor has already prepared a proposal addressing those programs.

⁴²⁶ Anderson et al., [Racial and Ethnic Equity Gaps in Postsecondary Career and Technical Education](#) (Mar. 2021) Urban Institute (as of Jan. 4, 2023).

⁴²⁷ See, e.g., [Allocations & Apportionments](#), Cal. Dept. of Ed. (as of Mar. 8, 2023).

⁴²⁸ For a full list of CTE industry sectors as categorized by the California Department of Education, see [General Information](#), Cal. Dept. of Ed. (as of Mar. 15, 2023).

⁴²⁹ See California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) pp. 206-233; see also Richards, *The Gerrymandering of School Attendance Zones and the Segregation of Public Schools: A Geospatial Analysis* (2014) 51 Am. Ed. Research J. 1119, 1121-1123, 1149-1153; Carrillo and Salhotra, [The U.S. Student Population is More Diverse, But Schools are Still Highly Segregated](#), NPR (July 14, 2022) (as of Feb. 8, 2023).

Thus, the Task Force recommends that the Legislature improve school access by: (1) requiring school districts to prioritize creating and supporting new public schools (including magnet schools and community college campuses) in Black communities, with substantial weight given to input from those communities and Descendants in particular; and (2) requiring districts to permit students to transfer to public schools of their choice within their district or between neighboring districts if doing so would not maintain or exacerbate racial segregation (i.e. if the transfer would improve racial or socioeconomic diversity), while funding free public transportation for students who participate in this school transfer program and ensuring funding to offset the loss in per-pupil funding in districts from which those students transfer.⁴³⁰

The first element of this proposal addresses how, through historic and ongoing discrimination, the State has failed to fund, staff, or support public schools in Black communities to the same degree it has done so for white communities.⁴³¹ Requiring school districts to prioritize the creation of new schools in Black communities would also address the ways in which redlining and neighborhood gerrymandering have at times created artificial political boundaries that excluded Black families from nearby schools which they otherwise would have attended.⁴³²

The second element of this proposal similarly addresses how redlining and neighborhood gerrymandering have created artificial district lines that may exclude Black families from nearby schools—as well as the ways in which schools may apply the discretionary inter-district transfer process in an inequitable manner with respect to Black families and their children.⁴³³

The second element of this proposal would improve school access for Descendant families by building on the model of the Berkeley Unified School District's (BUSD) intra-district public elementary school admissions process to create an equitable model for intra- and inter-district transfers.⁴³⁴ Under the BUSD system, parents complete a parent preference form in which parents rank the elementary schools they wish their child to attend.⁴³⁵ BUSD assigns students based on their parents' preferences but assignments are made within the constraints of six

⁴³⁰ See Mays, [California is Richer than Ever. Why is it Last in the Nation for School Bus Access?](#), L.A. Times (Jun. 22, 2022) (as of Dec. 28, 2022).

⁴³¹ See, e.g., Ludwig, ['The System has Imploded': A Look at Redlining, Academic Achievement Gaps](#), The Daily Californian (Apr. 7, 2022) (as of Feb. 8, 2023); cf. also Parrish and Ikoru, [Chicago Public Schools and Segregation](#), South Side Weekly (Feb. 24, 2022) (as of Feb. 8, 2023) (discussing how redlining and other discriminatory policies led to school closures in African American neighborhoods in Chicago); Jackson, [School Closures Threaten Long-Term Prospects for Blacks in Baltimore, Beyond](#), Atlanta Black Star (Dec. 26, 2017) (as of Feb. 8, 2023) (discussing same in Baltimore).

⁴³² Richards, *The Gerrymandering of School Attendance Zones and the Segregation of Public Schools: A Geospatial Analysis* (2014) 51 Am. Ed. Research J. 1119, 1121-1123, 1149-1153. The creation of new schools may raise concerns about the risks of neighborhood gentrification, and the risk of excluding African American families from these investments. Proposals addressing the harms outlined in the chapter on Housing Segregation include proposals expressly designed to prevent such outcomes, including housing proposal B, which would impose rent caps in formerly redlined neighborhoods.

⁴³³ Ed. Code § 48301, subd. (a)(1). The Education Code contains a few narrow exceptions to this rule—for instance, for children of active military duty parents. *Id.* § 46600, subd. (d)(1).

⁴³⁴ Berkeley Public Schools, [Information on Berkeley Unified's Student Assignment Plan](#) (as of Dec. 1, 2022).

⁴³⁵ *Ibid.*

priority categories.⁴³⁶ Within a given priority category, BUSD uses diversity categories to assign students to each school to avoid segregation and ensure that the student body at each elementary school reflects the racial and socioeconomic diversity of the total school population in the attendance zone.⁴³⁷

Though the BUSD system is a system for *intra*-district transfers (i.e., within the same district), this proposal would build on that model to permit *inter*-district transfers (between neighboring districts) as well in order to create an equitable system for transfers within and between neighboring school districts.⁴³⁸

If this proposal is implemented, the Task Force also recommends that the Legislature implement budgetary provisions to provide funding to offset any loss in per-pupil funding that may occur if a student transfers to another school within their district or to one in a neighboring district, to ensure that improved school access does not come at the cost of school quality if Descendant students and their families choose to transfer to other schools within their district or neighboring ones.⁴³⁹

A 2009 study of the BUSD school transfer policy concluded that its model also resulted in racial “integration across the district” being “fairly high” and that “BUSD has substantially integrated schools . . . within the confines of the Supreme Court’s guidance on voluntary integration plans[.]”⁴⁴⁰ A subsequent study, examining “Berkeley-style geographic integration plans in the nation’s 10 largest metropolitan districts,” found that “the majority of schools in the study sample would experience gains in diversity,” and that such school district plans could have the effect of reducing segregation in elementary schools, small schools, and schools in relatively more segregated districts with less diverse neighborhoods.⁴⁴¹

N. Fund Free Tuition to California Public Colleges and Universities

⁴³⁶ *Ibid.* The priority categories are: (1) students currently attending the school who live within that school’s geographic “attendance zone”; (2) students currently attending the school who live outside the zone; (3) siblings of students currently attending the school; (4) school district residents not attending the school who live within the zone; (5) school district residents not attending the school who live outside the zone; and (6) nonresidents wanting an inter-district transfer.

⁴³⁷ *Am. C.R. Found., supra*, 172 Cal.App.4th at p. 213. BUSD uses three diversity factors: (1) the average household income of those living in the planning area; (2) the average education level attained by adults living in the planning area; and (3) the percentage of “students of color” living in the planning area. BUSD determines diversity by comparing the diversity of the attendance zone with the diversity of the neighborhood in which a student resides, not the diversity characteristics of individual students.

⁴³⁸ Though students ordinarily must attend schools within the district in which they reside, the Education Code creates an exception for students who undergo an inter-district transfer process. Ed. Code § 48204(a)(3).

⁴³⁹ If sufficient funding is ensured, some data suggest that inter-district transfers could contribute to improvements in the schools from which students transfer, as they enable schools to better identify areas for improvement. See Taylor, *Evaluation of the School District of Choice Program*, Cal. Leg. Analyst’s Office (Jan. 27, 2016) pp. 10-11 (as of Feb. 10, 2023) (noting ways in which funding follows students); *id.* at 5, 22-23 (discussing how home districts developed improvements to address reasons why students transferred away).

⁴⁴⁰ Chavez and Frankenberg, *Integration Defended: Berkeley Unified’s Strategy to Maintain School Diversity* (Sept. 2009) UC Berkeley Law School Civil Rights Project, pp. 15-16.

⁴⁴¹ Richards et al., *Achieving Diversity in the Parents Involved Era: Evidence for Geographic Integration Plans in Metropolitan School Districts* (2012) 14 Berkeley J. Afr.-Am. L. & Pol. 67, 89, 92.

Colleges play a critical role in the socioeconomic mobility of Californians.⁴⁴² But the costs of attending college have grown exponentially over the last several decades,⁴⁴³ and that rising cost excludes many Descendants from the promise of higher education,⁴⁴⁴ reinforcing the ongoing history of discrimination against Descendants in education.⁴⁴⁵ Thus, the Task Force recommends that the Legislature fund California public colleges and universities to ensure free tuition for all California residents who are Descendants.

As a 2020 report states, the “high proportion of low-income Black students means that this population is greatly affected by rising college costs and dependent on federal and state financial aid in order to attend college.”⁴⁴⁶ Within California, for instance, more than half of African American students at UC or CSU colleges receive Pell Grants, which are awarded to students with exceptional financial need.⁴⁴⁷

California’s community colleges already waive or fund tuition, through its Promise program, for approximately 50 percent of its students — nearly one million students.⁴⁴⁸ For the UC and CSU systems, through a mix of state, federal, and other financial aid programs, about 60 percent of CSU students and 60 percent of in-state UC students currently attend college tuition-free.⁴⁴⁹ Building on these measures, this proposal would follow the precedent of an existing policy, begun in fall 2022, where the UC system will waive tuition and fees for Native American students who are state residents and members of federally recognized tribes.⁴⁵⁰

O. Eliminate Standardized Testing for Admission to Graduate Programs in the University of California and California State University System

⁴⁴² See Johnson, [Higher Education as a Driver of Economic Mobility](#) (Dec. 2018) Pub. Policy Institute of Cal. (as of Nov. 15, 2022).

⁴⁴³ See, e.g., Johnson et al., [Higher Education in California: Institutional Costs](#) (Nov. 2014) Pub. Policy Institute of Cal. (as of Nov. 15, 2022) (from 1994 to 2014, tuition at the UCs and CSUs tripled); Johnson et al., [Making College Affordable](#) (Sept. 2017) Pub. Policy Institute of Cal. (as of Nov. 15, 2022) (“Tuition and fees are at their highest point ever at California’s public universities.”).

⁴⁴⁴ See Allen & Wolniak, [Exploring the Effects of Tuition Increases on Racial/Ethnic Diversity at Public Colleges and Universities](#) (2019) 60 *Research in Higher Ed.* 18, 37-39.

⁴⁴⁵ See California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) pp. 206-233.

⁴⁴⁶ Bates and Siqueiros, [State of Higher Education for Black Californians](#) (Feb. 2019) The Campaign for College Opportunity, p. 27 (as of Dec. 1, 2022).

⁴⁴⁷ Cook and Jackson, [Keeping College Affordable for California Students](#) (Dec. 2021) Pub. Policy Institute of Cal. (as of Nov. 28, 2022).

⁴⁴⁸ Replogle, [What California’s Free Tuition Programs Can Teach the Nation](#) (May 19, 2021) LAist (as of Nov. 15, 2022).

⁴⁴⁹ Winograd and Lubin, [Tuition-Free College is Critical to Our Economy](#), EdSource (Nov. 2, 2020) (as of Nov. 15, 2022).

⁴⁵⁰ Torchinsky, [University of California will Waive Tuition and Fees for Many Native American Students](#), NPR (Apr. 28, 2022) (as of Nov. 15, 2022); President Michael V. Drake, University of California, [letter to University of California Chancellors](#) (Apr. 22, 2022).

Standardized testing traces its beginnings to racist origins.⁴⁵¹ And researchers have identified standardized testing as one key cause behind the decline in Black Americans enrolling in higher education, as the scores from such tests reflect either biased design or administration,⁴⁵² or reflect the inequities that Black Americans experience throughout their education.⁴⁵³

To remedy the discriminatory effect of standardized testing in education, the Task Force recommends eliminating standardized testing for admission to the graduate programs within the University of California and California State University systems until racial bias is eliminated in the administration of standardized testing for admission.⁴⁵⁴

Standardized tests reinforce structural inequalities in education, resulting in the exclusion of Black students—including Descendants—from advanced degrees and careers. With respect to medical schools, for example, the Dean of Morehouse School of Medicine observes that “[w]hile MCAT performance has had an adverse influence on the number of Black matriculants,” the MCAT score “has not been shown to significantly predict whether students will successfully progress in their medical education” — deemphasizing MCAT scores “could potentially lead to 3,000 more Black physicians either practicing or in the training pipeline in the U.S. today.”⁴⁵⁵ Similarly, for the GRE, which is required “for most graduate programs in the United States, including master’s and doctoral programs in public health,” one study found that eliminating the GRE as a requirement increased the number of Black students with “no loss of quality, as measured by undergraduate grade point averages . . . , performance in required core courses . . . , and graduate employment.”⁴⁵⁶ The Task Force’s recommendation to eliminate standardized tests as a requirement for graduate school admission follows the lead of numerous schools, including those in the UC and CSU systems, that have removed these requirements after recognizing that standardized testing reinforces structural biases and barriers without predicting success.⁴⁵⁷

P. Identify and Eliminate Racial Bias and Discrimination in Statewide K-12 Proficiency Assessments

⁴⁵¹ See Leslie, *The Vexing Legacy of Lewis Terman* (Jul./Aug. 2000) Stanford Magazine (as of Nov. 15, 2022); Winston, *Scientific Racism and North American Psychology* (May 29, 2020) Oxford Research Encyclopedias, Psychology (as of Nov. 15, 2022).

⁴⁵² See Jimenez and Modaffari, *Future of Testing in Education: Effective and Equitable Assessment Systems* (Sept. 16, 2021) Center for Am. Progress (as of Nov. 18, 2022).

⁴⁵³ Nichols, *Segregation Forever?: The Continued Underrepresentation of Black and Latino Undergraduates at the Nation’s 101 Most Selective Public Colleges and Universities* (Jul. 21, 2020) The Ed. Trust, pp. 6-7 (as of Nov. 15, 2022).

⁴⁵⁴ As of 2022, the UC and CSU systems have already eliminated standardized testing as a requirement for undergraduate admission; this proposal seeks to expand that policy to the UC and CSU graduate programs.

⁴⁵⁵ Rice, *Diversity in Medical Schools a Much-Needed New Beginning* (Jan. 2021) Morehouse School of Medicine (as of Jan. 10, 2023); see also Murphy, *How to Get Up to 3,000 More Black People in the Physician Pipeline* (Jan. 29, 2021) Am. Medical Assn. (as of Nov. 10, 2022).

⁴⁵⁶ Sullivan et al., *Removing the Graduate Record Examination as an Admissions Requirement Does Not Impact Student Success* (Sept. 26, 2022) Pub. Health Rev. (as of Dec. 1, 2022).

⁴⁵⁷ See, e.g., Beyond the GRE, *GREXIT: Institutions and Stem Graduate Programs Choosing to No Longer Require the GRE* (as of Nov. 16, 2022); Nietzel, *supra*; cf. also Cal. State Univ. Office of the Chancellor, *CSU First-Time Freshman Standardized Exams and Admissions Recommendations* (Jan. 5, 2022) p. 14 (as of Nov. 16, 2022).

While standardized tests should be eliminated as a prerequisite for admission into undergraduate and graduate programs, standardized testing plays a different role in K-12 education. Since standardized assessments in K-12 are mainly used to assess proficiency and identify areas for improvement and need, the State should maintain such assessments but also carefully evaluate them to identify and eliminate racial bias within these systems.⁴⁵⁸

Thus, the Task Force recommends that the CDE conduct an annual review of the California Assessment of Student Performance and Progress (“CAASPP”) tests for racial bias, both in the way its tests are administered and in the types of questions that are included. The review should include changes to the CAASPP test administration and contents in the event that racially biased procedures or material are uncovered.

The legislative findings behind the CAASPP call for the State to ensure that the exam “do[es] not use procedures, items, instruments, or scoring practices that are racially, culturally, socioeconomically, or gender biased.”⁴⁵⁹ However, there appears to be no provision in the education code chapter governing the CAASPP requiring a review or assessment for such bias.⁴⁶⁰

The Task Force recommends reviewing, identifying, and eliminating racial bias in the CAASPP using bias review procedures that the State has already created for standardized tests in other contexts. For example, aspiring teachers in California must pass a “reading instruction competence assessment,”⁴⁶¹ and the Education Code requires the Commission on Teacher Credentialing to “analyze possible sources of bias on the assessment.”⁴⁶² Consequently, the Commission has a Bias Review Committee “which reviews all test content and questions for potential bias, making changes, suggestions, and even eliminating questions if necessary, and differential item functioning (DIF) analysis, which more deeply compares question-level responses of members of various subgroups to flag for potential bias after test administration.”⁴⁶³ The Task Force recommends that the Legislature create a similar process for the CAASPP.

Chapter 24

VII. RACISM IN ENVIRONMENT AND INFRASTRUCTURE

⁴⁵⁸ See Knoester and Au, *Standardized Testing and School Segregation: Like Tinder for Fire?* (Dec. 28, 2015) 20 *Race, Ethnicity, and Education* 1, 5 (noting that the criticism of racial discrimination perpetuated through “high-stakes” testing does not necessarily apply to “assessment writ large”).

⁴⁵⁹ Ed. Code § 6062.5(a)(3); see also *id.* § 60604.5(b)(8) (legislative findings for reauthorization statute calling to ensure “that no aspect of the system creates any bias with respect to race, ethnicity, culture, religion, gender, or sexual orientation”). Likewise, California’s education regulations do not appear to require a review of the CAASPP for bias. See generally Cal. Code Regs., tit. 5, §§ 805-876.

⁴⁶⁰ See generally Ed. Code §§ 60600-60659.

⁴⁶¹ Ed. Code § 44283(b).

⁴⁶² *Id.* § 44283(d).

⁴⁶³ Taylor and Mendoza, *Annual Report on Passing Rates of Commission-Approved Examinations from 2015-16 to 2019-20* (Jun. 2021) Cal. Commission on Teacher Credentialing, Ed. Preparation Committee, pp. 4J-3-4J-4 (as of Nov. 29, 2022).

A. Increase Greenspace Access and Recreation Opportunities in Black Communities

Black Californians experience a lack of access to urban parks and greenspace.⁴⁶⁴ Federal, state, and local segregation laws historically excluded Black people from outdoor recreation.⁴⁶⁵ This systemic racism coupled with interpersonal discrimination has led to an underrepresentation of Black people in outdoor recreation, nature, and environmentalism.⁴⁶⁶

Access to greenspace and recreation opportunities critical to physical and mental well-being and a healthier lifestyle.⁴⁶⁷ Studies have found that diminished access to parks correlates with disproportionate heat exposure and reduced health benefits. Additionally, exposure to green spaces statistically reduces risks of high blood pressure, diabetes, stroke, respiratory failure, and several other health harms, and provides benefits such as improved pregnancy outcomes and sleep duration.⁴⁶⁸

The harms of systemic racism, especially historically racist urban planning policies that produced inequitable access to greenspace exposure for Black Californians, have not yet been corrected. The Task Force recommends the Legislature fund the development of local parks in Black communities, with consideration for Descendants, to acquire land, build and renovate parks, purchase play equipment, support programming and build indoor and outdoor recreation facilities (e.g., fields, playgrounds, basketball and tennis courts, ice rinks, public pools);⁴⁶⁹ include Black communities, with special consideration for Descendants, as stakeholders in the process of creating and programming parks to develop universally accessible park design and increase access to parks for Black and Descendants;⁴⁷⁰ and Support the work of community-based organizations to ensure safe access to neighborhood-level physical activity spaces and services (e.g., public parks and playgrounds).⁴⁷¹

B. Test For and Eliminate Toxicity in Descendant Communities

Seventy percent of hazardous waste sites officially listed on the National Priorities List (NPL) under the Comprehensive Environmental Response, Compensation, and Liability Act

⁴⁶⁴ Chapman et al., *Parks and an Equitable Recovery: A Trust for Public Land Special Report* (May 27, 2021); Rigolon, *A Complex Landscape of Inequity in Access to Urban Parks: A Literature Review*, (2016).

⁴⁶⁵ Taylor, *The Environment and the People in American Cities, 1600s-1900s: Disorder, Inequality, and Social Change* (2009) p. 365; Asmelash, *Outdoor Recreation has Historically Excluded People of Color. That is Starting to Change* (Dec. 14, 2021) CNN (as of Feb. 7, 2023).

⁴⁶⁶ Finney, *Black Faces, White Spaces: Reimagining the Relationship of African Americans to the Great Outdoors* (2014).

⁴⁶⁷ See Borunda, *How 'Nature Deprived' Neighborhoods Impact the Health of People of Color*, (July 29, 2020) National Geographic (as of Feb. 7, 2023).

⁴⁶⁸ Twohig-Bennett and Jones, *The Health Benefits of the Great Outdoors: A Systematic Review and Meta-Analysis of Greenspace Exposure and Health Outcomes* (October 2018) *Environmental Research* 166, pp. 628-637;

^{469/469} Chapman et al., *Parks and an Equitable Recovery: A Trust for Public Land Special Report* (May 27, 2021).

⁴⁷⁰ Finney, *Black Faces, White Spaces: Reimagining the Relationship of African Americans to the Great Outdoors* (2014).

⁴⁷¹ See e.g. Outdoor Afro, *Our Mission* (as of Feb. 7, 2023).

(CERCLA or Superfund) are located within one mile of federally assisted housing.⁴⁷² Communities that live in federally assisted housing are disproportionately Black.⁴⁷³ Proximity to a contaminated site during flooding events can expose nearby residents to hazardous pollutants and groundwater contamination.⁴⁷⁴ Disproportionately Black and brown, disadvantaged communities⁴⁷⁵ face greater risks from sea-level rise and subsequent climate change flooding than the general population.⁴⁷⁶ In California, they are five times more likely to live within half a mile of a toxic site that could flood by 2050.⁴⁷⁷

The Task Force recommends the Legislature amend existing state law to (1) require coordination between the Department of Toxic Substances Control (DTSC) and Water Boards (State Water Resources Control Board and Regional Water Quality Control Boards collectively) to allocate resources to remediate contaminated sites with a high flood risk where Descendant communities are specifically located; (2) expand the definition of “Vulnerable Community” used in the Cleanup in Vulnerable Communities Initiative to include Descendant communities as a category; and (3) allow tenants to terminate their lease early if their housing is on or within one-half mile of a toxic site.⁴⁷⁸

The Legislature should direct the statewide biomonitoring program, California Environmental Contaminant Biomonitoring Program, also called Biomonitoring California, to develop a program to conduct environmental exposure screenings in public housing adjacent to Superfund sites in a manner that is readily available to communities. Screenings should be mobile, offered directly in the community before and after school and work hours, and provided in the resident’s first language.⁴⁷⁹ In addition to exposure screenings, local health departments and organizations should offer informational sessions for community members about the exposure risks, potential health harms, and opportunities for screening and care⁴⁸⁰ using materials created by the CDPH and Biomonitoring California.

Finally, the Task Force recommends the Legislature require local governments with high flood risk zones to develop community action plans to relocate residents in high risk hazardous flood zones during climate emergencies, and offer vouchers for temporary housing relocation. This should include a notification system that alerts residents whenever land is discovered to have toxic contamination following a climate disaster event.⁴⁸¹ Following a climate emergency, Biomonitoring California should provide free community biomonitoring for toxic chemicals like lead, mercury, and arsenic and for elevated levels of natural elements like iron and zinc for residents living in contaminated communities with a high flood risk.

⁴⁷² Shriver Center on Poverty Law and Earthjustice, [Poisonous Homes: The Fight for Environmental Justice in Federally Assisted Housing](#) (June 2020) p. 2 (as of Jan. 5, 2023); See also Caputo and Lerner, [House Poor, Pollution Rich](#) (Jan. 13, 2021) AMP Reports (as of Jan. 5, 2023).

⁴⁷³ Shriver Center on Poverty Law and Earthjustice, *supra*, at p. 15.

⁴⁷⁴ *Ibid.*

⁴⁷⁵ Communities with CalEnviroScreen 4.0 scores in the top 25th percentile as designated by the CalEPA.

⁴⁷⁶ UC-Berkeley and UCLA, [Toxic Tides Project](#) (2021).

⁴⁷⁷ *Ibid.*

⁴⁷⁸ See Shriver Center on Poverty Law and Earthjustice, *supra*, at p. 60.

⁴⁷⁹ See Shriver Center on Poverty Law and Earthjustice, *supra*, at p. 67.

⁴⁸⁰ See Shriver Center on Poverty Law and Earthjustice, *supra*, at p. 67.

⁴⁸¹ See Shriver Center on Poverty Law and Earthjustice, *supra*, at p. 67.

C. Increase Trees in Redlined and Descendant Communities

In the 1930s, the Home Owners' Loan Corporation (HOLC) developed neighborhood appraisal maps to assess loan risk, and their legacy correlates with infrastructure inequality and housing segregation today.⁴⁸² The areas with older housing, typically the economically disadvantaged neighborhoods and communities of color, were almost always labeled “hazardous,” outlined in red, and given the lowest grade, “D.”⁴⁸³ Today, the same neighborhoods that received an “A” grade have nearly twice as much tree coverage as communities that were “redlined” by receiving the “D” grade.⁴⁸⁴ Without trees, communities suffer from increased health and environmental hazards.⁴⁸⁵

This proposal recommends requiring local governments to identify redlined and Descendant communities within their jurisdiction and make plans to increase tree canopy coverage and access to greenspace to limit pollution exposure, ameliorate heat island effects and improve air quality.⁴⁸⁶ This proposal would strengthen SB 1000, the State of California’s current law that requires cities and counties to adopt environmental justice elements or integrate environmental justice goals and policies into their general plans. The Task Force recommends the Legislature amend SB 1000 in the following ways:

- Define “disadvantaged communities” to include redlined and Descendant communities with a “D” HOLC rating and minimal tree canopy coverage;
- Require timelines and deadlines for environmental justice plans with regular public reporting on the progress toward implementation;
- Require the adoption and regular updating of environmental justice policies regardless of when other elements are considered;⁴⁸⁷ and
- Ensure investments in lowering greenhouse gas emissions and climate change adaptation projects do not lead to displacement by implementing rent control/stabilization policies at a local level.⁴⁸⁸ Developing resilient community infrastructure can lead to increased property values and spur cycles of gentrification that make the now-improved

⁴⁸² Locke et al., [Residential Housing Segregation and Urban Tree Canopy in 37 US Cities](#) (Mar. 24, 2021) 1 NPJ Urban Sustainability 6 (as of Dec. 2, 2022).

⁴⁸³ *Id.* at p. 4.

⁴⁸⁴ *Ibid.*

⁴⁸⁵ Infrastructure absorbs and re-emits the sun’s heat and trees are critical to cooling down the temperature to prevent a “heat island” effect. EPA, [Learn About Heat Islands](#) (as of Dec. 2, 2022). Heat related-deaths in California are disproportionate along racial lines with “Black Californians...more likely than those of any other race to die from heat.” Phillips et al., [Extreme Heat is One of the Deadliest Consequences of Climate Change But California Undercounts the Human Toll](#), Los Angeles Times (Oct. 7, 2021) (as of Nov. 22, 2022).

⁴⁸⁶ Legislative efforts targeting redlined areas might not aid predominantly Black communities and will likely exclude important Black communities. Adequately addressing the needs of all Black Californians will require a consideration of more than just redlining maps and should consider socio economic status and race. Perry and Harshbarger, [America’s Formerly Redlined Neighborhoods have Changed, and so Must Solutions to Rectify Them](#), Brookings Institute (Oct. 14, 2019) (as of Nov. 28, 2022).

⁴⁸⁷ SB 1000 requires that environmental justice policies be adopted when two or more general plan elements are adopted. Gov. Code, § 65302, subd. (h)(2).

⁴⁸⁸ See CEJA, [Environmental and Housing Justice Policy Platform](#) (2021) p. 17 (as of Dec. 2, 2022).

communities unaffordable for their original residents.⁴⁸⁹

D. Develop Climate Resilience Hubs in Redlined and Descendant Communities

Black Americans bear some of the greatest risks from climate change, such as increased asthma diagnoses and premature mortality from extreme heat or pollution exposure.⁴⁹⁰ With climate change expanding the duration and frequency of heat waves, the increased risks of extreme heat track existing housing-related harms to Black Americans,⁴⁹¹ who are more likely to live in redlined areas.⁴⁹² Redlined communities lack the public infrastructure to adapt to the gravest climate change risks. This policy will provide economic support to ameliorate these disparities through the development of climate resilience hubs, community-driven facilities that support residents, facilitate communication, distribute aid, and provide an opportunity for communities to become more self-sustaining during climate emergencies. This Task Force recommends the Legislature utilize the Transformative Climate Communities Program (TCC) to fund climate resilience hubs.⁴⁹³ The TCC is an existing program run by the California Strategic Growth Council, a 10-member executive council comprised of seven state agencies and three public members with funding from California's Cap and Trade system and the California General Fund.⁴⁹⁴ The Legislature should establish and increase TCC funding to provide grants to redlined and Descendant communities to improve infrastructure, climate resiliency, and other health harms associated with the legacy of redlining. The Legislature should also invest in retrofitting public buildings to serve as climate resilience hubs to respond to community needs caused by a climate disaster by providing clean water, food distribution, high-speed internet, electricity, heat or cool air, etc.⁴⁹⁵ The Legislature should require communities to develop accessible warning/alert systems and climate shelters for unhoused residents.⁴⁹⁶ Alongside these investments, the Legislature must ensure investments in lowering greenhouse gas emissions and climate change adaptation projects do not lead to displacement by implementing rent control/stabilization policies at a local level.⁴⁹⁷ Developing resilient community infrastructure can lead to increased property values and spur cycles of gentrification that make the now-improved communities unaffordable for their original residents.⁴⁹⁸

⁴⁸⁹ *Ibid.*; See also California Task Force to Study and Develop Reparation Proposals for African Americans, [Testimony of Helen H. Kang](#) (Oct. 12, 2021).

⁴⁹⁰ EPA, [Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts](#) (2021) (as of Nov. 22, 2022).

⁴⁹¹ Off. of Health Equity, Cal. Dept. of Public Health, [Climate Change & Health Equity: Issue Brief](#) (May 2019) Cal. Dept. of Public Health p. 2 (as of Nov. 22, 2022).

⁴⁹² Plumer et al., [How Decades of Racist Housing Policy Left Neighborhoods Sweltering](#), N.Y. Times (Aug. 24, 2020) (as of Nov. 22, 2022); Locke et al., [Residential Housing Segregation and Urban Tree Canopy in 37 US Cities](#) (Mar. 24, 2021) 1 NPJ Urban Sustainability 15 (as of Nov. 22, 2022).

⁴⁹³ The TCC awards grants to specified eligible-entities such as community-based organizations, local governments, and nonprofits, to implement plans that reduce greenhouse gas emissions or provide local economic, workforce, health and environmental benefits.

⁴⁹⁴ See California Strategic Growth Council, [Vision](#) (as of Dec. 2, 2022).

⁴⁹⁵ See also CEJA, [Environmental and Housing Justice Policy Platform](#) (2021) p. 14 (as of Nov. 22, 2022).

⁴⁹⁶ See also *Id.* at p. 12.

⁴⁹⁷ See CEJA, [Environmental and Housing Justice Policy Platform](#) (2021) p. 17 (as of Dec. 2, 2022).

⁴⁹⁸ *Ibid.*; See also California Task Force to Study and Develop Reparation Proposals for African Americans, [Testimony of Helen H. Kang](#) (Oct. 12, 2021).

E. Remove Lead in Drinking Water

Lead pollution is disproportionately high in Black communities that were segregated through federal redlining.⁴⁹⁹ One major lead pollution source is lead service lines (LSL) that deliver drinking water to homes.⁵⁰⁰

Replacing LSLs can be prohibitively expensive, costing thousands of dollars.⁵⁰¹ The State of California has addressed the replacement of the publicly-owned portion of LSLs through legislation, but funding LSL replacement in the privately-owned properties in less affluent communities remains an issue. Many individual homeowners cannot afford to replace their LSL, or landlords refuse to cover the costs of LSL replacement on rental properties. If the LSL is only replaced on one side of the water system, it is called a partial replacement. Partial LSL replacement can significantly increase short-term lead exposure in the time after replacement and lead to greater health risks.⁵⁰² Furthermore, the practice of partially replacing LSLs can significantly increase short-term lead exposure in the time after replacement and lead to greater health risks, and also creates a disproportionate burden of health harms on poor communities.⁵⁰³

The Task Force recommends the Legislature ban partial lead service line replacement and fund full lead service line replacement on privately-owned property to remove lead in drinking water. The Legislature should allocate 40 percent of the Drinking Water State Revolving Fund from the federal Infrastructure Investment and Jobs Act funds for full lead service line replacement to go directly to Black neighborhoods that were formerly redlined, with special consideration for Descendants. To ensure accountability, the Legislature should require the State Water Resources Control Board's Division of Drinking Water (DDW) to track IJA fund distribution to ensure money reaches Black neighborhoods.

F. Prevent Highway Expansion and Mitigate Transportation Pollution

From the 1950s to the 1970s, state and federal highway construction targeted “blighted” neighborhoods and valuable inner city land that tended to be overwhelmingly poor and Black.⁵⁰⁴ These highways destroyed Black communities or otherwise suffocated their economic vitality by cutting off their access to the rest of the city.⁵⁰⁵ Today, Black communities are disproportionately located near highways and subsequently suffer more from on-road sources of carcinogenic

⁴⁹⁹ Muller et al., [Environmental Inequality: The Social Causes and Consequences of Lead Exposure](#) (2018) 44 Annual Review of Sociology pp. 266-68.

⁵⁰⁰ See [Comments of the Attorneys General](#) of California, Oregon, Minnesota, Connecticut, Pennsylvania, Wisconsin, Illinois, Maryland, New York, and New Jersey, 3 (Feb. 12, 2020).

⁵⁰¹ [Comments of the Attorneys General](#) of California, Oregon, Minnesota, Connecticut, Pennsylvania, Wisconsin, Illinois, Maryland, New York, and New Jersey, 3 (Feb. 12, 2020).

⁵⁰² EPA Science Advisory Board, [Evaluation of the Effectiveness of Partial Lead Service Line Replacements](#) (Sept. 28, 2011) p. 1.

⁵⁰³ EPA, [Lead and Copper Rule Revisions White Paper](#) (October 2016) p. 9.

⁵⁰⁴ Mohl, [The Interstates and the Cities: Highways, Housing, and the Freeway Revolt](#) (2002) Poverty and Race Research Action Council p. 3.

⁵⁰⁵ *Ibid.*

pollution.⁵⁰⁶ The Task Force recommends the Legislature reduce the pollution burden of Black and Descendant communities by ending highway expansion in areas with high levels of pollution.

AB 1778, which was introduced last year but was not enacted, would have prohibited the State of California from funding or permitting freeway expansions or widening transportation projects in disadvantaged communities.⁵⁰⁷ AB 1778 required the Department of Transportation to consult with the California Healthy Places Index, an online resource developed by the Public Health Alliance of Southern California that uses indicators like income level and PM 2.5 pollution, to identify disadvantaged communities before initiating any projects.⁵⁰⁸ The Task Force supports the substance of this bill and recommends the Legislature enact its substance and tailor the bill to serve the needs of Black and Descendant communities.

Chapter 25

VIII. PATHOLOGIZING BLACK FAMILIES

This section details policy proposals to address harms set forth in Chapter 8, Pathologizing Black Families, of the Interim Report.

- Reduce and Seek to Eliminate Racial Disparities in the Removal of African American Children From Their Homes and Families
- Reduce the Placement of Black Children in Foster Care and Increase Kinship Placements for Black Children
- Establish and Fund Early Intervention Programs That Address Intimate Partner Violence (IPV) Within the African American Community
- Eliminate Interest on Past-Due Child Support and Eliminate Back Child Support Debt
- Eliminate or Reduce Charges for Phone Calls Between County Jail Inmates and Their Families
- Address Disproportionate Homelessness Among Black Californians
- Address Disparities and Discrimination Associated with Substance Use Recovery Services

A. Reduce and Seek to Eliminate Racial Disparities in the Removal of Black Children From Their Homes and Families

The rate of removal of African American children from their homes is staggering. The data shows that, in 2018, Black children were 21.8 percent of the children in foster care in California, the largest percentage by race, despite constituting only 6.5 percent of the overall population of children.⁵⁰⁹ One report indicated that, in 2021, California investigated one-half of all Black

⁵⁰⁶ Pratt et al., *Traffic, Air Pollution, Minority and Socio-Economic Status: Addressing Inequities in Exposure and Risk* (2015) 12 International Journal of Environmental Research and Public Health 5 pp. 5355-5372.

⁵⁰⁷ California [Assembly Bill No. 1778](#) (2022 Reg. Sess.).

⁵⁰⁸ *Ibid.*

⁵⁰⁹ [Children in Foster Care, by Race/Ethnicity - Kidsdata.org](#) (as of Nov. 29, 2022).

children.⁵¹⁰ In 2022, California’s Legislative Analyst’s Office issued a report indicating that the proportions of Black youth in foster care is four times larger than the proportion of Black youth in California overall.⁵¹¹ Given the disparities, it is likely that racial bias impacts Black families at all stages of the process, including during the reporting of abuse or neglect, the investigation of the allegation, the substantiation of the allegation, the decision to remove the child from the home, and ultimately where to place a child once the child is removed.⁵¹² As detailed in Part II of this Report, one study in 1996 indicated that the “disproportionality of Black children being taken from their parents and placed in foster care ‘does not derive from inherent differences in the rates at which they are abused or neglected,’ but rather reflects the ‘differential attention’ received by Black children ‘along the child welfare service pathway.’”⁵¹³ Vague or nebulous definitions of maltreatment or abuse, which are inherently subjective, may allow racial bias to intrude into a lone social worker’s decision-making process about whether to initiate an investigation or remove a child.⁵¹⁴ For example, recent research has shown that with respect to drug-positive newborns, Black mothers were more likely to have their infants removed than white mothers even though the overall characteristics or conditions of the infants were similar.⁵¹⁵

The following recommendations provide a multi-prong approach to eliminate racial disparities for Black families by implementing procedures in the child welfare system to eliminate the influence racial bias may have on decision-making at every stage.

The Task Force’s first recommendation is that the Legislature enact legislation to require “blind” removal meetings where a committee of social workers, who are unaware of the race of the child and their family, make the decision regarding whether a claim of child abuse is substantiated and whether the initial detention of a child from their home is warranted.⁵¹⁶ This recommendation does not include predictive risk modeling tools some agencies have used to augment their decision-making process around initial detentions and removals. “Stakeholders” have expressed concerns that predictive risk modeling tools “may infringe on civil rights and civil liberties, and exacerbate racial disproportionality and disparities in child welfare.”⁵¹⁷ The Task Force also recommends that the Legislature enact legislation to prohibit child welfare agencies from detaining a child on the basis of a nebulous claim of neglect where the investigation was initiated based on a report of neglect that is rooted in a parent’s poverty or the

⁵¹⁰ Lurie, [Child Protective Services Investigates Half of All Black Children in California](#), Mother Jones (April 26, 2021) (as of Nov. 29, 2022).

⁵¹¹ See Legislative Analyst’s Office, [Initial Analysis and Key Questions: Racial Disproportionalities and Disparities in California’s Child Welfare System](#) (March 9, 2022) p. 2

⁵¹² Children’s Bureau: [Child Welfare Practice to Address Racial Disproportionality and Disparity](#) (2021) p. 6 (as of Nov. 29, 2022).

⁵¹³ Interim Report Chapter 8 at p. 281.

⁵¹⁴ Children’s Bureau: [Child Welfare Practice to Address Racial Disproportionality and Disparity](#) (2021) at p. 6.

⁵¹⁵ [Child Welfare Practice to Address Racial Disproportionality and Disparity](#), *supra*, at p. 6.

⁵¹⁶ [Child Welfare Practice to Address Racial Disproportionality and Disparity](#), *supra*, at p. 16.

⁵¹⁷ See [ACLU Public Records Act Request Regarding Use of Predictive Risk Modeling in California Child Welfare System and expressing concerns about the constitutionality of predictive risk modeling tools](#). (Jan. 5, 2021).)

lack of resources.⁵¹⁸ Before a child welfare agency can detain a child based on general neglect, the agency must demonstrate that it has engaged in “active efforts.” “Active efforts” means the agency has taken proactive steps, which may include financial assistance and support services, to help parents ameliorate or eliminate the conditions that caused the agency to investigate the family.⁵¹⁹ To address concerns that incongruent cultural standards are often applied to justify the removal of Black children from their families, the Task Force recommends that the Legislature amend Welfare and Institutions Code section 361 to require the testimony of an independent qualified expert on the prevailing cultural practices and standards of the African American community, including child rearing practices, before a child can be removed from their home. A child could be removed only where the qualified expert testifies that continued custody in the home is likely to result in serious emotional or physical damage to the child.⁵²⁰

Substance abuse or addiction issues are often a driver for the removal of children from their parents. Existing legislation does not disqualify a noncustodial parent from being considered for placement where the parent is in a substance abuse treatment facility so long as that facility allows minor children to remain with their children during treatment.⁵²¹

Because existing law acknowledges that substance abuse issues, without more, do not require separating a child from their parent,⁵²² the Task Force recommends that the Legislature enact legislation to mandate that in those cases where the sole issue is a parent’s substance abuse, child welfare agencies must place the family on family maintenance services⁵²³ and use active efforts to place the custodial parent and child in a residential treatment program that allows minors to remain with their parents during treatment before the agency can file a petition to detain the child. Where outpatient treatment has a likelihood of success, agencies must provide family maintenance services along with outpatient treatment before filing a petition to detain a child.

The Task Force further recommends that the Legislature enact legislation requiring child welfare agencies to place a child with the noncustodial parent in cases where removal from the custodial parent was necessary, even if the noncustodial parent is in an inpatient substance abuse

⁵¹⁸ Welfare and Institutions Code section 300 (b)(2) states that a child shall not be found to be a person described by section 300 (b)(1) based on a parent’s poverty alone. The Task Force’s recommendation, however, applies to the initial detention stage of the proceedings where a child can be detained from their parents before a finding under section 300 (b)(1) is even made.

⁵¹⁹ “Active efforts” means affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with their family. (Welf. & Inst. Code, § 224.1 (West)). It is a term borrowed from California’s version of the Indian Child Welfare Act (ICWA).

⁵²⁰ See e.g., Welf. & Inst. Code, § 361, subd. (c)(6).

⁵²¹ See Welf. & Inst. Code, § 361.2, subd. (a).

⁵²² A child can only be removed if the parent’s substance abuse issue places the child at substantial risk of harm. (See *In re Alexis E.* (2009) 171 Cal. App. 4th 438, 453 (“[W]e have no quarrel with Father’s assertion that his use of medical marijuana, without more, cannot support a jurisdiction finding that such use brings the minors within the jurisdiction of the dependency court, not any more than his use of the medications prescribed for him by his psychiatrist brings the children within the jurisdiction of the court.”).)

⁵²³ Family maintenance services are time-limited services provided to children who are at risk for abuse and neglect in their homes. Welf. & Inst. Code, § 16506; see e.g., Contra Costa County Employment and Human Services [Family Maintenance Services](#) (as of Nov. 29, 2022).

treatment facility if the facility allows dependent children to stay with their parents and placing the child with the noncustodial parent would not be detrimental to the child.⁵²⁴

B. Reduce the Placement of Black Children in Foster Care and Increase Kinship Placements for Black Children

As detailed in Part II of this Report, beginning with slavery and continuing through today, extended kinship networks were a necessity for survival for Black mothers and African Americans generally.⁵²⁵ Kinship placements also play a key role in the child welfare system for Black children who are removed from their parents.

When a child has been removed from both parents, existing law⁵²⁶ allows a court to place a child in a variety of placements, including the approved home of a relative or approved home of a nonrelative extended family member, which is referred to as a kinship placement. And under existing law, placement with a relative is the preferred placement.⁵²⁷ For the vast majority of children, kinship care placements are less traumatic, lead to better outcomes, play a pivotal role in ensuring children's safety, increase placement stability, better assure success in school, and maintain family and community connections.⁵²⁸

Despite research showing that children placed with relatives have better outcomes and the statutory preference to place children with relatives, a disproportionate number of Black children are placed in foster care with strangers or in congregate care settings instead.⁵²⁹ Being Black is a predictive factor of a child's placement in congregate care setting.⁵³⁰ The California Legislature passed Continuum of Care Reform legislation in 2015.⁵³¹ It is a collection of reforms aimed at ensuring that children removed from their parents are placed in home-based family placements with committed and nurturing caregivers.⁵³² Under Continuum of Care Reform, congregate settings would be used only as short-term residential therapeutic settings.⁵³³

⁵²⁴ Compare Welfare and Institutions Code section 361.2, which states that placement cannot be denied solely because parent is enrolled in a substance abuse treatment facility. But the provision does not require placement where the facility allows minor children to stay with their parents.

⁵²⁵ Interim Report Chapter 8 at p. 272.

⁵²⁶ Welf. & Inst. Code, § 361.2, subd. (e).

⁵²⁷ Welf. & Inst. Code, § 361.3, subd. (a).

⁵²⁸ Los Angeles County Blue Ribbon Commission on Child Protection: Final Report (2014) at p. 22

⁵²⁹ Congregate care placements are widely understood to be less suited to a child's healthy development and tend to lead to poorer outcomes as compared to family-based placements like kinship and foster home placements. (Casey Family Programs [What Are the Outcomes for Youth Placed in Group and Institutional Settings?](#), June 29, 2022 (as of Nov. 29, 2022).)

⁵³⁰ See Palmer et al., [Correlates of Entry Into Congregate Care Among a Cohort of California Foster Youth](#) (March 2020) vol. 110 Children and Youth Services Rev. (as of Nov. 29, 2022).

⁵³¹ California Child Welfare Co-Investment Partnership, [Continuum of Care Reform: The Promise, Progress, and Moving Forward](#) (2021) Insights p. 2

⁵³² California Child Welfare Co-Investment Partnership, [Continuum of Care Reform: The Promise, Progress, and Moving Forward](#) (2021) Insights pp. 2-4

⁵³³ California Child Welfare Co-Investment Partnership, [Continuum of Care Reform: The Promise, Progress, and Moving Forward](#) (2021) Insights p. 4

Still the disparities in placement for Black children in foster care remain. One explanation for the disproportionate placement of Black children in foster care or congregate settings is racial bias. Existing law allows a social worker to consider a relative's good moral character when assessing a relative for placement.⁵³⁴ Whether a relative has good moral character is a subjective consideration that could be impacted by racial bias.

Even when a child is placed in kinship care, however, disparities in resources persist. Children in kinship care and their caregivers are among the most underserved in the welfare system.⁵³⁵ If a child does not qualify for AFDC benefits under Title IV-E of the Social Security Act at the time of removal, under California's regulations, if the child placed is placed with a relative, the child will receive less cash assistance than if the same child was placed with a non-relative foster care family.⁵³⁶ Thirty-nine percent of kinship households live below the federal poverty line while only 13% of non-relative foster care households do.⁵³⁷ The financial hardships relatives face in accepting placement can influence the decision of a relative with modest economic means to be considered for placement.⁵³⁸ Further, a relative's lack of resources can also factor into a social worker's decision to exclude that relative from consideration for placement.⁵³⁹

The Task Force recommends that the Legislature enact legislation requiring the California Department of Social Services to provide the same level of foster care cash assistance benefits to children placed in kinship placements that is provided to children placed in foster-home placements.⁵⁴⁰ Equalizing foster care cash assistance benefits based on the child instead of based on the child's placement makes it financially feasible for minors to be placed with relatives who otherwise lack the financial means to assume placement. And placing a child with relatives provides the benefit of familial connection and continuity of community without additional costs to the county or the state given that there is one less child placed in a foster home.

In the alternative, the Task Force recommends that the Legislature enact legislation eliminating or waiving the consideration of a child's eligibility for federal AFDC aid under Title IV-E from its determination of the amount of foster care cash assistance a child placed with relatives will receive, and instead require the Department of Social Services to pay the same level of cash assistance to a child placed in a kinship placement as the child would have received

⁵³⁴ Welf. & Inst. Code, § 361.3, subd. (a)(5)

⁵³⁵ Los Angeles Blue Ribbon Commission on Child Protection, [The Road to Safety for Our Children: Final Report of the Los Angeles Blue Ribbon Commission on Child Protection](#) (2014) at p. 22 (as of Nov. 29, 2022).

⁵³⁶ Specifically, a child placed in kinship care families would receive only CalWorks cash benefits while a non-relative foster care family would receive cash benefits based on state AFDC benefits for the child. (Alliance for Children's Rights, [Continuum of Care Reform](#)); see California Department of Social Services [Payments](#) page

⁵³⁷ Alliance for Children's Rights, [Continuum of Care Reform](#)

⁵³⁸ *Id.* at pp. 22-23.

⁵³⁹ See Welf. & Inst. Code, § 361.3, subd. (a)(7). A social worker may not solely exclude a relative from consideration based on a lack of resources, however. (Welf. & Inst. Code, § 309, subd. (d)(3).)

⁵⁴⁰ Title IV-E provides fund to states to pay for the costs associated with placing children, who are eligible for public assistance, in an *approved* or licensed foster care setting that meets the statutory safety requirements. (See U.S. Department of Health and Human Resources, Title IV-E Foster Care Eligibility Review Guide (2012) p. 4 (as of Nov. 29, 2022).) Under California's Continuum of Care Reform legislation, both relatives and foster care families are approved for placement using the Resource Family Approval process. (Department of Social Services [Continuum Of Care Reform Resource Family Approval Child And Family Teams](#) (2018)

if placed with a non-relative foster family.⁵⁴¹ The Task Force also recommends that the Legislature amend Welfare and Institutions Code section 309, subsection (d)(1) to authorize financial payments to relatives to purchase whatever is required to provide a home and the necessities of life for the child for as long as the child is placed with the relative. Beyond section 309, existing social welfare programs, like CalWorks and CalFresh, or a special fund established by the Legislature, can be used to provide additional support. The Task Force further recommends that the Legislature include a requirement in the legislation that the agency use active efforts to assist relatives in applying for and obtaining benefits under existing social welfare programs..

To address potential racial bias in the assessments of relatives for placement, the Task Force recommends that the Legislature amend Welfare and Institutions Code 361.3 to eliminate “good moral character” from the list of criteria a social worker may consider in deciding whether to place a child with a relative. Another barrier to relative placements are criminal background checks, which are required for anyone being considered for placement. The Task Force recommends that the Legislature enact legislation to mandate that an agency may not use a relative’s prior nonviolent conviction to disqualify a relative from being considered for placement. Under existing law, the child welfare agency has discretion to grant an exemption from disqualification to a relative who has a criminal record and is being considered for placement.⁵⁴² The Task Force recommends that the legislation the Legislature enacts specifically removes the agency’s discretion to deny a relative’s application solely because the relative has a conviction for a *nonviolent offense*. Prohibiting agencies from disqualifying relatives with convictions for *nonviolent offenses* from being considered for placement unless the agency grants an exemption acknowledges that the criminal justice system in California has disproportionately targeted and convicted African Americans. And because most convictions stem from guilty pleas,⁵⁴³ which may have been accepted solely to avoid trial and a potentially higher sentence, a nonviolent conviction should not disqualify a relative for placement.

The Task Force further recommends that the Legislature enact legislation that would permit a relative with a prior conviction for a violent offense to be considered for placement where 1) the conviction is not for a reportable offense under Penal Code section 290 or similar provision, 2) the relative has been free from incarceration and supervision for a minimum of ten years, 3) the prior conviction for a violent offense is more than ten years old, and 4) the relative has demonstrated by clear and convincing evidence that they are not likely to reoffend.

The Task Force also recommends that the Legislature enact legislation that would permit relatives with a substantiated prior child welfare case to be considered for placement if the substantiated instance of child abuse or neglect occurred at least 10 years before the relative’s current placement application and there is clear and convincing evidence that the relative has resolved those issues.

⁵⁴¹ Title IV-E agencies are subject to periodic reviews to validate the accuracy of the agency’s claim for reimbursement based on the placement of children in approved or licensed foster family homes and child care institutions. 45 C.F.R. 1356.71(d)(iv); 42 U.S.C § 472

⁵⁴² Health & Saf. Code, § 1522, subd. (g)

⁵⁴³ Lyon, [Whether State or Federal, Most Convictions Are Overwhelmingly Based on Guilty Pleas](#), Human Rights Defense Center, Criminal Legal News (Oct. 2019) (as of Nov. 29, 2022).

C. Establish and Fund Early Intervention Programs that Address Intimate Partner Violence (IPV) Within the Black Community

Black victims of IPV face unique and historically-rooted challenges in seeking and obtaining services related to safety, prevention, and treatment. For example, Black victims of IPV may harbor a justifiable distrust of law enforcement and social service providers, which in turn limits the protection and support that victims receive. Many women refrain from seeking assistance out of fear of losing their children to a discriminatory child welfare system.⁵⁴⁴ And even when assistance is sought, many of the service providers fail to provide the kind of culturally competent, trauma-informed services that are most effective. Moreover, given that Black women face disproportionately higher rates of IPV, these challenges result in the neediest populations receiving the least amount of support.⁵⁴⁵

The Task Force recommends that the Legislature enact legislation to fund community-based organizations (CBOs) and treatment programs that provide IPV services to treat victims, perpetrators, and minor children within the family who may have been exposed to IPV. The legislation would include adequate funding for CBOs and treatment centers to expand services to improve outreach to victims and perpetrators of IPV, and provide appropriate services tailored to address the needs of the family based on the severity and duration of the IPV.

The CBOs and treatment programs would provide a range of services that would include, partnering with hospitals, clinics, and mental health centers to provide IPV self-assessment tools and referral information for IPV victims at these points of contact where providers may encounter victims of IPV, providing direct cash assistance to IPV victims to allow victims to separate from the perpetrator, and assisting victims in applying for benefits and accessing job training. CalWorks also can be used to provide temporary direct cash assistance for IPV victims.⁵⁴⁶ Because exposure to IPV causes trauma to children, the Task Force recommends that the legislation the Legislature enacts require the CBOs and treatment programs to provide services or a referral and payment for appropriate services for minor children who have been exposed to IPV.

The legislation would also fund IPV prevention and early intervention treatment programs, including graduated treatment options for victims and IPV perpetrators based on the severity and duration of IPV. One study indicated that conjoint-couples treatment was more effective in reducing recidivism over a six-month period than individual couples treatment.⁵⁴⁷ Where the

⁵⁴⁴ Joyce, *She Said Her Husband Hit Her. She Lost Custody of Their Kids: How Reporting Domestic Violence Works Against Women in Family Court* (2020) The Marshall Project (as of Nov. 29, 2022).

⁵⁴⁵ DuMonthier et al., *The Status of Black Women in the United States* (2017) Institute for Women's Policy Research & The National Domestic Worker's Alliance (as of Nov. 29, 2022).

⁵⁴⁶ The federal Family Violence Prevention Act prohibits direct cash assistance. (42 U.S.C. §10408, subsection (d)).

⁵⁴⁷ Heru, *Intimate Partner Violence: Treating Abuser and Abused* Vol. 13 *Advances in Psychiatric Treatment* (2007) 376, 379 (citing Stith et al., *Treating Marital Violence within Intact Couple Relationships: Outcomes of Multi-Couple Versus Individual Couple Therapy* J. Marital Fam. Ther. (2004) 305-318.) The reauthorized Violence Against Women Act that was signed into law in 2022, authorizes pilot programs on restorative justice practices if certain parameters are met. Those parameters include the requirement that the victim

victim is fully supportive of conjoint treatment, and where the violence has been mild-to-moderate, and both parties want to remain together, the victim and perpetrator can be referred to a multi-couple conjoint treatment program for IPV.⁵⁴⁸

D. Eliminate Interest on Past-Due Child Support and Eliminate Back Child Support Debt for Descendants

Although Black Californians are less than 7 percent of the state's population, they represent 18 percent of the parents who owe child support debt.⁵⁴⁹ Under current law, California charges 10 percent interest on back child support, which is more than 3.5 times greater than the national average.⁵⁵⁰ The 10 percent interest rate quickly increases the amount of the child support debt owed.⁵⁵¹ As a result of the debt owed for back child support and interest, a disproportionate number of Black parents are saddled with crushing debt that hinders their ability to attend school or job training, maintain housing,⁵⁵² and find employment if their professional licenses and/or driver's licenses have been suspended because of failure to pay child support debt.⁵⁵³

One study commissioned by the California Department of Child Support Services in 2003 estimated that 27 percent of California's child support arrears was unpaid interest.⁵⁵⁴ The same study showed that child support debtors had lower incomes than the typical California worker.⁵⁵⁵ The study indicated that even if debtors paid 50 percent of their net income towards their child support debt (back support and interest), only about 25 percent of the debt owed for child support arrears and interest would be collected over the next 10 years.⁵⁵⁶ In 2020, the Governor vetoed a bill, AB 1092,⁵⁵⁷ which would have terminated interest on child support arrears owed to the state prospectively.⁵⁵⁸

initiate the process and that the perpetrator voluntarily engage in the process. (Text of S. 3623 [The Violence Against Women Act Reauthorization Act of 2022](#), title IV of Public Law 103-322, section 109.) (as of Nov. 29, 2022).

⁵⁴⁸ Stith et al., [Treating Marital Violence within Intact Couple Relationships: Outcomes of Multi-Couple Versus Individual Couple Therapy](#) (2004) J. Marital Fam. Ther. 305-318 (manuscript at pp. 23-25) (as of Nov. 29, 2022).

⁵⁴⁹ San Francisco Office of the Treasurer Financial Justice Project [The Payback Problem: How Taking Parents' Child Support Payments to Pay Back the Cost of Public Assistance Harms California Low-Income Children & Families A Call For Reform to Put Families First](#) (2017) p. 13 (as of Nov. 29, 2022).

⁵⁵⁰ See Cal. Civ. Pro. § 685.010; see also [Interest on Child Support Arrears \(ncsl.org\)](#). The term child support debt or arrears includes the principal back child support owed plus the 10 percent interest the State charges.

⁵⁵¹ Hahn et al., [Relief from Government-Owed Child Support Debt and Its Effects on Parents and Children Evaluation of the San Francisco Child Support Debt Relief Pilot](#) (2019) Urban Institute Research Report at p. VIII (as of Nov. 29, 2022).

⁵⁵² Cimini, [California Keeps Millions in Child Support While Parents Drown in Debt](#) Cal Matters (2021) (as of Nov. 29, 2022).

⁵⁵³ Hahn et al., [Relief from Government-Owed Child Support Debt](#), *supra*, at p. VIII.

⁵⁵⁴ Sorensen et al., Executive Summary, [Examining Child Support Arrears in California: The Collectability Study](#) (2003) Urban Institute p. 18 (as of Nov. 29, 2022).

⁵⁵⁵ *Id.* at Report 2, p. 14.

⁵⁵⁶ *Id.* at Report 3, pp. 11-13.

⁵⁵⁷ Assem. Bill No. 1092 (2019-2020 Reg. Sess.) [Child Support: Enforcement](#)

⁵⁵⁸ Cimini, [California Keeps Millions in Child Support While Parents Drown in Debt](#), *supra*.

The Task Force recommends that the Legislature enact legislation that would eliminate all interest accrued on back child support for Descendants, requiring only the payment of the principal owed. At a minimum, the proposal recommends that the Legislature eliminate the prospective accrual of interest on child-support debt for Descendants who are low-income parents.

The Task Force further recommends that the Legislature amend California Family Code section 17560, the “offers in compromise”⁵⁵⁹ provision, to allow for offers in compromise and forgiveness of child support debt based solely on a parent’s financial circumstances and ability to pay. The Task Force recommends that the Legislature amend section 17560 to eliminate the requirements that the amount of the compromise equal or exceed the amount the state would be reimbursed under federal programs like Temporary Assistance to Needy Families (TANF).⁵⁶⁰

E. Eliminate or Reduce Charges for Phone Calls Between County Jail Inmates and Their Families

Under current law, county sheriffs may charge inmates per-minute fees and associated charges for telephone calls.⁵⁶¹ Although the profits from these fees ostensibly go toward services and resources for inmates, the funds are often mismanaged and/or misdirected.⁵⁶² Moreover, the financial burden falls disproportionately on low-income Black families during what can be the most challenging and destabilizing time of life – when a loved one is incarcerated. Ultimately, the fees force families to choose between not communicating with incarcerated family or spending scarce resources to do so. Under Senate Bill 1008 (2022, Becker), all calls from state prisoners and juvenile detainees are now free. The Task Force therefore recommends that the Legislature preclude county jails from profiting from their inmates by mandating that all inmate calls be free. The Legislature should similarly limit the markup of commissary items, another instance of jails profiting from the most vulnerable Californians.

F. Policies to Address Disproportionate Homelessness Among Black Californians

Black Californians make up a disproportionate share of the state’s unhoused population. While Black individuals make up only 5.5% of the state’s population, they comprise over 25% of

⁵⁵⁹ The California Compromise of Arrears Program is a debt reduction program for parents with past-due child support payments owed to the state that is authorized under Family Code Section 17560. If a parent qualifies for the program, they pay a smaller amount to satisfy the full debt owed to the state.

⁵⁶⁰ Family Code section 17560, subdivision (f)(1) provides that the compromise amount must equal or exceed “what the state can expect to collect for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code in the absence of the compromise, based on the obligor’s ability to pay.”

⁵⁶¹ California Public Utilities Commission, [CPUC Caps Phone Rates for Those Incarcerated](#) (Aug. 19, 2021) (as of Jan. 20, 2023) (setting interim rate cap).

⁵⁶² Lau & Stuhldreher, [Justice is Calling](#) (Feb. 18, 2021) The Financial Justice Project, San Francisco at p. 4 (as of Jan. 20, 2023).

unhoused households that contacted homeless service providers in the 2020-21 fiscal year.⁵⁶³ A recent report on Black homelessness in Los Angeles concluded that “[t]he impact of institutional and structural racism in education, criminal justice, housing, employment, health care, and access to opportunities cannot be denied: homelessness is a by-product of racism in America.”⁵⁶⁴ The same study concluded that “[t]he interconnectedness of incarceration and homelessness creates a revolving door that only serves to make the plight of homelessness more challenging and complex.”⁵⁶⁵

1. Streamline and incentivize development of permanent supportive housing (PSH) and extremely low income (ELI) housing

PSH and ELI housing are critical components to solving the homelessness crisis.⁵⁶⁶ PSH provides housing to those with substantial physical or behavioral disabilities, and provides on-site treatment and services. ELI households are those whose incomes are at or below the poverty guideline, or 30% of their area median income.⁵⁶⁷ Unfortunately, the cost and delays associated with PSH developments have severely impacted their feasibility in many communities.⁵⁶⁸ The Task Force accordingly recommends: subsidies to developers and property managers of PSH and ELI housing; establishment of state-funded and state-operated PSH and/or ELI housing (akin to those proposed in Assembly Bill 2053 (Lee, 2021-2022)); and exemptions for ELI and PSH developments from applicable zoning and permitting regulations.⁵⁶⁹

2. Mandate anti-bias and other trainings for staff of homeless services providers

A recent report by the California Policy Lab found that implicit bias and prejudice exist among the case managers, property managers, and landlords that ostensibly should be supporting unhoused Black individuals.⁵⁷⁰ The Task Force thus recommends Legislative mandates for implicit-bias training for designated homeless-services providers and/or to fund statewide studies of racism within homeless services systems. Other training topics should include cultural competency; trauma-informed care; institutional racism; and the needs of diverse unhoused populations, particularly Descendant and Black individuals.

⁵⁶³ Davalos and Kimberlin, *Who is Experiencing Homelessness in California?* (Feb. 2022) California Budget & Policy Center (as of Jan. 24, 2023) (hereinafter “Homelessness in California”).

⁵⁶⁴ Bernard et al., *Report and Recommendations of the Ad Hoc Committee on Black People Experiencing Homelessness* (Dec. 2018), Los Angeles Homeless Services Authority (as of Jan. 24, 2023) (hereinafter “Ad Hoc Committee Report”).

⁵⁶⁵ *Ibid.*

⁵⁶⁶ Resnikoff, *Housing Abundance as a Condition for Ending Homelessness* (Dec. 2022) California YIMBY (as of Jan. 10, 2023) (hereinafter “Housing Abundance”).

⁵⁶⁷ *Extremely Low-Income Housing Needs*, California Department of Housing and Community Development (as of Jan. 10, 2023).

⁵⁶⁸ See, e.g., Streever, *Homelessness in California: Causes and Policy Considerations* (May 2022) Stanford Institute for Economic Policy Research (as of Jan. 10, 2022).

⁵⁶⁹ See *Housing Abundance*, *supra*, at p. 52.

⁵⁷⁰ Homelessness in California at pp. 24, 32.

3. Fund permanent supportive housing (PSH) diversion programs for individuals incarcerated in county jails

PSH has been shown to reduce homelessness among those with substantial physical disabilities or mental health issues.⁵⁷¹ A pilot program in Los Angeles County, Just in Reach Pay for Success, created a diversion program for county jail inmates with histories of homelessness and physical or behavioral disabilities.⁵⁷² The program placed qualifying individuals into PSH units and provided wrap-around services. A study of the program found that its cost was fully offset by decreased use of shelters, inpatient hospitalization, and incarceration. In light of the program's success and cost-effectiveness, the Task Force recommends that the Legislature allocate funding for similar programs throughout the state.

4. Fund a study and analysis of county jail efforts to secure housing for incarcerated individuals upon release

Studies have shown that formerly incarcerated individuals are almost 10 times more likely to be homeless than the general public, and that “formerly incarcerated Black men have much higher rates of unsheltered homelessness than white or Hispanic men.”⁵⁷³ Senate Bill 903 (2022, Hertzberg) requires a rigorous study and analysis of the California Department of Corrections and Rehabilitation's efforts to assist those individuals recently released from incarceration with any housing needs. The Task Force recommends that the Legislature mandate a similar study with respect to individuals recently released from county jail.

5. Develop and launch racial equity initiative and targeted funding measures

In light of the disproportionate numbers of Black unhoused individuals, the Task Force recommends that the Legislature mandate a racial equity analysis of California's housing and homelessness programming. The analysis would be geared towards: ensuring equitable contracting; increasing Black participation and employment; promoting racial diversity at all relevant agencies and offices; ensuring that management is appropriately trained in cultural competency; and creating opportunities for people with lived experiences with homelessness to participate in reform efforts.

Relatedly, the Task Force recommends that the Legislature allocate sufficient funding to address the root causes of Black Californians experiencing homelessness and, through grants to qualified, culturally-congruent services providers (particularly Black-founded organizations that serve Black communities), support the delivery of comprehensive services needed to reduce and eliminate this disparity and more generally improve access to affordable housing, employment, mental and physical health services, youth development, public benefits, education, and civic

⁵⁷¹ See, e.g., [Permanent Supportive Housing in Washington, DC: Lessons from the John and Jill Kerr Conway Residence](#) (Dec. 2015) National Coalition for the Homeless (as of Jan. 24, 2023).

⁵⁷² Hunter et al., [Just in Reach Pay for Success Impact Evaluation and Cost Analysis of a Permanent Supportive Housing Program](#) (2022) RAND Corporation (as of Jan. 24, 2023).

⁵⁷³ Couloute, [Nowhere to Go: Homelessness Among Formerly Incarcerated People](#) (Aug. 2018) Prison Policy Initiative (as of Jan. 10, 2023).

engagement. Funding priorities should include, but not be limited to, emergency rental assistance, eviction counseling, and rapid-rehousing plans.⁵⁷⁴ Funding and training should also be provided to faith institutions and nontraditional sites (*e.g.*, beauty/barbershops, community colleges, neighborhood markets) that interact with unhoused populations to enable these entities to provide services and/or resources. The funding would be prioritized for organizations that use a community-based, participatory approach to services, and that rely on or employ individuals with lived experience with homelessness. Finally, funding should also be prioritized for efforts to prevent loss of homeownership (particularly among Black seniors), including education around financial literacy and investment, education to protect against scams, and access to resources to prevent foreclosure.

6. Increase compensation for homeless services providers

Front-line workers staff the myriad programs and services that support the unhoused community. Unfortunately, wages for these workers are frequently extremely low.⁵⁷⁵ Moreover, “[l]ow wages relative to the cost of housing have contributed to chronic understaffing and extremely high turnover among homeless service providers in California.”⁵⁷⁶ The end-result is a substantial negative impact on the quality of homeless services. Accordingly, the Task Force recommends that the Legislature include compensation requirements or wage floors/baselines in its grants to service providers.⁵⁷⁷ The funding or statutory scheme should include resources and requirements for 24-hour skilled staffing at shelters and PSHs; ongoing training for case managers on trauma-informed practices; and peer-advocate programs that pair residents with individuals with lived experiences being unhoused.⁵⁷⁸

7. Strengthen housing eligibility and tenant protections

To address the housing crisis in the Descendant and Black community, the Task Force recommends that the Legislature pass legislation as needed, and call for federal action as appropriate, to ensure more robust protections within the private market as well as within public housing and voucher programs. These protections should advance a number of reforms, including: (1) a fully funded framework for the investigation of and enforcement against discriminatory practices in housing and employment; (2) efforts to remove barriers to eligibility and expand access to public housing; (3) protections to preserve and enhance the rights of tenants living in public housing; (4) protections against Section 8 and other housing subsidy discrimination; (5) expansion of source of income discrimination protections; (6) expansion of just cause eviction requirements to all residential rental housing; (7) prohibition of criminal

⁵⁷⁴ Rapid-rehousing programs focus on securing housing for those who recently lost their homes. The programs typically involve connecting individuals with available housing; providing short financial assistance for rent and moving costs; and connecting the individuals to employment and other services. *See* Levin, et al., [California’s Homelessness Crisis - And Possible Solutions - Explained](#), Cal Matters (Dec. 31, 2019) (as of Jan. 23, 2023).

⁵⁷⁵ Housing Abundance, *supra*, at p. 17.

⁵⁷⁶ *Id.*

⁵⁷⁷ *Id.*

⁵⁷⁸ *See* Milburn et al., [Inequity in the Permanent Supportive Housing System in Los Angeles](#) (Oct. 2021) California Policy Lab pp. 32-33 (recommending and stressing importance of 24-hour staffing) (as of Jan. 23, 2023).

background checks in tenant screening; (8) broader rent control measures; (9) right to counsel and financial assistance for eviction proceedings; and (10) stronger protections against landlord retaliation.⁵⁷⁹

G. Address Disparities and Discrimination Associated with Substance Use Recovery Services

Substance use disorder and addiction are prevalent across all ethnicities, including those who are Black.⁵⁸⁰ But inequities also exist in the treatment and recovery fields. For example, death rates from synthetic opioid use increased nationwide by 818 percent between 2014 and 2017 among Black individuals, more than for any other racial group during the same period.⁵⁸¹ Moreover, “significant gaps exist within the provision of equitable services and treatment outcomes for those in the Black community.”⁵⁸² These gaps include a disproportionately small number of Black professionals in the addiction treatment workforce, as well as disparate treatment outcomes for Black clients.⁵⁸³ Economic barriers lead Black clients to use treatment services less than white clients, and they also have lower treatment retention rates compared to white clients.⁵⁸⁴

The disparities also exist at the level of prescription medication: Black patients are 77 percent less likely to be prescribed buprenorphine, and are more likely to receive methadone as an alternative treatment for opioid addiction.⁵⁸⁵ Both drugs are effective, but buprenorphine treatment is much easier to maintain. Methadone is more highly regulated, and patients (unlike for buprenorphine) must travel to a clinic each day to receive treatment and thus face more significant recovery burdens.⁵⁸⁶ Methadone treatment is also generally more stigmatized than buprenorphine, and methadone programs require random drug testing and counseling that are not similarly mandated for buprenorphine.⁵⁸⁷

Finally, addiction and treatment disparities must be understood within the broader context of urban planning, land use, and zoning. Indeed, “nuisance properties,” including alcohol, tobacco, and marijuana shops, are disproportionately located in low-income communities of

⁵⁷⁹ These proposals are modeled after Recommendation 8 and 58 from the Ad Hoc Committee Report, *supra*.

⁵⁸⁰ Valentine & Brassil, [Substance Use in California: Prevalence and Treatment](#) (Jan. 2022) California Healthcare Foundation, pp. 12, 13, 17, 19 (as of Feb. 8, 2022).

⁵⁸¹ Gateway Foundation, [Substance Use in the African American Community](#) (undated) (as of Feb. 7, 2023).

⁵⁸² National Association for Addiction Professionals, [NAADAC Position Statement on Critical Issues in the Black Community: The Complexities of SUD Treatment](#) (Feb. 2022) (as of Feb. 7, 2023) (hereafter “NAADAC Position Statement”).

⁵⁸³ *Ibid.*

⁵⁸⁴ *Ibid.*

⁵⁸⁵ [African Americans Often Face Challenges Accessing Substance Use Treatment](#) (interview with Dr. Scott Nolen, Open Society Institute) The Pew Charitable Trusts (March 26, 2020) (as of Feb. 7, 2023).

⁵⁸⁶ *Ibid.*

⁵⁸⁷ U.S. Dep’t of Health and Human Services, Office of Behavioral Health Equity, [The Opioid Crisis and the Black/African American Population: An Urgent Issue](#) (April 2020) at p. 8-9 (as of Feb. 7, 2020) (hereafter “The Opioid Crisis”)

color,⁵⁸⁸ which in turn can lead to higher rates of substance use and abuse.⁵⁸⁹ In light of these systemic issues, the Task Force recommends a number of measures to reduce disparities in treatment and recovery.

a. Increase funding streams to community-based treatment and prevention organizations, including those linked to the criminal justice system

Community-based organizations (CBOs) play a central role in both preventing and treating substance use disorders.⁵⁹⁰ The Task Force thus recommends increased funding CBOs that provide substance use treatment and related services, with particular focus on those organizations that are run and staffed by Black professionals and that serve the Black community. A primary funding source could be the Health Equity and Racial Justice Fund within the California Department of Public Health's Office of Health Equity.⁵⁹¹ (A separate proposal recommends funding the Health Equity and Racial Justice Fund.)

Funding would be prioritized for those organizations taking a holistic approach to recovery that address root causes of substance use such as housing instability, unemployment, and criminal justice involvement. And CBOs that address community-wide issues related to addiction -- such as land-use and zoning factors (*e.g.*, density of liquor stores, cannabis dispensaries, and smoke shops) -- should also be prioritized.⁵⁹² Finally, since substance use is frequently associated with recent incarceration,⁵⁹³ funding should be allocated for service providers stationed just outside county jails and state prisons that can provide treatment assistance immediately upon release. The use of evidence-based practices would not be a bar to funding nor would it be prioritized. In addition, jails and prisons should increase community-based organizations access to provide treatment services while in custody. This access may be more limited and therefore require greater attention in the county jails. [*This proposal overlaps with a proposal included in the Mental and Physical Harm and Neglect Chapter and with other proposals in the Pathologizing Families Chapter*]

⁵⁸⁸ Subica et al., *The geography of crime and violence surrounding tobacco shops, medical marijuana dispensaries, and off-sale alcohol outlets in a large, urban low income community of color* (2018) 108 *Preventative Medicine* 8; Lee et al., [What explains the concentration of off-premise alcohol outlets in Black neighborhoods?](#) (2020) *SSM – Population Health* 12 (as of Feb. 22, 2023).

⁵⁸⁹ *Id.* at 1-2.

⁵⁹⁰ U.S. Dep't of Health and Human Services, Office of Behavioral Health Equity, [The Opioid Crisis and the Black/African American Population: An Urgent Issue](#) (April 2020) at p. 10 (as of Feb. 7, 2020) at pp. 11-12 (hereafter "The Opioid Crisis")

⁵⁹¹ [We Are All Public Health](#) (as of Jan. 20, 2023) The California Health Equity and Racial Justice Fund; [Health Equity & Racial Justice Advocates Outraged at Lack of Funding for Communities to Address Disparities](#) (Jun. 28, 2022) *Public Health Institute* (as of Jan. 20, 2023).

⁵⁹² *See, e.g.*, Subica et al., *The geography of crime and violence surrounding tobacco shops, medical marijuana dispensaries, and off-sale alcohol outlets in a large, urban low income community of color* (2018) 108 *Preventative Medicine* 8-16 (finding that liquor stores and tobacco shops are associated with increased crime and violence in low income communities).

⁵⁹³ Bronson et al., [Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009](#) (revised Aug. 10, 2020) U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics at p. 1 (as of Feb. 8, 2023).

b. Promote educational and employment opportunities in substance use treatment fields.

The lack of cultural competency or cultural humility⁵⁹⁴ in healthcare and substance use treatment likely contribute to racial disparities in treatment outcomes.⁵⁹⁵ Thus, as the National Association for Addiction Professionals has urged, “[i]t is imperative that we recommit our efforts to the recruitment and training of Black individuals to build a powerfully diverse substance use and mental healthcare workforce.”⁵⁹⁶ A separate set of proposals set forth in the Mental and Physical Harm and Neglect chapter calls for expansion of the UC-PRIME-LEAD-ABC program (and the funding of equivalents for other fields) to increase the number of Black physicians, psychologists, and counselors. To the extent not already covered by those proposals, the Task Force also recommends similar funding and program expansion for substance use treatment professionals.

c. Mandate statewide data collection and analysis of California drug courts

Drug courts, in which defendants charged with drug crimes are directed to treatment rather than incarceration or other punishment, can be a powerful tool in combatting both addiction and recidivism.⁵⁹⁷ But participation in California’s drug courts has plummeted in recent years, potentially due to the passage of both Proposition 47 (2014) and prison realignment (AB 109 (2011)).⁵⁹⁸ To address this pressing issue, policymakers and stakeholders need comprehensive statewide data, which is currently unavailable.⁵⁹⁹ Accordingly, the Task Force recommends that the Legislature mandate data collection and publication of key metrics from every drug court and other diversion court throughout the state, including data that would expose disparities, if any, in the offer of diversion, enrollment and completion. These data could then be leveraged to craft policies to improve the reach and efficacy of these programs.

d. Expand access to naloxone, buprenorphine, and other critical substance use medications and assess the scope and genesis of any treatment disparities.

Naloxone, commonly known as “Narcan,” is the only FDA-approved medication to reverse opioid-related overdoses.⁶⁰⁰ The United States Surgeon General and the United States Department of Health and Human Services have both encouraged the widespread use and

⁵⁹⁴ Tervalon, M., & Murray-Garcia, J. (1998). Cultural humility versus cultural competence: A critical distinction in defining physician training outcomes in multicultural education. *Journal of Health Care for the Poor and Underserved*, 9(2), 117-125.

⁵⁹⁵ Grooms and Ortega, [Racial Disparities in Accessing Treatment for Substance Use Highlights Work to Be Done](#) (April 29, 2022) University of Southern California, Schaeffer Center for Health Policy and Economics (as of Feb. 7, 2023).

⁵⁹⁶ NAADAC Position Statement, *supra*, fn. XX.

⁵⁹⁷ Krebs et al., [Assessing the Long-Term Impact of Drug Court Participation on Recidivism with Generalized Estimating Equations](#) (July 2, 2007) 91 *Drug & Alcohol Dependence* 57 (as of Feb. 8, 2023).

⁵⁹⁸ Duara, [Carrots but no stick: Participation in California Drug Courts has Plummeted](#) (July 7, 2022) *Cal Matters* (as of Feb. 8, 2023).

⁵⁹⁹ *Ibid.*

⁶⁰⁰ U.S. Dep’t of Health and Human Services, Office of Behavioral Health Equity, [The Opioid Crisis and the Black/African American Population: An Urgent Issue](#) (April 2020) at p. 10 (as of Feb. 7, 2020) (hereafter “The Opioid Crisis”)

availability of naloxone to prevent overdose deaths.⁶⁰¹ In California, the Naloxone Distribution Project (NDP), within the California Department of Health Care Services, distributes free naloxone to qualifying organizations and entities.⁶⁰² Making naloxone more readily available should be prioritized, including because of the disproportionate death rate of Blacks from opioid overdose. Under this proposal, funding for the NDP would be increased as necessary and, as has been recently proposed in Assembly Bill 19 (Patterson, 2023-2024), all public schools within California would be required to keep naloxone on school premises. In addition, all jails, prisons, and juvenile facilities should also have Narcan readily available located on all floors, modules, or segments. This is currently the case in the LA County jails.⁶⁰³

As discussed above, buprenorphine is an effective and convenient treatment for opioid addiction, but is under-prescribed in the Black population.⁶⁰⁴ Thus, “a two-tiered treatment system exists where buprenorphine is accessed by Whites, high-income, and privately insured, while methadone is accessed by people of color, low-income, and publicly insured.”⁶⁰⁵ Accordingly, the Task Force recommends that the Legislature fund a study of scope of this problem within California—including potential disparities associated with other medications—and to identify potential solutions. Specific focus should be placed on Medi-Cal reimbursement rates to ensure they provide sufficient incentive to healthcare providers.⁶⁰⁶

Chapter 26

IX. CONTROL OVER CREATIVE, CULTURAL, AND INTELLECTUAL LIFE

This section details policy proposals to address harms set forth in Chapter Nine, “Control Over Creative, Cultural, and Intellectual Life.” The Task Force recommends that the Legislature take the following actions:

- Provide State Funding to Descendants to Address Disparity in Compensation Among Athletes in the University of California and State System
- Prohibit Discrimination Based on Natural and Protective Hair Styles In All Competitive Sports
- Provide State Funding to Support Descendant Athletes in Capitalizing on their Name, Image, and Likeness and Intellectual Property
- Identify and Remove Monuments, Plaques, State Markers and Memorials Memorializing and Preserving Confederate Culture; Erect Monuments, Plaques and Memorials Memorializing and Preserving Reconstruction Era and the Descendant Community

⁶⁰¹ *Ibid.*

⁶⁰² California Department of Health Care Services, [Naloxone Distribution Project](#) (Dec. 29, 2022) (as of Feb. 7, 2023).

⁶⁰³ Los Angeles County Sherriff’s Department, [Sheriff’s Naloxone Custody Pilot Project Saves Inmates from Overdose](#) (May 27, 2021) (as of March 17, 2023).

⁶⁰⁴ The Opioid Crisis, *supra*, fn. XX, p. 8-10.

⁶⁰⁵ *Id.* at p. 9.

⁶⁰⁶ *See id.* at pp. 8-9.

- Provide Funding to the Proposed California American Freedmen Affairs Agency, Specifically for Creative, Cultural, and Intellectual Life
- Eliminate the Practice of Banning Books Maintained by the California Department of Corrections and Rehabilitation
- Public Disclosure of Compensation and Benefits for Artists Across All Media Industries in California

A. Provide State Funding to Descendants to Address Disparity in Compensation Among Athletes in the University of California and State System

As documented in Chapter Nine, “Control Over Creative, Cultural, and Intellectual Life,” following the end of formal slavery, most Black athletes were forced to compete in segregated teams, sports, and organizations. In the University of California system, Black male student athletes, who comprise a large majority of the male student athlete population, have some of the lowest graduation rates compared to overall graduation rates.⁶⁰⁷ Today, college student athletes generate millions of dollars in profits for schools, coaches, and conference and network executives.⁶⁰⁸ College athletics operate under the National Collegiate Athletic Association (NCAA), a private nonprofit organization.⁶⁰⁹ Under previous NCAA regulations, compensation for student athletes was limited to scholarships for their education. Meanwhile, universities enter multimillion dollar deals with cable networks and athletic brands—all of which profit from using athletes’ images in marketing campaigns, apparel sales, and ticket sales, among other revenue.⁶¹⁰

Among the 500,000 or so college athletes who compete annually under the auspices of the NCAA there are more than 210,000 injuries per year, according to one estimate, ranging from minor to catastrophic and fatal.⁶¹¹ In the University of California system, prioritization is placed on athletic accomplishment over academic engagement, often discouraging Black athletes from participating in activities beyond their sport.⁶¹² Effective July 1, 2021, the NCAA adopted the Interim Name, Image and Likeness (NIL) Policy allowing NCAA student-athletes the opportunity to benefit from their NIL without jeopardizing their NCAA eligibility.⁶¹³ In August 2022, the NCAA Division I Board of Directors announced that schools are now empowered to support student-athletes in a variety of ways without asking for waivers, including providing support needed for a student-athlete’s personal health, safety and well-being; paying for items to

⁶⁰⁷ Harper, [Black Male Student-Athletes and Racial Inequities in NCAA Division I College Sports](#) (2018) USC Race and Equity Center (as of Jan 20, 2023);

⁶⁰⁸ Chung, et al., [Paying College Athletes](#) (Feb. 6, 2021) The Regulatory Review, (as of Dec. 1, 2022).

⁶⁰⁹ *Ibid.*

⁶¹⁰ *Ibid.*

⁶¹¹ Dart, [College athletes are unpaid. What if injury ruins their chance of turning pro?](#) (Sept. 6, 2021) The Guardian (as of Jan. 12, 2023).

⁶¹² See Harper, [Black Male Student-Athletes and Racial Inequities in NCAA Division I College Sports](#) (2018) USC Race and Equity Center (as of Jan 20, 2023); California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) p. 311.

⁶¹³ National Collegiate Athletic Association Division I, [Institutional Involvement in a Student-Athlete’s Name, Image and Likeness](#) (Oct. 26, 2022) (as of Jan. 20, 2023).

support a student's academic pursuits; purchasing insurance of various types (including loss-of-value and critical injury); and funding participation in elite-level training, tryouts and competition.⁶¹⁴

To remedy and address the harms associated with discrimination in competitive sports and the imbalance of profit generating income based on an athlete's NIL, the Task Force recommends that the Legislature conduct a study to determine the value Descendant athletes bring to an academic institution. In addition thereto, the Task Force recommends that the Legislature appropriate funds to academically support Descendant athletes and appropriately compensate Descendant athletes for the value they bring to the institution through non-contingent scholarship funds, private athlete insurance, and ongoing academic support. If history is any indicator, Black athletes are likely to be inversely compensated for their talents compared to white athletes. Further study would be needed to determine whether the impact of changed NCAA policies benefit Descendants in the same way other athletes might benefit. The Task Force recommends that the Legislature direct that this study be undertaken. To support Descendants further in this area, the Task Force also recommends that a funding stream be created to assist Descendant athletes with monetizing their image and likeness while protecting their personal brand. This might include sponsored legal assistance and marketing training that may be administered by a branch of the California American Freedmen Affairs Agency.

B. Prohibit Discrimination Based on Natural and Protective Hair Styles In All Competitive Sports

In January 2021, Talyn Jefferson, a young Black student at Ottawa University, was removed from her cheerleading team for refusing to remove her bonnet during practice.⁶¹⁵ Jefferson wore the bonnet to prevent her braids from hitting other team members.⁶¹⁶ In December 2018, Andrew Johnson, a high school student on the wrestling team, was forced by a referee to either cut his dreadlocks or forfeit his match.⁶¹⁷ As discussed in Chapter Nine, "Control Over Creative, Cultural, and Intellectual Life," Eurocentric norms of professionalism often have a disparate impact on Black individuals. To remedy and address the harms in this area, the Task Force recommends that the Legislature extend the reach of Senate Bill (SB) 188 to include competitive sports within California. SB 188, the "Create a Respectful and Open Workplace for Natural Hair Act," amended the Government Code and Education Code such that the definition of race now also includes traits historically associated with race, including hair

⁶¹⁴ Hosick, [DI Board of Directors adopts student-athlete benefit legislation](#) (Aug. 3, 2022) NCAA (as of Dec. 1, 2022).

⁶¹⁵ Wells, [College Cheerleader Reportedly Kicked Off Team For Wearing A Bonnet To Practice](#) (Jan. 26, 2021) Madamenoire, (as of Dec. 1, 2022).

⁶¹⁶ *Ibid.*

⁶¹⁷ Ahmed, [The cutting of a teenage wrestler's hair was a familiar act of violence for black athletes](#) (Dec. 23, 2018) The Guardian, (as of Dec. 1, 2022).

texture and protective hairstyles.⁶¹⁸ This recommendation seeks to ensure that Black athletes are not subject to discrimination and exclusion based on their natural hair.

C. Identify and Remove Monuments, Plaques, State Markers and Memorials Memorializing and Preserving Confederate Culture; Erect Monuments, Plaques and Memorials Memorializing and Preserving Reconstruction Era and the Descendant Community

The erection of the sort of monuments we make today and the naming of things we name today are practices with historical roots, but not especially deep roots.⁶¹⁹ In fact, it is mainly a Western and post-medieval practice, which puts it at only a few hundred years at the oldest.⁶²⁰ The argument that Confederate monuments harm Black people is based on a claim about what the monuments mean, or what messages they convey.⁶²¹ Most monuments to the Confederacy were erected either in the wake of Reconstruction or during the Civil Rights movement, when African Americans in the South were striving for greater political power and social equality, and those who were resistant wished to express opposition to these developments.⁶²² As the philosopher Jeremy Waldron points out, public art and architecture are important means by which society and government can provide assurances to members of vulnerable groups that their rights and constitutional entitlements will be respected.⁶²³

As documented in Chapter Nine, “Control Over Creative, Cultural, and Intellectual Life,” California has erected a great number of Confederate monuments, including memorials dedicated to Confederate generals and soldiers in places such as Monterey and San Diego. To remedy and address the harms associated with these ever-present markers of slavery and oppression, the Task Force recommends that the Legislature identify and remove monuments, plaques, state markers, memorials, and any similar structures or markers memorializing and preserving Confederate culture to address the history of state-sponsored monuments on state property glorifying slavery and white supremacy. This includes all such monuments, plaques, state markers, building names, and memorials so identified on state property and on private property that benefits from state funding. Additionally, the Task Force recommends that the Legislature commit to identifying resources to fund monuments, plaques, state markers, and memorials that memorialize and preserve the brief period of Reconstruction in the United States and various key figures within the Descendant community.

⁶¹⁸ Sen. Bill No. 188 (2019-2020 Reg. Sess.).

⁶¹⁹ Laden, [Erasing history by removing monuments and renaming things](#) (Sept. 6, 2017) ScienceBlogs, (as of Dec. 1, 2022).

⁶²⁰ *Ibid.*

⁶²¹ Rossi, [Removing Monuments, Grappling with History](#) (June 19, 2020) The Prindle Institute for Ethics DEPAUW, (as of Dec. 1, 2022).

⁶²² *Ibid.*

⁶²³ *Ibid.*

D. Provide Funding to the Proposed California American Freedmen Affairs Agency, Specifically for Creative, Cultural, and Intellectual Life

As detailed in Chapter Nine, “Control Over Creative, Cultural, and Intellectual Life,” Black Californians continue to face discrimination in the television and film industries. Despite earning higher returns, Black-led projects are often characterized as economically inviable, which results in Black-led projects being underfunded. To rectify the harms in this area, the Task Force recommends that the Legislature provide funding to the proposed California American Freedmen Affairs Agency (Agency) on an annual basis to re-create and support cultural hubs and leisure sites, news publications, arts (film, radio, television, visual arts, creative writing, podcasting, etc.), and lifestyle activities. The intent behind this recommendation is to help bring about the restoration of the “Harlem of the West” in communities where Descendant-led businesses, facilities, churches, and shared cultural interests were able to thrive.⁶²⁴ Examples of where resources should be directed include funding for rebuilding and supporting Descendant-led businesses—including providing stipends for the acquisition of licenses, such as liquor or cosmetology licenses; building or preserving outdoor recreational spaces such as parks, pools, sport fields, courts, rinks, beach access, and trails; curating Descendant art and integrating Descendant art within existing museums; creating a reparative fund or funded fellowship program for Descendant media institutions and Descendant media makers in California to help repair the harm caused by anti-Black narratives produced by dominant white media institutions and to help nurture innovative media, civic-technology projects, and Descendant-owned media outlets; and supporting access to patents, copyrights, and trademarks through community-based education and legal assistance designed to assist Descendants through means such as funding for a Descendant public trust, funding for legal incubator programs specifically benefiting Descendants, and funding to support educational opportunities for Descendants such as continuing education, certificate programs, symposia, and technology conventions.

These recommendations seek to address the harms associated with the disruption of Descendant cultural centers in the name of redevelopment and to address the history of censorship of Descendant-produced media and arts.⁶²⁵ These public works, educational and legal services initiatives should be localized to areas predominately occupied by Descendants, or spaces where Descendants have traditionally gathered for recreation in an effort to restore community watering holes and thriving cultural hubs that were lost in the name of urban renewal. The Task Force recommends that the Agency be granted authority to administer these programs and have discretion to provide this funding directly to individual applicants or to fund grants to NGOs that are involved in this work. These recommendations are intended to stand irrespective of whether the Agency is ultimately created by the Legislature and, if so, whether it is constituted in a manner that would encompass the roles and responsibilities specified here.

⁶²⁴ See Hix, [‘Harlem of the West’: Oakland’s once-bustling jazz and blues scene along Seventh Street](#) (May 6, 2020) Local News Matter | Bay City News Foundation (as of Feb. 17, 2023); See also [Harlem of the West: The San Francisco Fillmore Jazz Era](#) (2021) Bolinas Museum Photography Gallery Curated by Lewis Watts (as of Feb. 17, 2023).

E. Eliminate the Practice of Banning Books Maintained by the California Department of Corrections and Rehabilitation

States and local governments have engaged in racist censorship of books written by Black authors, primarily in public schools and in prisons. The Task Force recommends that the Legislature direct the appropriate state agency to review the California Department of Corrections and Rehabilitation's list of banned books to determine whether the ban should remain in effect. The Task Force aims to address the censorship of Black and Descendant creative works by examining whether written work, or publications featuring the stories or experiences of Black people and their forbearers, should be removed from the list of banned books. Alternatively, the Task Force recommends that the Legislature direct the California Department of Corrections and Rehabilitation to provide justification and criteria for banning a particular book, and require evidence that a book ban is an effective means of accomplishing a legitimate stated goal or purpose.

Chapter 27

X. STOLEN LABOR AND HINDERED OPPORTUNITY

To address harms set forth in Chapter 10, Stolen Labor and Hindered Opportunity, the Task Force recommends the following.

- Greater Transparency in Gubernatorial Appointments
- Guaranteed Income Program for Descendants
- Licensure for People with Criminal Records
- Transforming the Minimum Wage Back into a Living Wage
- Advancing Pay Equity through Employment Transparency and Equity in Hiring/Promotion
- Professional Career Training
- Apprenticeship Grant Program
- Funding Black Businesses
- Funding African American Banks

A. Greater Transparency in Gubernatorial Appointments

The Governor of California appoints hundreds of people to the most important positions in public service, so there is a strong need for transparency in these appointments to ensure diverse and inclusive representation. Currently, there are no means to determine the demographic breakdown of these gubernatorial appointments. The Task Force recommends the Legislature pass a bill requiring the Governor's Office to: (1) Conduct a census of the demographics of all

current gubernatorial appointees, including their race, ethnicity, and whether they are Descendants; and (2) Publish an annual report with the demographic data. The demographic data could also include, the appointees' age, gender, religion, party affiliation, veteran status, and sexual orientation. For gubernatorial appointees who oversee social services programs, consideration should be given to the proportionate populations served.

B. Guaranteed Income Program for Descendants

Nearly two-thirds of Americans live paycheck to paycheck⁶²⁶ and more than half of Americans cannot afford a \$1,000 emergency.⁶²⁷ The Task Force recommends the Legislature create a guaranteed income program for Descendants. The Legislature should determine the parameters of the program. A study of the City of Stockton's guaranteed income program showed providing families with a guaranteed income reduced income volatility, improved mental health, provided better job prospects, and provided greater financial security.⁶²⁸ The study also showed that recipients of a guaranteed income obtained full-time jobs at over twice the rate of non-recipients and that recipients were nearly twice as likely to be prepared to pay for a \$400 unexpected expense.⁶²⁹

In 2021, the California Guaranteed Income Pilot Program was established as part of the Fiscal Year 2021-22 budget agreed upon by Governor Newsom, the Legislature, and the California Department of Social Services (CDSS).⁶³⁰ This is the first state-funded guaranteed income program in the United States.⁶³¹ The plan is taxpayer-funded, and local governments and organizations apply for the money to run their own programs, with CDSS determining who will receive funding.⁶³² The goal of the program is to help pregnant people and young adults who recently aged out of the foster system to transition to a life on their own.⁶³³ The program will allocate more than \$25 million for monthly cash payments, with no strings attached, to qualifying pregnant people and young adults who recently left the foster care system.⁶³⁴

C. Licensure for People with Criminal Records

⁶²⁶ Harzog, [How Many Americans Are Living Paycheck to Paycheck?](#) U.S. News & World Report (June 8, 2022) (as of Jan. 20, 2023); Dickler, [63% of Americans are living paycheck to paycheck – including nearly half of six-figure earners](#) CNBC (Oct. 24, 2022) (as of Jan. 20, 2023).

⁶²⁷ Reinicke, [56% of Americans can't cover a \\$1,000 emergency expense with savings](#) CNBC (Jan. 19, 2022) (as of Jan. 20, 2023).

⁶²⁸ West et al., [Stockton Economic Empowerment Demonstration](#) (2021) (as of Jan. 20, 2023).

⁶²⁹ Ruiz-Grossman, [California Experiment Shows Giving People Cash Dramatically Improves Lives: A guaranteed income program gave \\$500 per month to 125 people in Stockton and found that their job prospects and mental health got better](#) The Huffington Post (Mar. 5, 2021) (as of Jan. 20, 2023).

⁶³⁰ California Department of Social Services, [Guaranteed Income Pilot Program](#) (2021-2022) (as of Jan. 20, 2023).

⁶³¹ Beam, [California approves 1st state-funded guaranteed income plan](#) The Associated Press (July 15, 2021) (as of Jan. 20, 2023).

⁶³² *Ibid.*

⁶³³ *Ibid.*

⁶³⁴ California Department of Social Services, [Press Release: California Announces First State-Funded Guaranteed Income Program](#) (Nov. 21, 2022) (as of Jan. 20, 2023).

One of the root causes of high recidivism rates is the inability of formerly incarcerated persons to obtain gainful employment.⁶³⁵ Nearly 30 percent of jobs require licensure, certification, or clearance by an oversight board/agency.⁶³⁶ California law makes it more difficult for a person with a criminal record to obtain an occupational license after their release from incarceration.⁶³⁷ The current system views people with criminal records as unequal by having them suffer what the Institute for Justice calls a “civil death” by continuing to punish them after their release.⁶³⁸

In 2018, Governor Brown signed AB 2138, legislation that helped reduce barriers to licensure for individuals with prior criminal convictions by removing some of the broad discretion licensing boards had in denying applications for licensure.⁶³⁹ The Task Force recommends the Legislature to expand upon AB 2138 by: (1) Prioritizing applicants seeking occupational licenses who are Descendants; (2) Eliminating or reducing the period in which a prior conviction for a “serious felony” can be held against a person, which is currently at seven years, with certain exceptions; and (3) Reducing or shortening the requirement that “substantially related criminal convictions” be considered and held against a person for 7 years, with certain exceptions.

D. Transforming the Minimum Wage Back into a Living Wage

The minimum wage in California is \$15.50/hour,⁶⁴⁰ a rate that is almost closer to a poverty wage than a living wage, as the cost of living has significantly surpassed the minimum wage.⁶⁴¹ The Task Force recommends the Legislature raise the minimum wage into a living wage, as originally intended, by raising the minimum wage to an amount determined by the Legislature. The minimum wage should also be automatically adjusted on a regular basis to adjust for increases to the cost of living (including inflation).

In 2022, an initiative (the California Living Wage Act) to raise the minimum wage to \$18 an hour over the next three years failed to qualify for the November ballot.⁶⁴² The proposal would have increased the minimum wage to \$16 an hour in January 2023, increased it again to \$18 an hour in January 2025, and then it would have adjusted the minimum wage annually to

⁶³⁵ Business and Professions Committee, [Bill Analysis of AB 2138](#) (Aug. 28, 2018) (as of Jan. 25, 2023).

⁶³⁶ *Ibid.*

⁶³⁷ Assem. Bill No. 2138 (2017-2018 Reg. Sess.).

⁶³⁸ Sibilla, [Barred from Working: A Nationwide Study of Occupational Licensing Barriers for Ex-Offenders](#) Institute for Justice (August 2020) (as of Jan. 20, 2023).

⁶³⁹ Assem. Bill No. 2138 (2017-2018 Reg. Sess.).

⁶⁴⁰ State of California Department of Industrial Relations, [Minimum Wage Frequently Asked Questions](#) (December 2022) (as of Jan. 20, 2023); see also State of California Department of Industrial Relations, [Official Notice: California Minimum Wage](#) (2023) (as of Jan. 20, 2023).

⁶⁴¹ Nadeau, [Living Wage Calculation for California](#) Massachusetts Institute of Technology (2021-2022) (as of Jan. 20, 2023).

⁶⁴² Kuang, [Proposal to boost state minimum wage to \\$18 won't go on ballot](#) CalMatters (July 1, 2022) (as of Jan. 20, 2023).

account for the cost of living.⁶⁴³ The measure fell short because it failed to garner enough verified signatures by the deadline.⁶⁴⁴

E. Advancing Pay Equity through Employment Transparency and Equity in Hiring/Promotion

Black people earn 76 cents for every dollar earned by white people.⁶⁴⁵ This highlights a need for greater transparency and accountability in employment. While research has not been able to find a solid causal link between openness about pay in the workplace and greater equity in pay, it does suggest a connection.⁶⁴⁶ “Companies that are more forthcoming about their compensation policies and practices tend to have smaller gaps with respect to gender, race, ethnicity, and protected groups statuses of different kinds. . . .”⁶⁴⁷ SB 1162, effective January 1, 2023, requires nearly 200,000 companies with 15 or more employees to disclose pay ranges in ads for jobs that will be performed in the state.⁶⁴⁸ In addition to requiring salary ranges, the law requires employers of all sizes to provide the salary range to an employee for the position they hold if requested.⁶⁴⁹ For those with 100 or more workers who are hired through third-party staffing agencies, the law also requires companies to submit pay data reports to the California Civil Rights Department for those workers, broken down by gender, race, and ethnicity.⁶⁵⁰

SB 973 requires a private employer that has 100 or more employees, and that is required to file an annual Employer Information Report under federal law (i.e., employers engaged in interstate commerce with 100 or more employees), to submit a pay data report to the California Civil Rights Department that contains specified wage information.⁶⁵¹

The Task Force recommends that the Legislature expand on SB 973 and SB 1162, and if necessary, enact legislation to ensure that the reach of SB 973 and SB 1162 extends to all industries operating in California such that public disclosure of compensation and benefits for all entities is required by California law. This recommendation expands on these bills by (a) requiring the Civil Rights Department to publish each private employers’ pay data report; (b) providing for several forms of penalties to be assessed against employers for violating these requirements; and (c) including employers that are not currently within the scope of the law.

With respect to the media and creative industries, this recommendation also aims to address the inequities and disparities that Descendant artists and Descendant media executives face in recruitment, salary, and promotion as documented in Chapter Nine, “Control Over Creative, Cultural, & Intellectual Life.” Legislation relevant to this area should specifically

⁶⁴³ *Ibid.*

⁶⁴⁴ *Ibid.*

⁶⁴⁵ U.S. Department of Labor, [Office of Federal Contract Compliance Programs: Earnings Disparities by Race and Ethnicity](#) (July 2020) (as of Jan. 20, 2023).

⁶⁴⁶ Spross, [Why your salary should be public knowledge](#) (Aug. 7, 2015) *The Week*, (as of Dec. 1, 2022).

⁶⁴⁷ *Ibid.*

⁶⁴⁸ Liu, [California pay transparency law to require salary ranges on job postings](#) (Sept. 28, 2022) *CNBC* (as of Dec. 1, 2022); Sen. Bill No. 1162 (2021-2022 Reg. Sess.).

⁶⁴⁹ *Ibid.*

⁶⁵⁰ *Ibid.*

⁶⁵¹ Sen. Bill No. 973 (2019-2020 Reg. Sess.).

require media industries operating within California to provide periodic reports to a designated agency, such as the Civil Rights Department, detailing the compensation and benefits for artists in California. This public report may then be used as a tool to identify and further remediate disparity in pay and compensation for Descendant artists and others involved in bringing their artistic endeavors to the public. This recommendation is also designed to provide consumers with information to make informed purchasing decisions. While SB 973 was enacted to address the gender pay gap, this recommendation seeks to surface similar information in the media industry specifically to identify and address gaps that may exist for Descendants and other Black Californians as well as Black artists and executives.

F. Professional Career Training

As of 2019, median Black wages were equivalent to only 75.6 percent of White wages, falling from a height of 79.2 percent in 2000.⁶⁵² Black women average \$0.63 for every dollar White men earn.⁶⁵³ A key contributing factor to these disparities is that Black Americans are less likely to be hired into high wage occupations and compensated equitably than comparably educated workers of other races.⁶⁵⁴ African American workers are chronically underrepresented compared with Whites in high-salary jobs in technology, business, life sciences, architecture and engineering, among other areas.⁶⁵⁵

The Task Force recommends the Legislature create and fund training programs that enable Descendants to access employment opportunities from which they have been underrepresented, including medicine, management, computer/mathematics, law, business, construction, and sciences. There should also be a focus on building professional pipelines to create more investment bankers, CPAs, tax advisors, and financial advisors. Descendants who receive this financial wealth training should be encouraged, as part of their professional development, to engage in pro bono training that focuses on helping build generational wealth in Descendant communities. This recommendation is modeled after California's Song-Brown Healthcare Workforce Training Act. The legislation could amend Song-Brown, or create a new program, which would add the professions listed above to the list of training programs eligible to contract with the state. The legislation could also authorize programs that train such professions to contract with the state pursuant to the Song-Brown Health Care Workforce Training Act, or a new program to be created by the Legislature, if the program meets specified eligibility criteria. For programs contracting with the state based on meeting the eligibility criteria, the authorizing state agency would determine the amount to pay a contracted program, and authorize the program to use funds received under the contract, pursuant to specified provisions of the law.

⁶⁵² California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) at p. 323.

⁶⁵³ JFFLabs, [Purpose-Built to Advance Equity: Expanding Opportunities in Tech for Black Americans](#) (Feb. 2022), at p. 3 (as of Jan. 1, 2023).

⁶⁵⁴ *Ibid.*

⁶⁵⁵ Salsberg and Kastanis, [AP analysis: Blacks largely left out of high-paying jobs](#) The Associated Press (April 2, 2018) (as of Jan. 20, 2023).

G. Apprenticeship Grant Program

State licensure systems have historically worked in tandem with unions and professional societies to exclude Black workers from skilled, higher-paying jobs.⁶⁵⁶ Apprenticeship is an earn-and-learn model for individuals to upskill or reskill into a new career or new level of their career.⁶⁵⁷

The Task Force recommends the Legislature create an apprenticeship grant program and/or target existing programs, to increase participation by Descendants in apprenticeship industries and technical occupations. The California Department of Industrial Relations would administer and award grants on a competitive basis to eligible registered entities to increase Black participation in registered apprenticeship programs. In issuing grants, the Department would target registered apprenticeship programs in traditional and nontraditional apprenticeship industries or occupations, such as for programs in construction, welding, electrical engineering, plumbing, information technology, energy, green technology, advanced manufacturing, health care, or cybersecurity.

Grantees under such a program could use the funds to establish or expand partnerships with organizations that provide African American participants access to financial planning, mentoring, and supportive services that are necessary to enable an individual to participate in and complete a program under the apprenticeship system. Funds could also be used to conduct outreach and recruitment activities, including assessments of potential African American participants for and enrollment in a program under the apprenticeship system. Descendants who are recipients of these apprenticeship programs would be highly encouraged to engage in pro bono training to help build generational wealth in Descendant communities.

H. Funding Black Businesses

African Americans face many systemic barriers when seeking the social and financial capital necessary to start their own businesses that make it increasingly difficult for Black entrepreneurs to secure the financial capital necessary to launch or grow their own businesses.⁶⁵⁸ This has led to what the Association for Enterprise Opportunity (AEO) calls “the wealth gap, the credit gap, and the trust gap.”⁶⁵⁹ Business ownership allows African Americans to participate in local, regional, and global markets from which they have historically been excluded due to systemic racism and discrimination. Studies have demonstrated the substantial wealth advantages

⁶⁵⁶ California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) at p. 332.

⁶⁵⁷ California Department of Industrial Relations, *Advancing Apprenticeship in California* (July 2022) at p. 3 (as of Jan. 20, 2023).

⁶⁵⁸ Association for Enterprise Opportunity, *The Tapestry of Black Business Ownership In America: Untapped Opportunities For Success* (2018) at pp. 24-25 (as of Jan. 20, 2023).

⁶⁵⁹ *Ibid.*

to self-employment and have shown that those who become self-employed show much stronger gains in wealth compared to individuals who never become self-employed.⁶⁶⁰

In 2017, AEO conducted a study that found “investing to support the launch and growth of Black-owned businesses could build wealth for individuals and their families, assist with closing the wealth gap, revitalize communities, and contribute to an overall healthy economy.”⁶⁶¹ In 2022, AEO conducted another study where it found 22% of Black business owners reported not trusting institutions that provide business education and training, 37% reported not trusting the institutions that finance businesses, and 78% of respondents reported deciding not to approach lenders or investors for capital, even when their business needed it.⁶⁶² These concerns can begin to be addressed by intentionally investing in Black business ownership.

The Task Force recommends the Legislature create and provide funding for a Small Business Investors Fund, which would be a forgivable, interest-free loan program available to owners of small businesses in African American commercial areas. These funds could be used for startup costs, store upgrades, and other business investments. The loans could range from \$10,000 to \$25,000 and a portion of the loan will be forgiven each year as long as the recipient remains in business in the same location.

I. Funding African American Banks

African Americans have historically faced systemic discrimination in banking, which has impacted their ability to accumulate wealth. Notably, banks established by the federal government discriminated against African Americans and deprived them of wealth.⁶⁶³

Black-owned banks were established to provide banking services to Black communities. Approximately 130 Black-owned banks were established between 1900 and 1934, and fifty savings and loans and credit unions were also established during this period, but only eight of the then-130 Black-owned banks survived the Great Depression.⁶⁶⁴ Between 1983 and 1989, the number of Black owned banks declined 22 percent. Today, there are only 20 Black-owned banks that qualify as Minority Depository Institutions, according to the Federal Deposit Insurance Corporation.⁶⁶⁵

The federal government prevented the success of Black-owned banks by excluding them from full participation in the banking market. Another source of vulnerability for Black banks was their assets or loan portfolios. The fate of Black banks was tied up with the fate of Black

⁶⁶⁰ California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) at p. 469.

⁶⁶¹ *Ibid.*

⁶⁶² Association for Enterprise Opportunity, *Mending the Tapestry: Building Trust and Strengthening Black Business Ownership in America* (2022) (as of January 20, 2023).

⁶⁶³ California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) p. 463.

⁶⁶⁴ *Id.* at pp. 464-465.

⁶⁶⁵ Lee, *Less than 1% of all FDIC-insured banks are Black-owned, according to the FDIC*, cnbc.com (March 3, 2022).

businesses, which themselves suffered the consequences of discrimination and which also meant that Black banks lacked the diversified investments needed for safe, and profitable banking.⁶⁶⁶

Black-owned banks make capital more accessible to Black businesses and Black communities more broadly because they approve a higher percentage of loans to Black applicants than other banks, but their impact is limited by their low numbers and often precarious financial standing. Compared with white-owned banks, minority-owned banks are more likely to rely heavily on government deposits, and therefore hold fewer loans and more liquid assets.⁶⁶⁷

Racial discrimination and various types of market failure have led to banking and credit deserts in underserved urban and rural communities. Banking access in the Black community has not only been limited by the decrease in the number of Black-owned banks, but by an overall decrease in the number of banks in majority Black neighborhoods. Since 2010, the number of banks in majority-black neighborhoods decreased 14.6 percent, with JPMorgan shrinking its branch footprint in majority-black neighborhoods by 22.8 percent from 2010 to 2018. By 2021, majority Black census tracts were much less likely to have a bank branch than non-majority Black neighborhoods.⁶⁶⁸

Minority-owned depository institutions could play a crucial role in fostering stronger relationships between Black entrepreneurs and the financial system. Limited access to capital is the most important factor that constrains the establishment, expansion, and growth of Black-owned businesses.⁶⁶⁹

The first program the Task Force recommends the Legislature should create is a State Community Development Financial Institutions Program. Specifically, California should create a state program modeled upon the federal Community Development Financial Institutions Program (CDFI Program). Such a program would invest state resources, which would be matched with private funding, in Black-owned minority depository institutions (MDI's). The program would also offer Financial Assistance and Technical Assistance awards to MDI's.

The second program the Task Force recommends the Legislature should create is an MDI Investment Tax Credit Program. Specifically, California should create a state tax credit for equity investments in Black-owned minority depository institutions (MDI's), to encourage investors to make equity investments in those institutions.

The third program the Task Force recommends the Legislature should create is a Black-owned Bank Deposit Program to expand the use of minority depository institutions.⁶⁷⁰ Through this Program the California Department of Financial Protection and Innovation would receive applications from depository institutions or credit unions, and certify whether such depository institution or credit union is a Black-owned depository institution. The Department would also maintain and publish a list of all depository institutions and credit unions that have been so

⁶⁶⁶ *Id.* at p. 465.

⁶⁶⁷ Broady, et al., *An analysis of financial institutions in Black-majority communities: Black borrowers and depositors face considerable challenges in accessing banking services*, Brookings (Nov. 2, 2021).

⁶⁶⁸ *Ibid.*

⁶⁶⁹ *Ibid.*

⁶⁷⁰ See HR 6745.

certified, and periodically distribute the list to all state departments and agencies, and local governments, and interested private sector companies. Each state department or agency would be required to develop and implement standards and procedures to prioritize, to the maximum extent possible as permitted by law and consistent with principles of sound financial management, the use of Black-owned depository institutions to hold the deposits of each such department or agency. The head of each department or agency would also be required to submit to the Legislature a report on the actions taken to increase the use of Black-owned depository institutions to hold the deposits of each such department or agency.

Chapter 28

XI. AN UNJUST LEGAL SYSTEM

In order to redress the harms set forth in Chapter 11, “An Unjust Legal System,” the Task Force recommends that the Legislature take the following actions:

- Allocate Funds to Remedy Harms and Promote Opportunity
- Eliminate Barriers for Black Prospective Attorneys by Funding Legal Education and Ending Discriminatory Gatekeeping at the State Bar
- Prohibit Cash Bail and Mandate that Those Who Are Acquitted or Exonerated be Reimbursed by the Arresting and/or Prosecuting Agency
- Urge Congress to Abolish the Qualified Immunity Doctrine to Allow Victims of Police Violence Access to Justice
- Enact Enforceable Legislation with Penalties that Accomplishes the Dismantling of the School to Prison Pipeline and Decriminalize the Youth Justice System
- Amend the Penal Code to Clarify and Confirm Decriminalization of Transit and Other Public Disorder Offenses
- Amend the Penal Code to Shift Public Disorder Infractions and Low-Level Crimes Outside of Law Enforcement Jurisdiction
- Explicitly Prohibit Pretextual Traffic and Pedestrian Stops, Probation Inquiries, and Consent-Only Searches
- Mandate Policies and Training on Bias-Free Policing
- Enact Legislation that Requires the Department of Justice to Promulgate Model Law Enforcement Policies Designed to Prevent Racial Disparities in Policing
- Strengthen and Expand the Racial Justice Act
- Repeal Three Strikes Sentencing
- Accelerate Scheduled Closures of Identified California State Prisons and Close Ten Prisons Over the Next Five Years, with Financial Savings Re-directed to the American Freedmen Affairs Agency
- End the Under-protection of Black Women and Girls

A. Allocate Funds to Remedy Harms and Promote Opportunity

For too long, state funds have been used inefficiently and in a manner that did not achieve results for Black people, especially Descendants, in California. The existence of an unjust legal system, as detailed in Chapter 11, is due in no small part to the lack of funding available to those who have been most victimized by a system that is racist not only in effect, but as described herein, *by design*. The Task Force accordingly recommends that the Legislature fund a number of programs and initiatives that will empower the Black community to support itself in working to overcome this institutional racism in the legal system.

First, in order to create a body of reference for repeatable, scalable programs, the Legislature should create a program to provide hyper-local grants or contracts to community-based organizations with track records of successful public safety work, and ensure that there is effective reporting, publication of methodologies and outcomes, and transparency and quality control mechanisms on the grants and contracts. Second, the Legislature should allocate funding, potentially through State-funded universities, for disparity studies to inform public contracts and grants to community-based organizations working to further criminal justice reforms. Third, in order to ensure that law enforcement is inclusive of the Black population, the Legislature should fund grant programs to incentivize Black employment in law enforcement, particularly in underserved areas or in areas that have an established history of racist laws, policies, or impact. Fourth, to ensure that Black individuals on probation are able to fully participate in society and overcome the negative effects of their supervision as a result of an unjust legal system, the Legislature should create a mechanism to compensate individuals on probation. Finally, exoneration reimbursements should be increased, with particular compensation to be provided for lost wages.

B. Eliminate Barriers for Black Prospective Attorneys by Funding Legal Education and Ending Discriminatory Gatekeeping at the State Bar

As discussed in Chapter 11, An Unjust Legal System, part of the reason that the criminal justice system fails California's Black population is the lack of Black attorneys due to the barriers that prevent individuals from becoming attorneys. One such barrier involves the moral character review process associated with admission to the State Bar, which places particular emphasis on criminal history.⁶⁷¹ “[B]ecause applicants are screened based on their criminal records, the moral character review process will likely reflect the racial disparities that plague the U.S. criminal justice system as a whole.”⁶⁷² The Task Force accordingly recommends that the Legislature take action to make the legal profession more accessible for aspiring Black attorneys, especially Descendants, by prohibiting the California State Bar from considering certain offenses in moral character and fitness determinations that disproportionately affect Black people including, for example, drug, traffic, and other non-violent offenses that do not reflect on moral

⁶⁷¹ Cohn et al., [Unlocking The Bar: Expanding Access to the Legal Profession for People with Criminal Records in California](#) (July 2019) Stanford Law School (as of March 15, 2023).

⁶⁷² *Id.* at p. 5.

turpitude. The Legislature should also establish a fund or scholarship program to pay for the education of Descendants pursuing legal degrees (consistent with recommendations elsewhere in this report for those pursuing medical, science, and education degrees). The Legislature should consider emphasizing community-serving roles such as public defenders, public interest attorneys, and children’s rights positions in establishing eligibility for the receipt of these funds, in order to maximize the beneficial impact on the relevant community.

C. Prohibit Cash Bail and Mandate that Those who are Acquitted or Exonerated be Reimbursed by the Arresting and/or Prosecuting Agency

Cash bail creates two justice systems, one for the poor and one for the rich. As discussed in Chapter 11, Unjust Legal System, those with resources bail out and return to their homes, families, and jobs; those without resources languish in jail and suffer innumerable collateral consequences. As with other stages of the criminal process, racial disparities persist in pretrial detention outcomes and the setting of bail.⁶⁷³ Although the California Supreme Court’s decision in *In Re Humphrey* (2021) 482 P.3d 1008 purported to preclude imposition of bail that a defendant could not afford, it has had little practical impact on the corrosiveness of cash bail.⁶⁷⁴ For example, despite *Humphrey*, the pretrial jail population, bail amounts, and average length of pretrial detention have not decreased.⁶⁷⁵ Moreover, lower courts consistently fail to follow the dictates of *Humphrey*.⁶⁷⁶ The Task Force accordingly recommends that the Legislature take all steps necessary to definitively prohibit cash bail. The Legislature should also establish a framework for timely compensation of those held pretrial who were later acquitted and/or exonerated, to be paid by the agency at fault (e.g., the arresting law enforcement agency).

D. Recommend Abolition of the Qualified Immunity Doctrine to Allow Victims of Police Violence Access to Justice

As discussed in Chapter 3, Racial Terror, and Chapter 11, Unjust Legal System, the Descendant and Black community have faced centuries of violent, oppressive, and discriminatory policing by law enforcement that persists today. Yet the qualified immunity doctrine often shields law enforcement from liability for violating a person’s constitutional rights. Under this doctrine, a civil rights plaintiff must show that the officer violated “clearly established law” in order to state a viable claim for relief.⁶⁷⁷ Thus, courts often hold that “government agents did violate someone’s rights, yet the victim has no legal remedy because that precise sort of misconduct had not occurred in past cases.”⁶⁷⁸ As one analysis has concluded,

⁶⁷³ Sawyer, [How race impacts who is detained pretrial](#) (Oct. 9, 2019) Prison Policy Initiative (as of March 15, 2023).

⁶⁷⁴ See Virani et al., [Coming up Short: The Unrealized Promise of *In re Humphrey*](#) (Oct. 2022) U.C.L.A. Law Bail Practicum, (as of Jan. 20, 2023).

⁶⁷⁵ Id. at 3.

⁶⁷⁶ California Committee on Revision of the Penal Code, [2022 Annual Report and Recommendations](#) (Dec. 2022) at pp. 64-73 (as of March 15, 2023).

⁶⁷⁷ See *Harlow v. Fitzgerald* (1982) 457 U.S. 800.

⁶⁷⁸ Schweikert, [Qualified Immunity: A Legal, Practical, and Moral Failure](#) (Sept. 14, 2020) Cato Institute Policy Analysis, at p. 2 (as of March 15, 2023).

“[q]ualified immunity is one of the most obviously unjustified legal doctrines in our nation’s history.”⁶⁷⁹

Recent legislative efforts to reform or end qualified immunity have failed, in part due to the threat and availability of a filibuster to block proposed legislation.⁶⁸⁰ The Task Force accordingly recommends that California’s Senate and Congressional Delegations urge Congress to end both the filibuster and the qualified immunity doctrine. The Task Force also recommends the creation of a state-funded compensation scheme for victims of police misconduct whose claims would otherwise be barred by qualified immunity.

E. Enact Enforceable Legislation with Penalties that Accomplishes the Dismantling of the School to Prison Pipeline and Decriminalize the Youth Justice System

Chapter 6, Separate and Unequal Education, detailed the ways in which Black and Descendant students are disproportionately subject to exclusionary discipline in school, which in turn leads to higher risk of drop out and juvenile justice involvement. Moreover, Black students are more likely to attend schools with law enforcement on campus and greater security measures, and Black students are also more likely to be arrested than their white peers. Commonly known as the “school-to-prison pipeline,” this dynamic has devastated the Black and Descendant community by victimizing its youth. The Task Force accordingly recommends several measures to mitigate and ultimately end the school-to-prison pipeline, in addition to those recommended for Chapter 6, Separate and Unequal Education, regarding school discipline.

First, the Task Force recommends eliminating law enforcement presence and probation officers from school campuses.⁶⁸¹ Current funding for school policing should be reallocated to school social workers, guidance counselors, psychologists, wellness centers, and therapeutic resources that support trauma-informed curriculum, mentoring programs, and school field trips to historically relevant locales.⁶⁸²

In the alternative, the Task Force recommends at least limiting and restrict the presence and activity of police officers in California schools. Specifically, the proposed legislation would: (1) eliminate school police departments under the purview of individual school districts created pursuant to California Education Code section 38000(b); (2) prohibit the use of supplemental and concentration grant funding to pay for school police, school security, and SROs, which presently is permitted under California’s local control funding formula (LCFF) under certain circumstances; (3) require a memorandum of understanding between school districts and law

⁶⁷⁹ *Id.* at p. 2.

⁶⁸⁰ See, e.g., Levine & Wu, [Lawmakers Scrap Qualified Immunity Deal in Police Reform Talks](#) (Aug. 17, 2021) Politico (as of March 15, 2023).

⁶⁸¹ See [2023 Annual Report](#), *supra*, at p. 107 (“Racial disparities exist among youth contacts with police, including differences in the frequency of contact, the type of contact (*i.e.*, personal or vicarious), and actions taken as a result of the contact.”); *id.* at p. 131 (noting California data showing that Black students were referred to law enforcement four times more frequently than white students).

⁶⁸² See [2023 Annual Report](#), *supra*, at p. 132 (discussing California Department of Education’s analysis regarding unmet mental health needs of California students).

enforcement agencies that provide services to school campuses; (4) require training by the Commission on Peace Officer Standards and Training (POST) for campus police officers, and require that the training be updated regularly, in consultation with and approved by the Attorney General's office, at least every three years, as the current training has not been updated for decades; (5) require implicit bias training for all school police officers; and (6) require data collection and annual reviews tracking disparities in police encounters.

The Task Force also recommends that any new police precincts or jails be a specified, appropriate distance away from schools. Children should not have to walk past a police station, jailhouse, or other carceral institution on their way to school. Preexisting police precincts that are in close proximity to schools should be required to provide resources to help disrupt the school-to-prison pipeline.

The juvenile justice system imposes a closely related set of discriminatory harms against Black and Descendant youth. As discussed in Chapter 6, *Separate and Unequal Education*, and in Chapter 11, *Unjust Legal System*, the juvenile justice system disproportionately arrests and detains Black students as compared to other ethnic groups, and it fails to provide the kind of rehabilitation it purports focus on. The Task Force accordingly recommends several reforms to the juvenile justice system.

First, the Task Force recommends establishing presumptive diversion for the vast majority of youth offenses. Underlying diversion is the recognition that most youth do not need court-based intervention. Although approaches vary, research suggests that diverting young people from justice systems as early as possible—prior to formal arrest and prosecution and thus without any court proceedings—is an effective and promising practice.⁶⁸³ Where diversion practices exist, youth of color have had disproportionately less access to such a pathway in lieu of justice involvement.⁶⁸⁴

Second, the Task Force recommends limiting juvenile probation terms and restricting the availability of formal supervision for youth. Probation contact can increase the likelihood that youth will be charged with probation violations, resulting in incarceration, often for minor transgressions.⁶⁸⁵ Wardship probation, therefore, should be limited to six months as a default—with robust case planning driven by clearly identified goals and needs assessments—and any extension after six months should require the decision of a judge, with a showing as to the need based on clear and convincing evidence. Currently, there are no restrictions on which youth may be formally supervised by probation.⁶⁸⁶ As noted above, the system should divert as many youth as possible, and formal probation should be reserved for serious cases where youth are adjudicated of felony offenses. Lastly, the number and type of conditions or terms of probation should be limited, and the quality of supports and services should be improved.

⁶⁸³ See, e.g., National Center for Youth Law, [California Commits Nearly \\$60 Million To Divert Youth Away From Jails, Toward Supports](#) (March 31, 2022) (as of March 15, 2023).

⁶⁸⁴ See [2023 Annual Report](#), *supra*, at p. 108 (noting that youth of color are less likely to be diverted than White youth.)

⁶⁸⁵ Youth Law Center, [Youth Probation in California: A Legal Map](#) (Aug. 2020) (as of March 15, 2023).

⁶⁸⁶ *Ibid.*

Third, the Task Force should recommend precluding the application of strike enhancements for any juvenile adjudication (including retroactively), as was previously proposed in Assembly Bill 1127 (2021-2022). Juvenile court adjudications can be considered prior convictions under California’s “Three Strikes law.” Youth sixteen and older can thus receive permanent “strikes” on their adult records if adjudicated for specified felonies. A wide range of crimes are “strike-able” offenses, including non-violent crimes such as residential burglary and certain drug or gang-related crimes.⁶⁸⁷ The behavior underlying many of these strike charges is often deeply rooted in normal adolescent development.⁶⁸⁸

Fourth, the Task Force recommends barring adult prosecution of youth. Youth in criminal court face adult penalties, including lengthy state prison terms and all of the collateral, lifelong effects of an adult record.⁶⁸⁹ Transferring a youth to the adult system has another irrevocable effect: Youth miss opportunities for age-appropriate treatment, education, and developmentally important activities.⁶⁹⁰ Moreover, Black youth are significantly more likely than white youth to be prosecuted in adult court.⁶⁹¹

F. Amend the Penal Code to Clarify and Confirm Decriminalization of Transit and Other Public Disorder Offenses

Transit mobility laws perpetuate vestiges of slavery to the extent that they criminalize poverty and race, limit economic opportunity, and drive displacement of the Black and Descendant communities. Several recent laws were designed to decriminalize fare evasion and other low-level transit violations.⁶⁹² However, the transit departments and their police partners and the courts are still criminally citing people for fare evasion because they interpret the law to allow for continued criminal prosecution.⁶⁹³ Accordingly, the Task Force recommends that the Legislature amend these decriminalization statutes to make clear to relevant agencies, law enforcement, and the courts that people must not receive criminal citations for transit violations (e.g., replace any “may” language with “must”). The Legislature should also afford victims a private right of action to seek compensation for unlawful arrests and/or prosecutions for fare evasion and other low.

G. Amend the Penal Code to Shift Public Disorder Infractions and Low-Level Crimes Outside of Law Enforcement Jurisdiction

A significant proportion of police contact with the Black and Descendant community involves low-level, non-violent offenses. Thus, for example, law enforcement is typically tasked with enforcing public disorder offenses such as illegal camping, public intoxication, disorderly

⁶⁸⁷ See Cal. Penal Code §§ 1192.7(c), 667.5(c); Welfare & Institutions Code § 707(b).

⁶⁸⁸ See, e.g., Cal. Pen. Code §§ 667(d)(3)(A), 1192.7(c)(18), (24), (28); § 460; § 667.5(a)(21); § 186.22; § 594.

⁶⁸⁹ Ridolfi et al., [The Prosecution of Youth as Adults](#) (2016) (as of Jan. 17, 2023).

⁶⁹⁰ Ibid.

⁶⁹¹ Ridolfi et al., [The Prosecution of Youth as Adults](#) (2016) p. 11, (as of Jan. 17, 2023); see Cal. Welf. & Inst. Code, § 707.

⁶⁹² See Sen. Bill No. 882 (2015-2016 Reg. Sess.) and Sen. Bill No. 1320 (2009-2010 Reg. Sess.)

⁶⁹³ **CITE**

conduct, minor trespass, and public urination.⁶⁹⁴ Although the subjects of these contacts are often experiencing homelessness and/or a mental health crisis, the responding law enforcement officers possess neither training nor expertise in working with these vulnerable populations.⁶⁹⁵ This disconnect often results in the use of excessive and sometimes fatal force that falls disproportionately on the Black community.⁶⁹⁶

Given the devastating impacts of this kind of over-policing, the Task Force recommends that the Legislature prohibit law enforcement from enforcing public disorder infractions and other low-level crimes. Instead, a public health and safety institution, without criminal arrest or prosecution powers, would enforce prohibitions including but not limited to fare evasion, spitting on the train, other transit-related violations, sleeping on the sidewalk, and other disorder crimes that criminalize poverty. People arrested or criminally prosecuted for these administrative violations should be granted a private right of action to sue for damages or should automatically receive a damages payout. Relatedly, the Task Force recommends that the Legislature establish a compensation scheme for those previously convicted of loitering with intent to commit prostitution, given that the Legislature has already repealed the criminal prohibitions against such conduct.⁶⁹⁷

H. Explicitly Prohibit Pretextual Traffic and Pedestrian Stops, Probation Inquiries, and Consent-Only Searches

Traffic stops are one of the most frequent means of police contact with civilians.⁶⁹⁸ Unfortunately, these stops are often pretextual: the stop is ostensibly to address a minor traffic infraction, but is in reality a means to conduct a comprehensive investigation and search. Unsurprisingly, pretext stops are disproportionately used against Black drivers, with sometimes fatal consequences.⁶⁹⁹ Pretext stops are nevertheless constitutional.⁷⁰⁰ Several localities, and at least one state, have enacted reforms to curtail or prohibit pretext stops.⁷⁰¹

The Task Force recommends that the Legislature prohibit traffic stops for low-level infractions such as expired registration, lighting equipment issues, air fresheners, and tinted

⁶⁹⁴ Subramanian & Arzy, [Rethinking How Law Enforcement Is Deployed](#) (Nov. 17, 2022) Brennan Center for Justice (as of March 16, 2023).

⁶⁹⁵ *Ibid.*

⁶⁹⁶ Burke, [Policing Mental Health: Recent Deaths Highlight Concerns Over Officer Response](#) (May 16, 2021) NBC News (as of March 16, 2023).

⁶⁹⁷ Under Senate Bill 357 (2022, Wiener), the Legislature repealed provisions proscribing loitering with intent to commit prostitution, and it also authorized dismissals, sealing, and re-sentencing, as applicable. However, the bill did not provide a mechanism for monetary relief for those charged or convicted under the statute.

⁶⁹⁸ See, e.g., Pierson et al., [A large-scale analysis of racial disparities in police stops across the United States](#) (July 2020) 4 *Nature Human Behavior* p. 736, (as of Nov. 29, 2022).

⁶⁹⁹ See, e.g., California Racial Identity and Profiling Advisory Board [2022 Annual Report](#) (2022) p. 8, (as of Jan. 20, 2023).

⁷⁰⁰ *Whren v. United States* (1966) 517 U.S. 806

⁷⁰¹ See, e.g., Virginia SB 5029 (Lucas), 2020 Special Session I; City of Philadelphia Bill No. 210636-A; City of Pittsburgh, Pennsylvania Code of Ordinances § 503.17; Senate Bill 1510, 81st Oregon Legislative Assembly - 2022 Regular Session.

windows.⁷⁰² The Legislature should also consider restricting the actions an officer can take during a permissible traffic stop, such as precluding the officer from inquiring as to probation or parole status or requesting (absent probable cause) permission to search the vehicle. Finally, fines and fees associated with the relevant traffic infractions should be eliminated.⁷⁰³

I. Mandate Policies and Training on Bias-Free Policing

Existing law prohibits a peace officer from engaging in racial or identity profiling,⁷⁰⁴ but law enforcement agencies (LEAs) are not required to have any policy that specifically addresses bias or prohibits bias-based policing. Peace officers, therefore, may lack guidance on how to interact with the public in a neutral and fair manner and how to assess whether a call for service is rooted in the bias of the caller against another person (i.e., bias-by-proxy). Indeed, a recent report from the Auditor of the State of California found that officers from five separate law enforcement agencies had exhibited biased conduct either while on duty and/or in social media posts.⁷⁰⁵ Finally, law enforcement bias extends not only to perceived suspects, but also to Black victims, particularly women and girls. As discussed in Chapter 8, Pathologizing Black Families, Black women are often hesitant to report abuse due to distrust of law enforcement, and that distrust is justified given that government actors and the judicial system have unfairly disregarded and stereotyped them.

The Task Force accordingly recommends that the Legislature enact legislation to require LEAs to maintain a publicly-posted policy that: (1) prohibits bias-based policing; (2) provides guidance on how to interact with community members in a fair and unbiased manner; and (3) explains how to respond to calls for service that are based on the bias of the caller. The Task Force also recommends that LEAs be required to collect and analyze data to understand and correct for systemic bias towards both suspects and victims. LEAs would also be required to provide academy training and continuing training on bias-free policing, including training on implicit bias, as has been previously proposed in Assembly Bill 243 (2019-2020). Finally, the Task Force also recommends that the Legislature put protections in place for counter-bias trainers, who are often institutional trainers (i.e., employees) that may be ostracized and experience retaliation for their role in trainings such as those required by Assembly Bills 241 and 242 (2019-2020).

J. Enact Legislation that Requires the Department of Justice to Promulgate Model Law Enforcement Policies Designed to Prevent Racial Disparities in Policing

⁷⁰² A two-thirds vote of the Legislature would likely be required to enforce these restrictions with a suppression remedy for violations.

⁷⁰³ The California Committee on Revision of the Penal Code recently proposed a substantially similar reform. See California Committee on Revision of the Penal Code, [Annual Report and Recommendations](#) (Dec. 2022), (as of Jan. 11, 2023).

⁷⁰⁴ Pen. Code, § 13519.4, subd. (f)

⁷⁰⁵ Tilden, [Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct](#) (April 2022) Auditor of the State of California at pp. 1-4 (as of March 16, 2023).

There are no uniform and comprehensive statewide policies for LEAs, and many LEAs have adopted standard policies developed by private entities, which do not always align with best practices. A state-wide program would ensure uniformity and would reduce instances of police misconduct and excessive force. Accordingly, the Task Force recommends that the Legislature enact legislation to require the California Department of Justice to promulgate model policies and training materials designed to prevent racial and ethnic disparities in police contacts and use of force. The policies should cover, among other topics: (1) permissible use of force, as well as use-of-force training, reporting and investigation; (2) citizen complaints; (3) bias prevention; (4) stops and searches; (5) interactions with vulnerable populations; (6) community engagement and transparency; and (7) recruitment, hiring, and retention. LEAs would be required to adopt these model policies or their equivalents.

K. Strengthen and Expand the Racial Justice Act

The Racial Justice Act—in particular, its prohibition against racial disparities in charging, conviction, and sentencing decisions—is California’s direct response to the U.S. Supreme Court’s decision in *McCleskey v. Kemp* (1987) 481 U.S. 279.⁷⁰⁶ By a vote of 5-4, the Court in *McCleskey* held that evidence of racial disparities across death penalty decisions does not suffice to demonstrate an equal protection violation. The accused person “must prove that the decisionmakers in *his* case acted with discriminatory purpose.”⁷⁰⁷ As most prosecution decisions take place behind close doors, relatively few openly share racist views, and prosecutors and other court actors often lack awareness of their own biases, the *McCleskey* decision effectively dealt a death blow to the vast majority of challenges to racism in the criminal legal system.⁷⁰⁸

⁷⁰⁶ See, e.g., Young, *supra*, 79 Cal.App.5th 138, 147-157 (discussing legal landscape and legislative findings underlying the Racial Justice Act); Assem. Bill No. 2542 (Reg. Sess. 2019-2020), § 2; see also Kalra, Fact Sheet for AB 2542, California Racial Justice Act, <<https://lwc.org/sites/default/files/downloads/AB%202542%20-%20Racial%20Justice%20Act%20Fact%20Sheet%2008.01.20.pdf>> [as of XXX].)

⁷⁰⁷ *McCleskey v. Kemp* (1987) 481 U.S. 279, 292.

⁷⁰⁸ See, e.g., Office of Governor Newsom, *Governor Newsom Signs Landmark Legislation to Advance Racial Justice and California’s Fight Against Systemic Racism & Bias in Our Legal System* (Sept. 30, 2020) <<https://www.gov.ca.gov/2020/09/30/governor-newsom-signs-landmark-legislation-to-advance-racial-justice-and-californias-fight-against-systemic-racism-bias-in-our-legal-system/>> (as of XXX) (“The *McCleskey* decision has the functional effect of requiring that criminal defendants prove intentional discrimination when challenging racial bias in their legal process. This is a high standard and is almost impossible to meet without direct proof that the racially discriminatory behavior was conscious, deliberate and targeted.”).

In *McCleskey*, the defense team had presented the seminal “Baldus study,”⁷⁰⁹ which, after controlling for more than 200 non-racial factors impacting sentencing,⁷¹⁰ found significant racial disparities in the State of Georgia’s application of the death penalty, based on the race of the person accused of the crime, the race of the victim, and the combination of the two.⁷¹¹ The Baldus study showed that a Black person accused of killing a white person was 4.3 times more likely to be sentenced to death than was an individual who was accused of killing a Black victim.⁷¹² Subsequent studies of various jurisdictions have shown even greater disparities than were found by Professor Baldus and his colleagues.⁷¹³

The *McCleskey* majority did not dispute the Baldus study findings,⁷¹⁴ and instead accepted that racial “disparities in sentencing are an inevitable part of our criminal justice system,”⁷¹⁵ raising the concern that “taken to its logical conclusion,” a claim challenging such disparities “throws into serious question the principles that underlie our entire criminal justice system.”⁷¹⁶ Justice Brennan, in dissent, observed that this statement, on its face, “suggest[ed] a fear of too much justice.”⁷¹⁷

In 2020, California’s Legislature determined that it would no longer “fear ... too much justice.” It enacted the California Racial Justice Act of 2020 (RJA) and thereby introduced a potentially powerful new tool for eradicating both implicit and explicit bias in California’s

⁷⁰⁹ David C. Baldus, Charles Pulaski, George Woodworth, *Comparative Review of Death Sentences: An Empirical Study of the Georgia Experience*, 74 J. Crim. L. & Criminology 661 (1983),

<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6378&context=jclc>.

⁷¹⁰ *Id.* at note 81; see *McCleskey*, 481 U.S. at pp. 325, 338 (Brennan, J., dissenting) (“Professor Baldus and his colleagues have compiled data on almost 2,500 homicides committed during the period 1973–1979. They have taken into account the influence of 230 nonracial variables, using a multitude of data from the State itself.”).

⁷¹¹ *Id.* at pp. 286-287.

⁷¹² *Id.* at p. 287.

⁷¹³ Phillips & Marceau, *Whom the State Kills* (2020) 55 Harv. C.R.-C.L. L.Rev. 585, 587 (finding that “the overall execution rate is a staggering seventeen times greater for defendants convicted of killing a white victim”); [add CA studies]; Liptak, *New Look at Death Sentences and Race* (Apr. 29, 2008) NY Times <<https://www.nytimes.com/2008/04/29/us/29bar.html>> (as of XXX); see also *Governor Gavin Newsom Orders a Halt to the Death Penalty in California*, supra (noting 2005 study finding that “those convicted of killing whites were more than three times as likely to be sentenced to death as those convicted of killing blacks and more than four times as likely as those convicted of killing Latinos”).

⁷¹⁴ *McCleskey*, 481 U.S. 279.

⁷¹⁵ *McCleskey*, 481 U.S. at pp. 312-313.

⁷¹⁶ 481 U.S. at pp. 314-315; cf. *id.* at p. 294 (“In its broadest form, *McCleskey*’s claim of discrimination extends to every actor in the Georgia capital sentencing process, from the prosecutor who sought the death penalty and the jury that imposed the sentence, to the State itself that enacted the capital punishment statute and allows it to remain in effect despite its allegedly discriminatory application.”).

⁷¹⁷ *Id.* at p. 339 (Brennan, J., dissenting). See also Hugo Adam Bedau, *Someday McCleskey Will Be Death Penalty’s Dred Scott*, LA Times, (May 1, 1987) (setting forth legal historian prediction that the *McCleskey* decision “will be the death penalty’s *Dred Scott*”)

criminal justice system. The RJA directs that “[t]he state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin.”⁷¹⁸ Departing from *McClesky* decision, the RJA prohibits race disparities in charging decisions, convictions, and sentencing.⁷¹⁹ The RJA initially applied only prospectively to cases in which judgment had not been entered prior to January 1, 2021, but the Racial Justice Act for All subsequently made the RJA retroactive, thus opening the door to challenging prior convictions and sentences attributable to racial bias.⁷²⁰

The RJA offers the potential for data-driven solutions to those involved in our unjust legal system. But data-driven solutions require data. As discussed in Part [REDACTED], Chapter [REDACTED], data collection practices on the part of prosecuting offices and courts across California are inconsistent. Uneven, incomplete data collection and barriers to accessing data undermine the RJA and effectively withhold the protection from bias that the Legislature intended it would provide.

In order to ensure that the RJA has the greatest possible effect in countering the legacy of institutional racism and implicit bias in our criminal justice system, the Task Force recommends that the Legislature take the following concrete actions to strengthen the RJA and ensure that litigants can vindicate their rights under the statute.

The starting point is data. Comprehensive, standardized collection of data is needed for the identification, presentation, and evaluation of RJA claims, including for those with older convictions. Recognizing the centrality of data, the Legislature enacted AB 2418 (2021-22), the Justice Data Accountability and Transparency Act, mandating that agencies collect and transmit specified data, including data on the race of accused persons and victims, to the Department of Justice. However, the AB 2418 included a funding contingency, and the law has not been funded to date.

As part of its assessment of RJA-relevant data collection practices across the state, the Task Force requested that the California Department of Justice Research Center (DOJRC) survey all 58 California Superior Courts and District Attorney Offices, as well as a select group of 11 of the largest City Attorney offices regarding what data elements their agencies regularly collect when dealing with criminal cases. The 126 responding criminal justice agencies and courts completed an online questionnaire pertaining to data collected and maintained by their agency, with a focus on what racial data the agencies hold as well as data on factors that may involve prosecutorial or judicial discretion.

As a result of its survey, the Task Force found that overall, in the absence of requirements like those set forth in AB 2418, there appears to be a large amount of discretion, and likewise variability, in what data elements are collected across California District Attorneys Offices, Superior Courts, and select City Attorney’s offices and between counties. This lack of consistency and absence of data on key variables could present substantial challenges to presenting and evaluating claims of racial discrimination in the criminal justice system, and

⁷¹⁸ Penal Code § 745(a); Assem. Bill No. 2542 (2019-2020 Reg. Sess.).

⁷¹⁹ Penal Code § 745(a)(3)-(4).

⁷²⁰ See Assem. Bill No. 2542 (2019-2020 Reg. Sess.) and Assem. Bill 256 (2021-2022 Reg. Sess.).

could increase the difficulty of sustaining claims of Racial Justice Act violations in some California counties more than others

The Task Force urges the Legislature to fully fund AB 2418 and to provide additional funding as needed to ensure that all RJA-relevant data is collected and maintained, extracted as needed from case files, and made available to the public. AB 2418 provides a roadmap for data collection and will be a critical step forward, but monitoring will be needed, including to determine if there is need to expand the scope of data collected. The Legislature must also ensure that discretionary decision-making (such as the decision to forego charges, offer diversion or a lesser charge, or threaten an enhancement) is documented, with reasons given when discretion is exercised or leveraged, and that these decisions are tracked so that case-to-case comparisons can be made.⁷²¹

In connection with data collection and tracking, the Task Force additionally recommends that data collection systems be revised so that prosecutorial data collected under the Racial Justice Act may be linked back to corresponding initiating law enforcement contact records collected under the Racial and Identity Profiling Act. This will allow necessary transparency and the ability to follow the domino effect of bias throughout the criminal law enforcement and adjudication systems.

The RJA directs its prohibition to the state—the onus is on the government not to charge, convict, or sentence on the basis of race—but the practical burden is left to the individual. The Task Force recommends that the Legislature amend the RJA to require prosecutors to demonstrate at the outset that their charging decisions and sentencing recommendations do not violate the RJA. The Legislature should specify that prosecutors have an affirmative obligation to turn over evidence of relevant potential disparities. The Task Force recommends that prosecutors be required to disclose all RJA-relevant materials immediately upon request of a defendants or affirmatively by the date of arraignment. The Task Force recommends that courts be required to provide an advisal of rights under the RJA and require that prosecutors disclose their violations of the RJA and any instances of having withheld RJA-relevant data. The Task Force further recommends that the Legislature fund the development and maintenance of accessible databases that will track information statewide about prosecutor misconduct relevant to the RJA.

Where prosecutors violate the RJA, consequences must follow. The Task Force thus recommends that the Legislature codify penalties for any individual prosecutor that commits discovery violations related to RJA requests. Penalties should include but not be limited to adverse inference jury instructions and case dismissal. Additionally, offices that routinely fail to collect or disclose RJA data should also be subject to penalties, including but not limited to financial sanctions and, where appropriate, removal of authority to prosecute implicated cases.

⁷²¹ As Part [REDACTED], Chapter [REDACTED], sets forth in the report of the DOJ Research Center, RJA-relevant data collection practices vary significantly across the state. Lack of access to critical data poses a serious risk to the RJA's implementation.

Courts, too, are bound by the Racial Justice Act. Steps must be taken to ensure that there is transparency, accountability, and fairness on the part of judges. In addition to fulsome RJA-relevant data collection regarding jury verdicts and judicial decision-making, the Task Force recommends that the Legislature ensure that litigants have remedies that include cause strikes for circumstances in which courts fail or refuse to ensure compliance with the RJA.

Oversight and enforcement are critical to fulsome RJA application. The Task Force accordingly recommends that the Legislature establish and fully fund a Racial Justice Act Commission or similar independent body with enforcement authority and responsibility to track, monitor, and analyze data generated by the RJA process. The Commission could be created as an arm of the Freedman's Bureau or as an independent advisory body similar to the RIPA Board. Its responsibilities would include, at a minimum:

- Establishing key performance indicators (KPIs) and other quality control metrics to ensure compliance by prosecutor's offices and courts.
- Analyzing data and publishing annual reports on prosecutorial bias, bias in convictions, and bias in sentencing.
- Collecting and analyzing data and publishing reports on bias and disparities in all facets of charging, conviction, and sentencing decisions, on the part of prosecutors, courts, and, where applicable, juries.
- Establishing a federal nexus to ensure that California data on prosecutorial bias and criminal legal racial profiling is uploaded and synced to national racial profiling databases.

Enhanced capacity across the state will be critical to RJA implementation. Toward this end, the Task Force recommends that the Legislature dedicate funding to provide grants, technical assistance, data analysis, and other resources to public defenders, appointed counsel, criminal defense bar support centers, watchdog organizations and community-based organizations to build expertise and capacity for RJA advocacy and compliance monitoring.

Those who suffer the consequences of a biased legal system should not have to shoulder further burden. The Task Force recommends that the Legislature require state and local agencies to affirmatively review prior convictions for potential RJA violations so that the onus does not rest with those who have endured the consequences of racially and ethnically disparate charging and sentencing decisions. This would include establishment of a Conviction Integrity Unit at the state level through the California Department of Justice and/or would be mandated at the local level at district attorneys' offices. The Legislature should allocate funding as necessary..

Compensation is necessary for both accountability and repair. The Task Force accordingly recommends that the Legislature establish a compensation scheme for successful RJA petitioners. Under this scheme, a successful RJA claim would trigger immediate

compensation. The scheme would set forth a schedule of minimum monetary awards (that is reviewed and/or updated every two years) that are automatically available, but would not preclude litigation to recover individualized damages beyond the minimum amount. There would be no cap on the amount of damages that could be recovered. This RJA compensation scheme could be modeled on Penal Code section 4900 *et seq.*, but not limited by its provisions. As a related recommendation, there should be statewide tracking of successful RJA claims to inform further legislation in this area.

The Task Force has recommended an end to the Three Strikes law. To the extent it remains in effect, the Task Force recommends that the Legislature clarify that RJA challenges to prior strikes may be raised in a pending matter as well as in the original proceeding.

While the RJA applies across a broad range of prosecutorial and court decisions, it does not clearly apply to parole decisions. The Task Force recommends that the Legislature undertake or authorize a study of whether an RJA equivalent should be imposed on parole proceedings to ensure that racial bias is not infecting such hearings.

L. Repeal Three Strikes Sentencing

The Three Strikes Law⁷²² has substantially contributed to unduly long prison sentences. As of 2021, more than 30,000 people were serving prison terms lengthened by the Three Strikes law, including more than 7,400 whose current conviction is neither serious nor violent.⁷²³ Moreover, 37% of those sentenced under Three Strikes are Black, a dramatically greater proportion than their population in California.⁷²⁴ Given the disparities associated with Three Strikes, and the fact that the law has not appreciably improved public safety,⁷²⁵ the Task Force recommends that the Legislature take all steps necessary to repeal the Three Strikes law.

M. Accelerate scheduled closures of identified California state prisons and close ten California state prisons over the next five years, with financial savings re-directed to the American Freedmen Affairs Agency

prison-related industries lead to over-criminalization and incarceration.⁷²⁶ This dynamic can lead to mounting prison populations that are *not* due to increased crime, but instead due to profit and/or other improper motives (*e.g.*, a perceived need to fill empty prison beds.)⁷²⁷ In California,

⁷²² Pen. Code, §§ 667, 667.5, 1170.12

⁷²³ See California Committee on Revision of the Penal Code, [Annual Report and Recommendations](#) (Dec. 2021) p. 40, (as of Jan. 11, 2023).

⁷²⁴ *Id.* at 41.

⁷²⁵ *Id.* at p. 48.

⁷²⁶ Tufts University Prison Divestment, [What is the Prison Industrial Complex?](#) (2023) (as of March 16, 2023).

⁷²⁷ *Id.*

the prison population has steadily declined since approximately 2010,⁷²⁸ but there has not been a commensurate closure of prisons. Although Governor Newsom has directed the closure of four prisons, at least two of those closures are not scheduled to occur until 2025.⁷²⁹ Moreover, the Legislative Analyst’s Office recently determined that approximately five additional prisons could be closed without exceeding the federal-court ordered prison population limit,⁷³⁰ and some advocates have found that up to ten prisons could be closed by 2025.⁷³¹ These closures would save the state billions of dollars.

Given the persistence of harmful and wasteful prisons in California, the Task Force recommends the closure of ten California prisons over the next five years. The Task Force additionally recommends that any currently planned closures (e.g., the California Correctional Center, the Chuckawalla Valley State Prison (CVSP), and the California City Correctional Facility)⁷³² be accelerated. Finally, all funds saved from these closures should be redirected to the American Freedmen Affairs Agency, and the facilities themselves repurposed as appropriate to support the Black and Descendant communities.

N. End the Under-protection of Black Women and Girls

While suffering the harms of over-policing, Black communities also endure the harm of being under-protected. Black women and girls, in particular, face heightened risk of harm, and yet crimes against them do not draw the attention given to white women. In 2020, for example, nearly 100,000—more than a third—of the 268,884 women who were reported missing in the United States were Black, though they were less than 15 percent of the U.S. population. At least four Black women per day were murdered that year. More than 20 percent of Black women experience rape in their lifetime, a higher share than women overall, and 45 percent experience physical violence, sexual violence, or stalking from their intimate partner. Black women and girls also face an increased risk of being trafficked—40 percent of sex trafficking victims in a 2-year study were identified as Black women. And more than half of “juvenile prostitution” arrests (which are arrests of children who have been trafficked) are of Black children. Despite substantial anecdotal evidence of police under-investigating crimes against Black women and girls with the same level of resources dedicated to other victims, little effort has been made to document the racial gap in protection.

To generate data on this subject and bring about more equitable levels of protection, the Task Force recommends that the Legislature pass legislation, with adequate funding, to require local law enforcement agencies to document resources devoted to crime investigation,

⁷²⁸ Graves, [Racial Disparities in California’s State Prisons Remain Large Despite Justice System Reforms](#) (June 2021) at p. 6 (as of March 16, 2023).

⁷²⁹ Duara, [Gavin Newsom Moved to Close 4 California Prisons. How Many More Can He Shut?](#) (Feb. 23, 2023) Cal Matters (as of March 16, 2023)

⁷³⁰ Petek et al., [The 2023-24 Budget: The California Department of Corrections and Rehabilitation](#) (Feb. 2023) Legislative Analyst’s Office at p. 6 (as of March 16, 2023).

⁷³¹ Howard et al., [The People’s Plan for Prison Closure](#) (2023) Californians United for a Responsible Budget at p. 4 (as of March 16, 2023).

⁷³² California Department of Corrections and Rehabilitation, [Reduction/Closure Information](#) (2023) (as of Jan. 24, 2023); Sandrosky, [Prison population falls but spending still up in Newsom budget](#) Capitol Weekly (Jan. 23, 2023) (as of Jan. 24, 2023).

disaggregated by race, gender, income, and reported harms, report this data to the Department of Justice, and make the data available to the public. The Task Force further recommends that the Legislature examine means of ensuring more just and equitable treatment of Black crime victims, including women and girls in particular, and to take further steps needed to reduce harms, investigate as needed, and provide appropriate, respectful, comprehensive, culturally congruent services to victims. This study should include identification and assessment of policies and programs that have been shown to be effective in reducing risks and improving outcomes for Black women and girls.

Chapter 29

XII. MENTAL AND PHYSICAL HARM AND NEGLECT

To address harms set forth in Chapter 12, Mental and Physical Harm and Neglect, of the Interim Report, the Task Force recommends that the Legislature adopt .

- Address Health Inequities among Black Californians by Funding the Such and Such Fund
- Improving Health Insurance Coverage
- Evaluate Recently-Passed Health Care Laws
- Address Anti-Black Discrimination in Health Care
- Mandate Standardized Data Collection
- Provide Medical Social Workers/Health Care Advocates
- Improving Diversity Among Clinical Trial Participants
- Remedy the Higher Rates of Injury and Death among Black Birthing People and Infants
- Advance the Study of the Intergenerational, Direct, and Indirect Impacts of Racism
- Remedy the High Rates of Mental Health Issues/Suicide among Black Youth
- Meet the Health Needs of Black Elders
- Remedy Disparities in Oral Health Care
- Fix Racially Biased Algorithms and Medical Artificial Intelligence in Health Care
- Fund and Expand the UC PRIME-LEAD-ABC Program to be Available at All UC Medical Campuses
- Create and Fund Equivalents to the UC-PRIME-LEAD-ABC Program for Psychologists, Licensed Professional Counselors, and Licensed Professional Therapists
- Permanently Fund the California Medicine Scholars Program and Create and Fund Equivalent Pathway Programs for Students in the CSU and UC Systems
- Review and Prevent Racially Biased Disciplinary Practices by the Medical Board of California
- Address Food Injustice

A. Address Health Inequities Among Black Californians

As set forth in Chapter 12, unequal health outcomes “cannot be explained away by factors like age, income, or education level” — through implicit biases and racism, the health care system treats Black Californians differently.⁷³³ Numerous articles and studies have documented the necessity of remedying the poor health outcomes among African Americans through reparations.⁷³⁴ Researchers from Johns Hopkins Medicine have found that social determinants of health — the environmental conditions in which people are born, live, learn, work, play, worship, and age — explain about half of racial health disparities in life expectancy.⁷³⁵ A Kaiser Family Foundation report focused on social determinants of health observed that “studies suggest that health behaviors, such as smoking, diet, and exercise, and social and economic factors are the primary drivers of health outcomes,” and, thus, addressing social determinants of health is important “for reducing health disparities that are often rooted in social and economic disadvantages.”⁷³⁶ Nearly 200 nonprofit advocacy and provider organizations have urged that funding be prioritized for the Fund, which also has the support of members of the California State Legislature.⁷³⁷ Health clinics, tribal organizations, and other community groups contend that funding in the form of state grants from the Health Equity and Racial Justice Fund will benefit the communities that need the most help.⁷³⁸ An American Public Health Association report has found that CBOs “amplify community concerns and, in coordination with public health departments, contribute to more effective policy solutions.”⁷³⁹

The Task Force recommends authorization and ongoing funding for the California Health Equity and Racial Justice Fund within the California Department of Public Health’s Office of Health Equity. The Office of Health Equity would administer an annual \$115 million grant program to address health disparities, focusing on social determinants of health. Clinics, community-based organizations, and tribes could apply for grants, either separately or in collaboration. Applicants would be required to demonstrate how funding would be used to

⁷³³ [Advancing Black Health Equity](#), California Health Care Foundation (hereinafter Advancing Black Health Equity); see also Cummings, [Listening to Black Californians: How the Health Care System Undermines Their Pursuit of Good Health](#) (Oct. 4, 2022) California Health Care Foundation (hereinafter “Listening to Black Californians”); see also California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) p. 406.

⁷³⁴ See, e.g., Lawrenz, [Remedying the Health Implications of Structural Racism through Reparations](#) (2022) 90 Geo. Wash. L. Rev. 1018; Richardson, et al., [Reparations for Black American descendants of persons enslaved in the U.S. and their potential impact on SARS-CoV-2 transmission](#) (May 2021) Social Science and Medicine; Bassett and Galea, [Reparations as a Public Health Priority—A Strategy for Ending Black-White Health Disparities](#) (Nov. 26, 2020) 383 N. Engl. J. Med. 2101, 2102 (hereinafter Bassett and Galea); Bassett, [Reparations will save Black lives](#) (Sept. 30, 2022) Harvard Public Health (hereinafter Bassett); Morgan and Reid, [On Answering the Call to Action for COVID-19: Continuing a Bold Legacy of Health Advocacy](#) (Jun. 5, 2020) 112(3) J. Nat’l Med. Assoc. 324.

⁷³⁵ News Release, [Social Determinants of Health Are Important Contributors to Mortality Disparities in U.S., Study Finds](#) (Aug. 11, 2022) Johns Hopkins Medicine (as of Feb. 15, 2023).

⁷³⁶ Artiga and Hinton, [Beyond Health Care: The Role of Social Determinants in Promoting Health and Health Equity](#) (May 10, 2018) Kaiser Family Foundation (as of Jan. 20, 2023).

⁷³⁷ [We Are All Public Health](#) (as of Jan. 20, 2023) The California Health Equity and Racial Justice Fund; [Health Equity & Racial Justice Advocates Outraged at Lack of Funding for Communities to Address Disparities](#) (Jun. 28, 2022) Public Health Institute (as of Jan. 20, 2023).

⁷³⁸ Bedayn, [Community Groups Renew Push for Health Equity and Racial Justice Fund](#), Cal Matters (Feb. 9, 2022) (as of Jan. 20, 2023).

⁷³⁹ *Ibid.* (citing Cacari-Stone et al., [The Promise of Community-Based Participatory Research for Health Equity: A Conceptual Model for Bridging Evidence with Policy](#) (Feb. 21, 2014) American Journal of Public Health).

ameliorate existing or emerging health disparities, including metrics for success. Local health jurisdictions would be encouraged to work with grant recipients to serve as trusted community partners to extend public health messages and interventions into underserved and difficult-to-reach communities. This recommendation incorporates a provision from AB 1038⁷⁴⁰ to authorize a California Health Equity and Racial Justice Fund Oversight and Accountability Committee to monitor the distribution, implementation, and impact of local and regional grants funded by the California Health Equity and Racial Justice Fund.

B. Improving Health Insurance Coverage

The California Health Care Foundation reports that, although Black Californians have higher health insurance coverage rates than the state average (at 93%), “structural barriers in the health care system prevent them from achieving the health they actively seek.”⁷⁴¹ The seven percent of Black Californians who have been left uninsured translates into approximately 164,000 Black residents going without health coverage. Moreover, a disproportionately high percentage of Black Californians rely on Medi-Cal. Medi-Cal provided coverage for 28% of Black Californians in 2019 (compared to 10% of white Californians).⁷⁴² Adults enrolled in Medi-Cal were more than twice as likely to report difficulty finding a provider that accepted their insurance as compared to those with employer-based insurance or Medicare, and this was the case for both primary and specialty care.⁷⁴³ At least some experts have identified low reimbursement rates for providers who accept Medi-Cal as a racial justice issue.⁷⁴⁴

The Task Force recommends closing the health coverage gaps through the adoption of a comprehensive universal single-payer health care coverage and a health care cost control system for the benefit of all Black Californians, with a special consideration for those who are Descendants of persons enslaved in the United States. For the many Black Californians who remain on Medi-Cal, the Task Force also recommends increases to the Medi-Cal reimbursement rates to achieve parity with the reimbursement rates of private insurance.

C. Evaluate the Efficacy of Health Care Laws, Including Recent Enactments

Over the 2021-2022 Regular Session of the California State Legislature, a variety of bills were introduced in the California State Legislature that attempted to remedy these issues. The Western Center on Law and Poverty has published a non-comprehensive spreadsheet of some of the bills passed by the California State Legislature over the past two years that will impact access

⁷⁴⁰ AB 1038 was introduced in the 2021-2022 Regular Session of the Legislature, but ultimately was not chaptered into law.

⁷⁴¹ [Advancing Black Health Equity](#), California Health Care Foundation (hereinafter Advancing Black Health Equity).

⁷⁴² See [California Health Care Almanac: Medi-Cal Facts and Figures: Essential Source of Coverage for Millions](#) (Aug. 18, 2021) California Health Care Foundation (as of Jan. 20, 2023).

⁷⁴³ *Ibid.*

⁷⁴⁴ See [Medicaid Reimbursement Rates are a Racial Justice Issue](#) (Jun. 16, 2022) The Commonwealth Fund (as of Jan. 20, 2023).

to health care for low-income Californians.⁷⁴⁵ For example, these measures include: SB 838 (Pan), which will further the efforts of the California Health and Human Services Agency to create a California-branded label for generic drugs to increase patient access to affordable drugs and lower health care costs; SB 644 (Leyva), which will require the Employment Development Department to share information with Covered California for outreach to persons applying for or losing unemployment benefits to enroll them in Covered California or Medi-Cal; and SB 1019 (Gonzalez), which will require Medi-Cal plans to conduct annual outreach and education to members and primary care physicians regarding the plan’s mental health benefits.⁷⁴⁶

Further, Governor Newsom’s 2022-2023 budget includes a notable increase in spending on health programs, many of which are aimed at remedying issues of cost. Among other things, the budget includes trailer legislation to formally establish the Office of Health Care Affordability within the Department of Health Care Access and Information (“HCAI”).

However, despite persistent health inequality, there is currently no office within the California Health and Human Services Agency (the parent agency to the California Department of Health Care Services, California Department of Public Health, and a number of other health-related agencies) that is specifically tasked with evaluating whether recent efforts have improved health disparities among Black Californians.

To address entrenched health disparities, the Task Force recommends mandating the California Department of Public Health’s Office of Health Equity conduct an annual review of California health care laws and policies, evaluate their effect on reducing health disparities among Black Californians, and publish its findings and recommendations to the California State Legislature. These recommendations should explicitly include how to design and implement consequences for health care providers who do not reduce identified treatment disparities. This measure would include funding on an annual basis to hire permanent staff dedicated to these efforts, based on the Office of Health Equity’s assessment of the level of staffing needed. This proposal builds on Senate Concurrent Resolution No. 17, which was chaptered on April 30, 2021, and states that “the Legislature declares racism to be a public health crisis and will actively participate in the dismantling of racism[.]”⁷⁴⁷

D. Address Anti-Black Discrimination in Health Care

Racial disparities in Black health outcomes are a result of historical racial inequality, discriminatory health policy, and persistent racial discrimination across different aspects of life

⁷⁴⁵ [Health Care Legislation Affecting Low-Income Consumers as of September 13, 2022](#), Western Center on Law and Poverty.

⁷⁴⁶ *Ibid.*

⁷⁴⁷ Sen. Conc. Res. No. 17 (2021-2022 Reg. Sess) as chaptered Apr. 30, 2021. Relatedly, Senate Bill 17 was introduced in 2020, which would have declared racism a public health crisis and would have established the state’s first Racial Equity Commission. The bill did not pass, but Governor Newsom established a Racial Equity Commission in September 2022 by executive order.

in the United States.⁷⁴⁸ African Americans receive fewer procedures and poorer-quality medical care across almost every type of diagnostic and treatment intervention than do white Americans.⁷⁴⁹ Additionally, African Americans have higher rates of morbidity and mortality than white Americans in almost all health outcomes, and this inequality only increases with age.⁷⁵⁰ A book, *Just Medicine: A Cure for Racial Inequality in American Health Care*, takes note of the evidence that implicit biases are malleable.⁷⁵¹ The Association of American Medical Colleges (the administrator of the Medical College Admission Test (“MCAT”)) has also recently expressed an interest in testing students on situations that involve implicit bias.⁷⁵²

To address anti-Black discrimination in health care, the Task Force recommends that the Legislature add the completion of an evidence-based anti-bias training and an assessment based on such training to the graduation requirements of all medical schools, any other medical care provider programs not already covered, and mental health professional programs (psychologists, Ph.D or Psy.D); counselors/clinicians/therapists, with a master’s in psychology or therapy; or clinical social workers) in California receiving state funding.

E. Mandate Standardized Data Collection

Dr. Mary T. Bassett, the New York State Health Commissioner and FXB professor of the practice of health and human rights at the Harvard T.H. Chan School of Public Health, writes that “[l]ong-standing racist government policies — from housing to health care, employment to the criminal legal system — that have systematically deprived Black Americans of equal rights, opportunities, wealth, and resources” accounts for the reasons Black Americans have poorer health and lower life expectancy.⁷⁵³ In addition to acknowledging medicine and public health’s role in perpetuating racism and participating in local, state, and national conversations around reparations, Dr. Bassett advocates for using health outcomes captured in public health data as a key measure of equity.⁷⁵⁴ She notes that “[s]uccessful reparations means eliminating racial health disparities” and that “[u]ntil racism no longer drives negative effects on the health and length of a Black person’s life, equity remains theoretical.”⁷⁵⁵ Additionally, a number of experts in the field recommend improved data collection in order to advance equity in health care and health outcomes.⁷⁵⁶

⁷⁴⁸ Thomas et al., [Health Disparities of Race and Ethnicity in California: Pattern of Inequity](#) (Oct. 2021) Cal. Health Care Foundation, p. 2 (as of Jan. 20, 2023); Smedley et al., [Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care](#) (2003) Institute of Medicine (as of Jan. 20, 2023).

⁷⁴⁹ *Ibid.*

⁷⁵⁰ Forde et al., *The Weathering Hypothesis as an Explanation for Racial Disparities in Health: A Systematic Review* (2013) 7 *Sociology Compass* 630, 630–643.

⁷⁵¹ Matthew, *Just Medicine: A Cure for Racial Inequality in American Health Care* (2018) pp. 155–158 [citing evidence].

⁷⁵² *Id.* at p. 176.

⁷⁵³ Bassett, *supra*, fn. **Error! Bookmark not defined.**

⁷⁵⁴ *Ibid.*

⁷⁵⁵ *Ibid.*

⁷⁵⁶ Rowen et al., [How to Improve Race, Ethnicity, and Language Data and Disparities Interventions](#) (Sept. 14, 2022) *Health Affairs* (as of Jan. 20, 2023); Vega Perez et al., [Improving Patient Race and Ethnicity Data Capture to Address Health Disparities](#) (Jan. 2022) *National Library of Medicine* (as of Jan. 20, 2023); [Inventory of Resources for Standardized Demographic and Language Data Collection Centers for Medicare and Medicaid](#)

The Task Force recommends the creation of statewide standards for data collection and reporting of demographic and social needs data in order to reduce health disparities and address social drivers and determinants of health.⁷⁵⁷ This proposal could build off of SB 1033 (Pan), which would have required the California Department of Managed Health Care to develop and adopt regulations establishing demographic data collection standards and require health care service plans and health insurers to assess “the individual cultural, linguistic, and health-related social needs of enrollees and insureds for the purpose of identifying and addressing health disparities, improving health care quality and outcomes, and addressing population health.”⁷⁵⁸

F. Provide Medical Social Workers/Health Care Advocates

A study completed by the California Health Care Foundation revealed that the majority of Black Californians devote quite a bit of effort to their health and agree on many suggestions to address racism in health care.⁷⁵⁹ Black Californians agree that one way to remedy racism in health care is to expand community-based resources.⁷⁶⁰ Specifically, 84% of respondents believe it is extremely important or very important to expand community-based education on how to navigate the healthcare system and advocate for high quality care.⁷⁶¹ And 77% of respondents believe it is extremely important or very important to expand the number of Black community health advocates and/or medical chaperones available to patients.⁷⁶²

The Task Force recommends the Legislature provide funding to ensure that medical social workers/health care advocates are available to serve as advocates, chaperones, and third party observers when requested to address Black Californians’ concerns and experiences of bias and other disparate treatment in the delivery of medical care and mental and behavioral health services. These medical social workers and health care advocates would be required to undergo implicit bias training and demonstrate cultural congruence with the community to be served. They preferably would be situated within trusted community-based organizations, which may be achieved through a state-funded grant-making program.

G. Improving Diversity Among Clinical Trial Participants

[Services \(as of Jan. 20, 2023\)](#); Haley et al., [Collection of Race and Ethnicity Data for Use by Health Plans to Advance Health Equity \(July 20, 2022\)](#) Urban Institute (as of Jan. 20, 2023); James et al., [Modernizing Race and Ethnicity Data in our Federal Health Programs \(Oct. 26, 2021\)](#) The Commonwealth Fund (as of Jan. 20, 2023); [Race, Ethnicity, and Language Data: Standardization for Health Care Quality Improvement](#) Agency for Healthcare, Research and Quality (as of Jan. 20, 2023).

⁷⁵⁷ [California Needs Standards for Demographic and Social Needs Data to Reduce Disparities and Advance Health Equity](#) (as of Jan. 20, 2023) California Pan-Ethnic Health Network.

⁷⁵⁸ Sen. Bill No. 1033 (2021-2022 Reg. Sess.).

⁷⁵⁹ Cummings, [Listening to Black Californians: How the Health Care System Undermines Their Pursuit of Good Health](#) (Oct. 4, 2022) California Health Care Foundation (as of Jan. 20, 2023).

⁷⁶⁰ *Ibid.*

⁷⁶¹ *Ibid.*

⁷⁶² *Ibid.*

Among clinical trial participants in the United States, Black patients comprise only five percent while white patients comprise the vast majority.⁷⁶³ Explanations for these statistics include historical exploitation and racism — research studies such as the Tuskegee Syphilis Study used unethical research practices and caused unnecessary harm, deception, and biomedical exploitation of African Americans.⁷⁶⁴

Clyde Yancy, MD, vice dean for diversity and inclusion at Northwestern University Feinberg School of Medicine has noted that not all humans are the same physiologically, and factors such as age, illnesses, and genetic ancestry may result in drugs being metabolized differently or responding to devices differently.⁷⁶⁵ When trial participation is not reflective of the general population, pharmaceutical companies and medical professionals do not know how various drugs will work in different populations.⁷⁶⁶ For example, albuterol, a drug used to treat asthma, was found to have decreased effectiveness in African American children.⁷⁶⁷ Dr. Yancy has stated that clinical trial study designs should be intentional from the very beginning about being inclusive, especially when members of a certain group might benefit from being studied due to a prevalence of a disease in their group.⁷⁶⁸ Dr. Yancy also noted that governments should issue requirements for recruitment targets, and provide incentives such as rewarding those who succeed with more funds or grant opportunities.⁷⁶⁹

Researchers have begun to institute changes to remedy this issue, such as “bringing trial procedures closer to where participants live, diversifying the staff who recruit people for the studies, and designing trials to directly target underrepresented groups.”⁷⁷⁰ A primary barrier to participating is getting to the central site for assessments, administration of therapies, tests to monitor results, and medications to take home; these locations can involve several hours per trip and paying for transportation and food.⁷⁷¹ A step to remove this barrier is carrying out some of the procedures at medical offices and clinics in communities where African Americans live.⁷⁷²

⁷⁶³ Boyle, [Clinical trials seek to fix their lack of racial mix](#) (Aug. 20, 2021) Association of American Medical Colleges (as of Feb. 9, 2023) (hereinafter “Boyle”).

⁷⁶⁴ Huzar, [Only 43% of clinical trials report race and ethnicity — What can be done?](#) (Apr. 21, 2022) Medical News Today (as of Feb. 9, 2023) (hereinafter “Huzar”).

⁷⁶⁵ Boyle, *supra*; see also Langreth & Campbell, [Alzheimer’s Trials Exclude Black Patients at ‘Astonishing’ Rate](#), Bloomberg (Apr. 19, 2022) (as of Feb. 9, 2023) [noting that Stephanie Monroe, executive director of African Americans Against Alzheimer’s stated: “Drugs will work differently in different populations.”].

⁷⁶⁶ Meadows-Fernandez, [Black Participants Are Sorely Absent from Medical Research](#) (Dec. 7, 2018) Leaps.org (as of Feb. 9, 2023).

⁷⁶⁷ *Ibid.*

⁷⁶⁸ *Ibid.*

⁷⁶⁹ *Ibid.*

⁷⁷⁰ Boyle, *supra*.

⁷⁷¹ *Ibid.*; see also Awidi & Al Hadidi, [Participation of Black Americans in Cancer Clinical Trials: Current Challenges and Proposed Solutions](#) (May 11, 2021) JCO Oncology Practice (as of Feb. 9, 2023) [noting that “[c]overing indirect expenses like time off from work, childcare, and transportation would theoretically improve access and participation in clinical trials especially for lower-income patients”] (hereinafter “Awidi & Al Hadidi”).

⁷⁷² Boyle, *supra*.

Dr. Airín D. Martinez, assistant professor in Health Policy and Management at the University of Massachusetts-Amherst, has noted that there are a lack of principal investigators from marginalized racial or ethnic groups, which may be a factor in the underrepresentation of African Americans in clinical trials.⁷⁷³ She has noted that representation on the side of scientists as much as on the side of research participants matters, as they “bring different perspectives to the research informed by both [their] scientific training and [their] lived experiences.”⁷⁷⁴

Another barrier to participation is not seeing African Americans among recruiters and the staff who are explaining the trial.⁷⁷⁵ The CARE Research Center, which runs trials and consults on increasing diversity in trials, advises researchers to diversify the staff working on studies, especially those who interact most with possible participants.⁷⁷⁶ Other proposed solutions include: aiming for a proportion of African American participation similar to their proportion in disease incidence cases; providing financial support for study participants to cover indirect expenses such as time off from work, childcare, and transportation; requiring funding agencies to include race and ethnicity for assigning priority scores (as the final score typically determines grant funding and will lead to researchers actively trying to recruit African Americans); and targeting enrollment in a culturally sensitive manner.⁷⁷⁷

To remedy this issue, the Task Force recommends funding competitive grants for clinical trials to subsidize participants’ indirect costs (such as time off from work, transportation, and childcare), complete clinical trials in communities where African Americans live, and hire staff demonstrating cultural congruence with the African American community to serve as recruiters and staff explaining clinical trials. The Task Force also recommends providing extra funding and other incentives for state-funded studies in which the principal investigators are African American.

H. Remedy the Higher Rates of Black Maternal Injury and Death and Improve Outcomes for Black Infants

As established in Chapter 6, Black birthing people in California are substantially more likely than white birthing people to suffer severe health complications during their pregnancy, give birth prematurely, die in childbirth, and lose their babies.⁷⁷⁸ The pregnancy-related mortality ratio for Black women during 2014 to 2016 was four to six times greater than the mortality ratio

⁷⁷³ Huzar, *supra*.

⁷⁷⁴ *Ibid*.

⁷⁷⁵ Boyle, *supra*.

⁷⁷⁶ *Ibid*.

⁷⁷⁷ Awidi & Al Hadidi, *supra*, fn. 763.

⁷⁷⁸ California Health Care Foundation (hereinafter “Listening to Black Californians”); see also California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) p. 426–427; Owens & Fett, *Black Maternal and Infant Health: Historical Legacies of Slavery* (2019) 109 Am. J. of Pub. Health 1342; see also *California Black Health Network Perspectives: The State of Black Maternal Health in California* (Nov. 2021) California Black Health Network, p. 9 (as of Jan. 20, 2023).

for any other ethnic group.⁷⁷⁹ Black birthing people in California are subjected to disproportionate rates of unfair treatment, harsh language, and rough handling during their hospital stay, compared to white women.⁷⁸⁰

The University of California, San Francisco's California Preterm Birth Initiative has compiled a lengthy list of studies and research on the positive impacts of doula care.⁷⁸¹ UCSF contends that "numerous studies have demonstrated that doulas can help reduce the impacts of racism on pregnant women of color by helping to provide culturally appropriate, patient-centered care."⁷⁸² The Preterm Birth Initiative has also partnered with the National Health Law Program to co-author a brief that sets forth the barriers to Medicaid coverage for doula care and potential recommendations for successful implementation.⁷⁸³ The brief's recommendations for states include: (1) setting a common set of criteria for doula qualification or credentialing for insurers to pay for doula services; (2) developing doula reimbursement rates based on the amount of one-on-one time spent with a patient; (3) streamlining and organizing payments for doula services; (4) pushing for doula services to be classified as preventive services; (6) increasing their flexibility to pay for doula services; and (7) allowing doulas to obtain payment directly from Medicaid.⁷⁸⁴

Accordingly, the Task Force recommends the California Department of Health Care Services ("DHCS") provide additional support for doula services (which is a covered benefit, effective January 1, 2023)⁷⁸⁵ to include: requiring DHCS to develop multiple payment and billing options for doula care, and to ensure specified payment and billing practices, including that any doula and community-based doula group be guaranteed payment within 30 days of submitting any claim for reimbursement;⁷⁸⁶ requiring DHCS to establish a centralized registry listing any doula who is available to take on new clients in each county; requiring each Medi-Cal managed care health plan in every county to provide information in its materials, and specified notices, on identified topics related to doula care, including reproductive and sexual health, and to inform pregnant and postpartum enrollees and prenatal and postpartum enrollees at

⁷⁷⁹ Maternal Child and Adolescent Health Division, [California Pregnancy Mortality Surveillance System: California Pregnancy-Related Deaths, 2008-2016](#) (2021) Cal. Dep't of Pub. Health, p. 7 (as of Jan. 20, 2023).

⁷⁸⁰ Sakala et al., [Listening to Mothers in California: A Population-Based Survey of Women's Childbirthing Experiences](#) (Sept. 2018) National Partnership for Women & Families (as of Jan. 20, 2023).

⁷⁸¹ [Doula Care](#), California Preterm Birth Initiative, University of California, San Francisco (as of Jan. 20, 2023).

⁷⁸² *Ibid.*

⁷⁸³ [Routes to Success for Medicaid Coverage of Doula Care](#) (Dec. 11, 2018) California Preterm Birth Initiative (as of Jan. 20, 2023).

⁷⁸⁴ *Ibid.*

⁷⁸⁵ This recommendation incorporates some of the proposals in AB 2258 (Assem. Bill No. 2258 (2019-2020 Reg. Sess.)) Although AB 2258 would have established a Medi-Cal pilot program to cover doula services in the 14 counties experiencing the highest burden of birth disparities in the state, the bill also would have required DHCS to provide a number of doula supports.

⁷⁸⁶ The California Omnibus Act, passed by Governor Newsom in 2021, establishes a doula stakeholder workgroup, which is currently working on creating payment models. (See Crumley, [How California's Medi-Cal Program Aims to Advance Health Equity for Pregnant People](#) (July 2022) Center for Health Care Strategies (as of Jan. 20, 2023).) Based on what the workgroup recommends to DHCS, this provision may not be necessary, or this provision could be amended.

appointments about doula care, such as the availability of doula care and how to obtain a doula; requiring DHCS to convene a doula advisory board that would be responsible for deciding on a list of core competencies required for doulas authorized by DHCS to be reimbursed under the Medi-Cal program; requiring a doula to provide documentation that they have met the core competencies specified by the board as a prerequisite to be reimbursed under the Medi-Cal program; requiring DHCS to work with outside entities, such as foundations, to make trainings available at no cost that meet the core competencies to people who are from communities experiencing the highest burden of birth disparities in the state; and providing funding to DHCS for data collection, reporting, and analysis to evaluate maternal health outcomes resulting from having doula care as a covered preventive service under the Medi-Cal program. Relatedly, the Task Force recommends funding pipelines for Black Californians who are interested in becoming doulas (which includes fully funding credentialing). The Task Force also recommends fully funding care provided by doulas and midwives from the conception to postpartum for Black Californians, with a special consideration for Descendants of persons enslaved in the United States, including free lactation education and education at every stage of pregnancy.

The Task Force recommends the California Department of Public Health's Office of Health Equity or other appropriate entity conduct an annual review of California health care laws and policies (including the Medi-Cal expansion) related to improving health outcomes for the birthing population, evaluate their effect on reducing health disparities among the Black birthing population and infants in California, and publish its findings and recommendations to the California State Legislature. This measure would include funding on an annual basis to hire permanent staff dedicated to these efforts, based on the Office of Health Equity's assessment of the level of staffing needed.

The Task Force recommends funding to the Office of Health Equity to study all of the causes that contribute to disparities in health outcomes for the Black birthing population, including medical complications in pregnancy and childbirth, but also causes such as homicide, drug overdoses, and car accidents, and publish a report of findings and recommendations to the California State Legislature. This study shall include recommendations on how the state can remedy these disparities.

Finally, the Task Force recommends state funding to the California Department of Public Health to evaluate the effectiveness of the Black Infant Health Program in reducing health disparities and mortality rates among African American infants and publish its findings and recommendations to the California State Legislature. These findings and recommendations shall include recommendations on a permanent source of funding for this program, recommendations on how the state can expand the program, and evidence-based recommendations on how the state can further care for all Black infants and work toward reducing health disparities and mortality rates.

I. Advance the Study of the Intergenerational, Direct, and Indirect Impacts of Racism

A growing body of research has begun to document racism’s impact on health,⁷⁸⁷ but work remains to be done. Of note, the field of pediatrics has not yet systematically addressed racism’s impact on child health outcomes or prepared pediatricians to identify, manage, mitigate, or prevent risks and harms.⁷⁸⁸ Further, psychiatrists and psychologists have noted that compared to research on structural racism and the experience of racial discrimination, intergenerational impacts of racism have been less studied.⁷⁸⁹ An article published in *JAMA Psychiatry* noted that “[c]onceptualizing racism intergenerationally implies that, like risk for psychopathology, the nefarious effects of structural racism and of the experience of discrimination can be transmitted to subsequent generations.”⁷⁹⁰ The article also notes that viewing racism through an intergenerational lens helps to address racism and mental health disparities by creating new opportunities for action and intervention, as well as addressing intergenerational resilience and models of healing and values.⁷⁹¹

The Task Force recommends funding to the California Health and Human Services Agency (or California Department of Public Health within the agency) to further advance the study of the intergenerational, direct, and indirect impacts of racism and to formulate recommendations for enhanced mental health care, including educating mental health care workers. While not focused exclusively on children, in recognition of the harms that racism visits upon children, this proposal adopts and directly incorporates recommendations of the American Academy of Pediatrics so that funding would include support for the study of:

- (1) the impact of perceived and observed experiences of discrimination on child and family health outcomes;
- (2) the role of self-identification versus perceived race on child health access, status, and outcomes;
- (3) the impact of workforce development activities on patient satisfaction, trust, care use, and pediatric health outcomes;
- (4) the impact of policy changes and community-level interventions on reducing the health effects of racism and other forms of discrimination on youth development; and

⁷⁸⁷ See, e.g., Hankerson et al., [The Intergenerational Impact of Structural Racism and Cumulative Trauma on Depression](#) (May 23, 2022) *The American Journal of Psychiatry* (as of Jan. 20, 2023); Comas-Diaz et al., [Racial Trauma: Theory, Research, and Healing: Introduction to the Special Issue](#) (2019) Vol. 74(1) *American Psychological Association* 1–5 (as of Jan. 20, 2023).

⁷⁸⁸ Racism on Child and Adolescent Health, *supra*.

⁷⁸⁹ Lugo-Candelas et al., [Intergenerational Effects of Racism—Can Psychiatry and Psychology Make a Difference for Future Generations?](#) (Oct. 1, 2022) *JAMA Psychiatry*, p. 1 (as of Jan. 20, 2023).

⁷⁹⁰ *Ibid.*

⁷⁹¹ *Ibid.*

(5) integration of the human genome as a way to identify critical biomarkers that can be used to improve human health rather than continue to classify people on the basis of their minor genetic differences and countries of origin.⁷⁹²

This study could be facilitated through grants to fund the research of established and emerging experts.

J. Meet the Health Needs of Black Elders

While Black elders (60+) represent 6.5% of California's older adult population, the State of California is home to one of the largest concentrations of Black elders in the nation.⁷⁹³ As discussed in Chapter [xx] "Mental and Physical Harm and Neglect," Black elders face specific health challenges arising out of the systemic injustices facing the community. Physicians widely hold racist beliefs that Black elders feel less pain or exaggerate their pain, leading to racial bias in pain treatment for chronic conditions.⁷⁹⁴ Black elders are less likely to have their chronic illnesses sufficiently managed, are more likely to die from such conditions than white Americans, and have shorter life expectancy than white Americans.⁷⁹⁵

Additionally, as discussed in Chapter XX "Mental and Physical Harm and Neglect," due to the low levels of employer-sponsored health coverage for Black Americans and the expense of private insurance, Black elders are far more likely than white Americans to rely solely on the Medicare program, and lack of supplemental insurance exposes Black elders to higher out of pocket costs and delayed medical care.⁷⁹⁶ Finally, as discussed in Chapter XX "Racism in Environment and Infrastructure," Black elders face disparity in access to high-speed internet access and technology, which the COVID-19 pandemic has made a critical piece of health

⁷⁹² Trent et al., *The Impact of Racism on Child and Adolescent Health* (Aug. 2019) American Academy of Pediatrics, p. 2 (as of Jan. 20, 2023) (hereinafter "Racism on Child and Adolescent Health").

⁷⁹³ Justice in Aging, "Data Snapshots: Older Adults in California," (2022), available at <https://justiceinaging.org/ca-data-snapshots/> [as of Mar. 17, 2023]; Administration for Community Living, "2020 Profile of African Americans Age 65 and Older," HHS (2020), available at <https://acl.gov/sites/default/files/Profile%20of%20AA/AAProfileReport2021.pdf> [as of Mar. 16, 2023].

⁷⁹⁴ Sabin, "How We Fail Black Patients in Pain," (Jan. 6, 2020), Assn. of Am. Medical Colleges, available at <https://www.aamc.org/news-insights/how-we-fail-black-patients-pain> [as of Mar. 16, 2023].

⁷⁹⁵ Aaron, et. al., "Disparities and Racism Experienced Among Older African Americans Nearing End of Life," (Dec. 14, 2021) *Current Geriatric Reports* 10(4):157, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023]; McBride, *Caring for Equality: A History of African American Health and Healthcare* (2018) at pp. 64, 88.

⁷⁹⁶ Kaiser Family Foundation, "Medicare and Minority Americans," at pp. 2-3, available at <https://kff.org/wp-content/uploads/2013/01/medicare-and-minority-americans-fact-sheet.pdf> [as of Mar. 16, 2023].

delivery infrastructure.⁷⁹⁷ The Task Force recommends a series of proposals aimed at ameliorating Black elders systemic disparity in the areas of management of pain and chronic conditions creating disability; end of life care; public benefits for elders; and digital health access.

1. Remedy the mismanagement of pain and chronic conditions creating disability.

Due to the systemic injustices discussed in Chapter XX, “Mental and Physical Harm and Neglect,” elder African American adults are less likely to have their chronic illness sufficiently managed, are more likely to die from chronic illnesses that are well controlled in white Americans, and continue to suffer from poorer healthcare outcomes throughout their lifespan to end-of-life.⁷⁹⁸ For example, risk of diabetes, heart disease, and stroke increase among Black adults as they age because of poor blood pressure control and poor diabetes prevention due to disparities in medical care.⁷⁹⁹

Moreover, younger Black Americans are being diagnosed with chronic diseases normally seen in older populations, and thus Black Americans often experience significant symptom burden and higher risk of complications as they age in comparison to their white counterparts because they have lived longer with chronic disease.⁸⁰⁰ This can intensify the suffering Black elders experience towards the end-of-life.⁸⁰¹

Additionally, Black elders are at increased risk of being undertreated for pain. In addition to having their pain under accessed, they are less likely to receive opioid and nonopioid-based medications.⁸⁰² Focus group research with Black elders underscored this point: “We say

⁷⁹⁷ Gao & Hayes, “California’s Digital Divide,” (Feb. 2021) Public Policy Institute of California, available at <https://www.ppic.org/publication/californias-digital-divide/> [as of Mar. 16, 2023]; Jones, “Black Older Adults Are Being Left Behind In The Fight Against Racial Injustice – The Time To Advocate For Them Is Now,” (June 21, 2021) NewsOne, available at <https://newsone.com/4176048/black-older-adults-racial-justice/> [as of Mar. 16, 2023].

⁷⁹⁸ Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):157, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

⁷⁹⁹ Scommegna, “Key Factors Underlying Racial Disparities in Health Between Black and White Older Americans,” (May 2021) *Program and Policy Implications* 41:4, available at <https://www.prb.org/wp-content/uploads/2021/05/tra-41.pdf> [as of Mar. 16, 2023].

⁸⁰⁰ Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):157, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

⁸⁰¹ Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):157, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

⁸⁰² Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):158, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023]; Robinson-Lane, “Culturally Responsive Pain Management for Black Older Adults,” (Mar. 7, 2017) *Journal*

we're in pain. But they might not even check it, because they assume we can tolerate pain more than other people," said one Black adult.⁸⁰³

Black elders also have persistently higher rates of disability relative to white adults.⁸⁰⁴ While about 28 percent of all older Americans say they are hindered by one or more age-related difficulties—e.g., diminished mobility, vision, hearing, motor skills, and cognitive skill—more than 38 percent of Black elders report impairments to daily living activities.⁸⁰⁵ Black adults may be less likely to have accessible home environments. For example, a decline in the share of white adults who have trouble bathing may reflect better physical function *or* an increase in the availability of walk-in showers in white households.⁸⁰⁶

The above proposals directed at remedying health inequities among Black Californians more generally will also help remedy the specific disparities faced by Black elders. In addition to those important proposals, the Task Force recommends that as part of the Legislature's authorization and ongoing funding for the California Health Equity and Racial Justice Fund within the California Department of Public Health's Office of Health Equity, there is a specific focus on initiatives to remedy the disparities faced by Black elders. Specifically, the Task Force recommends that the Legislature (1) focus on increased accessibility to medications and treatments for heart attack, stroke, and diabetes among Black elders, which may reduce the severity of disablement; and (2) focus on providing greater access to assistive devices (such as walkers and wheelchairs) and changes to living environments (such as grab bars and ramps) may contribute to better physical function among Black elders.⁸⁰⁷

Additionally, in order to better track, understand, and respond to these disparities in the future, the Task Forces recommends that the Legislature instruct and fund the California Department on Aging to partner and contract with Black/African-American led and serving

of Gerontology Nurs. pp. 1–8, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5581727/> [as of Mar. 17, 2023].

⁸⁰³ Commonwealth Fund, "What an Ideal Health Care System Might Look Like: Perspectives from Older Black and Latinx Adults," (Jul. 2022), available at <https://www.commonwealthfund.org/publications/2022/jul/what-ideal-health-care-system-might-look-like> [as of Mar. 16, 2023].

⁸⁰⁴ Scommegna, "Key Factors Underlying Racial Disparities in Health Between Black and White Older Americans," (May 2021) Program and Policy Implications 41:5, available at <https://www.prb.org/wp-content/uploads/2021/05/tra-41.pdf> [as of Mar. 16, 2023].

⁸⁰⁵ "Black and Aging in America Report," National Caucus and Center on Black Aging (2021), p. 17, available at https://ncba-aging.org/wp-content/uploads/2023/01/FINAL-NCBA_Black_Aging_America_Digital_web47.pdf [as of Mar. 16, 2023].

⁸⁰⁶ Scommegna, "Key Factors Underlying Racial Disparities in Health Between Black and White Older Americans," (May 2021) Program and Policy Implications 41:5, available at <https://www.prb.org/wp-content/uploads/2021/05/tra-41.pdf> [as of Mar. 16, 2023].

⁸⁰⁷ Scommegna, "Key Factors Underlying Racial Disparities in Health Between Black and White Older Americans," (May 2021) Program and Policy Implications 41:5, available at <https://www.prb.org/wp-content/uploads/2021/05/tra-41.pdf> [as of Mar. 16, 2023].

CBOs and on-the-ground grassroots organizations to develop a web-based semiannual State of the State of Older Black Adults in California report.

2. Remedy the disparity in use and satisfaction with End of Life Care.

Black elders face disparities in the use of and satisfaction with End of Life (EOL) services and care. The objective of EOL care is to provide “goal-concordant” care based on what the patient and family value and want. Despite care that is not goal-concordant being considered as a “medical error,” studies have shown that Black elders have a higher rate of “nongoal-concordant care” than whites Americans.⁸⁰⁸ Some of this may arise out of the fact that EOL care can frequently dismiss and disregard certain types of belief systems, such as the hope for a miracle and the belief in God as the final arbiter.⁸⁰⁹ Black elders deserve care that is equitable and preserves the life that their loved one has lived and acknowledges their faith and beliefs.

This inferior care results in Black elders being less likely to utilize EOL services compared to white Americans. Specifically, Black elders have advance care planning completion rates that are substantially lower than white Americans, and they are more likely to pursue informal EOL planning.⁸¹⁰ Yet, even when Black elders have their preferences recorded, they are less likely than white Americans to have their preferences upheld by clinicians in hospitals.⁸¹¹ Moreover, Black elders are less likely to use hospice services at the end of life, and are more likely to experience difficult disruptions in care due to being hospitalized.⁸¹²

In order to remedy these disparities in EOL and hospice care, the Task Force recommends the Legislature fund an increase in culturally responsive end-of-life programs and community-based participatory research to improve such programs. Historically, EOL care has been rooted in white middle-class cultural and religious values; with a different frame of

⁸⁰⁸ Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):159, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

⁸⁰⁹ Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):159, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

⁸¹⁰ Sanders, et al., “From Barriers to Assets: Rethinking factors impacting advance care planning for African Americans,” (2019) *Palliat. Support Care*. 17:306–313, available at <https://pubmed.ncbi.nlm.nih.gov/29869594/> [as of Mar. 17, 2023].

⁸¹¹ Mack, et. al., “Racial Disparities in the Outcomes of Communication on Medical Care Received Near Death,” (Sept. 27, 2010) *Arch Intern. Med.* 170(17):1533–1540, available at <http://archinte.jamanetwork.com/article.aspx?doi=10.1001/archinternmed.2010.322>. [as of Mar. 16, 2023].

⁸¹² Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):159, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

reference, value system, and life experience than most Black elders. Considering patients' and families' cultures is essential in all aspects of palliative care.⁸¹³

Funding to increasing culturally responsive end-of-life programs should include the involvement of healthcare workers from diverse backgrounds to help create advance directives that address the concerns and needs of Black elders.⁸¹⁴ With improved culturally relevant communication, patients and families are more likely to receive useful information about their diagnosis more easily. Future work should be directed at training providers in having discussions that incorporate patient beliefs. Trainings should be based on Black community recommendations in an attempt to move towards health equity.⁸¹⁵

3. Remedy the harms from disparity in insurance and senior benefits.

Black elders are less likely than their white peers to have private insurance and more likely to rely on Medicaid (the government insurance program for those with low income) or Medicare (the government insurance program for those 65-and-older or permanently disabled) as their only health insurance.⁸¹⁶ Specifically, where 46 percent of all older adults were covered by both private insurance and Medicare, only 32 percent of Black elders had both private insurance coverage and Medicare.⁸¹⁷ Compared to white Americans, nearly twice as many Black elders relied on both Medicare and Medicaid.⁸¹⁸ The higher reliance on government health insurance programs among Black elders reflects the unaffordability of healthcare with regard to pervasive income disparities. For example, the median income for Black Medicare enrollees is \$17,350, compared to \$30,050 for white enrollees; and nearly one-fourth of Black elders have no supplemental coverage to help defray the cost of inpatient care covered by Medicare Part A or its

⁸¹³ Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):160, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

⁸¹⁴ Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4):161, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

⁸¹⁵ Aaron, et. al., “Disparities and Racism Experienced Among Older African Americans Nearing End of Life,” (Dec. 14, 2021) *Current Geriatric Reports* 10(4): 157–166, p. 161, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8685164/> [as of Mar. 16, 2023].

⁸¹⁶ Scommegna, “Key Factors Underlying Racial Disparities in Health Between Black and White Older Americans,” (May 2021) *Program and Policy Implications* 41:10, available at <https://www.prb.org/wp-content/uploads/2021/05/tra-41.pdf> [as of Mar. 16, 2023].

⁸¹⁷ “Black and Aging in America Report,” National Caucus and Center on Black Aging (2021), pp. 7-8, available at https://ncba-aging.org/wp-content/uploads/2023/01/FINAL-NCBA_Black_Aging_America_Digital_web47.pdf [as of Mar. 16, 2023].

⁸¹⁸ Noel-Miller, “COVID-19: Many Older Blacks and Hispanics with Medicare More Likely to Face Out-of-Pocket Hospital Bill.” (May 18, 2020) AARP, available at <https://blog.aarp.org/thinking-policy/covid-19-many-older-blacks-and-hispanics-with-medicaremore-likely-to-face-out-of-pocket-hospital-bill> [as of Mar. 16, 2023].

\$1,400 deductible—in comparison to only 16 percent of white Medicare recipients have no supplemental coverage.⁸¹⁹

Black elders who are beneficiaries of Medicare are also more likely than their white peers to receive care in emergency rooms and nursing homes and report fewer doctor’s office visits.⁸²⁰ Moreover, research shows that older Black Medicare enrollees commonly experience racism when seeking care, report communication challenges with their providers, and have difficulty affording and accessing regular care.⁸²¹ For example, 37 percent of Black Medicare recipients describe their health as fair or poor, compared to 24 percent of white recipients, and 39 percent of Black Medicare recipients have one or more disabilities.⁸²²

While they compose 9 percent of the 65-and-older population, Black elders make up more than 14 percent of residents in nursing homes, even though the cost is significantly more than that for an assisted living facility.⁸²³ However, most if not all expenses in assisted living facilities are paid by the tenant, while most Black nursing home residents rely on Medicaid to cover the costs. Whereas 70 percent of older white adults have annual incomes of \$30,000 or more—with 40 percent receiving \$60,000 or more—65 percent of Black elders receive less than \$30,000 a year.⁸²⁴ Additionally, Black elders are more likely to reside in nursing homes with low ratings and a history of citations for violations of health and safety standards—forty percent of Black nursing home residents live in lower-tier facilities, compared to 9 percent of white residents. According to the Nursing Home Abuse Center, African American residents are three

⁸¹⁹ “Black and Aging in America Report,” National Caucus and Center on Black Aging (2021), pp. 7-8, available at https://ncba-aging.org/wp-content/uploads/2023/01/FINAL-NCBA_Black_Aging_America_Digital_web47.pdf [as of Mar. 16, 2023].

⁸²⁰ Scommegna, “Key Factors Underlying Racial Disparities in Health Between Black and White Older Americans,” (May 2021) Program and Policy Implications 41:10, available at <https://www.prb.org/wp-content/uploads/2021/05/tra-41.pdf> [as of Mar. 16, 2023].

⁸²¹ Commonwealth Fund, “What an Ideal Health Care System Might Look Like: Perspectives from Older Black and Latinx Adults,” (Jul. 2022), available at <https://www.commonwealthfund.org/publications/2022/jul/what-ideal-health-care-system-might-look-like> [as of Mar. 16, 2023].

⁸²² “Black and Aging in America Report,” National Caucus and Center on Black Aging (2021), pp. 7-8, available at https://ncba-aging.org/wp-content/uploads/2023/01/FINAL-NCBA_Black_Aging_America_Digital_web47.pdf [as of Mar. 16, 2023].

⁸²³ “Black and Aging in America Report,” National Caucus and Center on Black Aging (2021), pp. 18-19, available at https://ncba-aging.org/wp-content/uploads/2023/01/FINAL-NCBA_Black_Aging_America_Digital_web47.pdf [as of Mar. 16, 2023].

⁸²⁴ Morales, et. al., “Black-White Disparities in Moves to Assisted Living and Nursing Homes Among Older Medicare Beneficiaries,” (2019) The Gerontological Society of America, available at <https://pubmed.ncbi.nlm.nih.gov/31665513> [as of Mar. 16, 2023].

times more likely to be physically, emotionally, sexually, and/or financially abused than are White residents.⁸²⁵

Finally, social security benefits are based on the person's earnings and are thus also lower on average for Black elders, with the typical older Black family receiving annual benefits about 24% lower than white families.⁸²⁶

In order to remedy the disparities in insurance and quality of healthcare provision, the Task Force recommends the Legislature create a fund to support and ensure that all Black seniors in California have an annual income that is tied to the Elder Index in their respective county.⁸²⁷ This would help ameliorate the disparities in social security benefits, and the hardships that come from lack of private insurance or the ability to supplement care through Medicare and Medicaid. Additionally, the previous proposal regarding adoption of a comprehensive universal single-payer health care coverage and a health care cost control system for the benefit of all African American residents of California or for resident Descendants would also help remedy the disparities described here.

In order to remedy the disparate treatment Black elders receive in nursing home facilities, the Task Force recommends the Legislature require the Long-Term Care Ombudsman Program to incorporate racial bias training for Ombudsman representatives; create a racial justice unit to investigate bias claims; and fund research into specific ways to increase the wellness of Black elders in long term care facilities in California.

4. Close the digital health access divide for Black elders.

As the COVID-19 pandemic brought into clear focus, a fast and secure internet connection is no longer a luxury, it has become central to accessing health services, safety information, and necessary provisions. Yet there is a marked disparity in Black elders' access to high speed internet. Only 30% of Black elders have broadband access at their homes, compared to 51% of white older adults.⁸²⁸ And Black elders are one-fifth as likely to own a computer

⁸²⁵ "Black and Aging in America Report," National Caucus and Center on Black Aging (2021), pp. 18-19, available at https://ncba-aging.org/wp-content/uploads/2023/01/FINAL-NCBA_Black_Aging_America_Digital_web47.pdf [as of Mar. 16, 2023].

⁸²⁶ Hope, "It's Time To Champion Better Healthcare For African-American Seniors," Grand Rapids African American Health Institute (Nov. 24, 2022), available at <https://graahi.com/2022/11/24/its-time-to-champion-better-healthcare-for-african-american-seniors/> [as of Mar. 16, 2023].

⁸²⁷ UCLA, "The Elder Index: Research and Data," available at <https://healthpolicy.ucla.edu/programs/health-disparities/elder-health/elder-index-data/Pages/elder-index-data.aspx> [as of Mar. 16, 2023].

⁸²⁸ Jones, "Black Older Adults Are Being Left Behind In The Fight Against Racial Injustice – The Time To Advocate For Them Is Now," (June 21, 2021) NewsOne, available at <https://newsone.com/4176048/black-older-adults-racial-justice/> [as of Mar. 16, 2023].

compared to older white adults, while Black elders who receive Medicaid assistance are half as likely to own a computer.⁸²⁹

Moreover, even for those Black elders with computers and high speed internet, many still struggle to navigate this technology. Telehealth visits, online grocery shopping, COVID vaccine signups, and more are all made more difficult because of a lack of proper technology literacy.⁸³⁰

To facilitate needed access to telehealth, caregiving supports, and emergency services, the Task Force recommends that the Legislature ensure that all Black elders have personal access to low-or-no cost, high speed, broadband internet services. Additionally, the Task Force recommends the Legislature ensure funding for programs that address the ancillary technology access issues, including internet education training, grants to purchase computers for low-income seniors, and virtual technical services.

K. Remedy Disparities in Oral Health Care

Oral health is closely linked to chronic diseases such as stroke, heart disease, and diabetes.⁸³¹ According to the U.S. Centers for Disease Control and Prevention (“CDC”), most dental diseases are preventable, yet children still suffer from dental disease due to inadequate home care and lack of access to dental services.⁸³² Poor oral health has been linked “to decreased school performance, poor social relationships and less success later in life.”⁸³³

As in other areas of health, African Americans disproportionately suffer these harms. Recent data confirm that “there are persistent and significant disparities in [tooth decay] experience and untreated [tooth decay] between non-Hispanic Black and non-Hispanic White populations.”⁸³⁴ The data also show that there are significant racial disparities in the prevalence of periodontal disease, severe periodontitis, and tooth loss, as well as oral and oropharyngeal cancer survival rates.⁸³⁵ Studies have also found that structural racism contributes to oral health disparities.⁸³⁶ For example, studies have found that: Black populations have poorer access to preventive services; dentists’ treatment decisions are affected by implicit bias; treatment recommendations favored extractions versus root canal treatments for Black patients; and there is

⁸²⁹ “Black and Aging in America Report,” National Caucus and Center on Black Aging (2021), p. 20, available at https://ncba-aging.org/wp-content/uploads/2023/01/FINAL-NCBA_Black_Aging_America_Digital_web47.pdf [as of Mar. 16, 2023].

⁸³⁰ Jones, “Black Older Adults Are Being Left Behind In The Fight Against Racial Injustice – The Time To Advocate For Them Is Now,” (June 21, 2021) NewsOne, available at <https://newsone.com/4176048/black-older-adults-racial-justice/> [as of Mar. 16, 2023].

⁸³¹ Horace, *5 barriers to oral health care affecting African Americans* (Feb. 14, 2022) Delta Dental (as of Jan. 27, 2023) (hereinafter “5 Barriers”).

⁸³² Kim, *UCSF School of Dentistry to Offer Free Dental Care for Children* (Feb. 17, 2012) University of California San Francisco (as of Jan. 27, 2023).

⁸³³ *Ibid.*

⁸³⁴ National Institutes of Health, *Oral Health in America: Advances and Challenges* (2021) U.S. Department of Health and Human Services, National Institutes of Health, National Institute of Dental and Craniofacial Research, at p. 1-11 (as of Jan. 27, 2023).

⁸³⁵ *Id.* at pp. 1-11-1-12.

⁸³⁶ *Id.* at p. 1-15.

a substantial underrepresentation of Black dentists in the dental profession and workforce.⁸³⁷ The findings of these studies dovetail with what experts have identified as barriers to oral health care for African Americans: (1) a shortage of Black dentists; (2) a shortage of Black dental students; (3) a lack of dentists in communities of color; (4) implicit bias among dental care providers; and (5) affordability and access to insurance coverage.⁸³⁸ Another study confirms that insurance coverage, treatment costs, and access to care influence oral health disparities among African American men.⁸³⁹

Four solutions to improve oral health care emerged from a recent survey of African American seniors.⁸⁴⁰ These solutions include: (1) better oral health education, starting at a younger age; (2) free or at least affordable (reduced cost) dental care and vouchers for dental work; (3) provision of onsite community dental services; and (4) navigators to help educate community members about insurance payment options and available low-cost providers. Survey respondents also suggested incorporating more dental education in schools through pamphlets for kids and parents and having dental professionals visit senior centers to provide services and education.⁸⁴¹

Additionally, the CDC has identified that school sealant programs are effective in preventing cavities in millions of children.⁸⁴² Specifically, school sealant programs involve providing pit and fissure sealants to children aged 6 to 11 or in grades 1 through 5; the programs also include licensed dental professionals screening children for oral disease and checking whether they already have sealants.⁸⁴³ This is done via signed permission slips from parents and guardians for dental sealants to be applied, typically at no cost.⁸⁴⁴ The CDC has noted that states can assist by: (1) “Targeting school-based sealant programs to the areas of greatest need;” (2) “Tracking the number of schools and children participating in sealant programs;” (3) Implementing policies that deliver school-based sealant programs in the most cost-effective manner;” and (4) “Helping schools connect to Medicaid and the Children’s Health Insurance Program (CHIP), local health department clinics, community health centers, and dental providers in the community to encourage more use of sealants and reimbursement of services.”⁸⁴⁵

The Task Force recommends establishing a program like UC PRIME⁸⁴⁶ for University of California and California State University dental programs to be focused on working with, and providing oral health care in, predominantly African American communities.

⁸³⁷ *Ibid.*

⁸³⁸ 5 Barriers, *supra* (citing studies).

⁸³⁹ Akintobi, et al., [Assessing the Oral Health Needs of African American Men in Low-Income, Urban Communities](#) (2018) 12(2) *Am. J. Mens Health* 326-337 (as of Jan. 27, 2023).

⁸⁴⁰ Kohli, et al., [Barriers and Facilitators of Dental Care in African-American Seniors: A Qualitative Study of Consumers’ Perspective](#) (Mar. 18, 2020) 11(1) *J. Adv. Oral. Res.* 23-33 (as of Jan. 27, 2023).

⁸⁴¹ *Ibid.*

⁸⁴² [School Sealant Programs](#), Oral Health, Centers for Disease Control and Prevention (as of Jan. 27, 2023).

⁸⁴³ *Ibid.*

⁸⁴⁴ *Ibid.*

⁸⁴⁵ *Ibid.*

⁸⁴⁶ As stated previously, University of California’s Programs in Medical Education, or UC PRIME, is a formal, innovative training program at University of California medical schools that is focused on training medical

The Task Force also recommends adding the completion of an evidence-based anti-bias training and an assessment based on such training to the graduation requirements of all dental schools in California receiving state funding and to the requirements for licensure by the Dental Board of California for licensed dentists and registered dental assistants.

The Task Force recommends, in conjunction with the proposal to establish and fund community wellness centers in Black communities, having the responsibilities of the health care advocates staffing these centers (who are culturally congruent with African American culture) include helping African Americans navigate insurance payment options and find low-cost providers.

The Task Force recommends implementing school sealant programs in California elementary schools, which will also include oral health education.

Finally, the Task Force recommends providing oral health care to underserved populations, including African American seniors, by authorizing state funding for mobile dental clinics, preferably within trusted community-based organizations, which may be achieved through a state-funded grant-making program.⁸⁴⁷

L. Fix Racially Biased Algorithms and Medical Artificial Intelligence in Health Care

Researchers have established that there is evidence of significant racial bias in a widely-used commercial algorithm developed by health services company Optum to guide decisions in the United States health care system.⁸⁴⁸ Specifically, researchers noted that bias occurs in this algorithm because it used health costs as a proxy for health needs.⁸⁴⁹ Because less money is spent on Black patients who have the same level of needs as white patients, the algorithm incorrectly assumes that Black patients are healthier than equally sick white patients.⁸⁵⁰ Accordingly, Black patients had to be much sicker than white patients in order to be recommended for the same care.⁸⁵¹ Optum has replicated its study with the same researchers and saw an 84 percent reduction in bias with a new algorithm that uses health prediction in conjunction with cost.⁸⁵²

professionals to meet the needs of underserved populations in rural and urban California. ([Programs in Medical Education \(PRIME\)](#), UC Health, University of California Office of the President.)

⁸⁴⁷ This could include, for example, mobile dental clinics like the Community Mobile Dental Clinics at Herman Ostrow School of Dentistry at the University of Southern California. ([Mobile Dental Clinics](#), Herman Ostrow School of Dentistry at University of Southern California (as of Jan. 27, 2023).)

⁸⁴⁸ Obermeyer, et al., [Dissecting racial bias in an algorithm used to manage the health of populations](#) (Oct. 25, 2019) *Science* (as of Feb. 6, 2023) (hereinafter “Obermeyer”); Gawronski, [Racial bias found in widely used health care algorithm](#), NBC News (Nov. 6, 2019) (as of Feb. 8, 2023) (hereinafter “Gawronski”).

⁸⁴⁹ Obermeyer, *supra*.

⁸⁵⁰ *Ibid.*

⁸⁵¹ Grant, [Algorithms Are Making Decisions About Health Care, Which May Only Worsen Medical Racism](#) (Oct. 3, 2022) ACLU (as of Feb. 6, 2023) (hereinafter “Grant”).

⁸⁵² Gawronski, *supra*.

Despite this change, racial bias has been found in other medical technology. An ACLU paper provides four examples of the presence of racial bias in medical artificial intelligence (“AI”), medical devices, and algorithmic decision-making tools, which include:

[1] An AI tool meant to decide how to best distribute the limited resource of extra care to new mothers at risk of postpartum depression was found to show racial bias—directing care away from Black mothers and favoring White mothers[;]

[2] A widely used clinical algorithm indicating kidney health is adjusted based on whether a patient is Black, and systematically indicates Black patients are healthier than they may actually be; in fact, an October 2020 study found that without this explicit race-based adjustment, nearly a third of Black patients would be reclassified as having more severe kidney disease. (Only in September 2021, after increased pressure from lawmakers and advocates, was the algorithm updated to remove the use of race. Still, recent reports suggest the old algorithm is still being used by federal courts to make determinations about health-based early prison release despite litigation indicating that it functions in a clearly biased way.)[;]

[3] A recent meta-analysis found the vast majority of machine learning (ML) studies in dermatology did not include information on different skin tones as part of algorithm development. As a result, the validity of model results varied based on skin tone, with some models performing worse on darker skin[; and]

[4] A 2020 study on pulse oximeters, a medical device used especially in the COVID-19 pandemic to monitor patients’ oxygen levels, detailed that the devices are less accurate among patients with darker skin and could even increase risk of adverse health outcomes for those patients. In fact, a 2022 retrospective study confirmed that patients of color, likely due to this known bias, received less supplemental oxygen than White patients, contributing to their morbidity. While this is a hardware issue, it shows an existing bias associated with patient[s]’ skin color in medical devices[;] instances like this are alarming considering that this issue was arguably more predictable than issues that may arise from the use of AI as a medical device.⁸⁵³

⁸⁵³ Grant, [ACLU White Paper: AI in Health Care May Worsen Medical Racism](#) (as of Feb. 8, 2023) ACLU, pp 1–2 (hereinafter “ACLU White Paper”).

Bias in commercial algorithms can have harmful effects on African American patients at all points in the health care process, from triaging of illness to the quality of care received.⁸⁵⁴ These algorithms “also lack data diversity, whether by race, sex, or other factors” and the lack of data diversity “diminishes the generalizability of these studies and potentially of the tools developed using the data.”⁸⁵⁵ As the ACLU paper notes, there is no single agency regulating AI tools and clinical algorithms that are in use today, but “[i]nstead, a patchwork of regulatory powers has led to gaps and permitted the continued use of potentially harmful technologies without sufficient oversight.”⁸⁵⁶

Experts such as Ashish Jha, the director of the Harvard Global Health Institute, believe that bias in algorithms is far easier to eradicate than human bias; Jha noted: “Algorithms that are built well with these issues taken into account can help doctors overcome subtle unconscious biases they may have . . . Data and algorithms have a lot of potential to do good, but what this study reminds us of is that if you don’t do it right, you have a lot of potential to do harm.”⁸⁵⁷

Based on the foregoing, and the recommendations listed in the ACLU White Paper,⁸⁵⁸ the Task Force recommends providing state funding to the California Department of Public Health, a University of California school, a California State University school, or other appropriate entity to study the potential for harmful biases in commercial algorithms and AI-enabled medical devices and to study “evidence-based research into the use of devices and tools that recommend adjusting patients’ treatment or medication based on broad racial categories in the absence of information on genetics or socio-cultural risk factors.” This study shall also include recommendations on how best to regulate commercial algorithms and medical artificial intelligence tools in California.

The Task Force also recommends requiring the California Department of Public Health to issue guidance to hospitals and other medical systems to ensure that commercial algorithms and AI-enabled medical devices “are not used for clinical applications without FDA approval or clearance, are not used on patient populations they were not intended for, and that cleared tools are not used outside of their intended use cases.”⁸⁵⁹

The Task Force further recommends authorizing the California Department of Public Health “to make and maintain a public list of software as a medical device (SaMD) products and provide demographic information about the subjects in which the devices were calibrated or trained.”⁸⁶⁰

⁸⁵⁴ Christensen, et al., [Medical Algorithms Are Failing Communities of Color](#) (Sept. 9, 2021) Health Affairs (as of Feb. 8, 2023) (hereinafter “Christensen”); Waddell, [Medical Algorithms Have a Race Problem](#) (Sept. 18, 2020) Consumer Reports (as of Feb. 8, 2023).

⁸⁵⁵ Christensen, *supra*.

⁸⁵⁶ ACLU White Paper, *supra*.

⁸⁵⁷ Gawronski, *supra*.

⁸⁵⁸ ACLU White Paper, *supra*.

⁸⁵⁹ *Ibid.*

⁸⁶⁰ *Id.* at 9–10.

Finally, the Task Force recommends providing state funding to the California Department of Justice to pursue claims against algorithm and AI-enabled medical device manufacturers if these products have a disparate impact when providers use it according to manufacturers' instructions or the products misleadingly promise fairness.

M. Fund and Expand the UC PRIME-LEAD-ABC Program to be Available at All UC Medical Campuses

Black physicians and patients have experienced historic and ongoing discrimination in all aspects of the healthcare system.⁸⁶¹ After the end of the Civil War, federal, state, and local governments continued to deny Black Americans adequate health care through numerous policies, including through the Hill-Burton Act, which funded the creation of the modern hospital infrastructure by funding segregated hospitals, including ones in California.⁸⁶² Even after the end of formal segregation policies, the government failed to address their lasting, discriminatory effects—for instance, one news report suggests that Black resident physicians are disproportionately dismissed and written up for transgressions that go unpunished for white resident physicians,⁸⁶³ and a number of Black physicians in California have brought lawsuits alleging that hospital systems in the State have enacted “pervasive hostility against Black medical professionals and medical students.”⁸⁶⁴ This discrimination against Black physicians has, in turn, reinforced discriminatory denial of adequate care for Black patients. While Black Californians make up six percent of the state’s population, only three percent of all doctors in California are Black.⁸⁶⁵ And a study conducted in 2021 and 2022 found that nearly one in three Black Californians have been treated unfairly by a health provider because of their race or ethnicity.⁸⁶⁶

To address inequities in healthcare and increase the number of Black physicians serving Black communities, with special consideration for Descendants, the Task Force recommends that the Legislature permanently expand the UC PRIME-LEAD-ABC program—which includes a specialized curriculum, training experiences, and dedicated faculty mentorship to train and recruit physicians to serve in predominantly African, Black, or Caribbean (ABC) communities—to be available on all UC medical campuses.⁸⁶⁷ To the extent that the UC PRIME-LEAD-ABC program does not give special consideration for Descendants, the Task Force recommends the

⁸⁶¹ See generally California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) pp. 406-436.

⁸⁶² See, e.g., Largent, *Public Health, Racism, and the Lasting Impact of Hospital Segregation* (2018) 133 Pub. Health Reps. 715, 715.

⁸⁶³ McFarling, *'It was Stolen from Me': Black Doctors are Forced Out of Training Programs at Far Higher Rates than White Residents*, STAT (June 20, 2022) (as of Mar. 15, 2023).

⁸⁶⁴ Grubbs, *Perspective: Racism in Academic Medicine Is Hindering Progress Toward Health Equity*, Cal. Health Care Foundation (Feb. 17, 2023) (as of Mar. 15, 2023).

⁸⁶⁵ Compare Cal. Health Care Foundation, *California Physicians* (Mar. 2021) (as of Nov. 28, 2022) with U.S. Census Bureau, *Race* (2020) (as of Nov. 28, 2022).

⁸⁶⁶ See Cummings, *In Their Own Words: Black Californians on Racism and Health Care* (Jan. 2022) Cal. Health Care Foundation, p. 4 (as of Nov. 28, 2022).

⁸⁶⁷ See University of Cal., Office of the President, *UC Programs in Medical Education* (UC PRIME) (as of Nov. 28, 2022).

Legislature create an equivalent pathway program specifically for Descendants. And, the Task Force recommends that the Legislature include funding for the UC PRIME-LEAD-ABC programs to expand their mentorship and support services to include comprehensive mental health support, especially regarding racial stress and trauma, and that such mental health support services continue to be provided to participants after they complete the UC-PRIME-LEAD-ABC program.⁸⁶⁸

Surveying existing literature on the effects of the UC PRIME programs, one 2022 report found that the UC PRIME programs added significant diversity to the UC system's medical schools.⁸⁶⁹ For Black medical students, specifically, from 1990 to 2019, the number of Black medical students in California rose from 63 to 121 students, with “[p]ublic medical schools account[ing] for most of this increase.”⁸⁷⁰ Additionally, care by Black physicians can address the discriminatory treatment that Black patients might otherwise receive when seeking healthcare.⁸⁷¹

Alternatively, or in addition, to increase the number of Black medical professionals serving Black communities, the Legislature could: (1) fund grants providing scholarships or loan forgiveness to Black medical students, physician assistants, and nurse practitioners who commit to serving Black communities; or (2) fund grants providing scholarships or loan forgiveness to medical students, physician assistants, and nurse practitioners who are Descendants and who commit to serving predominantly Black communities. To the extent that the Legislature implements a loan forgiveness program, eligibility for loan forgiveness programs should, at minimum, include Black medical professionals serving Black communities through community-based organizations.

N. Create and Fund Equivalents to the UC-PRIME-LEAD-ABC Program for Psychologists, Licensed Professional Counselors, and Licensed Professional Therapists

As described in Part Two, Chapter Twelve of this report, the ongoing history of discriminatory health harms to Descendants also include inadequate access to mental healthcare—a harm compounded by the stress and trauma of ongoing racial discrimination

⁸⁶⁸ Such support is especially crucial given the racial discrimination experienced by African American physicians, which compounds the tremendous stress borne by physicians generally, especially during the COVID-19 pandemic. See American Medical Assn., *Summary Report: Experiences of Racially and Ethnically Minoritized and Marginalized Physicians in the U.S. During the COVID-19 Pandemic* (2021) (as of Feb. 10, 2023); Serafini et al., *Racism as Experienced by Physicians of Color in the Health Care Setting* (2020) 52 *Family Medicine* 282, 282-287; see also Berg, *Half of Health Workers Report Burnout Amid COVID-19*, American Medical Assn. (Jul. 20, 2021) (as of Feb. 10, 2023) (noting that Black healthcare workers, generally, experienced especially high burnout and stress during the pandemic).

⁸⁶⁹ See generally Johnson et al., University of California Programs in Medical Education (Sept. 2022) *Mathematica*.

⁸⁷⁰ Pfeffinger et al., *Recovery with Limited Progress: Impact of California Proposition 209 on Racial/Ethnic Diversity of California Medical School Matriculants, 1990 to 2019* (Dec. 2020) Healthforce Center at UCSF, pp. 9-10 (see also figures 6 and 7, which chart the change in Black medical students each year, including when UC PRIME programs were created) (as of Nov. 14, 2022).

⁸⁷¹ See Huerto, *Minority Patients Benefit From Having Minority Doctors, But That's a Hard Match to Make* (Mar. 31, 2020), Univ. of Mich. Health Lab (as of Nov. 28, 2022); Williams et al., *Racism and Health: Evidence and Needed Research* (2019) 40 *Annual Rev. of Pub. Health* 105 (as of Mar. 16, 2022).

experienced by Black Californians, and Descendants of enslaved people, in particular.⁸⁷² To address unequal access to mental healthcare services, the Task Force recommends that the Legislature create and fund equivalents to the UC PRIME-LEAD-ABC programs for recruiting and training psychologists (Ph.D and Psy.D programs) and licensed professional counselors and therapists (Masters programs) committed to serving predominantly African, Black, and Caribbean communities, with special consideration for Descendants. The Task Force also recommends that the Legislature include funding for these programs to include comprehensive mental health support, especially regarding racial stress and trauma, and that program participants continue to receive such mental health support services after they complete their program.⁸⁷³

Due to ongoing disparities and discrimination in mental health care, organizations have called for the State to expand funding for educational capacity, stipends, and scholarships to strengthen the size, distribution, and diversity of the mental health and behavioral health workforce.⁸⁷⁴ As noted above, the UC PRIME programs present successful models for programs that both recruit and mentor Black medical professionals while also increasing the number of medical professionals dedicated to serving predominantly-Black communities.⁸⁷⁵ While the State of California has also previously enacted various measures to increase its overall supply of mental health professionals, these prior policies do not appear to involve any targeted effort to increase the number of Black professionals or other professionals serving Black communities specifically.⁸⁷⁶

Alternatively, or in addition, to increase the number of Black mental health professionals serving predominantly Black communities, the Legislature could: (1) fund grants providing scholarships or loan forgiveness to Black mental health professionals who commit to serving predominantly Black communities; or (2) fund grants providing scholarships or loan forgiveness to Black mental health professionals who are Descendants and who commit to serving predominantly Black communities. To the extent that the Legislature implements a loan forgiveness program, eligibility for loan forgiveness programs should, at minimum, include Black mental health professionals serving Black communities through community-based organizations.

⁸⁷² See California Task Force to Study and Develop Reparation Proposals for African Americans, [Interim Report](#) (June 2022) pp. 409-410, 422-426.

⁸⁷³ Such support is especially crucial given the burdens of racial discrimination borne by Black mental health professionals, which contributes to burnout and the lack of Black mental health providers for the Black community, more generally. See Shell et al., *Investigating Race-related Stress, Burnout, and Secondary Traumatic Stress for Black Mental Health Therapists* (2021) 47 J. of Black Psych. 669, 669-694.

⁸⁷⁴ Cal. Future Health Workforce Commission, [Meeting the Demand for Health](#) (Feb. 2019) p. 30 (as of Nov. 10, 2022).

⁸⁷⁵ See generally Johnson et al., *supra*.

⁸⁷⁶ See, e.g., Welfare and Institutions Code § 5822; [Cal Stat. 2021, ch. 440](#); Cuevas, [AB 462 – Assemblywoman Wendy Carrillo’s Bill to Expand the Pipeline of Mental Health Professionals – Reaches Governor Newsom’s Desk](#), Wendy Carrillo, Assemblywoman, District 51 (Sept. 7, 2021) (as of Nov. 29, 2022); Cal. Health Care Foundation, [New University of California Program Will Double Pipeline of Specialized Mental Health Providers in Response to Growing Crisis](#) (Jan. 29, 2020) (as of Nov. 29, 2022).

O. Permanently Fund the California Medicine Scholars Program and Create and Fund Equivalent Pathway Programs for Students in the CSU and UC Systems

To remedy the discrimination that has excluded Black Californians from the field of medicine and denied Black Californians equal and adequate healthcare,⁸⁷⁷ the Task Force also recommends that the Legislature permanently fund the pathway initiatives in the California Medicine Scholars program and create an equivalent pathway program for students in the CSU and UC systems. The California Medicine Scholars Program (CMSP) was created to connect community college students to medical schools, clinics, and medical practitioners to promote pathways for underrepresented college students to enter the field of medicine.⁸⁷⁸ Students from an eligible community college can apply to the program, which partners them with a medical school in one of four nearby geographic regions.⁸⁷⁹ The program then provides mentorship by medical practitioners, academic advising, enhanced curriculum, and priority enrollment to that student when the student applies to that particular medical school.⁸⁸⁰

Several studies over the last four decades have found that participation in pathway programs improves the odds of medical school matriculation among students from excluded backgrounds, including Black students.⁸⁸¹

Alternatively, or in addition, the Legislature could expand or create pathway programs like the CMSP to: (1) create similar pathway programs for high school students; and/or (2) create pathway programs for other medical professions, such as physician assistants and nurse practitioners.⁸⁸² Because “literature that describes or evaluates nursing pathway programs” or other health care professions “is scarce,”⁸⁸³ if the Legislature expands the creation or funding of pathway programs to cover other medical professions, such as nurses and physician assistants, the Task Force further recommends that the Legislature fund an accompanying study of such pilot programs to ensure that the programs are equally effective in improving recruitment and retention of Black Americans in other medical professions.

P. Review and Prevent Racially Biased Disciplinary Practices by the Medical Board of California

A report by the California State Library Research Bureau—reviewing Board data from 2003 to 2013—found that Black physicians in California were more likely to be the subject of

⁸⁷⁷ See generally California Task Force to Study and Develop Reparation Proposals for African Americans, *Interim Report* (June 2022) pp. 406-436.

⁸⁷⁸ Foundation for Cal. Community Colleges, *California Launches Medicine Scholars Program to Help Diversify the State’s Primary Care Physician Workforce* (Jun. 28, 2022) (as of Nov. 28, 2022).

⁸⁷⁹ *Ibid.*

⁸⁸⁰ *Ibid.*

⁸⁸¹ Taylor et al., *supra*, at pp. 10-11; see also, e.g., Guerrero et al., *Evaluation of the Pathways for Students into Health Professions: The Training of Under-Represented Minority Students to Pursue Maternal and Child Health Professions* (2015) 19 *Matern Child Health J.* 265 (discussing the success of a federal pathway program implemented at UCLA).

⁸⁸² See Cal. Future Health Workforce Commission, *supra*, at pp. 7-8.

⁸⁸³ Taylor et al., *supra*, at pp. 54-55.

complaints and the Board was more likely to investigate a complaint brought against a Black physician than one brought against a white physician, but these investigations were not more likely to result in disciplinary action.⁸⁸⁴ To remedy discrimination in physician discipline, the Task Force recommends legislation to review and prevent racially biased disciplinary practices by the California Medical Board (“Board”) in its investigatory and disciplinary proceedings by implementing the following:

- (1) Requiring the Board to permanently staff and train its Disciplinary Demographic Task Force, which finds training opportunities to eliminate implicit bias and reviews the Board’s processes for such bias.⁸⁸⁵
- (2) Requiring the Board to undergo implicit bias training.
- (3) Requiring an annual, third-party review of the Board’s investigatory and disciplinary records to determine racial disparities in its investigatory or disciplinary practices.
- (4) In the event that an annual review uncovers racial disparities in the Board’s investigatory or disciplinary practices, requiring the Board to enact any other measures necessary to directly remedy any discriminatory actions taken by the Board (for example, reinstating a license if the suspension process was affected by racial animus).

Q. Address Food Injustice

Black Americans disproportionately experience food insecurity.⁸⁸⁶ As discussed in Chapter XX “Mental and Physical Harm and Neglect,” predominantly Black communities also disproportionately face the problem of having highly limited access to affordable, nutritious food, often while being inundated with unhealthy options like processed food, sugary drinks, and fast food.⁸⁸⁷ High densities of liquor stores and tobacco shops in these communities also pose a public health concern because of their link with elevated violent crime.⁸⁸⁸ The resulting health

⁸⁸⁴ Rogers et al., [Demographics of Disciplinary Action by the Medical Board of California](#) (2003-2013) (2017) Cal. State Library, pp. 13-15 (as of Nov. 14, 2022).

⁸⁸⁵ Medical Bd. of Cal., [Committees, Panels, and Task Forces](#) (as of Nov. 29, 2022).

⁸⁸⁶ See, e.g., United States Department of Agriculture Economic Research Service, [Key Statistics & Graphics](#) (as of Jan. 19, 2023); Healthy People 2030, [Food Insecurity](#) (as of Jan. 19, 2023).

⁸⁸⁷ See, e.g., LaVeist & Wallace, Jr., “Health Risk and Inequitable Distribution of Liquor Stores in African American Neighborhoods (2000) 51 *Social Science & Medicine* 613; Bower et al., [The Intersection of Neighborhood Racial Segregation, Poverty, and Urbanicity and its Impact on Food Store Availability in the United States](#) (Jan. 2014) 58 *Preventative Medicine*, pp. 33-39; Cooksey-Stowers et al., [Racial Differences in Perceived Food Swamp and Food Desert Exposure and Disparities in Self-Reported Dietary Habits](#) (Oct. 2020) 17 *Internat. J. Environmental Research Public Health* 19, p. 7143; Morland et al., [Neighborhood Characteristics Associated with the Location of Food Stores and Food Service Place](#) (Jan. 2002) 22 *American J. of Preventive Medicine* 1, pp. 23-29; Annie E. Casey Foundation, [Food Deserts in the United States](#) (Feb. 13, 2021); Cal. Dept. of Food and Agriculture, [Improving Food Access in California: Report to the California Legislature](#) (2012).

⁸⁸⁸ Subica et al., [The Geography of Crime and Violence Surrounding Tobacco Shops, Medical Marijuana Dispensaries, and Off-sale Alcohol Outlets in a Large, Urban Low Income Community of Color](#) (2018) 108 *Preventative Medicine* 8, p. 8-15.

harms are stark.⁸⁸⁹ Redlining, bolstered by other government and government-enabled discrimination, is a central cause of this food injustice.⁸⁹⁰

In order to remedy these harms, and to improve access to affordable, nutritious food, the Task Force recommends a slate of measures including: improving supermarket and grocery store access in Black communities; increasing the number of farmers markets and community gardens in these communities; supporting healthy food retailing and limiting liquor and tobacco stores; and funding Descendant and trusted community-based organizations to launch and sustain urban agriculture ventures, grocery stores and cooperatives, farmers markets, mobile food vending operations, and related infrastructure needed to bring food justice to Black communities.

1. Improve Supermarket Access

As discussed in Chapter XX, “Mental and Physical Harm and Neglect,” one of the harms facing Black communities in California is the lack of access to grocery stores and supermarkets.⁸⁹¹ Studies have shown, for example, that white neighborhoods on average have four times as many supermarkets as do predominantly Black neighborhoods, and that grocery stores in African-American communities typically are smaller and have less selection.⁸⁹² There are numerous approaches the Task Force recommends to begin remediating this harm.

First, to ensure a coordinated and continued response to these harms, the Task Force recommends that the Legislature continue to fund the California Healthy Food Financing Initiative Council, which is tasked with expanding food access by developing financing options, partnering with state, local, nonprofit and philanthropic programs, and providing updates to the Legislature.⁸⁹³ This work has supported regional food hubs (e.g., hospitals, schools, corner stores), which offer buyers local food at reasonable prices and reduce transaction costs; and has assisted food hubs in developing capital funds, and with outreach to farmers. The Council has also aimed to increase new grocery stores in underserved areas to better increase access to healthy foods and lower the cost of foods by facilitating access to funds and grants and encouraging local government to speed approvals and permits. An additional aim has been to

⁸⁸⁹ See, e.g., Cooksey-Stowers et al., *Racial Differences in Perceived Food Swamp and Food Desert Exposure and Disparities in Self-Reported Dietary Habits* (Oct. 2020) 17 *Internat. J. Environmental Research Public Health* 19, p. 7143; Univ. of Conn. Rudd Center on Food Policy and Health, *Food Security* (as of Jan. 16, 2023); Choucair, *Healthy New Food Carts: One Step Closer to Eliminating Food Deserts* (2014) (as of Jan. 19, 2023); Gundersen & Ziliak, *Food Insecurity and Health Outcomes* (Nov. 2015) 34 *Health Affairs* 11; American Diabetes Assn., *Food Insecurity and Diabetes* (as of Jan. 16, 2023); American Diabetes Assn., *The Burden of Diabetes in California* (Oct. 2021) (as of Jan. 16, 2023); Subica et al., *The Geography of Crime and Violence Surrounding Tobacco Shops, Medical Marijuana Dispensaries, and Off-sale Alcohol Outlets in a Large, Urban Low Income Community of Color* (2018) 108 *Preventative Medicine* 8, p. 15.

⁸⁹⁰ See, e.g., Mukherjee, *Morning Sign Out at UCI, Redlining’s Legacy: Food Deserts, Insecurity, and Health* (Sept. 28, 2020); Eisenhauer, *In Poor Health: Supermarket Redlining and Urban Nutrition* (2001) *GeoJournal*, pp. 125–133.

⁸⁹¹ Dutko et al., “Characteristics and Influential Factors of Food Deserts,” (2012) U.S. Dept. of Agriculture, p.1, 11, at https://www.ers.usda.gov/webdocs/publications/45014/30940_err140.pdf [as of Mar. 23, 2023]; Mitchell, “Liquor Stores, Dispensaries and Smoke Shops: Our Neighborhood is Killing Us,” (De. 8, 2020) KCET, at <https://www.kcet.org/shows/power-health/liquor-stores-dispensaries-and-smoke-shops-our-neighborhood-is-killing-us> [as of Mar. 23, 2023].

⁸⁹² Morland et al., *Neighborhood characteristics associated with the location of food stores and food service place* (Jan. 2002) *American Journal of Preventive Medicine*, vol. 22(1). p. 23-29, <http://www.ncbi.nlm.nih.gov/pubmed/11777675> (3/05/11).

⁸⁹³ Assem. Bill No. 581 (2011-2012 Reg. Sess.).

increase healthy food sold at current stores by assisting stores with access to funds, and connecting them with technical assistance (e.g., sourcing, storage, store design, marketing assistance) or organizations offering that assistance.⁸⁹⁴ In addition to recommending the continuation of funding that expires on July 1, 2023, the Task Force recommends that the Legislature amend the Council's mission to explicitly include a committee focused on the needs of the Black community.

Second, the Task Force recommends that the Legislature provide economic or other incentives to support the development of supermarkets in Black communities that lack adequate access.⁸⁹⁵ These incentives may include tax breaks as well as grants to support non-profit grocery cooperatives.

Third, to improve the development process for such stores, the Legislature should also facilitate the adoption of zoning laws to support the siting of supermarkets in underserved Black communities.⁸⁹⁶ In conjunction with the above, the Task Force also recommends that the Legislature study the continuing impacts of restrictive zoning laws and the California Environmental Quality Act (CEQA) process on the development of new grocery outlets in underserved Black communities for the purpose of identifying and adopting additional measures needed to remove remaining barriers to siting grocery stores in underserved communities.

Fourth, in order to remedy the harms from abrupt disruptions in access to food, the Task Force recommends that the Legislature consider requiring notifications to the affected community, employees, and other stakeholders, prior to the closure of a grocery store in underserved Black communities.⁸⁹⁷ Specifically, such notice could be required within 60 or 180 days, and include informing CDSS, and certain local entities of a planned closure, including the identification of the three nearest grocery establishments that provide comparable service. Moreover, the Legislature could require county human services departments to provide grocery establishments that have announced a closure with information about public social services for which employees may be eligible; and ensure cities keep track of grocery store closures to assess potential trends.⁸⁹⁸

Fifth, to the extent that regulations and contracting provisions are at fault for the lack of grocery stores in Black communities, the Task Force recommends that the Legislature prohibit covenants and lease provisions that prevent the operation of grocery stores in these communities.⁸⁹⁹

⁸⁹⁴ Assem. Bill No. 2635 (2016-2017 Reg. Sess.).

⁸⁹⁵ Harvard Univ. T.H. Chan School of Public Health, *Improving Food in the Neighborhood* (citing experts' recommendations).

⁸⁹⁶ *Ibid.*

⁸⁹⁷ *See, e.g.*, Assem. Bill No. 889 (2021-2022 Reg. Sess.).

⁸⁹⁸ *See, e.g.*, California Legislative Information, *AB-889 Business entities: landlords: reporting requirements* (2021-2022), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB889 [as of Mar. 23, 2023].

⁸⁹⁹ Food Empowerment Project, *Shame on Safeway and Albertsons: Blocking Access to Healthy Food* (as of Jan. 24, 2023).

Finally, as discussed in Chapter XX, “Racism in Environment and Infrastructure,” Black communities often have fewer and worse transit options, in conjunction with residents who are more likely to rely on public transit for transportation.⁹⁰⁰ In order to remedy this harm, the Task Force recommends that the Legislature tie a portion of funding for local governments to the planning and implementation of public transportation routes and schedules that maximize access to supermarkets in Black communities.⁹⁰¹

2. Support and Expand Farmers Markets and Community Gardens

As discussed in Chapter XX, “Mental and Physical Harm and Neglect,” Black Californians are more likely to live in areas without access to full-service grocery stores and areas in which residents have few or no convenient means of securing affordable, healthy foods like fresh fruits and vegetables.⁹⁰² In addition to increasing access to full-service grocery stores as laid out above, increasing access to farmers markets and community gardens can help remedy these harms faced by Black communities. Thus, the Task Force recommends the following actions in order to increase access to farmers markets and community gardens offering organic and whole foods in Black communities, formerly redlined neighborhoods, and other neighborhoods that are home to Black families lacking adequate access.⁹⁰³ First, with regards to farmers markets, the Task Force recommends that the Legislature itself use zoning laws and land use policies to create new space for farmers markets in Black communities, and also encourage local municipalities to do so as well.⁹⁰⁴ Additionally, the Task Force recommends the Legislature provide government subsidies or create public/private partnerships to develop new farmers markets in these areas, and provide financial support for the marketing of such markets to the community.⁹⁰⁵ Moreover, given the transit issues discussed in Chapter XX, “Racism in Environment and Infrastructure,” and above, to ensure access to such markets the Task Force Recommends that the Legislature provide financial support for transportation to farmers markets and increase incentives for local transit agencies to ensure their routes includes access to farmers markets.⁹⁰⁶ Finally, given the economic hardships discussed in Chapter XX “The Wealth Gap,” the Task Force recommends the Legislature continue to encourage and, where possible, require farmers markets to accept electronic benefits from food assistance programs such as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and Supplemental Nutrition Assistance Program (SNAP).⁹⁰⁷

⁹⁰⁰ California Task Force to Study and Develop Reparation Proposals for African Americans, “Testimony of Bruce Appleyard,” (Dec. 7, 2021), at <https://oag.ca.gov/files/media/task-force-witness-appleyardb-statement.pdf> [as of Mar. 23, 2023]; Austin, “To Move is to Thrive: Public Transit and Economic Opportunity for People of Color,” (Nov. 15, 2017) Demos, at <https://www.demos.org/research/move-thrive-public-transit-and-economic-opportunity-people-color> [as of Mar. 23, 2023].

⁹⁰¹ Harvard Univ. T.H. Chan School of Public Health, *Improving Food in the Neighborhood* (citing experts’ recommendations).

⁹⁰² See, e.g., Dutko et al., “Characteristics and Influential Factors of Food Deserts,” (2012) U.S. Dept. of Agriculture, p.1, 11, at https://www.ers.usda.gov/webdocs/publications/45014/30940_err140.pdf [as of Mar. 23, 2023]; See, e.g., The Annie E. Casey Foundation, *Food Deserts in the United States* (Feb. 13, 2021), <https://www.aecf.org/blog/exploring-americas-food-deserts> [as of Mar. 23, 2023].

⁹⁰³ *Ibid.*

⁹⁰⁴ *Ibid.*

⁹⁰⁵ *Ibid.*

⁹⁰⁶ *Ibid.*

⁹⁰⁷ *Ibid.*

Second, given the possibility of community gardens and urban farming to help remedy the food access issues described above and help furnish fresh produce to Black communities, the Task Force recommends that the Legislature promote community gardens and urban gardens in these communities through zoning policy and grants or other financial support, in addition to encouraging local municipalities to change zoning policies to promote such spaces.⁹⁰⁸

Additionally, the Task Force recommends that the Legislature increase farm-to-school and farm-to-institution programs in Black communities, and develop government procurement processes that support local Black farmers in particular with regards to these programs.⁹⁰⁹

3. Enhance Healthy Food Retailing and Curtail the Proliferation of Unhealthy Food Retailing

As discussed in Chapter XX, “Mental and Physical Harm and Neglect,” Black communities have an overconcentration of liquor stores and tobacco stores, which are correlated with health problems for African Americans.⁹¹⁰ Moreover, Black communities are specifically and over-targeted by marketing for sugar-sweetened beverages. For example, Black children and teens see more than twice as many ads for certain sugar drinks than their white peers, and lower-income black neighborhoods have disproportionately more outdoor ads on billboards, bus benches, sidewalk signs, murals, and store window posters for sugar drinks.⁹¹¹ And sugar has had disproportionate negative consequences for Black Americans, being linked to diabetes and hypertension.⁹¹² To remedy these harms, the Task Force recommends several proposals aimed at limiting certain stores in Black communities; encouraging more fresh produce and other health foods at existing stores, and encouraging the increase of other informal methods of healthy food delivery in these communities.

First, the Task Force recommends that the Legislature enact standards that will lead to local zoning restrictions limiting the number of liquor stores and tobacco shops per neighborhood in Black communities.⁹¹³ In conjunction with this, the Task Force recommends that the Legislature support or require the enactment of zoning laws that create buffer zones restricting liquor stores and tobacco shops around schools and recreation areas in these communities.⁹¹⁴

⁹⁰⁸ *Ibid.*

⁹⁰⁹ *Ibid.*

⁹¹⁰ LaVeist & Wallace, Jr., “Health Risk and Inequitable Distribution of Liquor Stores in African American Neighborhoods,” (200) 51 *Social Science & Medicine* 613; DiSantis et al., “Sensitizing Black Adult and Youth Consumers to Targeted Food Marketing Tactics in their Environments,” (2017) 14 *International J. of Environmental Research and Pub. Health* 1316.

⁹¹¹ Fleming-Milici et al., “Examples of Social Media Campaigns Targeted to Teens and Hispanic and Black Youth,” (2020) Univ. of Conn. Rudd Center for Food Policy & Obesity, at <https://www.uconnruddcenter.org/wp-content/uploads/sites/2909/2020/09/SocialMediaCampaigns2020.pdf> [as of Mar. 23, 2023]; Lucan et al., “Unhealthy Food-and-Beverage Advertising in Subway Stations: Targeted Marketing, Vulnerable Groups, Dietary Intake, and Poor Health,” (2017) 94 *J. Urban Health* 220.

⁹¹² Lucan et al., “Unhealthy Food-and-Beverage Advertising in Subway Stations: Targeted Marketing, Vulnerable Groups, Dietary Intake, and Poor Health,” (2017) 94 *J. Urban Health* 220.

⁹¹³ *Ibid.*

⁹¹⁴ *Ibid.*

Second, the Task Force recommends that the Legislature offer financial incentives (such as reduced taxes and fees) and other incentive measures to encourage small store owners in Black communities to offer fresh produce and healthier foods.⁹¹⁵ In conjunction with this, the Task Force recommends that the Legislature incentivize restaurants in Black communities to reformulate menu items to provide healthier options.⁹¹⁶

Third, in order to increase the availability of fresh produce and counter the prevalence of sugar beverages, the Task Force recommends that the Legislature enact legislation to facilitate the provision of permits and incentives to healthy mobile vending carts in Black communities.⁹¹⁷ In support of this, the Task Force also recommends that the Legislature provide funding and other supports to improve the mobile healthy food vendor environment in Black communities.⁹¹⁸

To complement the above, the Task Force also recommends that the Legislature require the California Healthy Food Financing Initiative Council to assess further opportunities for innovations and partnerships to increase access to affordable nutritious food and to reduce the saturation of liquor stores and tobacco shops in Black Communities. As part of this work, the Task Force recommends that the Legislature require the Council to support the development and ongoing work of local Food Policy Councils (which bring together stakeholders to assess how food systems operate at the local level and formulate recommendations for improvements) in formerly redlined communities and other Black communities with limited access to affordable healthy food.⁹¹⁹

Additionally, the Task Force recommends that the Legislature amend the agricultural code to establish legislative findings and declarations regarding the importance of reasonable access to nutritious food for Black communities as a measure to support other efforts going forward. Finally, the Task Force recommends that the Legislature fund community education in Black communities regarding nutrition, health, and resources available to access affordable, nutritious food.

4. Support Descendants in Bringing Nutrition and Economic Opportunity to Communities

As discussed in Chapter XX, “Mental and Physical Harm and Neglect,” and in detail above, Black communities suffer specific harms in relation to food injustice. Moreover, as discussed in Chapter XX, “Stolen Labor and Hindered Opportunity,” Black Americans have suffered economic harms and been denied fair wages and labor opportunities. In order to address both these areas of harm, the Task Force recommends that the Legislature to create and fund a

⁹¹⁵ *Ibid.*

⁹¹⁶ *Ibid.* For examples of incentives and supports that encourage small retailers to offer healthier options such as fresh produce, see Laurison, [Incentives for Change: Rewarding Healthy Improvements to Small Food Stores](#) (2014) Change Lab Solutions.

⁹¹⁷ Harvard Univ. T.H. Chan School of Public Health, [Improving Food in the Neighborhood](#) (citing experts’ recommendations).

⁹¹⁸ *Ibid.*

⁹¹⁹ E.g., Food Policy Networks, [About Us](#) (as of Jan. 19, 2023).

program of grants, low-interest loans, and technical assistance (as needed) for Descendants and trusted community-based organizations in historically Black communities, formerly redlined neighborhoods, and other neighborhood with significant numbers of Black families who lack adequate and equitable access to affordable, nutritious food options. These grants and low-interest loans would be used to support the creation and ongoing growth and stability of urban agriculture ventures, grocery stores and cooperatives, farmers markets, mobile food vendors, and related infrastructure needed to bring about food justice and stimulate pipelines for healthy, whole foods. While focused on increasing access to nutrition and improved health outcomes, this program of grants and low-interest loans would bring added economic development and employment opportunities and provide some measure of redress for the long history of discrimination against Black farmers and small business owners in communities that continue to suffer the consequences of redlining and other forms of discrimination.⁹²⁰

Chapter 30

XIII. THE WEALTH GAP

As recent as 2021, the Federal Reserve's Survey of Consumer Finances determined that White households hold 87 percent of overall wealth in the United States. Conversely, Black Americans, broadly defined, have only 3 percent of the wealth. To put that in dollar terms, the median White family held \$184,000 in wealth in 2019 compared to just \$23,000 for the median Black family. And for further comparison, the median Hispanic family had \$38,000 in wealth. Moreover, we should assume that these comparative figures become starker once we disaggregate the data among the generalized Black population surveyed.⁹²¹

Some economists note that the wealth held by the typical Black household compared to the typical White family has remained almost the same ratio as in the 1960s. Any observable convergence or closing of the gap is an even slower path over the last 150 years, with convergence stalling after 1950. Since the 1980s, the wealth gap has widened again as capital gains have predominantly benefited white households, and income convergence has stopped.

The racial wealth gap accounts for the total cost of the injuries of African Americans and the benefits to White Americans, as represented by the contemporary gap in total wealth between these two groups. Thus, the wealth gap is often regarded by reparations advocates as the best indicator of the cumulative impact of anti-Black racism from African American enslavement through Jim Crow to contemporary disparities. As such, it reflects the total sum of calculable

⁹²⁰ See, e.g., Aminetzah et al., [Black Farmers in the US: The Opportunity for Addressing Racial Disparities in Farming](#) (Nov. 10, 2021) McKinsey & Co.

⁹²¹ It should be noted that while the median is a useful measure for calculating typical differences in wealth between blacks and whites it leaves out significant outlier values, which would represent Black Americans impacted by significant economic disparities, and whites who benefit from economic advantage. Therefore, the mean, or average is the most appropriate measure for calculating the sum required to eliminate the racial wealth gap.

harms and serves as the most direct means of accounting for the value owed as African American reparations.

What is taken into consideration when determining the racial wealth gap are the products of discrimination in lending, employment, property, and commercial practices and policies against African American individuals, communities, and enterprises and critically of how those practices and policies in those same areas privileged White Americans individuals, communities, and enterprises. Several key metrics of the racial wealth gap are racial differences in home equity, financial assets, and income, all of which are necessary for economic security and because they facilitate the accumulation of wealth over time. In addition to differences in asset values and composition, differences in the amount and type of debt households hold to contribute to racial disparities in economic security. But again, the racial wealth gap, as argued by economists advocating for reparations, represents the best indicator of the cumulative impact of white racism over time.

On this basis, the use of the racial wealth gap as a distinct harm for the Task Force's purposes of recommendation is not required because rather than using a single category to capture the total sum of harms against the community of eligibility in California, the Task Force's recommendations are organized around nearly a dozen harms. This itemization is an appropriate approach as it enables a more detailed and comprehensive response to the particularities of the harms experience in California. The Task Force's approach at the scale of federal recommendations would likely be infeasible, so the racial wealth gap is an appropriate measurement there. However, the Task Force has identified several key areas most appropriately responded to through direct compensation and reliably captured through quantification and resulting financial calculation. Those areas are:

1. Unjust Property Takings
2. Devaluation of Black Businesses
3. Housing Discrimination and Houselessness
4. Mass Incarceration & Over policing
5. Health Harms

It should be noted that there currently is no definitive figure for the racial wealth gap in the state. And so, though it may not be used to provide reparations, the Task Force recommends that the State determine the racial wealth gap in California. The reason for this recommendation is that we know what the racial income gap in California is, which is itself concerning and is an

indicator that the wealth gap in California is likely very significant and would lead to further disparities across future generations of Californians.⁹²²

While pursuing the racial wealth gap in the Task Force's framework of African American reparations may not be necessary, the Task Force recommends that the State of California encourage the use of the national racial wealth gap in the determination of federally pursued reparations.

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⁹²² The racial income gap shows that Black families in the state earn \$.60 for every dollar that white families earn, as determined by Public Policy of California statewide survey. Moreover, the geographic disparities of wealth in the state show that 20% of all net worth is concentrated in the 30 wealthiest zip codes, home to just 2% of Californians. However, these disparities are effectively addressed by the recommendations for commercial and housing discrimination.