

PART V: Chapter 17: Economic Expert Analysis and Final Recommendations of Task Force Regarding Calculations of Reparations and Forms of Compensation and Restitution

“There are those who still feel that if the Negro is to rise out of poverty, if the Negro is to rise out of slum conditions, if he is to rise out of discrimination and segregation, he must do it all by himself.... [b]ut ... they never stop to realize the debt that they owe a people who were kept in slavery 244 years.

In 1863 the Negro was told that he was free as a result of the Emancipation Proclamation being signed by Abraham Lincoln. But he was not given any land to make that freedom meaningful. It was something like keeping a person in prison for a number of years and suddenly, suddenly discovering that that person is not guilty of the crime for which he was convicted. And ... you don't give him any money to get some clothes to put on his back or to get on his feet again in life.”

– Dr. Martin Luther King, Jr.¹

I. Introduction

AB 3121 charges the Reparations Task Force with calculating “any form of compensation to African Americans, with a special consideration for African Americans who are descendants of persons enslaved in the United States.”² As demonstrated in Part Two of this report, the breadth and depth of the historical *and ongoing* harm done to this group of people makes clear that the relevant question is not whether compensation should be given, but rather, how much is necessary and how the Legislature should go about enacting a general reparations scheme, specific reparations measures, and individualized restitution for the extensive harm done. To this end, the Task Force consulted with a team of economic and policy experts—Dr. Kaycea Campbell, Dr. Thomas Craemer, Dr. William Darity, Kristen Mullen, and Dr. William Spriggs—to develop a methodology for analyzing and calculating reparations compensation and restitution for the harms heaped upon African Americans, especially descendants of enslaved African Americans in California. In rendering its recommendations to the Legislature in this chapter, the Task Force defines compensation to include two different forms, as directed by AB 3121:³ cumulative reparations compensation for the eligible class, and specific reparations compensation and restitution for individual, provable harms.

II. Specific Reparations Compensation and Restitution

This report details the litany of harms visited upon Black Americans and those in California throughout our history. While below, the Task Force delineates methods for awarding reparations compensation to the whole of the class of eligibility, many Black Californians have

¹ Mieder, “Making a Way Out of No Way”: Martin Luther King’s Sermonic Proverbial Rhetoric 92 (2010) (quoting Dr. King’s speech, *Remaining Awake Through a Great Revolution*).

² Gov’t Code section 8301.1, subd. (b)(3)(E).

³ Gov’t Code section 8301.1, subd. (b)(3)(E), (F) & (G) (directing the Task Force to identify the “form” of compensation, how compensation should be awarded, and the methodology for awarding restitution).

suffered specific, individual injuries that can and must be addressed through restitution or specific compensation.

As discussed in Chapter 14, under international law, restitution refers to a remedy given to a person to undo a specific loss or injury.⁴ One example of restitution is the State of California’s return of Bruce’s Beach to descendants of the Black family who originally owned the beach—and from whom the State had seized the beach, in 1924, due to the color of their skin.⁵ By returning the land to their family, California sought to provide restitution: to restore them to the position they would have had before the State unjustly harmed them. But not all specific harms enacted upon the State’s Black residents involve land—or other property that can be easily returned. In those cases, those individual harms must be remedied with specific monetary compensation.⁶

The Task Force therefore recommends that the Legislature create a method for individuals to submit claims and receive specific reparations compensation or restitution for the individual harms experienced by the claimant or their family. The Task Force recommends a specific entity (potentially the recommended Freedmen’s Affairs Agency) be charged with processing these claims and rendering payment in an efficient and timely manner. Once the Legislature defines the scope of eligibility for the payment of claims, the entity’s responsibilities should include: (1) supporting claimants in obtaining evidence to substantiate qualifying claims; (2) providing advocates to assist applicants with claims’ (3) reviewing and determining the sufficiency of the claims and amount of restitution required to make the individual whole; and (4) ensuring that direct payments are timely remitted to eligible applicants. Such a process could follow existing models, such as the California Victim Compensation Board, which provides monetary compensation to the victims of certain crimes.⁷

In the manner described above, the recommended reparations scheme would ensure that monetary compensation and restitution is made to individuals or survivors of individuals for the individual wrongs committed against them that the Legislature and the designated entity determines to be compensable. Compensation and restitution for individual injuries to render someone whole is a necessary step toward comporting with international standards for

⁴ See *Restitution*, Cornell Law School: Legal Information Institute (as of Mar. 22, 2023).

⁵ Chappell, *The Black Family who Won the Return of Bruce’s Beach Will Sell it Back to LA County*, NPR (Jan. 4, 2023) (as of Mar. 22, 2023).

⁶ International law appears to treat restitution as distinct from monetary payments, which it categorizes solely as compensation. See International Commission of Jurists, *The Right to a Remedy and Reparation for Gross Human Rights Violations: A Practitioners’ Guide* (Revised Edition, 2018), at pp. 55, 173 (noting that restitution, “in practice,” is “the least frequent, because it is mostly impossible to completely return” a victim to their situation before the harm—in those cases, the responsible state must “provide compensation covering the damage”); see also Gov’t Code section 8301.1, subd. (b)(3)(E), (F) & (G) (directing the Task Force to provide recommendations for both compensation and restitution). This meaning of restitution appears to differ slightly from American law—in both American criminal and civil law, restitution can at times include monetary payment. See *Restitution*, Cornell Law School: Legal Information Institute (as of Mar. 22, 2023). Regardless, under either framework, the Task Force recommends the Legislature create a claims-processing entity to provide both compensation and restitution, where appropriate, to remedy specific, individual harms.

⁷ See [Cal. Victims Compensation Board](#) (as of Mar. 22, 2023).

reparations, but it is not enough. Compensation or restitution for individual injuries, alone, would not provide monetary correction for the many other longstanding laws and policies, and the scope of harm caused by them, detailed in Part Two of this report against the whole class of people impacted by those atrocities. For these harms established by the detailed factual record recounted in Part Two of this report, monetary general reparations must be made.

III. Cumulative Reparations Compensation

The Task Force defines cumulative reparations compensation as the monetary payment owed to any member of the eligible class, as defined by the Task Force,⁸ to remedy the full history of harm documented in Part Two of this report. Unlike restitution or specific reparations compensation, cumulative reparations compensation would not require any member of the eligible class to prove that they were specifically harmed. Rather, as detailed in Part Two of this report, the historical record demonstrates that all members of the eligible class have been affected and must receive cumulative reparations compensation to undo the harm done. The rest of this chapter addresses potential methods for calculating cumulative reparations compensation.

A. Key Questions for the Calculation of Cumulative Reparations Compensation

To develop a model for calculating cumulative reparations compensation, the Task Force's economic experts posed four main questions before calculating the amount of compensation appropriate to make reparations for the harm done to members of the eligible class.⁹

First, over what period of time should the harm be measured? After consulting with the Task Force's economic experts, the Task Force recommends that the Legislature apply a different timeframe for calculating harm depending upon the category of harm, as different laws and policies inflicted measurable harm across different periods of time. For example, the State's participation in the discriminatory denial of equal healthcare, unjust property takings, and devaluation of Black businesses began with the founding of the State in 1850 and has continued to this day. After consultations with its economic experts, the Task Force recommends that the Legislature measure the period of harm for the specific harms considered in this Chapter as follows:

Health Harms: 1850 – present¹⁰

Housing Discrimination: 1933-1977 or 1850 – present

⁸ The eligible class includes 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>>.

⁹ The Task Force's economic experts originally posed five questions, which the Task Force consolidates into four in this report.

¹⁰ For the purposes of this component, the "present" is defined as September 30, 2020, due to data availability. When it ultimately calculates reparations amounts, the Legislature should extend the "present" to capture additional data available at that time.

Mass Incarceration & Over-policing: 1970 – present
 Unjust Property Takings: 1850 – present
 Devaluation of Black Businesses: 1850 – present

Second, will there be a California residency requirement? If yes, how will it be determined? The Task Force recommends that any reparations program be defined by a residency or domicile requirement, as AB 3121 focuses on the harm inflicted on individuals in California as a result of the actions by California (or at a local level in California) fomented by California laws and policies. [Placeholder: subject to change based on Task Force’s final vote/decision].

Third, will only direct victims or all members of the eligible class be compensated? The Task Force recommends that all members of the eligible class be compensated for all five calculable areas of harm discussed in this chapter. The State of California created laws and policies discriminating against and subjugating free and enslaved African Americans and their descendants; in doing so, these discriminatory policies made no distinctions between these individuals; the compensatory remedy must do the same.

Fourth, how will cumulative reparations compensation be paid and measured to ensure the form of payment aligns with the estimate of damages? The bulk of this chapter addresses this last question: how to quantify the wounds caused by the long and ongoing damage of slavery and discrimination. Ultimately, the Task Force recommends that any reparations program include the payment of cash or its equivalent to members of the eligible class. Given that the process of calculating the amount and determining the methods and structure for issuing payments could involve a lengthy process, the Task Force further recommends that the Legislature make a “down payment” on reparations with an immediate disbursement of a meaningful amount of funds to each member of the eligible class, as discussed below.

B. Model for Calculating the Costs of Harms and Atrocities

As documented throughout Part Two of this report, the state of California holds at least partial responsibility for a wide-ranging set of harms and atrocities inflicted upon African Americans, especially descendants of persons enslaved in the United States.

The task of transforming tears and blood and struggle into a dollar amount is a challenging one. While no number can encompass the full scope of damage done by the institution of slavery and the ongoing discrimination that followed, the Task Force has consulted with a group of experts who have identified five key categories of historical harm for which there may be sufficient data and methods to estimate monetary losses experienced by Black Californians:

1. Health Harms
2. Disproportionate Black Mass Incarceration and Over-Policing
3. Housing Discrimination
4. Unjust Property Takings by Eminent Domain
5. Devaluation of Black Businesses

Based on available data, the Task Force and its economic experts have calculated preliminary estimates of monetary losses to Black Californians across the first three categories: Health Disparities, Black Mass Incarceration and Over-Policing, and Housing Discrimination. Further, the Task Force and its experts have identified a method for calculating losses for Unjust Property Takings by Eminent Domain and Devaluation of Black Businesses, though the hard data necessary to allow the Task Force's experts to conduct that calculation in time for the publication of this report was not readily available. The Task Force recommends that when the Legislature engages in its eventual calculation of reparations, it releases to the public the data underpinning this calculation to allow for scholars and experts both to have access to this information and to better understand the process by which the reparations amount was calculated.

The list of harms and atrocities included in this chapter's calculations is not exhaustive. The Task Force and its economic experts focused on these five categories for two main reasons: they reflect areas where there is sufficient historical data to quantify the harm done, and they represent discriminatory policies directly attributable to the state of California, rather than to federal, local, or private actors. These five areas of harm may not reflect all important harms and atrocities inflicted upon Black Californians, or their full quantitative impact. In many instances, there may be important harms or atrocities that economic experts cannot quantify because California has not collected the required data to make that calculation (e.g., due to Proposition 209), or the data is not readily available (e.g., on occupational-, pay-, and employment discrimination). The Task Force anticipates that the Legislature will be able to add additional harms and atrocities to this list, using calculation methods similar to the ones outlined below, with access to more data than was available to the Task Force.

Since this list of harms and atrocities is not exhaustive, the total of the estimated losses to Black Californians is not a final estimate of losses. Rather, it is a very cautious initial assessment what losses, at a minimum, for which the State of California is responsible. Further data collection and research would be required to augment these initial estimates.

Additionally, since the Task Force and its economic experts' estimates for losses are cautious, the Legislature may need to provide compensation in a sum greater than the amount calculated by the Task Force's experts in order to provide full reparations for the historic and ongoing harms inflicted upon Black Californians. Further, since the estimates are *not exhaustive*, the Legislature may want to consider how to provide compensation for difficult-to-estimate losses. For example, pain and suffering from generations of discrimination represent real losses for

which the Expert Team cannot provide an estimate, as it depends on the subjective experience of those harmed and on their current needs. Finally, since the estimates are *preliminary*, and more research is required, the Legislature may want to consider enacting a substantial initial down-payment, to be augmented over-time with additional payments as new evidence becomes available. If the Legislature enacts such a payment process, the Task Force recommends that the Legislature communicate to the public that the initial down-payment is the beginning of a conversation about historical injustices, not the end of it. The Task Force recommends the down payment as an essential starting step to avoid paralysis by the need for further research and analysis. Delay of reparations is an injustice that causes more suffering and may ultimately deny justice, especially to the elderly among the harmed. The Task Force also recommends the Legislature consider *prioritizing elderly recipients* in the roll-out of a reparations program.

Informed by the economic experts' recommendation, the Task Force recommends that the Legislature task an agency (potentially the Freedmen's Affairs Agency discussed later in Chapter 18) to make direct payments to eligible recipients and aid recipients with establishing eligibility, rather than an indirect approach where the agency oversees the distribution of resources through non-profit community organizations. These recommendations are reflected in Part Six of this report, where this report offers policy recommendations for the Legislature to reverse the injuries caused to Black Americans in California.

Also based on the economic experts' recommendation, the Task Force recommends that reparations for community harms be provided as *standard payments* based on an eligible recipient's duration of residence in California during the defined period of harm (e.g., residence in an over-policed community during the War on Drugs from 1971 to 2020). In addition, as discussed above, the Task Force recommends that the Legislature enact an individual claims process to compensate individuals that can prove specific harm, for example, an individual who was arrested or incarcerated for a drug charge during the War on Drugs, especially if the drug is now considered legal, such as cannabis.

Finally, the Task Force recommends that there should be no time limit on when a harmed individual or their heirs can submit claims for compensation.

IV. Cumulative Reparations Compensation: Calculations for Specific Atrocities

Atrocity 1: Health Harms

As documented in Chapter 12, Mental and Physical Harm and Neglect, discriminatory policies have led to devastating health consequences for African Americans in California. One clear way to measure the impact of these discriminatory health harms is through the difference in life expectancy between Black non-Hispanics and white non-Hispanics in California. This reduction in life expectancy is the cumulative result of discrimination, including state-sanctioned medical experimentation and sterilization, segregation of healthcare facilities and the denial of funds to

facilities or doctors that treated Black Californians, unequal access to health insurance and health care based on occupational discrimination, discriminatory local zoning that exposes Black neighborhoods to greater environmental harm (e.g., placement of toxic industries in residential neighborhoods, creation of food deserts, etc.), and explicit and implicitly discriminatory behavior of medical personnel from which the state should shield its residents. These discriminatory practices were compounded by the state of California's willing complicity in federal redlining policies that created *de jure* racially segregated living arrangements in California, (Rothstein 2017) and its unwillingness to address occupational discrimination, as documented by its ban on affirmative action in public education and employment. The Task Force's experts estimated the cost of health differences between Black non-Hispanic and white non-Hispanic Californians as follows:

- (1) Take an individual's value of statistical life (VSL—roughly \$10,000,000) and divide it by the white non-Hispanic life expectancy in California (78.6 years in 2021) to obtain the value for each year of life absent anti-Black racial discrimination (\$127,226).
- (2) The experts then calculated the difference in average life expectancy in years between Black non-Hispanic and white non-Hispanic Californians (7.6 years in 2021).
- (3) The experts then multiplied the two to arrive at an average total loss in value of life due to racial discrimination experienced by a Black non-Hispanic Californian who spends their entire life in California and lives until the average life expectancy (71 years of age) of a Black non-Hispanic Californian (\$966,921).

Thus, the expert team calculated health harm by taking the average total loss in value in life due to racial discrimination and dividing it based upon the number of years they have spent in California: $\$966,921 / 71 = \$13,619$.¹¹

According to Rogers (2020), the value of a statistical life (VSL) in the United States is estimated to fall between \$9,000,000 and \$11,000,000 in 2020 dollars. Taking the midpoint between these amounts, this report applies \$10,000,000 to the difference in years of life expectancy between white non-Hispanic Californians (78.6 years) and Black non-Hispanic Californians (71 years) based on figures provided by Kuang (2022). Based on 2021 figures, white non-Hispanic Californians live on average 7.6 years longer than Black non-hispanic Californians. The VSL of \$10,000,000 divided by the life expectancy difference of 7.6 years yields \$127,226 per year of

¹¹ In making these calculations, the Task Force's expert team relied upon the following sources:

- Rothstein, R. (2017). *The Color of Law. A Forgotten History of How Our Government Segregated America*. W. W. Norton & Company.
- Kuang, Jeanne (2022, July 7). COVID Pulls Down Latino, Black, Asian Life Expectancy More than Whites, Study Says. Cal Matters. <https://calmatters.org/california-divide/2022/07/california-life-expectancy/>
- Rogers, Adam (2020, May 11). How Much Is a Human Life Actually Worth? Wired Backchannel. <https://www.wired.com/story/how-much-is-human-life-worth-in-dollars/>

white non-Hispanic life (it is higher for Black non-Hispanic lives because the life expectancy is shorter; using the white non-Hispanic life expectancy renders this report's calculation cautious).

The total value of 7.6 years difference in life expectancy would be $(7.6 \text{ years}) \times (\$127,226) = \$966,921$, providing the average total loss in value of life due to racial discrimination. Thus, for eligible Descendants, this report calculates their health harm by taking the average total loss in value in life due to racial discrimination and dividing it based upon the number of years they have spent in California: $\$966,921 / 71 = \$13,619$. This would be the value of each year spent in California, to which an eligible, Black non-Hispanic Californian Descendant would be entitled.

Atrocity 2: Black Mass Incarceration and Over-Policing

Though federal and state governments have long targeted Black Americans for discriminatory arrest and incarceration, the scope of such unjust policing leapt exponentially when the “War on Drugs” began in 1971. According to Alexander (2010, p. 99), survey research reveals that “People of all races use and sell illegal drugs at remarkably similar rates.” To measure racial mass incarceration disparities in the 50 years of the War on Drugs from 1970 to 2020, this report estimates the disproportionate number of years spent behind bars for Black non-Hispanic drug offenders, compared to white non-Hispanic drug offenders, and multiplies those years with what a California State employee would have earned in an average year. This report uses the average salary for a California State employee because, as described in Chapter 11, Stolen Labor, incarcerated individuals were also forced to provide unpaid labor for the state. This report also adds compensation for loss of freedom, comparable to the reparation payments provided to Japanese Americans incarcerated in World War II, and arrive at **\$170,657 per year of disproportionate incarceration in 2021 dollars.**

To estimate the number of disproportionately incarcerated Black non-Hispanic individuals,

- (1) The Task Force's expert team used total California arrest figures for felony drug offenses and Black non-Hispanic drug felony arrests from 1970 to 2020, to compute the percentage of overall felony drug arrests involving Black non-Hispanic Californians.
- (2) The experts then computed the difference between the percentage of Black non-Hispanic Californians arrested for drug felonies and the estimated percentage of Black non-Hispanic Californians in the population for each year. The difference between the two provides an estimate of the percentage of disproportionate Black non-Hispanic drug felony arrests.
- (3) The experts obtained the number of Black-non-Hispanic Californians disproportionately arrested for drug felonies by multiplying the percentage of excess Black non-Hispanic

drug felony arrests times the total number of drug felony arrests.

- (4) The experts then multiplied the number of Black-non-Hispanic Californians disproportionately arrested for drug felonies by the average drug-possession related prison term of 1.48 years (Ehlers & Ziedenberg, 2006, p. 24) and the annual reparations amount (see above) and add the annual amounts up over the entire time period from 1970 to 2020 to arrive at a total sum of \$246,476,420,795 in 2021 dollars.¹²

¹² In making these calculations, the Task Force's expert team relied upon the following sources:

- Alexander, M. (2010). *The New Jim Crow. Mass Incarceration in the Age of Colorblindness*. The New Press.
- California Department of Justice (2000). Crime and Delinquency in California 2000. <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd00-full-report.pdf>
- California Department of Justice (2022). Data Portal [Criminal Justice Data: Arrests] <https://data-openjustice.doj.ca.gov/sites/default/files/dataset/2021-06/OnlineArrestData1980-2020.csv>
- Craemer, T., Smith, T., Harrison, B., Logan, T., Bellamy, W., & Darity, W. (2020). Wealth Implications of Slavery and Racial Discrimination for African American Descendants of the Enslaved. *Review of Black Political Economy*, 47(3), 218-254.
- Ehlers, S. & Ziedenberg, J. (2006, April 1). Proposition 36: Five Years Later. Justice Policy Institute. <https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/prop36.pdf>
- Fishback, P. V., Rose, J., Snowden, K. A., & Storrs, T. (2021). New Evidence on Redlining by Federal Housing Programs in the 1930s. National Bureau of Economic Research (NBER) Working Paper Series, Working Paper 29244. https://www.nber.org/system/files/working_papers/w29244/w29244.pdf
- Friedman, M. (n.d.). The inflation calculator. <https://westegg.com/inflation/>
- Johnson, H., McGhee, E., and Cuellar Mejia, M. (2022). California's Population. Public Policy Institute of California. https://www.ppic.org/wp-content/uploads/JTF_PopulationJTF.pdf
- Kaplan, J., & Valls, A. (2007). Housing Discrimination as a Basis for Black Reparations. *Public Affairs Quarterly*, 21(3), 255-273.
- Ring, E. (2020, November 5). How much do California's State Workers Make? California Policy Center. <https://californiapolicycenter.org/how-much-do-californias-state-workers-make/>
- Rothstein, R. (2017). *The Color of Law. A Forgotten History of How Our Government Segregated America*. W. W. Norton & Company.
- U.S. Census Bureau (2021, April 26). Historical Population Change Data (1910-2020). <https://www.census.gov/data/tables/time-series/dec/popchange-data-text.html>
- U.S. Department of Health and Human Services (2001). *Summary of Findings from the 2000 National Household Survey on Drug Abuse*. U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration NHSDA series H-13, DHHS pub. No. SMA 01-3549.
- U.S. Department of Health and Human Services (2001). *Results from the 2002 National Survey on Drug Use and Health: National Findings*. Department of Health and Human

Disproportionate law enforcement reduced the quality of life for *all* Black Californian descendants of the enslaved in the United States who lived in the state during the “War on Drugs.” In rendering their calculations, the experts therefore divided the total sum of harm among the estimated 1,976,911 Black non-Hispanic California residents who lived in the state in 2020, for an amount per person of \$124,678 in 2021 dollars, or \$2,494 for each year of residency in California. Black California residents who were incarcerated for the possession or distribution of substances now legal, such as Cannabis should additionally be able to seek specific compensation for period of incarceration, as discussed above.

While discriminatory arrest and sentencing may go back to the beginning of the State of California, the phenomenon of mass incarceration in the United States has its starting point with the beginning of the so-called “War on Drugs.” The term was popularized in 1971 after Nixon

Services, Substance Abuse and Mental Health Services Administration NSDUH series H-22, DHHS pub. No. SMA 03-3836.

- U.S. Department of Health and Human Services (2007). *Results from the 2007 National Survey on Drug Use and Health: National Findings*. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration NSDUH series H-34, DHHS pub. No. SMA 08-4343.
- Wikipedia (2011, June 8). Graph demonstrating increases in United States incarceration rate.
https://en.wikipedia.org/wiki/War_on_drugs#/media/File:US_incarceration_rate_timeline.gif
- Wikipedia (2017, 15 August). U.S. incarceration rate peaked in 2008. Prisoners per 100,000 population.
https://en.wikipedia.org/wiki/Comparison_of_United_States_incarceration_rate_with_other_countries#/media/File:World_prison_population_2008.svg
- Wikipedia (2022a, March 8). War on Drugs. https://en.wikipedia.org/wiki/War_on_drugs
- Wikipedia (2022b, March 25). Incarceration in the United States.
https://en.wikipedia.org/wiki/Incarceration_in_the_United_States
- Western, B. (2002). The Impact of Incarceration on Wage Mobility and Inequality. *American Sociological Review*, 67(4), 477-498.
- Western, B. (2006). *Punishment and Inequality in America*. Russell Sage Foundation.
- Western, B., & Pettit, B. (2005). Black-White Wage Inequality, Employment Rates, and Incarceration. *American Journal of Sociology*, 111(2): 553-578.
<https://www.jstor.org/stable/10.1086/432780>.
- Western, B., & Pettit, B. (2010). Incarceration and Social Inequality. *Daedalus: Journal of the American Academy of Arts and Sciences*, Summer: 8-19.
http://www.amacad.org/publications/daedalus/10_summer_western.pdf.
- Western, B., & Sirois, C. (2019). Racialized Re-Entry: Labor Market Inequality after Incarceration, *Social Forces* 97(4): 1517–1542. <https://doi.org/10.1093/sf/soy096>
- Western, B., Kling, J. R., & Weiman, D. F. (2001). The Labor Market Consequences of Incarceration. *Crime & Delinquency*, 47(3): 410-427.
<https://doi.org/10.1177/0011128701047003007>

declared drug abuse “public enemy number one” in a press conference on June 18th that year (Wikipedia, 2022a). Figure 1 suggests that the incarceration rate from 1920 to 1970 hovered around 0.1%-0.2% of the population. Thereafter it rose to 0.8% of the population in 2008 (Wikipedia, 2011), when it peaked.

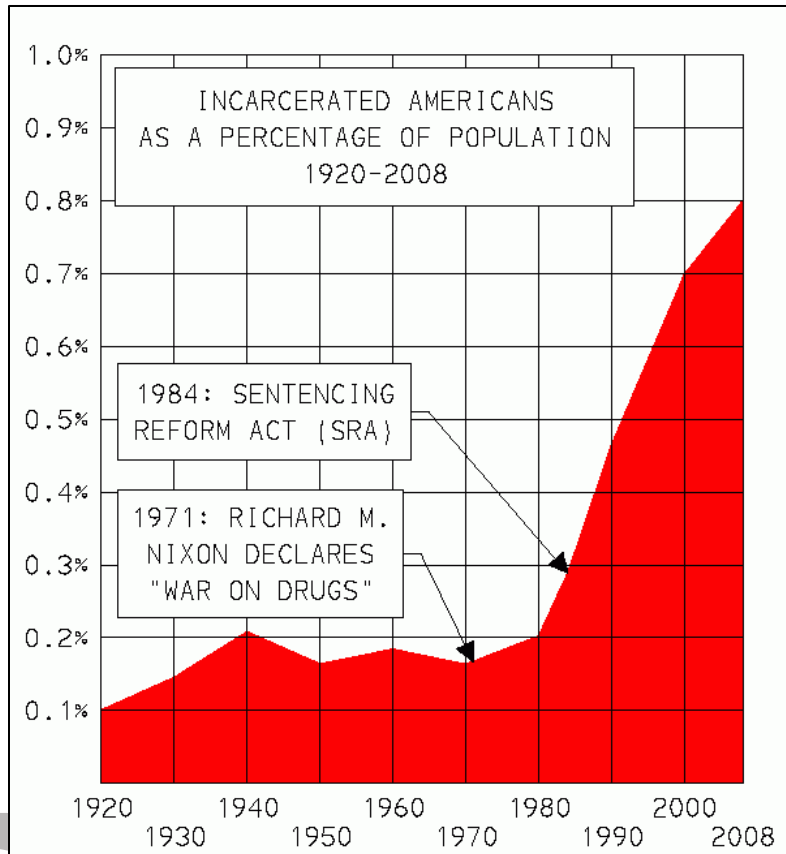


Figure 1: US Incarceration Rate 1920-2008 (Wikipedia, 2011)

In that year, the United States led the world with the number and percentage of people in prison, followed by countries like Russia and South Africa, which had much smaller per capita rates of incarcerated persons. The average rate of imprisonment in Europe was far below the United States’s pre-mass incarceration percentage of 0.2% (see Figure 2; Wikipedia, 2017).

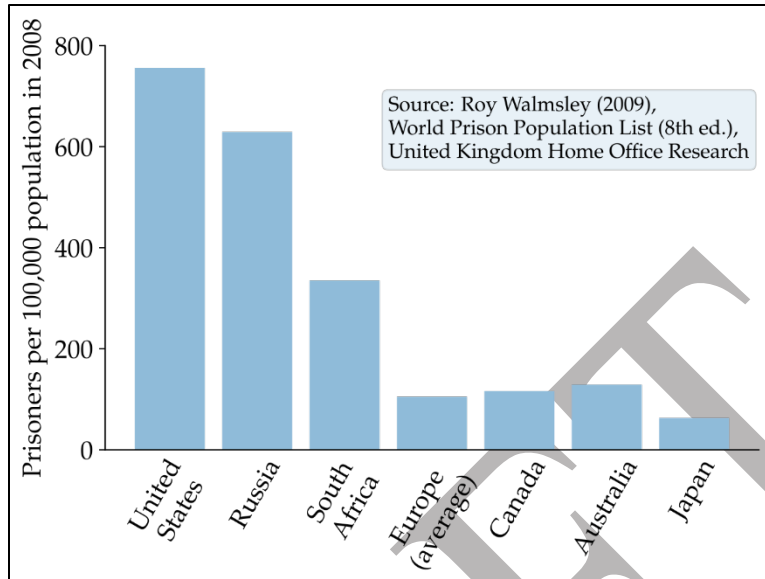


Figure 2: Incarceration Rates in 2008 (Wikipedia, 2017)

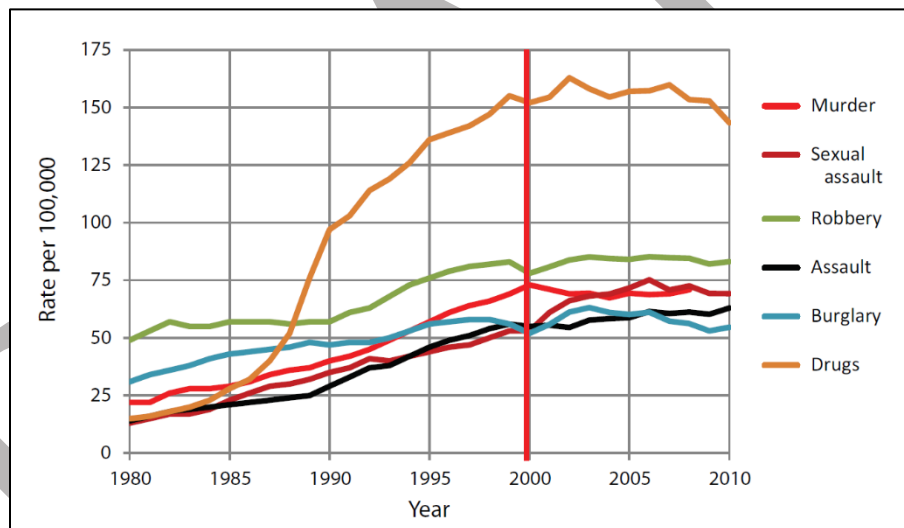


Figure 3: Combined state incarceration rate by crime type, 1980 to 2010. SOURCE: Beck and Blumstein (2012). (Travis, Western, & Redburn, 2014, p. 48)

The explosion of the prison population in the United States was driven by convictions for drug offenses in the so-called “War on Drugs.” While the incarceration rates for all crimes, murder, sexual assault, robbery, assault, and burglary increased slightly between 1980 and 2010, the incarceration rate for drugs exploded disproportionately as Figure 3 illustrates. Yet scholars have observed that (2010, p. 99), “patterns of drug crime do not explain the glaring racial disparities in our criminal justice system. People of all races use and sell illegal drugs at remarkably similar

rates.” For example, the 2000 National Household Survey on Drug Abuse (U.S. Department of Health and Human Services, 2001), revealed that 6.4 percent of whites, 6.4 percent of Blacks, and 5.3 percent of Hispanics were current illegal drug users in 2000. (Alexander, 2010, pp. 275-276). Results from the 2002 National Survey on Drug Use and Health by the U.S. Department of Health and Human Services (2003), revealed nearly identical rates of illegal drug use among whites and Blacks, with only a single percentage point between them (Alexander 2010, p. pp. 275-276). And the 2007 version of the survey (U.S. Department of Health and Human Services, 2007) showed essentially the same results. Alexander (2010, p. 98) continues,

If there are significant differences in the surveys to be found, they frequently suggest that whites, particularly white youth, are more likely to engage in illegal drug dealing than people of color. One study, for example, published in 2000 by the National Institute on Drug Abuse reported that white students use cocaine at seven times the rate of black students, use crack cocaine at eight times the rate of black students, and use heroin at seven times the rate of black students. That same survey revealed that nearly identical percentages of white and black high school seniors use marijuana. The National Household Survey on Drug Abuse reported in 2000 that white youth aged 12-17 are more than a third more likely to have sold illegal drugs than African American youth. ... white youth have about three times the number of drug-related emergency room visits as their African American counterparts.

This evidence is important, as it speaks directly to the fairness or lack thereof of racial arrest and imprisonment disparities. According to Travis, Western, and Redburn (2014, p. 94), “If racial disparities in imprisonment perfectly mirrored racial patterns of criminality, then an argument could be made that the disparities in imprisonment were appropriate.” They continue that, “Black people are, however, arrested for drug offenses at much higher rates than whites because of police decisions to emphasize arrests of street-level dealers” in disproportionately Black neighborhoods (Travis, Western, & Redburn, 2014, p. 97), despite abundant data that white individuals use or sell equivalent or even higher amounts of illicit substances. As discussed in Chapter 11, Unjust Legal System, Legislative decisions have also specified the longest sentences for crack cocaine offenses, for which Black Americans are arrested much more often than whites (Travis, Western, and Redburn, 2014, p. 97). This is based on the legal double standard that powdered cocaine, disproportionately consumed by white illegal drug users, is treated with substantially more leniency than cocaine in crack form, disproportionately consumed by Black illegal drug users, in part, because it requires less raw cocaine and is, therefore, less expensive.

Given the similarity between Black and white Americans in the number of drug offenses they actually participate in (drug possession and drug selling), racial disparities in drug enforcement should be non-existent. However, Figure 4 paints a shockingly different picture. It suggests that the massive increase in incarceration for drug offenses observed in Figure 3 may be due to disproportionate arrests of Black suspects.

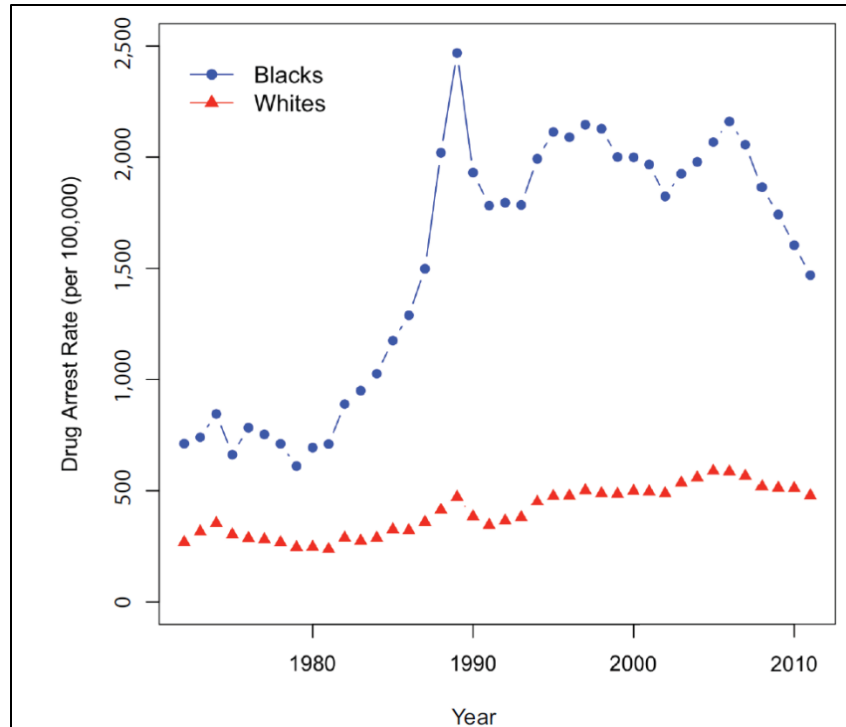


Figure 4: Drug arrest rates for Black and white Americans per 100,000 population, 1972 to 2011. SOURCES: Uniform Crime Reports race-specific arrest rates, 1980 to 2011 (accessed from BJS); Data from 1972 to 1979 is taken from the Federal Bureau of Investigation (1990). (Travis, Western, & Redburn, 2014, p. 61)

As a result of these discriminatory practices, it is not surprising that non-Hispanic Black Americans were by far the most over-represented group in the US prison population. While they represented 13% of the US population in 2010, they represented 40% of the prison population, an over-representation of 27 percentage points. In contrast, Hispanics (of any race) were overrepresented by only 3 percentage points (16% of the US population and 19% of the prison population). Asian Americans were *under*represented by 4.1 percentage points (5.6% of the US population and 1.5% of the prison population), and white non-Hispanics underrepresented by 25 percentage points (64% of the US population and 39% of the prison population; Wikipedia, 2022b).

To measure racial mass incarceration disparities in the fifty years of the War on Drugs from 1971 to 2021, this report estimates the disproportionate years spent behind bars for Black non-Hispanic Californian drug offenders compared to white non-Hispanic drug offenders. Since these disparities are measurable in years, this report can attach a monetary value to these disproportionate years spent in prison by calculating what an average California State employee would have earned in a year. This report uses California state employees as a baseline of

comparison since, as described in Chapter 11, Unjust Legal System, imprisoned individuals are frequently forced to provide, unpaid labor for the State. Of course, whether in the public or private sectors, many incarcerated people would have likely worked in lower-paid positions with fewer benefits, but this would be due to past occupational, pay-, and employment discrimination and would therefore taint this report's calculations.

In 2019, full time state workers earned on average \$143,000 annually, with benefits (Ring, 2020). According to Friedman's (n.d.) Inflation Calculator, this would be \$154,862 in 2021. In addition to lost wages, the experts include compensation for loss of freedom, comparable to the amount paid to Japanese American incarcerated in World War II, who received \$20,000 in 1988 dollars for three years of incarceration from 1942 to 1945 (Craemer et al. 2020, p. 236). This would amount to \$6,667 per year in 1988 dollars, or \$15,795 in 2021 dollars (Friedman, n.d.). The total average compensation would therefore be $\$154,862 + \$15,795 = \$170,657$ per year of disproportionate incarceration in 2021 dollars.

To estimate the number of disproportionately incarcerated Black non-Hispanic Californians, Table 1 provides observed incarcerations, estimated incarcerations, and derived incarcerations. The first column gives the year (1970-2020), and the second column provides the California population total for each decennial U.S. Census (bold: U.S. Census Bureau, 2021) with the population in each year in between decennial censuses estimated by linear interpolation (italics). The third column gives the number of Black non-Hispanic Americans based on the population figures from the U.S. Census Bureau (2021) and the percentages of the Black non-Hispanic population from Johnson, McGhee, & Cuellar Mejia (2022) for each decennial census (bold print). Again, the figures between decennial censuses are estimated using linear interpolation (italics).

The next columns estimate the number of Black non-Hispanic Californians arrested for drug offenses. The fourth column in Table 1 provides the total number of arrests in California as recorded by the California Department of Justice (2000, p. 112, for the years 1970-1979; and 2022 for the years 1980-2020). The fifth column provides the total number of felony drug arrests—because the California Department of Justice recorded drug felony arrests in California only for the years 1980-2020 (2022), the numbers for 1970-1979 were estimated using the 1980 drug felony arrests to calculate what percentage of all arrests in that year were drug felony arrests (4.2195%), and applying that same ratio of drug arrests to total arrests between 1970-1979. Drug felony arrests of Black non-Hispanic Californians are listed in the sixth column, again estimated figures for 1970-1979 based upon the percentage of Black non-Hispanic drug felony arrests out of all drug felony arrests conducted in 1980 (28.8767%).

Columns 7 through 10 then compare the percentage of felony drug arrests of Black non-Hispanic Californians with the percentage of Black non-Hispanic Californians in the overall population to reflect the disproportionate rates of arrest. Column 7 presents the Black non-Hispanic population percentage (bold print observed by Johnson, McGhee, & Cuellar Mejia, 2022, italics estimated by linear interpolation). Column 8 provides the Black non-Hispanic percentage of all drug felony

arrests (regular print) and is estimated for the years 1970-1979 based on the 1980 percentage (italics). Column 9 provides the percentage of excess Black non-Hispanic drug felony arrests and represents the difference between column 8 (Black non-Hispanic drug felony arrests as a percentage of all drug felony arrests) and column 7 (Black non-Hispanic percentage of the overall California population). The calculations reflect a significant disproportionate arrest rate for Black non-Hispanic Californians for the entire observed time period, and ranges from a minimum of 8.25 percentage points in 2013 to a maximum of 29.58 percentage points in 1988. Column 10 translates this percentage into the total number of Black non-Hispanic Californians disproportionately arrested for drug felonies by multiplying the excess percentage in column 9 with the number of all drug felony arrests in column 5.

Finally, the last column (11) multiplies Black non-Hispanic excess drug felony arrests by the average drug-related prison term of 1.48 years (Ehlers & Ziedenberg, 2006, p. 24)¹³ and the annual reparations amount of \$170,657 calculated above. The annual amounts are added up and yield the sum of \$246,476,420,795 or \$246.5 billion in 2021 dollars.

¹³ Ehlers and Ziedenberg (2006, p. 24) write, “the average prison sentence for drug possession ... was 1.48 years in 2004”

Table 1: Reparations for Disproportionate Black non-Hispanic Drug Felony Arrests (DFA) During the ‘War on Drugs’ in California (1970-2020)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Year	CA Population ¹	Black non-Hispanics ²	Total Arrests ³	Drug Felony Arrests ⁴	Black DFA ⁵	Black Pop % ⁶	Black DFA %	Excess Black DFA%	Excess Black DFA Arrests	Reparations Amount ⁷
1970	19,953,134	1,396,719	1,340,072	56,545	16,328	7.00	28.88	21.88	12,370	3,124,345,814
1971	20,324,611	1,446,391	1,347,479	56,857	16,418	7.12	28.88	21.76	12,372	3,124,892,246
1972	20,696,088	1,496,062	1,340,438	56,560	16,333	7.23	28.88	21.65	12,244	3,092,525,458
1973	21,067,564	1,545,733	1,383,234	58,366	16,854	7.34	28.88	21.54	12,572	3,175,293,492
1974	21,439,041	1,595,404	1,488,102	62,791	18,132	7.44	28.88	21.44	13,459	3,399,442,163
1975	21,810,518	1,645,076	1,439,857	60,755	17,544	7.54	28.88	21.33	12,962	3,273,732,822
1976	22,181,995	1,694,747	1,395,447	58,881	17,003	7.64	28.88	21.24	12,504	3,158,243,282
1977	22,553,472	1,744,418	1,402,930	59,197	17,094	7.73	28.88	21.14	12,515	3,161,065,412
1978	22,924,948	1,794,090	1,382,805	58,348	16,849	7.83	28.88	21.05	12,283	3,102,259,540
1979	23,296,425	1,843,761	1,442,037	60,847	17,571	7.91	28.88	20.96	12,755	3,221,554,441
1980	23,667,902	1,893,432	1,542,850	65,101	18,799	8.00	28.88	20.88	13,591	3,432,690,739
1981	24,277,114	1,912,409	1,632,351	67,384	18,591	7.88	27.59	19.71	13,283	3,354,888,970
1982	24,886,326	1,931,386	1,621,944	68,616	18,453	7.76	26.89	19.13	13,128	3,315,726,317
1983	25,495,538	1,950,363	1,653,914	79,422	22,477	7.65	28.30	20.65	16,401	4,142,530,026
1984	26,104,750	1,969,340	1,680,721	93,124	27,801	7.54	29.85	22.31	20,776	5,247,376,191
1985	26,713,962	1,988,317	1,716,040	108,729	34,147	7.44	31.41	23.96	26,054	6,580,599,606
1986	27,323,173	2,007,294	1,794,481	131,672	45,037	7.35	34.20	26.86	35,364	8,931,901,220
1987	27,932,385	2,026,271	1,859,342	146,588	50,558	7.25	34.49	27.24	39,924	10,083,753,329
1988	28,541,597	2,045,248	1,903,067	170,156	62,529	7.17	36.75	29.58	50,336	12,713,451,718
1989	29,150,809	2,064,225	1,969,168	174,779	61,933	7.08	35.44	28.35	49,557	12,516,618,518
1990	29,760,021	2,083,201	1,979,355	145,551	45,570	7.00	31.31	24.31	35,381	8,936,371,275
1991	30,171,184	2,078,111	1,791,312	125,241	38,095	6.89	30.42	23.53	29,469	7,442,987,106
1992	30,582,346	2,073,021	1,718,254	135,448	36,645	6.78	27.05	20.28	27,464	6,936,564,545
1993	30,993,509	2,067,931	1,667,522	136,943	32,024	6.67	23.38	16.71	22,887	5,780,615,941
1994	31,404,672	2,062,840	1,652,723	155,175	34,408	6.57	22.17	15.61	24,215	6,116,092,419
1995	31,815,835	2,057,750	1,608,147	141,394	26,986	6.47	19.09	12.62	17,841	4,506,161,561
1996	32,226,997	2,052,660	1,622,535	139,772	32,103	6.37	22.97	16.60	23,200	5,859,777,300
1997	32,638,160	2,047,570	1,620,381	153,099	33,299	6.27	21.75	15.48	23,694	5,984,516,505
1998	33,049,323	2,042,479	1,571,724	141,766	34,640	6.18	24.43	18.25	25,879	6,536,251,178
1999	33,460,485	2,037,389	1,496,459	133,437	32,983	6.09	24.72	18.63	24,858	6,278,469,001
2000	33,871,648	2,032,299	1,424,893	128,142	29,803	6.00	23.26	17.26	22,114	5,585,506,404
2001	34,209,879	2,052,593	1,420,680	124,726	27,895	6.00	22.37	16.37	20,411	5,155,365,572
2002	34,548,110	2,072,887	1,426,233	131,306	29,669	6.00	22.60	16.60	21,791	5,503,713,371
2003	34,886,340	2,093,180	1,471,083	140,744	31,321	6.00	22.25	16.25	22,876	5,777,936,233
2004	35,224,571	2,113,474	1,499,083	150,305	34,097	6.00	22.69	16.69	25,079	6,334,186,445
2005	35,562,802	2,133,768	1,508,210	159,944	35,389	6.00	22.13	16.13	25,792	6,514,437,235
2006	35,901,033	2,154,062	1,539,364	154,468	36,338	6.00	23.52	17.52	27,070	6,837,113,579
2007	36,239,264	2,174,356	1,551,900	143,692	34,987	6.00	24.35	18.35	26,365	6,659,191,506
2008	36,577,494	2,194,650	1,543,665	129,080	32,885	6.00	25.48	19.48	25,140	6,349,719,645
2009	36,915,725	2,214,944	1,466,852	118,684	26,156	6.00	22.04	16.04	19,035	4,807,704,770

2010	37,253,956	2,235,237	1,394,425	121,286	21,813	6.00	17.98	11.98	14,536	3,671,351,413
2011	<i>37,482,383</i>	<i>2,209,405</i>	<i>1,267,196</i>	<i>115,332</i>	<i>18,519</i>	<i>5.89</i>	16.06	10.16	11,721	2,960,334,394
2012	<i>37,710,809</i>	<i>2,183,572</i>	<i>1,238,496</i>	<i>120,995</i>	<i>18,083</i>	<i>5.79</i>	14.95	9.15	11,077	2,797,748,199
2013	<i>37,939,236</i>	<i>2,157,739</i>	<i>1,205,536</i>	<i>137,125</i>	<i>19,116</i>	<i>5.69</i>	13.94	8.25	11,317	2,858,415,148
2014	<i>38,167,663</i>	<i>2,131,907</i>	<i>1,212,845</i>	<i>137,054</i>	<i>19,708</i>	<i>5.59</i>	14.38	8.79	12,053	3,044,169,249
2015	<i>38,396,090</i>	<i>2,106,074</i>	<i>1,158,812</i>	<i>44,629</i>	<i>7,564</i>	<i>5.49</i>	16.95	11.46	5,116	1,292,170,976
2016	<i>38,624,516</i>	<i>2,080,242</i>	<i>1,120,759</i>	<i>38,988</i>	<i>6,442</i>	<i>5.39</i>	16.52	11.14	4,342	1,096,715,113
2017	<i>38,852,943</i>	<i>2,054,409</i>	<i>1,097,083</i>	<i>29,955</i>	<i>4,739</i>	<i>5.29</i>	15.82	10.53	3,155	796,886,855
2018	<i>39,081,370</i>	<i>2,028,576</i>	<i>1,091,694</i>	<i>28,376</i>	<i>4,355</i>	<i>5.19</i>	15.35	10.16	2,882	727,939,223
2019	<i>39,309,796</i>	<i>2,002,744</i>	<i>1,055,622</i>	<i>27,280</i>	<i>3,906</i>	<i>5.09</i>	14.32	9.22	2,516	635,509,110
2020	39,538,223	1,976,911	853,576	25,771	3,425	5.00	13.29	8.29	2,136	539,608,219
									Total:	\$246,476,420,79
										5

Numbers in bold print are observed, numbers in italics are estimated;

¹ Bold: U.S. Census Bureau (2021); Italics: Linear Interpolation.

² Bold: U.S. Census Bureau (2021) for population totals, and Johnson, McGhee, & Cuellar Mejia (2022) for Black population percentages; Italics: Linear Interpolation.

³ 1970-1979 California Department of Justice (2000, p. 112); 1980-2020: California Department of Justice (2022).

⁴ Bold: 1980-2020: State of California Department of Justice (2022), Italics: 1970-1979 Estimated based on 1980 percentage 4.2195% drug felony arrests.

⁵ Bold: 1980-2020: State of California Department of Justice (2022), Italics: 1970-1979 Estimated based on 1980 percentage of 28.8767%.

⁶ Bold: Johnson, McGhee, & Cuellar Mejia (2022); Italic: linear interpolation.

⁷ Black non-Hispanic excess drug felony arrests times 1.48 year average prison term for drug related offenses (Ehlers & Ziedenberg, 2006, p. 24), times \$170,657 average annual.

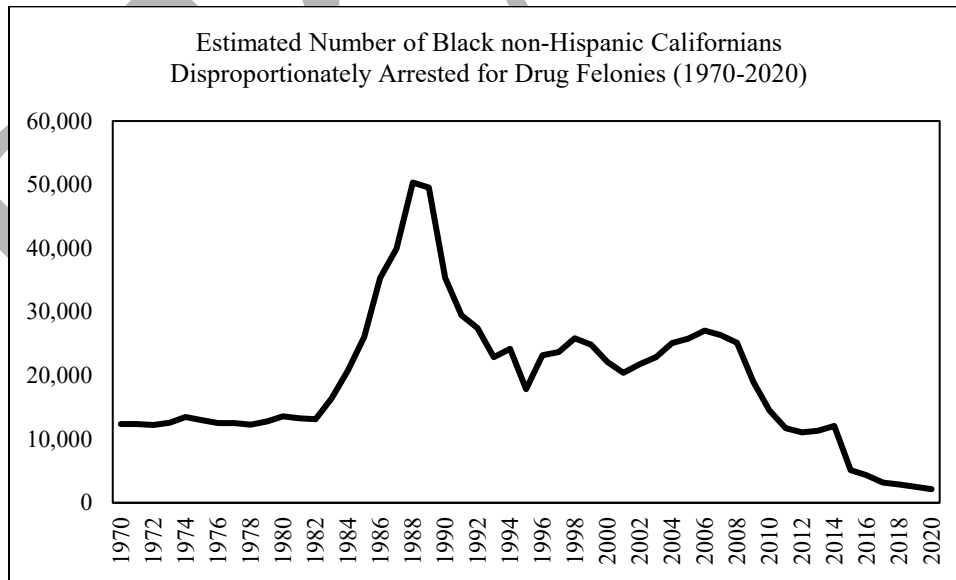


Figure 5: Estimated number of Black non-Hispanic Californians Disproportionately Arrested for Drug Felonies (1970-2020).

Though the figures above measure the harm perpetuated by over-incarceration through the number of Black Californians disproportionately arrested for drug felonies, this system of discriminatory arrests was ultimately directed at the entire Black community, and affects all Black Californian descendants of the enslaved in the United States who lived in the State during the “War on Drugs” from 1970 to 2020. For example, people in neighborhoods targeted for the “War on Drugs” may avoid encounters with the police lest they be treated as suspects and potentially be subject to police violence. This may interfere with legitimate law enforcement investigations and may lead to elevated levels of unresolved crime. This in turn would reduce the quality of life, depress property values, which in turn would lead to underfunded schools in the neighborhood, and so on. The whole neighborhood may suffer from disproportionate policing as a consequence of the “War on Drugs.” Thus, all eligible Black Californian descendants of the enslaved in the United States should be compensated for lost quality of life due to racial profiling and biased law enforcement. To apportion the overall monetary losses resulting from the “War on Drugs” in California, the Task Force’s experts recommend dividing the sum \$246,476,420,795 among the estimated 1,976,911 Black non-Hispanic California residents who lived in the state in 2020, for an amount per recipient totaling \$124,678 in 2021 dollars—or \$2,494 for each year of residency in California during the 50-year-period (1970-2020).

Atrocity 3: Housing Discrimination

As detailed in Chapter Five, Housing Segregation, federal, state, and local government officials discriminated against and segregated Black residents throughout California, from the beginnings of the State's founding. Individual participants in the housing market discriminated against Black buyers or renters, local zoning rules enforced segregation, and the state allowed this discrimination to occur even though the Supreme Court ruled it unconstitutional in its 1917 *Buchanan v. Warley* decision (Rothstein 2017, p. 45). As a result, in 2019, a year before the Reparations Task Force was established, Black Californians controlled far less of the state's average per-capita housing value than did white Californians.

Critics may object that most of this discrimination was perpetrated by non-state actors (individual home owners, real estate agents, corporate actors like banks or local zoning commissions), over which the state had no direct control.

The Task force and its experts therefore consider losses specifically due to *redlining* as a more cautious approach to estimating the monetary losses to Descendants from housing discrimination. Redlining is a clear case of *de jure* homeownership discrimination beginning with the New Deal in 1933 and lasting for 44 years until the Community Reinvestment Act of 1977 formally (although not effectively) banned redlining practices. Redlining was federal law, but, at the initiative of Southern Democrats, almost complete discretion was given to the states to guarantee application of Jim Crow Laws in the Southern states (Rothstein 2017). Thus, while California could have declined to apply redlining against Black Californians, the State instead embraced it.

In order to calculate losses due to housing discrimination:

(1) The Task Force's experts estimated the monetary loss due to racial housing discrimination by calculating the average per capita Black-white homeownership wealth gap. They performed that calculation by subtracting average per capita Black homeownership wealth from average per capita white homeownership wealth. They arrived at average per capita homeownership wealth for each group by multiplying the mean home value for the group with the number of homeowners in the group. Then, they divided the total homeownership wealth of the group by all group members in the California population.

(2a) One way to produce this estimate is to perform the calculation for the year 2019, one year before the Legislature enacted AB 3121, and one year before the Covid-19 crisis hit, to arrive at an average per-capita Black non-Hispanic / white non-Hispanic homeownership wealth gap of \$141,462 (in 2019 dollars). Taking that figure, compounded up to 2021 at the annual 30-year mortgage interest rates (Miller, 2022), would represent \$150,222 in 2021 dollars.

(2b) Another way to produce an estimate for this loss due to discrimination, to isolate the wealth effect of redlining, is to perform the same calculation using different years—for the year 1930, three years before the start of redlining (\$969), and for 1980, three years after the official ban of redlining practices (\$17,920). This report subtracts the 1930 average per capita Black-white homeownership wealth gap from the 1980 average per capita Black-white homeownership wealth gap. This produces the figure of \$16,951 (in 1980 dollars): the average per capita homeownership wealth that Black Californians lost due to California’s willing complicity in federal redlining discrimination.

(3b) To reflect the fact that reparations for redlining discrimination should have been paid after the injustice officially (although not effectively) ended, the experts compounded the resulting estimates up to 2021 using annual 30-year mortgage interest rates (Miller, 2022) and arrive at an average per-capita Black-white redlining gap of \$312,960 in 2021 dollars. The fact that the amount is larger than the first method of estimating this figure—using 2019 data—is due to the exponential effect of compound interest over long periods of time. Thus, although the assumptions here are more cautious (only representing the effects of redlining, ignoring local zoning discrimination prior to 1933, and ignoring gentrification and the mortgage interest crisis after 1977), the loss-estimate in 2021 dollars is more than double the 2019 estimate in 2021 dollars. It will be up to the Legislature to decide which estimation procedure (if any) to use as a baseline for proposing appropriate reparations for California’s complicity in housing discrimination.

(4b) To estimate the maximum liability for the State of California for reparations based on housing discrimination, the experts took the figure based on redlining between 1930 and 1980 (calculated in paragraph 3b) and multiplies the resulting gap-estimate with the total Black non-Hispanic California population in 1980 (after redlining had officially, albeit not effectively, ended) to obtain the outstanding total (\$569 billion in 2021 dollars). Then, the experts divided the total by the Black California population in 2021 (2,550,459) to estimate the per-capita amount owed to each Black Descendant who lived in California in 2021 (\$223,239) under the assumption that all Blacks in California are eligible and lived in the state from 1930 to 1980 or are the Descendant of someone who did. The experts arrived at an annual estimate by dividing that amount by the 44 years during which redlining was California’s official policy (\$5,074 for each year between 1933 and 1977 spent as a resident of the state).¹⁴

¹⁴ In making these calculations, the Task Force’s expert team relied upon the following sources:

- California Association of Realtors (2021, February 17). Housing Affordability for Black California Households is Half that of Whites, Illustrating Persistent Wide Homeownership Gap and Wealth Disparities, C.A.R. Reports. <https://www.prnewswire.com/news-releases/housing-affordability-for-black-california-households-is-half-that-of-whites-illustrating-persistent-wide-homeownership-gap-and-wealth-disparities-car-reports-301230161.html>
- Collins, W. J. & Margo, R. A. (2011). Race and Home Ownership from the End of the Civil War to the Present. *American Economic Review*, 101(3), 355-359, Web Appendix

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- Fishback, P. V., Rose, J., Snowden, K. A., & Storrs, T. (2021). New Evidence on Redlining by Federal Housing Programs in the 1930s. National Bureau of Economic Research (NBER) Working Paper Series, Working Paper 29244. https://www.nber.org/system/files/working_papers/w29244/w29244.pdf
- Friedman, M. (n.d.). The Inflation Calculator. <https://westegg.com/inflation/>
- Gibson, C., & Jung, K. (2002). *Historical Census Statistics on Population Totals by Race, 1790 to 1990, and by Hispanic Origin, 1970 to 1990, for the United States, Regions, Divisions, and States*. U.S. Census Bureau, Population Division, Working Paper No. 56, Table 19.
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- Miller, P. (2022, June 3). Mortgage Rates Chart: Historical and Current Rate Trends. *The Mortgage Reports*. <https://themortgagereports.com/61853/30-year-mortgage-rates-chart>
- Rothstein, R. (2017). *The Color of Law. A Forgotten History of How Our Government Segregated America*. W. W. Norton & Company.
- United States Bureau of the Census (1933). *Fifteenth Census of the United States: 1930: Population*. Vol VI. U.S. Government Printing Office, p. 38. [Table 45. Owned Non-Farm Homes by Value ...] <https://babel.hathitrust.org/cgi/pt?id=coo.31924052760075&view=1up&seq=50&skin=2021>
- USA Facts (2021). Our Changing Population: California. <https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/state/california?endDate=2021-01-01&startDate=2019-01-01>
- U.S. Census Bureau (2017, June 15). Median Home Values: Unadjusted. Median Home value (unadjusted) not by race; <https://www2.census.gov/programs-surveys/decennial/tables/time-series/coh-values/values-unadj.txt>
- U.S. Census Bureau (2019a). America's Families and Living Arrangements: 2019. (<https://www.census.gov/data/tables/2019/demo/families/cps-2019.html>). Table AVG1. Average Number of People per Household, by Race and Hispanic Origin, Marital Status, Age, and Education of Householder: 2019 [Excel file]. <https://www2.census.gov/programs-surveys/demo/tables/families/2019/cps-2019/tabavg1.xls>
- U.S. Census Bureau (2019b). American Housing Survey (AHS) Table Creator. Table 13: 2019 California - Value, Purchase Price, and Source of Down Payment - Owner-occupied Units. https://www.census.gov/programs-surveys/ahs/data/interactive/ahstablecreator.html?s_areas=00006&s_year=2019&s_table

Local zoning discrimination existed in every corner of the United States, including California, before 1933 with “zoning rules decreeing separate living areas for black and white families ... prohibiting African Americans from buying homes on blocks where whites were a majority and vice versa” (Rothstein 2017, p. 44). Discriminatory zoning laws were ruled unconstitutional in 1917 by the U.S. Supreme Court in *Buchanan v. Warley*, but this ruling was often ignored by government entities as well as individuals (Rothstein 2017, p. 45). Therefore, it is difficult to distinguish between *de jure* discrimination (by the government) and *de facto* discrimination (by racist individuals) in the pre-1933 period. To circumvent this problem, this report produces two estimates for loss of home ownership wealth, one based on the cumulative effect of all forms of housing discrimination (individual-level, local zoning rules, and state policies), and one for the effects only of *de jure* redlining discrimination beginning with the New Deal in 1933 and lasting for 44 years until the Community Reinvestment Act of 1977 banned redlining practices (albeit ineffectively).

Before the founding of the Home Owners’ Loan Corporation (HOLC) in 1933, mortgages were not federally subsidized. Homeownership discrimination through redlining began in earnest with the mission of HOLC to create redlining maps, in which neighborhoods deemed a high lending risk were colored red. Fishback et al. (2021, p. 2) write, “Almost all African Americans ... lived in areas shaded red, the lowest rating on the HOLC maps.” According to Rothstein (2017, p. 64), “A neighborhood earned a red color if African Americans lived in it, even if it was a solid middle-class neighborhood of single-family homes.” In 1934, the Federal Housing Administration (FHA) followed similar maps to issue fully amortized, government insured, mortgages to white homeowners in low risk (white-only) areas. Fischback et al. (2021) write, “the FHA largely excluded low income urban neighborhoods where the vast majority of Black mortgage borrowers lived.” The FHA’s Underwriting Manual stated in 1935,

If a neighborhood is to retain stability it is necessary that properties shall continue to be occupied by the same social and racial classes ... Natural or artificially established barriers will prove effective in protecting a neighborhood and the locations within it from adverse influences ... [like] the infiltration of ... lower class occupancy, and inharmonious racial groups. (FHA Underwriting Manual cited in Rothstein 2017, p. 65)

name=TABLE13&s_bygroup1=9&s_bygroup2=8&s_filtergroup1=1&s_filtergroup2=1&s_show=SO

- U.S. Census Bureau (2019c). 2019 California — Value, Purchase Price, and Source of Down Payment — Owner-occupied Units. American Housing Survey. [Variable 1: Race of Householder, Variable 2: Hispanic Origin of Householder]. https://www.census.gov/programs-surveys/ahs/data/interactive/ahstablecreator.html?s_areas=00006&s_year=2019&s_table name=TABLE13&s_bygroup1=9&s_bygroup2=8&s_filtergroup1=1&s_filtergroup2=1&s_show=SO
- U.S. Census Bureau (2021). Quick Facts California. <https://www.census.gov/quickfacts/fact/table/CA#>

Redlining was inscribed in federal law, but, at the initiative of Southern Democrats, great discretion was given to the states. The purpose of this discretion was to guarantee that the Southern States could apply their discriminatory Jim Crow laws. Logically, this gave states outside of the former Confederacy, at least in theory, discretion to treat African Americans equitably, encourage residential integration, and to provide state-level insurance for mortgages purchased by residents in areas ineligible for federally insured mortgages. Since California chose to use its discretion to discriminate against its Black residents it has a responsibility to address intergenerational wealth effects resulting from housing discrimination in California.

According to Rothstein (2017, p. 63), before the federal government began insuring mortgages in 1933, “Homeownership remained prohibitively expensive for working- and middle-class families: bank mortgages typically required 50 percent down, interest-only payments, and repayment in full after five to seven years, at which point the borrower would have to refinance or find another bank to issue a new mortgage with similar terms.” These remained the conditions for Black borrowers even after 1933, while for white borrowers after 1933, the Home Owners’ Loan Corporation (HOLC) refinanced white families’ existing mortgages that were subject to imminent foreclosure and issued them new mortgages with repayment schedules of up to fifteen years (later extended to twenty-five years). In addition, HOLC mortgages had much lower interest rates and were amortized, meaning that when the loan was paid off, the borrower would own the home (Rothstein 2017, pp. 63-64). Since Black home buyers were excluded from government insured mortgages, they depended on traditional financing models with much more expensive conditions, to the extent that they could even attempt to afford a home that would otherwise have been heavily subsidized for a white home buyer. The result was a growing racial homeownership gap and the acquisition of homes that were undervalued.

Given the financial consequences of redlining, Kaplan and Valls (2007, p. 268) propose the following loss-estimation procedure: “the differences in mean household wealth attributable to home ownership, multiplied by the number of African American ...” households in California. According to Kaplan and Valls (2007, p. 268), this formula “provides a reasonable estimate of the aggregate debt resulting from housing and lending discrimination.”¹⁵ This report offers two potential ways to perform that calculation: (1) using 2019 data, to estimate losses due to all housing discrimination until the present; or (2) using 1930 and 1980 data, to estimate losses primarily due to redlining.

Method 1: Estimating Financial Losses Due to All Housing Discrimination Until the Present

In 2019, one year before the Legislature enacted AB 3121, and one year before the Covid-19 crisis hit, the average Black non-Hispanic home in California had a value of \$435,300, and the average white non-Hispanic home had a value of \$773,400 (U.S. Census Bureau 2019c). At the time, about 36.8% of Black Californian households owned their own home, while 63.2% of

¹⁵ Ideally, this report would perform that calculation using each household’s estimated wealth due to homeownership—that is, the value of the house minus the outstanding mortgage. However, due to data limitations, the report instead uses the estimated value of a house that the homeowner’s household controls.

white Californian households did, reflecting a homeownership gap of 26.4 percentage points (California Association of Realtors, 2021). Using 2019 census figures for the average number of people living in Black and white California households, the experts estimated the total wealth in home values controlled collectively by Black and white Californians.

[Placeholder, format equation for Black households: $2,213,986/2.44=907,371$ Black households]

[Placeholder, format equation for white households: $14,364,928/2.36= 6,086,834$ white households]

(USA Facts, 2021; U.S. Census Bureau, 2019a, for estimated household size).

The experts then estimated the total wealth in homes controlled in 2019 collectively by all Black non-Hispanic Californian households, and the total wealth in homes controlled in 2019 collectively by all white Californian households.

[Placeholder, format equation for Black households: $\$435,300 (907,371) (0.368) = \$145,352,123,438$]

[Placeholder, format equation for white households: $\$773,400 (6,086,834) (0.632) = \$2,975,176,286,659$]

After calculating the total housing wealth controlled by each of the two racial groups, the experts computed the estimated per-capita amount in each group—including those who do not own houses, due to the discrimination and inequalities caused by the wealth inequalities being calculated.

[Placeholder, format equation for Black households: The estimated average per capita Black non-Hispanic wealth in California homeownership in 2019 amounted to $\$145,352,123,438 / 2,213,986 = \$65,652$]

[Placeholder, format equation for white households: And the estimated per capita white non-Hispanic wealth in California homeownership to $\$2,975,176,286,659 / 14,364,928 = \$207,114$]

Comparing the two shows an estimated per capita home ownership wealth gap of \$141,462 in 2019. Adding compounded, annual 30-year mortgage interest rates (Miller, 2022; see Table 1 below), the Black and white homeownership gap in 2021 is approximately \$152,222 in 2021 dollars.

[Placeholder, format equation for compounded interest calculation: $(\$141,462 + \$141,462 (0.031)) + (\$141,462 + \$141,462 (0.031)) (0.030) = \$150,222$ in 2021 dollars (rounded to the nearest dollar in each step)]

While this figure represents the cumulative effect of all sources of discrimination, individual level (home owners, real estate agents), corporate (banks and local zoning boards) as well as state and federal level (redlining), it represents a cautious estimate because it assumes that reparations for de jure discrimination (i.e., redlining) should not have been paid earlier (i.e., after 1977 when redlining was officially, albeit not effectively, ended).

Method 2: Estimating Financial Losses Due Primarily to Redlining

Alternatively, the Legislature could estimate the financial losses due to housing discrimination by calculating losses due primarily to redlining. This process follows a similar method to the one used above, but uses data instead from 1930 (three years before the start of federal redlining in 1933) and for 1980 (three years after the Community Reinvestment Act of 1977 formally sought to end private lending practices that reproduced redlining).

In 1930, Black homes in California had a median value of \$4,233, and white homes in California had a median value of \$5,797, reflecting a \$1,564 difference—or a median difference worth about 28.48 percent of the overall median value of a California home (\$5,491) (United States Bureau of the Census, 1933). At the time, nationwide, about 24.2% of Blacks owned their own home, versus 48.3% of whites, revealing a homeownership gap of 24.1 percentage points (Collins & Margo, 2011). Assuming that the national figures for estimated rates of owner-occupancy per 100 households (Collins & Margo, 2011) held for California, the Task Force’s experts estimated the total wealth held in home values collectively by Black and white Californians.

[Placeholder, format equation for Black Californians: $81,048 \text{ Black Californians} / 2.44 \text{ Black residents per household} = 33,216 \text{ Black households}$]

[Placeholder, format equation for white Californians: $5,408,260 \text{ white Californians} / 2.36 \text{ white residents per household} = 2,291,636 \text{ white households in 1930}$]

(Gibson & Jung, 2002; U.S. Census Bureau, 2019a, for estimated household size).

In addition, an adjustment is required so that the median home value reflects the mean home value, which is necessary to calculate the total wealth held by the population overall.¹⁶ Unfortunately, home values are usually reported in medians (as they reflect the ‘typical’ value),

¹⁶ Mathematically, the median represents the middle-most value of a data set arranged from least to greatest. The mean (or average), in contrast, is calculated by adding the sum total of all the value and dividing it by the number of values in the set.

and the mean home values in California are not publicly available from the 1930 or 1980 censuses. The experts therefore used U.S. Census information for 2019—which reported both the median and the mean home value in that year—to establish a general ratio between median and mean home value. They then estimated the mean home values in 1930 and 1980 by multiplying the median home values from those years using that same general ratio.

In 2019, the median value of a California home was \$550,000, while the mean value of a California home in 2019 was \$694,900, or 1.263 times greater than the median (U.S. Census Bureau, 2019b). Applying this as the general ratio between median and mean home value in 1930 yields an estimated Black mean home value in California of \$5,346 ($\$4,233 \times 1.263$, rounded to the nearest dollar) and an estimated white mean home value in California of \$7,322 ($\$5,797 \times 1.263$, rounded to the nearest dollar). Taking the difference between the two, in 1930, on average, a white home in California was worth \$1,976 more than a Black home in the State.

Using those estimates of the mean value of Black and white houses in California in 1930 and 1980, the Task Force’s expert team estimated the total wealth in homes held in each year. For 1930:

[Placeholder, format equation for Black Californian households: $\$5,346 (33,216) (0.242) = \$42,972,602$]

[Placeholder, format equation for white Californian households: as $\$7,322 (2,291,636) (0.483) = \$8,104,430,297$]

Calculating the total wealth held by each of the two racial groups, they then computed the estimated wealth per-capita (i.e. per person) in each group (whether homeowner or not).

[Placeholder, format equation Black per capita wealth in homeownership, 1930 formatted: $\$42,972,602/81,048 = \530]

[Placeholder, format equation for white per capita wealth in homeownership, 1930 formatted: $\$8,104,430,297 / 5,408,260 = \$1,499$]

Taking the difference between the two results in an estimated per capita Black-white home ownership wealth gap of \$969 (in 1930 dollars), favoring white Californians. This gap represents the unequal starting positions for Black and white Californians even before the federal government massively subsidized white homeownership (while excluding Black applicants) through the New Deal and GI Bill.

The experts then repeated the calculation with data from 1980, three years after the federal government attempted to end the effects of redlining through the Community Reinvestment Act (CRA) of 1977. For 1980:

[Placeholder, Format Black households equation: $1,819,281 \text{ Blacks in roughly } 1,819,281 / 2.44 = 745,607 \text{ California households}$]

[Placeholder, Format white households equation: $18,030,893 \text{ whites in } 18,030,893 / 2.36 = 7,640,209 \text{ California households}$]

(Gibson, & Jung, 2002; U.S. Census Bureau, 2019a, for estimated household size). The median home value in California was \$84,500 (U.S. Census Bureau, 2017), which would represent an estimated mean home value of \$106,724 ($\$84,500 \times 1.263$, rounding to the nearest dollar). Unfortunately, 1980 census data does not break down median or mean home value by race or ethnicity. Assuming the same 28.48% home value gap between Black and white Californians as existed in the 1930s, the average Black California home was worth an estimated \$91,527, and the average white California home an estimated \$121,921 in 1980 dollars.

The national homeownership gap in 1980 amounted to 18.8 percentage points, with 58.0% of Blacks homes being owner-occupied, and 76.8% of white homes being owner occupied. Assuming that these national figures hold for California in 1980:

[Placeholder, Format equation for Black Californians: the overall wealth held by Black California homeowners can be estimated to amount to $\$91,527 (745,607) (0.580) = \$39,581,039,696$]

[Placeholder, Format equation for white Californians: and the overall wealth held by white California homeowners to amount to $\$121,921 (7,640,209) (0.768) = \$715,393,475,704$]

Divided by the entire Black and the entire white population in California, each of these estimates yields the per-capita wealth in homes held by each group. The estimated average per capita Black wealth in California homeownership in 1980 amounted to \$21,756, and the estimated per capita white wealth in California homeownership to \$39,676. In short, white Californians' per capita home ownership wealth was \$17,920 (in 1980 dollars) greater than that of Black Californians.

To identify how much of this homeownership wealth gap was due to California's complicity in federal redlining discrimination, the 1930 average per-capita homeownership wealth gap can be subtracted from the 1980 value, resulting in a redlining per-capita wealth gap of \$16,951

(\$17,920 - \$969), quantifying how much Black Californians lost in homeownership wealth due to federal redlining discrimination and California's complicity in this policy. Compounding this amount up to 2021 using the annual 30-year mortgage interest rate (Miller, 2022; see Table 1) yields a per-capita value of \$312,960 in 2021 dollars. In other words, the Task Force's expert team were able to calculate that discriminatory redlining facilitated by the State of California caused the average Black Californian to lose \$312,960 in homeowner wealth.

To estimate an amount California might have to pay to enact reparations for housing discrimination, the expert team multiplied the average loss to Black Californians due to redlining with the number of Black Californians living in the State in 1980. While the Task Force recommends reparations payments to the eligible class of Descendants, specifically, because the U.S. Census does not currently identify the number of Descendants in the State, this report uses the number of census respondents who identified as Black or African American alone as a rough estimate. Multiplying the average-per capita housing wealth gap in 2021 dollars (\$312,960) with the number of Black California residents in 1980 (1,819,281) yields \$569,362,181,760—or \$569 billion (in 2021 dollars). If all 2,550,459 Black California residents¹⁷ who lived in the State in 2021 were eligible Descendants, each would receive housing reparations up to \$223,239—or \$5,074 for each year between 1933 and 1977 spent as a resident of the State.

A Note on Houselessness

Originally, the Task Force asked its economic experts to include in their housing discrimination estimate losses to Black Californians from houselessness. This, however, proved to be difficult for both conceptual reasons and the lack of data. While housing discrimination is one major factor causing disproportionate Black houselessness in California, there are other factors. For example, in the late 1970s and early 1980s, a socially liberal national movement for the deinstitutionalization and local care of the mentally ill coincided with the Reagan Administration's socially and fiscally conservative cut in social services. It was much easier to cut funding for decentralized local programs for the mentally ill than it would have been cutting funding for large, established institutions. As a result, de-institutionalized individuals suffering from mental illness and other conditions swelled the rank of the homeless population, not only in California but nationwide. Owning a larger share of the real estate, it was easier for white households to absorb the effects of de-institutionalization than it was for Black households. Another factor is the "War on Drugs" that caused not only a massively disproportionate incarceration of Black American, but also unemployment and houselessness in many economically depressed Black communities once incarcerated Black Americans were eventually released (see the discussion on Atrocity #2 above).

One approach to estimating reparations for Black houselessness caused by discrimination might be to establish the percentage of houseless Black people in California disproportionate to the percentage of Black people in the California population, and to multiply this number with the

¹⁷ According to the U.S. Census Bureau (2021), there were 39,237,836 California residents on July 1, 2021, 6.5% of whom chose the Black or African American category alone.

state average price of a one-bedroom apartment. This calculation would assume that the percent of Black people who are houseless would be equal to the percent of white people who are houseless if not for the various forms of discrimination documented in Part Two of this report.

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Table 1: Freddie Mac 30-Year Mortgage Rates for Compounding of Uncompensated per-Capita Wealth Gap due to Redlining

Year	Mortgage Interest Rate	Uncompensated Per-Capita Wealth Gap due to Redlining
1980	13.74%	\$16,951.00
1981	16.63%	\$19,769.95
1982	16.04%	\$22,941.05
1983	13.24%	\$25,978.45
1984	13.88%	\$29,584.26
1985	12.43%	\$33,261.58
1986	10.19%	\$36,650.93
1987	10.21%	\$40,392.99
1988	10.34%	\$44,569.63
1989	10.32%	\$49,169.21
1990	10.13%	\$54,150.06
1991	9.25%	\$59,158.94
1992	8.39%	\$64,122.37
1993	7.31%	\$68,809.72
1994	8.38%	\$74,575.97
1995	7.93%	\$80,489.84
1996	7.81%	\$86,776.10
1997	7.60%	\$93,371.08
1998	6.94%	\$99,851.04
1999	7.44%	\$107,279.96
2000	8.05%	\$115,915.99
2001	6.97%	\$123,995.34
2002	6.54%	\$132,104.63
2003	5.83%	\$139,806.33
2004	5.84%	\$147,971.02
2005	5.87%	\$156,656.92
2006	6.41%	\$166,698.63
2007	6.34%	\$177,267.32
2008	6.03%	\$187,956.54
2009	5.04%	\$197,429.55
2010	4.69%	\$206,689.00
2011	4.45%	\$215,886.66
2012	3.66%	\$223,788.11
2013	3.98%	\$232,694.88
2014	4.17%	\$242,398.25
2015	3.85%	\$251,730.58
2016	3.65%	\$260,918.75
2017	3.99%	\$271,329.41
2018	4.54%	\$283,647.76

2019	3.94%	\$294,823.49
2020	3.10%	\$303,963.01
2021	2.96%	\$312,960.32

Data Source: Miller (2022).

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Atrocity 4: Unjust Property Takings

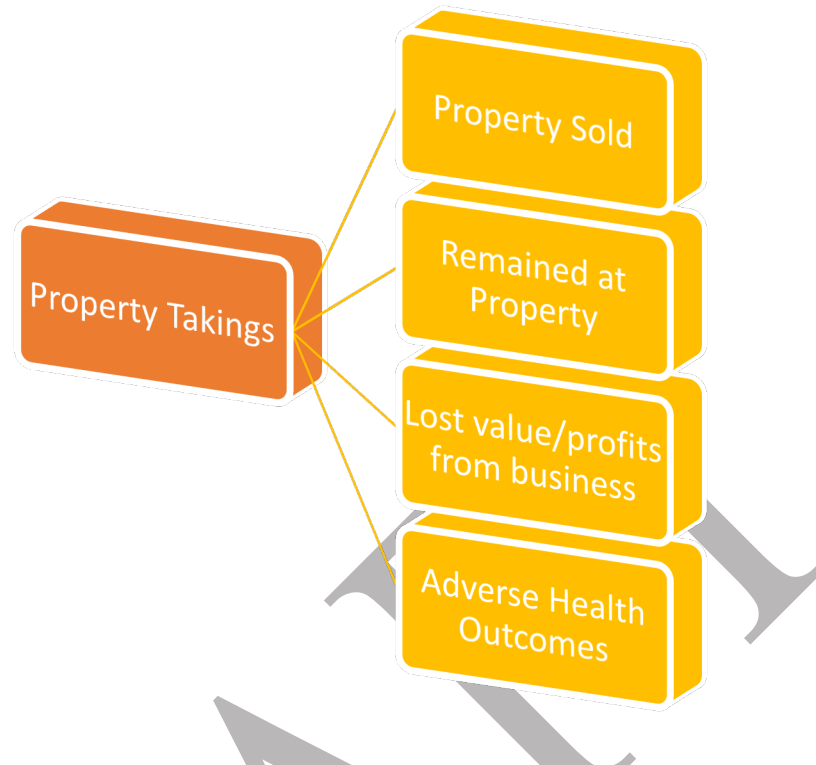
As documented in Part Two of this report, California built its cities over the bones of the Black neighborhoods that it tore apart through eminent domain. California seized and tore apart Black neighborhoods, through eminent domain, to build the highways, cities, and parks that have enabled the State of California to flourish into becoming the fourth or fifth largest economy in the world.¹⁸ The unjust taking of land did more than just seize property—it destroyed communities and forced Black Californians out of their historical neighborhoods and watering holes. At its peak in 1980, 7.7 percent of the population in California was Black. By 2018, that number dropped to 5.5%. In 2018 alone, 75,000 Black Americans left the State. The State’s more expensive coastal cities alone have shed 275,000 Black residents. The Task Force’s economic expert team explored two potential methods to quantify the damage caused by these actions, examining the displacement of Black Californians by the State and its local governments through eminent domain.

One method the Legislature could undertake would be to compare the loss in property value experienced by the displaced Black Californian. This could be done by examining the market value of the seized property at the time it was taken, subtracting the amount paid to the owner after eminent domain, and adding the increase in the property’s net value by adding in a fair measure of the estimated appreciation to the present day. A second method of estimating loss could look to the current value of the property seized from the Black resident as a measure of compensation due. These methods for calculating harm are complicated if the property value has declined in value since it was seized, or if the seized property is now being used for infrastructure whose value is difficult to quantify. But, based on its experts’ recommendations, the Task Force suggests some strategies to assist the Legislature in overcoming that hurdle.

As noted above, due to the voluminous records associated with the State’s many eminent domain actions throughout history, the Task Force and its experts did not have sufficient capacity, within the lifespan of the Task Force, to provide a calculation of the harm caused by unjust property takings throughout the State. Still, the Task Force and its experts provide several potential methods that the Legislature could use to quantify the harm done. One approach: start with the rolls of Black Californians displaced by eminent domain and examine the value of the property they lost compared to the value of the property where they landed.

The Task Force also recommends that the Legislature consider the factors below when calculating the harm caused by these unjust takings:

¹⁸ [ICYMI: California Poised to Become World’s 4th Biggest Economy](#), Office of Governor Newsom (Oct. 24, 2022) (as of Mar. 23, 2023) citing Winkler, [California Poised to Overtake Germany as World’s No. 4 Economy](#), Bloomberg News (Oct. 24, 2022) (as of Mar. 23, 2023).



Though the records of harm proved too voluminous to provide a calculation in this report, this report highlights several instances of eminent domain and unjust takings that the Legislature should factor in when calculating the harm caused. As discussed in Chapter Five of this report, in the 1940s and 1950s, Black Americans lived San Francisco’s Fillmore District, forming a vibrant community known as the Harlem of the West. But the Black community there was destroyed by unjust takings and urban renewal projects during the 1960s and 1970s. Between 1970 and 2010, San Francisco’s Black population declined about seven percent, or about 96,000 people, despite the overall population growth of the city. Similarly, in Palm Springs, the city’s “redevelopment plan” in the 1960s destroyed an integrated neighborhood on part of the Agua Caliente Band of Cahuilla Indians’ Tribal Reservation, forcing out many of the Black residents that had resided in that neighborhood.¹⁹ And in Hayward, “redevelopment projects” in the 1960s likewise destroyed Black homes and businesses.²⁰

These instances reflect just a few examples of state and local agencies’ active role in the destruction of Black homes to advance political ends. To investigate the degree to which the State has displaced Black families to pursue its projects, the Task Force recommends that the Legislature study – or elicit a further report from one or more state agencies with specific responsibility for this area, such as the California Department of Transportation, California Department of General Services, or the California Natural Resources Agency – the history of the

¹⁹ Beason, [‘We’re Here to Stay.’ Despite Isolation and Racism, Black Americans Feel at Home in California’s Desert](#), LA Times (Aug. 15, 2021) (as of Mar. 20, 2023); Brown, [Section 14 Held Bittersweet Palm Springs History](#), Desert Sun (Dec. 12, 2015) (as of Mar. 20, 2023).

²⁰ City of Hayward, [Russell City Reparative Justice Project](#) (as of Mar. 20, 2023).

State's construction of its roads, railways, highways, bridges, water systems, dams, airports, and other major infrastructure, as these all reflect public projects that may have been built by displacing Black families from their land. For instance, when President Eisenhower created the Federal Interstate Highway System in 1956, developers tore through the nation's cities and towns with freeways that carved up Black communities, including freeways in California.²¹ The construction of Interstate 10 required the demolition of the Black neighborhood of Sugar Hill as well as the Pico neighborhood, forcing many more Black families out.²² The creation of Interstate 105—the Century Freeway—also threatened numerous Black communities, prompting legal challenges from the NAACP.²³ These events, and the many more unjust takings throughout California history,²⁴ must be catalogued and studied by the Legislature to provide a full calculation of the harm caused by the State's seizure or destruction of Black property.

Atrocity 5: Devaluation of Black Businesses

As detailed in Part Two of this report, discriminatory policies resulted in the decimation and devaluation of Black businesses. Discriminatory policies resulted in the decimation and devaluation of Black businesses. Business formation is a combination of demand factors—public sector, household and business (business-to-business transactions) and the entrepreneurial environment—rules, regulations and taxes. Black and white residents in California live in the same environment. But, as documented in Chapters 10 and 13 of this report, the doors to entrepreneurial opportunity are much more closed to the State's Black residents than its white ones due to discrimination and its effects, including sharp differences in access to capital, equity, and knowledge. While the lack of business data collected by the State of California limited the Task Force's experts' ability to quantify the harms caused by discrimination against Black businesses, other available data from the United States Census can be used to approximate some of those harms. Based on its experts' analysis, the Task Force recommends a method for the Legislature to calculate the harms caused by discrimination against Black businesses based on: (1) the disparity in the number of Black businesses versus white businesses (proportionate to the number of Black and white residents); or (2) the expected number of Black businesses that should exist in California, given the State's policies and average household incomes.

The State of California does not collect information on business establishments by race, and does not maintain a database of contractors at the State or local level by race. Instead, the Task Force's experts reviewed the U.S. Census Bureau's Survey of Business Owners, which provides information about businesses, including information distinguished by race. The most recent data from the Census's survey of Business owners is from the 2012 Survey. Though the Census only gives a snapshot of differences in business ownership in 2012, it reflects the total wealth

²¹ Dillon and Poston, [The Racist History of America's Interstate Highway Boom](#), L.A. Times (Nov. 11, 2021) (as of Mar. 20, 2023).

²² *Ibid.*

²³ Richardson, [The Finding Aid of the Century Freeway Records](#), Online Archive of California (as of Mar. 20, 2023).

²⁴ See, e.g., Dillon and Poston, [Freeways Force Out Residents in Communities of Color—Again](#), L.A. Times (Nov. 11, 2021) (as of Mar. 20, 2023).

acquired by Black versus white businesses in California cumulative effects racial inequalities resulting from actions of the state of California. As a result, it provides a guide for measuring the losses to business wealth caused by discrimination.

In 2012, the U.S. Census Bureau reported that there were 1,875,847 white non-Hispanic owned firms in California, compared to 166,553 Black non-Hispanic owned firms. Given California's population in 2012, the State had a business ownership rate of roughly 806.7 firms per 10,000 white residents and 738.9 per 10,000 Black residents. The white non-Hispanic owned firms had total sales, receipts or value of shipments totaling around \$1.14 trillion, while Black non-Hispanic owned firms had about \$14 billion. In other words, white-owned firms had total sales, receipts, or value of shipments 80-times larger than that of black-owned firms.

Census data show that Black-owned businesses are not overrepresented in the type of ethnic enclave industries of accommodations and food services, or retail sales catering towards a Black market. So, if there were no discriminatory restrictions on access to capital or business equity—that is, if Black and white entrepreneurs competed on an equal playing field—the industry of Black and white businesses would be far more similar, reflecting the business opportunities that exist in California. For instance, the discrimination documented in this report explains why Black businesses lag behind white ones in the construction industry, a capital-intensive industry where access to government contracts matters greatly. The history and ongoing effects of residential segregation and redlining further limited opportunities for Black construction firms in the private sector, highlighting again how discrimination has produced the Black and white business wealth gap in construction, a trend that reoccurs across every other industry.

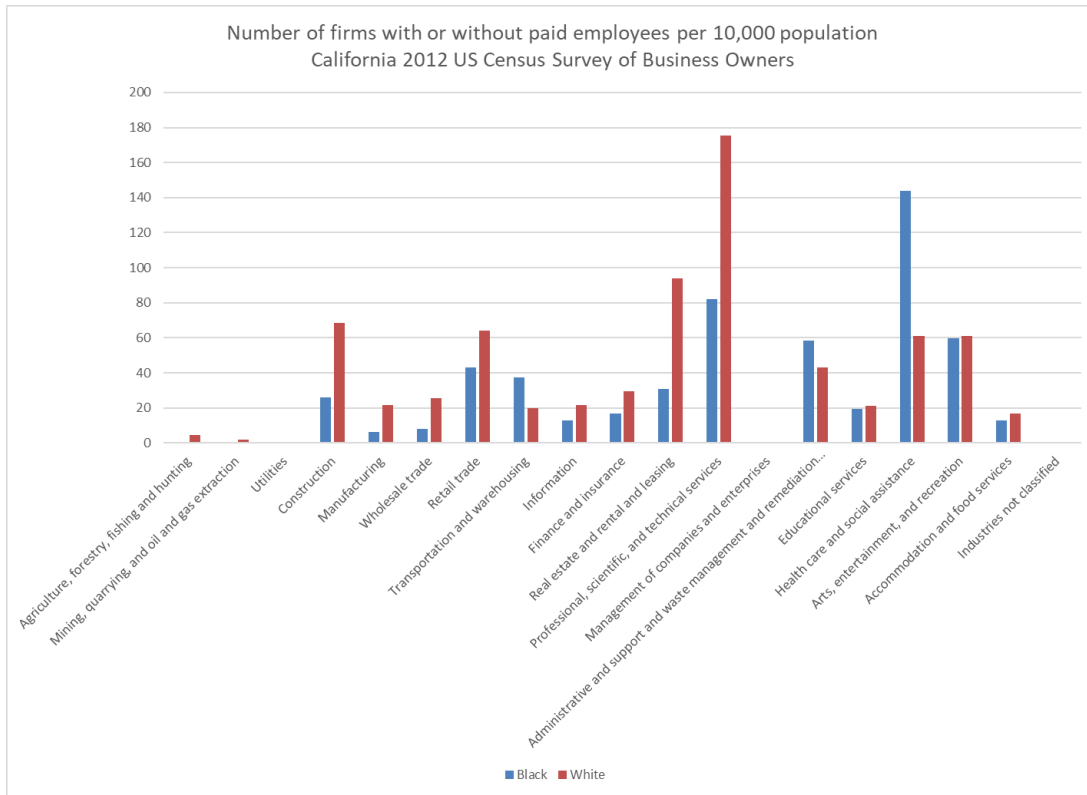
The Task Force recommends estimating the effect of discrimination against Black businesses by implementing an equation that uses each state as a separate observation, based on the general demand environment of state and local government contracting and household income. Controlling for each state allows us to control for differences in state business environment. Then estimates can incorporate the number of businesses formed, and sales and receipts generated on those factors. This is an approach used by many sociologists researching differences in business formation using the business environment.

In an equal world, there would be a similar numbers for Black and white businesses, sales, and profits, proportional to the number of Black or white residents. But 2012 data instead shows that Black businesses lag behind white ones—with less than 67.8 firms per 10,000 people, and a lower average sales volume of \$608,524. Because the average value of a (non-financial) business is generally 2.3 times greater than its sales volume, a business sales difference of \$608,524 translates to a lower business value of \$1,399,605 missing. Averaging this loss in business wealth over the Black population in California, the missing business wealth equates to \$140 per Black resident—or \$185 in 2023 dollars.

This method of calculation, however, relies only on the raw number of businesses and the gap in ownership numbers between Black and white residents. It does not estimate the loss in business wealth due to discrimination based on the volume of businesses that *would be expected* for a State with California's public expenditures and household income. To estimate business losses due to discrimination, using figures based on the expected number of businesses in this State, the Task Force, based on its experts' analysis, proposes the Legislature employ the following formula:

$$F = f(P, E) + \beta(S) + \gamma R$$

F is the number of businesses in California in 2012, for a given race (non-Hispanic Blacks and Whites) and $f(P, E)$ is a function of P, which represents the level of government and government enterprises in California. E represents the level of personal expenditures in California. β is a parameter estimating the effects of California's policies on business formation, where California's policies are entered in the estimation as a vector 1 or 0 dummy variables. And γ is a parameter to be estimated, where $R=1$ for the number of non-Hispanic Black owned firms. For P and E—the level of government enterprises and personal expenditures in California—the formula can employ 2007 data from the US Bureau of Economic Analysis. This report recommends use of 2007 data to ensure that they are exogenous to the size of firms in 2012.



The coefficient on race γ , and the β for California enable this report to estimate how many fewer businesses Black Californians were able to create, considering the average number of firms that would ordinarily be created (absent discrimination) in a State with California’s levels of government and personal consumption. And, as stated above, because the average value of a business (outside of the financial industry) is generally 2.3 times the value of its total sales, the formula can calculate the financial losses in business value by multiplying 2.3 times the average values of sales by businesses in California with the number of Black-owned firms that discrimination had prevented Black residents from creating. Once that amount of loss is determined, the Task Force recommends that the Legislature calculate the total value of that loss if compounded interest were added to that figure until the present. Finally, the resulting sum can be divided by the number of Black residents in California to reflect the business losses due to each resident because of the discrimination that produced these losses in Black business wealth.

Other Harms and Atrocities

Although the Task Force and its experts attempted to quantify five major categories of atrocities and harms, its focus on those five categories was due, in part, to the availability of data or the feasibility of creating a method for financially quantifying the harm caused. Other harms that should or may include compensation, reparations, and or redress by California include labor discrimination, segregated education, lack of representation in government, environmental harm, transgenerational harm, and other harms. Of these, only labor discrimination includes sufficient data for the Task Force to offer a recommendation as to calculation.

For New-Deal-based labor discrimination, the Task Force suggests that the Legislature quantify harm using historical data beginning in 1933, when farm laborers and domestic service laborers (industries in which African Americans were over-represented) were excluded from progressive labor legislation. This calculation could further use data up until when Congress enacted Title VII of the Civil Rights Act of 1964, prohibiting racial discrimination in businesses with over 25 employees. Of course, *de jure* labor discrimination in California likely goes back to the founding of the state, and *de facto* labor discrimination continues unabated to this day, meaning this formula would capture only a piece of the financial losses suffered due to racial discrimination.

Based on its experts' analysis, the Task Force recommends the Legislature calculate the loss to black Americans from discrimination in employment, rather than the gains to whites. This measurement consists of two major components: (1) a reduction in wages and (2) a greater likelihood of being unemployed. A suitable annual "loss function" could take the following form:

$$L = D * W * (H+C)$$

Where:

L = the lost wages;

D = the average percentage reduction in wages due to discrimination or the discrimination coefficient;

W = the average white wage;

H = total hours worked for pay in a given year by blacks; and

C = the total hours of work by blacks denied by discrimination.

Applying this formula to a single year, 2019, arrives at a rough estimate of the impact of labor market discrimination on lost income for Black employees and potential employees.

"If the median wage for white workers was \$21.32 in 2019 (Gould 2020, Table 3) and black workers are assumed to have lost, conservatively, 5 percent of their earnings due to employment discrimination, the hourly wage loss for each black worker was \$1.06.

Assuming the typical full-time worker was paid for 48 weeks, 5 days a week, for an 8 hour workday, total annual hours would have been 1,920. If there were about 20 million black labor force participants and a 6.1 percent annual unemployment rate, 18.6 million

black Americans received pay over the course of the year for 35.7 billion hours of work, the value of H in the formula above.”

“The difference in the black and white unemployment rates in 2019 can provide a gauge of the number of black hours of work lost due to discrimination. At the time, the white annual rate was 3.3 percent. Subtracting 3.3 percent from 6.1 percent leaves an inequity gap of 2.8 percent. Multiplying 20 million by 2.8 percent yields 360,000 black Americans subjected to *excess unemployment*. Then, multiplying 360,000 persons by 1920 annual hours leads to a total of 691.2 million hours of work lost due to discrimination, the value of C in the formula above.”

“The sum (H + C) amounts to 36.4 billion hours in a year. Multiplying this figure by \$1.06 leads to an estimate of an aggregate loss of \$38.6 billion in earnings in 2019 for black workers due to discrimination. This would amount to an average loss of \$1,930 per black labor force participant.”

For all remaining harms and atrocities delineated in Part II of this report, data does not exist to quantify a methodology for calculating reparations, but the Task Force recommends that the Legislature conduct a further analysis regarding the development of data and quantification of cumulative reparations. And, in the period following an appropriate “down payment” of an initial meaningful amount of reparations and the creation of appropriate claims and compensation programs, the Legislature should complete the California reparations program by quantifying and paying cumulative reparations for all of the atrocities and harms raised herein.