

## Discussion and Potential Action:

Advisory Committees' Preliminary Recommendation(s)  
on Potential Remedies, Remedial Programs, Laws and  
Apologies for Atrocities in Chapters 2 (**Enslavement**)  
and 9 (**Creative, Cultural & Intellectual Life**) —

Presenters: Chair Moore — 11:05 a.m. - 12:00 p.m.

*Special Thanks: September & December 2021 Personal/Expert Witnesses;  
Vince Ghazzawi, Deputy Attorney General; Jeremy Payne, Associate Governmental  
Program Analyst; Newton N. Knowles, Deputy Attorney General*

## Preliminary Recommendations:

### Enslavement + *California African American Freedmen Affairs Agency*

### Task Force Member Questions/Discussion

### Task Force Member Potential Actions

#### I. Introduction

On July 5<sup>th</sup>, 1852, Frederick Douglass gave a speech to a crowd of 600 mostly white antislavery activists in Rochester, New York, the day after Independence Day.<sup>1</sup> Douglass was one of the most famous Black antislavery and civil rights activists at the time.<sup>2</sup> He began by praising the courage of the nation's founders in winning their freedom from the British Empire.<sup>3</sup> But Douglass did not come to celebrate American independence and liberty.<sup>4</sup> The United States was founded on the idea that “all men are created equal[,]” but white Americans enslaved their fellow African Americans and “notoriously hate[d] [...] all men whose skins are not colored like your own.”<sup>5</sup> For Douglass, the Fourth of July only highlighted the “immeasurable distance” between free white Americans and enslaved African Americans.<sup>6</sup> “The blessings in which you, this day, rejoice, are not enjoyed in common.—The rich inheritance of justice, liberty, prosperity and independence, bequeathed by your fathers, is shared by you, not by me,” he explained: “You may rejoice. I must mourn.”<sup>7</sup>

Frederick Douglass's speech about the Fourth of July shows the conflict at the heart of American history. The United States prides itself on liberty, equality, and justice for all, but for over 400 years, white people of European ancestry built and continued a brutal caste system based on false notions of racial difference: white people at the top, people of African descent at the bottom, and all other groups ranked in between.<sup>8</sup> From the beginning, America's wealth was built by the forced labor of people from Africa and their descendants. These people were forcibly sold and traded as commodities and millions of them cultivated crops—tobacco, sugar, rice, indigo, wheat, corn, and especially cotton—that allowed American colonies and the early United States to prosper. Colonial governments and the U.S. government at all levels allowed and participated in the exploitation, abuse, terror, and murder of people of African descent so that white people could profit as much as possible from their enslavement. To justify stealing the intellect, skill, and labor of African Americans, enslavers created and spread false, racist ideas that African Americans were less intelligent than whites, that they loved their children less than white parents, and that they felt less pain than white people did.



## Enslaved population of the United States from 1790-1860



**A gold rush source estimated that 1,500 enslaved African Americans lived in California in 1852.**

California's legislature and courts sent an important message: they were friendly to the southern enslaving states, they believed enslaved people should have no legal rights, and they thought that the U.S. Constitution should protect enslavers and enslavement.

Instead of just covering people who escaped across state lines, California's law said that a fugitive slave was any enslaved person who arrived before California officially became a U.S. state in September 1850 but who refused to return to the enslaving states with their enslavers. These people could be arrested, placed under the control of their enslavers, and forced to return to the South.

# Satisfaction

- The Reparations Task Force may consider recommending the California State Legislature sponsor a resolution that would issue a formal apology on behalf of the State of California for the following:
  - allowing enslavement, adoption of fugitive slave laws, and subsequent enforcement
  - opposing Reconstruction Civil Rights laws
  - delayed ratification of the 14th and 15th Amendments
- The Reparations Task Force may consider recommending the California State Legislature sponsor a legal resolution affirming the State's protection of descendants of enslaved people and to guarantee to protect the civil, political, socio-cultural rights of descendants of enslaved people.

## Violence Against the Enslaved and Resistance to Enslavement in California

Much like enslaved people in the South, those in California also faced brutal violence. In 1850, one slaveholder beat an enslaved man in the town square of San Jose for disobeying him. The police arrested both men, but ultimately determined that the slaveholder was not guilty of assault because his victim was legally his property.<sup>49</sup>

In another case from 1850, an elderly enslaved couple ran away near the town of Sonora. When the slaveholder caught them, he whipped the elderly man until his blood flowed so heavily that it filled his shoes. The couple later escaped with the help of a free Black neighbor.<sup>49</sup> One of the worst violent events also happened in 1850, this time in Los Angeles. A group of white southerners chased, shot at, and captured a handful of escaped enslaved people and then beat them until one almost died.<sup>49</sup>

The forced journey to California had different outcomes for the enslaved people who survived it. Many people probably worked in California for a few years before returning to enslavement in the South. Others, especially those who were allowed to keep a small portion of their wages from hiring out or digging gold, saved enough money to buy their freedom.<sup>41</sup> Finally, some enslaved people worked under formal or informal "indenture" agreements by which they promised to work for a certain number of years in California, or to earn a certain amount of money, in exchange for their freedom.<sup>42</sup> Enslaved people who bought their own freedom might then also earn enough money to free their family members.<sup>43</sup>

Large numbers of enslaved people also saw California as a place where they could take their own freedom or challenge their enslavement. The California gold mining country was large, rural, and full of diverse people, including antislavery Black and white northerners. It was much easier to run away, hide, and find allies in California than in the southern enslaving states.<sup>44</sup> But it is important to remember that all enslaved people who went west were forced to leave their family members and communities behind in the South. For this reason, escape was not a good option for many enslaved people because staying with enslavers was their only way to keep in touch with their families.

In this way, enslavers used their control over enslaved people's family members to force them to cooperate. For this reason, enslaved people may have been more likely to resist in other ways besides running away. For example, some refused to work or escaped temporarily until they were allowed to keep more of their earnings.<sup>45</sup> This might have been a safer path to freedom than running away if they could earn enough money to buy themselves and their family members out of enslavement.

**In another case from 1850, an elderly enslaved couple ran away near the town of Sonora. When the slaveholder caught them, he whipped the elderly man until his blood flowed so heavily that it filled his shoes. The couple later escaped with the help of a free Black neighbor.**

## California Legislature's Complicity

California's 1849 antislavery state constitution did little to stop the violence and exploitation that enslaved people suffered. The new constitution said that "neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State."<sup>46</sup>

The problem was that enslavement already existed in the state and was already being tolerated there. The constitution also said nothing about what should happen to those enslaved people who already lived in California or those who came after statehood. The California constitution could say that the state would not tolerate enslavement, but this statement did not mean much without laws making it a crime to keep someone enslaved, laws to free enslaved people, laws to punish enslavers, or laws to protect African Americans' freedom.<sup>47</sup>

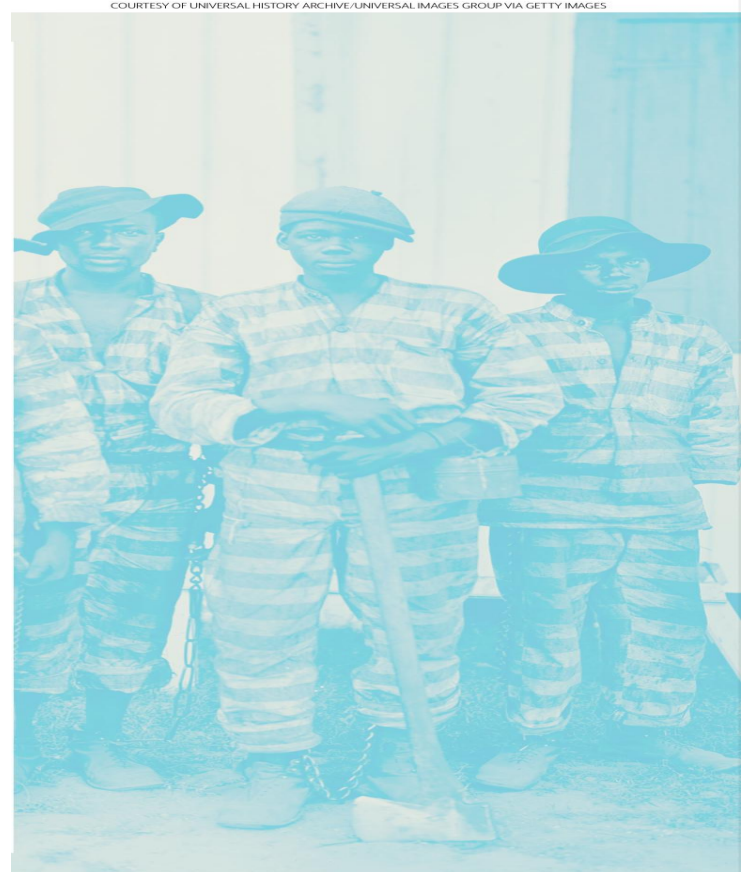
Proslavery white southerners took advantage of this lack of specific laws against enslavement to keep enslavement going in California. During California's 1849 Constitutional Convention, a meeting to write the state's first constitution, proslavery politicians from the South quietly accepted the law banning enslavement.<sup>48</sup> But after statehood, a large number of southern proslavery men ran for political office in California so that they were overrepresented in the state government compared to their overall population in California. White southerners with proslavery views had a great deal of power in the state legislature, the state court system, and among California's representatives in the U.S. Congress.<sup>49</sup> During the 1850s, these men used their political power to make sure that California protected

# Rehabilitation and Restitution

- The Reparations Task Force may consider recommending proposals to:
  - Emphasize “Rehabilitation” in the California Department of Corrections and Rehabilitation:
    - The Reparations Task Force may consider recommending a policy that makes education, substance use and mental health treatment, and rehabilitative programs the first priority for incarcerated people. This proposal is meant to ensure that “Rehabilitation” in CDCR is prioritized.
- The Reparations Task Force may consider recommending:
  - Legislation allowing incarcerated to vote
  - A policy requiring that incarcerated people who are working in prison or jail be paid a fair market rate for their labor.

# Guarantees of Non Repetition

- The Reparations Task Force may consider recommending proposals to:
  - End involuntary servitude by proposing to delete language from the California Constitution that permits involuntary servitude as a punishment for crime, by passing what was formerly Assembly Constitutional Amendment (ACA) 3.
  - Abolish the Death Penalty



# California's Freedmen's Bureau

The Reparations Task Force may consider recommending the California State Legislature to create ***California Freedmen's Bureau in recognition of perpetuating and maintaining slavery and its afterlife:***

- A branch to **process claims** with the state and assist claimants in filing for eligibility.
- A **genealogy** branch in order to support potential claimants with genealogical research and to confirm eligibility.
- A **reparations tribunal** in order to **adjudicate** substantive claims for past harms
- An office of **immediate relief** to expedite claims.
- A **civic engagement** branch to support ongoing political education on African American history and to support civic engagement among African American youth.
- A **freedmen education** branch to offer free education and to facilitate the free tuition initiative between claimants and California schools.



# California's Freedmen's Bureau

The Reparations Task Force may consider recommending the California State Legislature to create ***California Freedmen's Bureau in recognition of perpetuating and maintaining slavery and its afterlife:***

- A **social services** and **family affairs** branch to identify and mitigate the ways that current and previous policies have damaged and destabilized Black families. Services might include treatment for trauma and family healing services to strengthen the family unit, stress resiliency services, financial planning services, career planning, civil and family court services.
- A **cultural affairs** branch to build/restore and maintain African American cultural/historical sites, creative centers, public displays, and monuments; advocate for removal of racist relics; support knowledge production and archival research with community archives and repositories; support legacy families; and to provide support for African Americans in the entertainment industry, including identifying and removing barriers to advancement into leadership and decision-making positions in the arts, entertainment, and sports industries.

# California's Freedmen's Bureau

The Reparations Task Force may consider recommending the California State Legislature to create ***California Freedmen's Bureau in recognition of perpetuating and maintaining slavery and its afterlife:***

- recommending the **cultural affairs** office be designated to **allocate state funding** for the above duties, as well as supporting descendants of enslaved people for the following: business licenses; re-creation of cultural hubs/leisure sites (including coastal sites), news publications, arts (film, radio, tv, art, podcasting etc.), and lifestyle activities, and supporting parity amongst sports played by white and African American Californians.
- A **legal affairs** office to coordinate a range of free legal services, including criminal defense attorneys for criminal trials and parole hearings; free arbitration and mediation services; and to advocate for civil and criminal justice reforms.

# California's Freedmen's Bureau

The Reparations Task Force may consider recommending the California State Legislature to create ***California Freedmen's Bureau in recognition of perpetuating and maintaining slavery and its afterlife:***

- A division of **medical services** for public and environmental health.
- A **business affairs** office to provide ongoing education related to entrepreneurialism and financial literacy; to provide business grants and business licenses; state funding to support the re-creation of cultural hubs/leisure sites (including coastal sites), news publications, arts, and lifestyle activities; and to establish public-private reparative justice-oriented partnerships.
- Two new Agency functions that the Task Force could propose to increase the efficiency and effectiveness of the Agency are establishing:
  - (1) a **Data Research and Collection** Branch to identify and analyze trends in past, current, and future harms;
  - (2) a **Community Support** Branch to improve accessibility, transparency, and public trust with California's reparations claims program.

# Preliminary Recommendations:

## Control Over Creative, Cultural & Intellectual Life

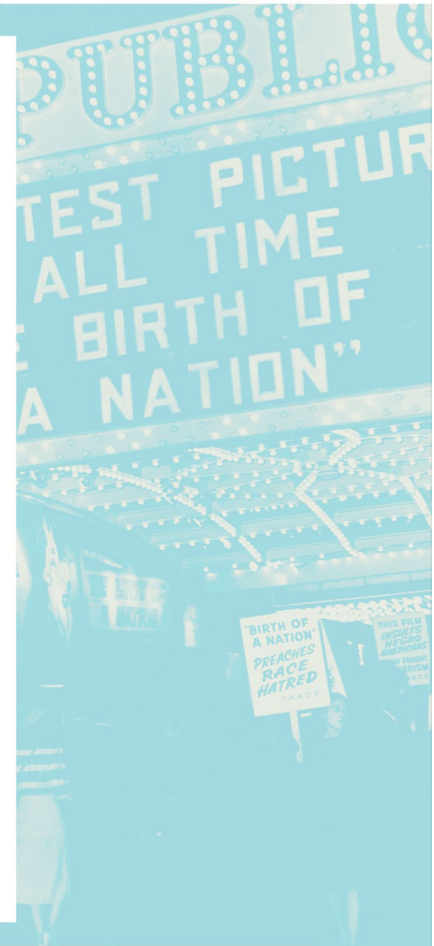
### Task Force Member Questions/Discussion

### Task Force Member Potential Actions

### I. Introduction

At its inception, the United States created a series of laws and policies that denied African Americans the ability to create and own art and engage in sports and leisure activities.<sup>1</sup> During the period of enslavement, state governments controlled and dictated the forms and content of African American artistic and cultural production.<sup>2</sup> Following the end of the enslavement period, governments and politicians embraced minstrelsy, which was the popular racist and stereotypical depiction of African Americans through song, dance, and film.<sup>3</sup> Government support of minstrelsy, which was enormously profitable, encouraged white Americans to laugh at, disregard, and reimagine the enslavement of African Americans as harmless and entertaining.<sup>4</sup>

Federal and state governments failed to protect Black artists, culture-makers, and media-makers from discrimination and simultaneously promoted discriminatory narratives. State governments forced Black artists to perform in segregated venues.<sup>5</sup> The federal government actively discriminated against African Americans during wars, and projected a false image of respect for Black soldiers in propaganda.<sup>6</sup> Federal and state governments allowed white Americans to steal African American art and culture with impunity—depriving Black creators of valuable copyright and patent protections.<sup>7</sup> State governments encouraged segregation and discrimination against African American athletes.<sup>8</sup> State governments denied African American entrepreneurs and culture-makers access to leisure sites, business licenses, and funding for leisure activities.<sup>9</sup> State governments memorialized the Confederacy as just and heroic through monument building, while suppressing the nation's actual history.<sup>10</sup> States censored cinematic depictions of discrimination against and integration of Black people into white society.<sup>11</sup> Today, African American artists, culture-makers, presenters, and entrepreneurs must contend with the legacy of enslavement and racial discrimination as they attempt to pursue creative endeavors that empower and uplift Black communities.



# Satisfaction

- The Reparations Task Force may consider recommending the California State Legislature sponsor a resolution that would issue a formal apology on behalf of the State of California for its role in discrimination and exclusion of Descendants in the field of creativity, culture, and intellectual life:
  - An apology that addresses the endorsement of minstrel shows;
  - An apology that addresses openly allowing segregation and discrimination against Descendant musicians, workers, and artists;
  - An apology that addresses restrictive zoning ordinances, licensing laws, fire/safety codes, and anti-nuisance laws that adversely affected Descendants;
  - An apology that addresses state censorship of cinematic depictions of discrimination and Black people integrating in white society;
  - An apology that addresses the targeting of African American hip-hop artists and targeted harassment of African American owned businesses that provided leisure opportunities to Black Californians.
  - An apology that addresses the implementation of anti-cruising/anti-gathering laws and curfews that adversely affected Descendants. This subpart might include a legal resolution condemning anti-cruising/anti-gathering, and curfew laws in recognition of anti-Black history

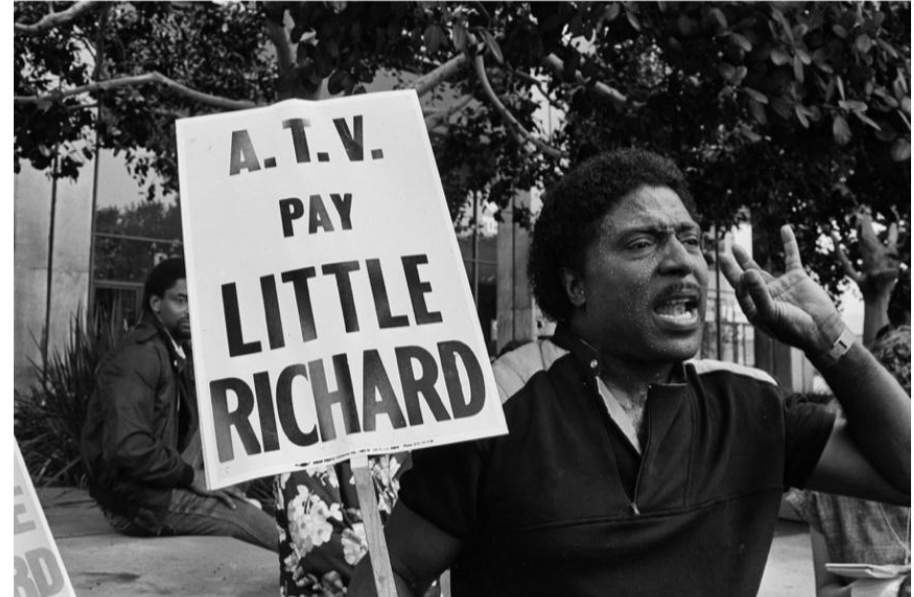
The minstrel performance became a cross-generational racial parody and stereotype made for white amusement. The performance of minstrelsy relied on racist stereotypes that dehumanized African Americans. This dehumanizing allowed white Americans to secure their own positive identity.

The Hollywood film industry was responsible for popularizing white supremacist movies, like *The Birth of a Nation*, during the first half of the 1900s. This film was the main factor behind the revival of the Ku Klux Klan in the 1900s.

# Restitution

- The Reparations Task Force may consider recommending proposals to:
  - Provide state funding to Descendants to address disparity in compensation among athletes: disparity in compensation derives from a history of discrimination against Descendant athletes.
  - Provide funding to the proposed California African American Freedmen Affairs Agency specifically for creative, cultural, and intellectual life: to address the disruption of Descendant cultural centers in the name of redevelopment; and to address the history of censorship of Descendant-produced media and arts.
  - Require public disclosure of compensation and benefits for artists across all media industries in California: to address the inequities and disparity that Descendant artists and Descendant media executives face in recruitment, compensation, and promotion.

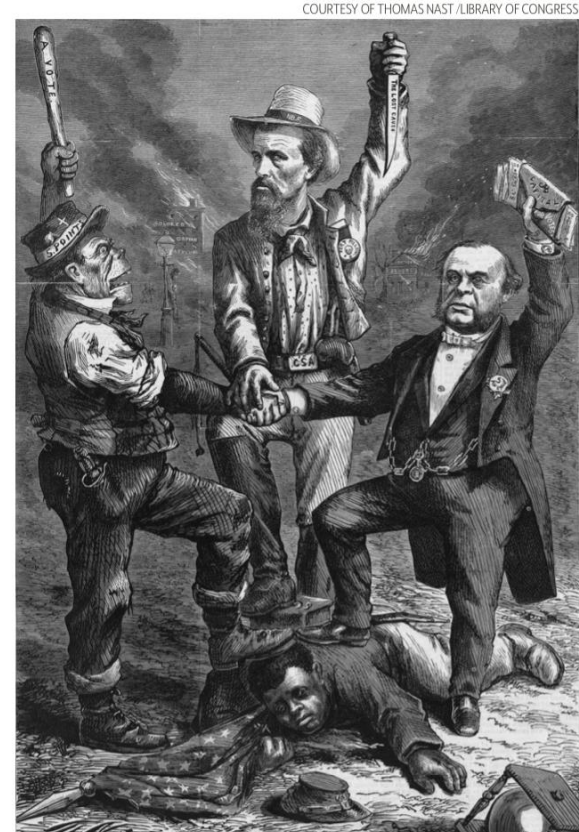
COURTESY OF BETTMANN ARCHIVES VIA GETTY IMAGES



Little Richard protesting record companies over royalties. Little Richard sold the rights to the song "Tutti Frutti" for a reported \$50, and received half a cent for each record sold. "I was a dumb black kid and my mama had 12 kids and my daddy was dead," Little Richard reportedly said, "I wanted to help them, so I took whatever was offered." (1984)

# Guarantees of Non Repetition

- The Reparations Task Force may consider recommending proposals to:
  - Identify and remove monuments, plaques, state markers and memorials memorializing and preserving confederate culture: to address the history of state-sponsored monuments on state property glorifying slavery and white supremacy
  - Repeal or amend proposition 209: to address systemic discrimination faced by Descendant artists and Descendant culture, and the general barriers imposed by Proposition 209, which continue to have limiting effects on Descendants.
  - Require a racial impact assessment for all future legislation: to ensure that there is a long-term and ongoing commitment to remedying the harms caused by the history and trauma of state-sponsored discrimination against Descendant across all sectors, including art and culture



"This is a white man's government" (1868)

## **Task Force Member Questions/Discussion**

## **Task Force Member Potential Actions**

*Special Thanks: September & December 2021 Personal/Expert Witnesses;  
Vince Ghazzawi, Deputy Attorney General; Jeremy Payne, Associate Governmental  
Program Analyst; Newton N. Knowles, Deputy Attorney General*