



Northern
California

November 30, 2021

Brandon Greene

Program Director, Racial and Economic Justice Program
ACLU of Northern California

Adjunct and Contributing Scholar, Center for Race and Economic Justice
UC Hastings School of Law

**Testimony Before the AB 3121 Task Force to Study and Develop Reparation Proposals
December 7, 2021**

Good afternoon reparations task force members. My name is Brandon Greene, and I am the Racial and Economic Justice Program Director for the American Civil Liberties Union of Northern California. Thank you for having me and allowing me to participate in today's discussion.

In my testimony today, I will first discuss some of the work that the ACLU of Northern California has been engaging in around the issue of homelessness alongside our colleagues at the other California affiliates. I will then focus on contextual factors that contribute to Black families' disproportionately high risk of homelessness. Finally, I will highlight legislative campaign efforts that the ACLU and other coalition colleagues are engaged in to enshrine more protections for unhoused populations.

Current Work of the ACLU of Northern California

My team at the ACLU of Northern California is currently engaged in litigation and investigative efforts across the region to combat the criminalization of homelessness. As I will note, Black folks are disproportionately represented in every single one of these jurisdictions. This is unsurprising. Depending on what estimates you look at, approximately 40-50% of all unhoused people in the state of California are Black. This truth is evident in our work and profiled in our recently released report "Outside the Law: The Legal War Against Unhoused People."

For example, in Chico, California, where 44% of the Butte County unhoused population resides, Black people are overrepresented by close to a factor of two. In Santa Cruz, Black people represent 1% of the County's total population but 8% of its unhoused population. In San Mateo County, where we recently litigated a RV parking ban, Black people make up only 2% of the total population but are overrepresented in the emergency shelter, transitional housing, and unsheltered populations. Finally in San Francisco, only 5% of the overall population is Black while approximately 37% of the unhoused population is Black.

American Civil Liberties Union of Northern California

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Farah Brelvi

SAN FRANCISCO OFFICE: 39 Drumm St. San Francisco, CA 94111

FRESNO OFFICE: PO Box 188 Fresno, CA 93707 • SACRAMENTO METRO OFFICE: PO Box 189070 Sacramento, CA 95818

TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • WWW.ACLUNC.ORG

Contributing Factors: Housing/Rent Burden

That Black people are overrepresented in the unhoused population is neither incidental nor accidental. According to Cal Matters, nearly 50% of Black Californians lived in households that were cost burdened in 2018; nearly a quarter paid more than 50% of their income towards housing costs.¹ This rental burden has not only pushed Black families closer to houselessness but has also pushed Black families further into the suburbs and contributed to gentrification, something my fellow panelists will likely touch on in more depth.

For example, the City of Oakland's Department of Race and Equity put out an equity indicators report in 2018.² The report found African Americans were 41.76 times more likely than Asians to be homeless. Additionally, of those housed, almost one in four African Americans did not own their homes and Majority African American census tracts had the highest rates of eviction notices. African American households were also 1.67 times more likely to be rent burdened than White households. Furthermore, the home loan denial rates for African Americans were 2.13 times higher than the rates for Whites, and White homeowners were the least likely to still have a mortgage or loan on their homes (69.8%), while African American homeowners were the most likely to have a mortgage (79.7%).

According to Cal Matters, the Black population has plunged by 43% in San Francisco and 40% in Oakland, respectively.³ The intersecting factors have been of great concern for our colleagues and partners in Oakland who work on education equity issues, particularly around the direct correlation between school closures, predatory lending, and a disappearing Black population. Recent reporting has highlighted racial discrimination in other aspects of housing, including housing appraisals, wherein researchers found that 12.5% of homes appraised in Black communities were valued at less than the original cost of constructing the home.⁴ That figure compares to 7.4% of homes in White neighborhoods and 9.4% of homes in Latino areas, the analysis found.

Contributing Factors: Systems Involvement

Not only are Black people disproportionately represented among the unhoused populations of California, but they are also overrepresented in the carceral system. These two realities are inextricably linked. A 2018 California Health Policy Strategies brief using data from Orange County, Los Angeles, and San Diego found there was a 26% increase in the number of unsheltered

¹ Black Californians' housing crisis, by the numbers - CalMatters

² CITY OF OAKLAND, Oakland Equity Indicators: Measuring Change Toward Greater Equity in Oakland (2018).

³ Lauren Helper, The hidden toll of California's Black exodus, CAL MATTERS (July 15, 2020).

⁴ Khristopher J. Brooks, There's a big "appraisal gap" between Black and White homeowners, CBS NEWS (Sept. 24, 2021).

homeless individuals from 2013 to 2017.⁵ Furthermore, it reported that, of these unhoused populations:

- 70% report a history of incarceration;
- 28% report having recently been released from jail or prison;
- 13% report being presently under community supervision, probation or parole;
- 32% report both having “mental health issues” and being formerly incarcerated; and
- 15% report both a “serious mental illness” and being formerly incarcerated.

The Southern California data syncs up with what we know from the 2019 Point in Time Count in three Northern California Counties as well:

Percent with CL Involvement	Butte County	San Mateo County	Santa Clara County	Santa Cruz County
Unhoused Pop (2019 PIT Count)	70%*	23%**	27%*****	28%****

*Percentage with interaction with law enforcement in last year

**Percentage on probation

***Percentage with one night or more of a jail/prison stay in last year

****Percentage with history of incarceration

The ties between homelessness and the carceral system are important because of the impact of the carceral system as an originating life factor for people. It is also important due to the ways in which jurisdictions develop and implement ordinances that further criminalize unhoused populations as a means of pushing those communities out. This approach has been borne out in the various jurisdictions profiled in our report who, as a means of either controlling or pushing out unhoused populations, enacted ordinances that have cascading economic consequences and carceral consequences. These anti-homeless laws are crafted to avoid judicial scrutiny but enforced to regulate public space like their Exclusionary Law predecessors (i.e., Jim Crow, anti-ugly, etc.). They do this by creating scenarios where unhoused individuals are forced to either leave the jurisdiction or break the law, and by empowering police to remove homeless individuals from public spaces.

⁵ Council on Criminal Justice and Behavioral Health, Homelessness, Mental Illness & Justice-Involvement (Mar. 19, 2019).

These approaches to homelessness have historical undertones and direct parallels to anti-vagrancy laws and segregationist policy wherein people of color were excluded from public spaces and accommodations because they were said to be dangerous or diseased.

Reparations

Any discussion of reparations must take into consideration that surrounding factors that contribute not only to the lack of wealth accumulation for Black people but the current ways in which Black people are actively being both pushed into homelessness and out of communities in which they have historically resided.

Along with our coalition partners, we at the ACLU of Northern California are hoping to introduce a piece of legislation that would making housing status a protected category to give unhoused communities one more layer of protection and advocates one more tool to fight against policies that although framed in a racially neutral way or racially discriminatory in impact.