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PROJECT 2025

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ATTACK ON OUR POWER AND DIGNITY

**WHAT PROJECT 2025 MEANS
FOR BLACK COMMUNITIES**

LDF THURGOOD
MARSHALL
INSTITUTE

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Dear Reader,

Rarely is a battle plan so audaciously revealed to its targets as is Project 2025's *Mandate for Leadership: The Conservative Promise*. This 900+ page manifesto to dismantle American democracy has been made public for all to see and for the worst actors to potentially adopt. As stated on its website, "Project 2025 is not partisan" and "does not speak for any candidate or campaign, in any capacity." It is, therefore, a universal risk that transcends party and politics.

As the first and foremost law organization that has fought for the rights, dignity, and power of Black communities since its inception nearly eighty-five years ago, the Legal Defense Fund (LDF) and its Thurgood Marshall Institute analyzed Project 2025 to determine its impact on Black communities and have concluded that it is a direct, boundless, pregnant threat to the interests and well-being of Black people and our democracy. Our report highlights some of the most alarming and destructive elements of Project 2025 for Black people in America and also offers an alternate vision for the future we are fighting for.

We invite you to read our report and assess Project 2025 on your own. Most important, we invite you to envision the dire consequences of Project 2025 on your life and the generations that will follow.

United in justice,

Janai S. Nelson
President and Director-Counsel

*"Our democracy stands at a crossroads: a path of infinite promise towards a more inclusive, equitable, and durable democracy on the one hand, and one of immeasurable and, potentially, irretrievable demise on the other. **The assault on Black communities envisioned by Project 2025 will almost certainly condemn us to demise.**"*

—LDF's Eighth President and Director-Counsel Janai Nelson, 2024

EXECUTIVE SUMMARY

“Never before in the history of our country has the need for preserving our democracy been more urgent. The survival of our form of government depends upon the granting of full citizenship rights to [Black people]ⁱ the largest minority group.”

—LDF Incorporation Case Papers, 1940¹

The tactics to obstruct and dismantle civil rights throughout this country’s history have followed a well-worn playbook. The faces of the actors may change, but the strategies remain strikingly familiar: to target core democratic and constitutional principles and structures to advance a culture of exclusion, inequality, and racial caste. *Mandate for Leadership 2025: The Conservative Promise*,² more commonly known as “Project 2025,” is the latest and one of the most comprehensive efforts to turn back the clock and erase the hard-won progress of Black people in the United States that has strengthened U.S. democracy.

Since its founding nearly eighty-five years ago in 1940, the Legal Defense Fund (LDF) has been fighting to protect the dignity and citizenship rights of Black people against efforts like Project 2025. In the decades after the Civil War, southern states enacted racial apartheid laws, also known as Jim Crow laws, to deprive Black people of their full citizenship and equal protection under the law, which they had been constitutionally granted under the Thirteenth, Fourteenth, and Fifteenth Amendments, also known as the Reconstruction Amendments. Thurgood Marshall founded LDF to challenge Jim Crow laws,³ which undermined the project of U.S. democracy. Those laws had to be replaced with affirmative civil rights protections in order for our multi-racial democracy to survive. Our democracy faces a similar crisis now.

Attack on Our Power and Dignity dissects Project 2025 and details how its radical proposals to restructure the federal government and increase the president’s authority will severely harm Black communities across the country. Specifically, this report explains how this extremist manifesto, which does not directly name Black people as targets, would nonetheless operate to attack and undermine Black communities’ political power, civil rights protections, and economic and educational opportunities. In direct contrast to the regressive agenda of Project 2025, this report offers an affirmative vision for how Black communities can thrive.

ⁱ In 1940, the U.S. Census reported that Black people were the largest minority group. Bureau of the Census, U.S. Dep’t of Commerce, Sixteenth Census of the United States: 1940 Population Characteristics of the Nonwhite Population by Race (1943), <https://www2.census.gov/library/publications/decennial/1940/population-nonwhite/population-nonwhite.pdf>.

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PROJECT 2025



WHAT IS PROJECT 2025?

In 2023, The Heritage Foundation, a think tank focused on promoting conservative public policies, published Project 2025 as a blueprint to consolidate power within the executive, or the office of the president, and weaken democratic structures. Project 2025 is a thirty-chapter, 900-page,⁴ radical, extremist playbook that details sweeping changes to give tremendous power to the executive branch, while discarding the checks and balances that were designed by the U.S. Constitution's framers to prevent a single branch of government from obtaining too much power.

Project 2025's proposal to radically expand the president's authority will reverse the civil rights protections on which Black communities have relied for decades to exercise their full citizenship and to prevent a return to a repressive governmental authority. Under Project 2025's policy agenda, any future president could consolidate executive powersⁱⁱ to have unilateral control over all

federal decision-making, with little regard to the laws passed by Congress or to the Supreme Court's decisions interpreting those laws and the U.S. Constitution. Critics have warned that concentrating federal authority solely in the hands of the president could jeopardize basic rule-of-law principles, including that no one—including the president—is above the law.⁵

Project 2025 represents a direct and deliberate threat to Black communities across seven key areas addressed in this report: civil rights, education, political participation, the criminal legal system, housing, reproductive rights, and environmental protections. At its core, it aims to dismantle essential agencies and regulations that protect civil rights, while promoting anti-democratic and anti-justice initiatives that will weaponize civil rights enforcement by federal agencies. These proposals are designed to erode the very principles of equality, justice, and fairness that form the foundation of our democracy—and the impact would be devastating.

ⁱⁱ Executive powers are the president's authority to run the federal government, which deals with national issues. When a president consolidates executive powers, it means they gain more control over the federal government's decisions and can act independently, without needing approval from Congress or the federal courts.

PROJECT 2025 WILL HARM BLACK COMMUNITIES BY:

Weakening anti-discrimination laws and cutting essential worker protections:

Project 2025 will eliminate key safeguards that protect Black workers⁶ and bar federal agencies from collecting racial demographic data, making it harder to enforce anti-discrimination laws and combat racial inequities, especially in the workplace.⁷

Limiting access to quality education for Black students:

Project 2025 will exacerbate the education and wealth gap for Black students and workers by dismantling the Department of Education,⁸ the agency responsible for ensuring civil rights protections in schools, which will allow discriminatory discipline practices to go unchecked.⁹ Project 2025 will expand the ongoing, coordinated attack on truth in schools and libraries, which will further deny our nation's shameful legacy of racism. It will also make higher education even more inaccessible for Black students by privatizing student loans¹⁰ and eliminating student loan forgiveness programs and income-based repayment options.¹¹

Undermining Black political power:

By overhauling the U.S. Census Bureau and criminalizing election-related offenses, Project 2025 will weaken the political influence of Black communities by undercounting them and suppressing the Black vote through threats and intimidation, destabilizing the key foundations of our multi-racial democracy.¹²

Promoting punitive criminal legal policies:

Project 2025 will likely increase the use of the racially discriminatory death penalty,¹³ which is infected with racial bias and rife with wrongful convictions that disproportionately impact Black people.¹⁴ Additionally, it will endanger Black communities and roll back efforts to address police misconduct that violates the U.S. Constitution by abolishing federal consent decrees¹⁵ that hold law enforcement accountable for civil rights violations.¹⁶

Jeopardizing Black families' access to affordable housing:

Project 2025 will transfer control of critical housing programs that expand access to affordable housing, like Section 8, to states—including those with a history of racial discrimination—threatening the housing stability of millions of Black low-income families.¹⁷

Threatening reproductive rights and the health of Black people: Black pregnant people, who already face disproportionately high maternal mortality rates,¹⁸ will be hit the hardest by Project 2025's restrictions on reproductive health care,¹⁹ which include proposals to ban federal access to abortion care²⁰ and criminalize health care providers.²¹ Given that forty-two percent of women seeking abortion care are Black, these proposals will have devastating consequences for their health and autonomy, and the health and autonomy of their families.²²

Exacerbating health disparities caused by environmental racism: By shutting down the Office of Environmental Justice,²³ Project 2025 will allow the federal government to turn a blind eye to the persistent and increasing environmental racism²⁴ that is causing severe health disparities in Black communities, leaving Black people even more vulnerable to pollution and hazardous living conditions.

As alarming as the threat of Project 2025 is, it does not have to be our destiny. LDF has long held an affirmative vision of this country as a multi-racial, multi-ethnic democracy that provides equal opportunities for all. The United States has made great progress since the Civil Rights Movement of the mid-twentieth century but still has a long way to go to fully realize its promise. Attacks on the civil rights of Black and other marginalized communities weaken the fabric of our democracy and move us away from the fulfillment of our nation's ideals. LDF's founder Thurgood Marshall, who later became the first Black Associate Justice of the Supreme Court of the United States, believed that the job of civil rights lawyers was to fight for critical legal breakthroughs while also working toward long-term and lasting change.²⁵ At this critical moment, when Project 2025 aims to reverse civil rights protections for Black people and concentrate power in the hands of the privileged few to the detriment of our democracy as a whole, *all* communities must come together to fight for truth, justice, and equality as the cornerstones of our shared future.

As alarming as the threat of Project 2025 is, it does not have to be our destiny.

Endnotes

- 1 Letter from Legal Def. Fund, Secretary (1940), in *NAACP Legal Defense and Educational Fund, Inc. LDF*, U.S. Library of Cong. pg. 51 of 64 (2002.) Web Archive. <https://www.loc.gov/item/lcwaN0012284/>.
- 2 Paul Dans & Steven Groves, eds., *Mandate for Leadership: The Conservative Promise*, Heritage Found (2023). [hereinafter Project 2025], https://static.project2025.org/2025_MandateForLeadership_FULL.pdf
- 3 *Thurgood Marshall: LDF Founder and First President and Director-Counsel*, Legal Def. Fund., <https://www.naacpldf.org/about-us/history/thurgood-marshall/> (last accessed Sept. 23, 2024) (quoting Thurgood Marshall stating, “In light of the sorry history of discrimination and its devastating impact on the lives of Negroes, bringing the Negro into the mainstream of American life should be a state interest of the highest order. To fail to do so is to ensure that America will forever remain a divided society.”).
- 4 Project 2025, *supra* note 2, at 2.
- 5 David M. Driesen, The Unitary Executive Theory in Comparative Context, 72 *Hastings L.J.* 1, 9 - 10 (2020), https://repository.uchastings.edu/hastings_law_journal/vol72/iss1/1 (defining the concept explained here as the unitary executive theory, utilizing Justice Antonin Scalia’s dissent in *Morrison v. Olson*, 487 U.S. 654, 697–734 (1988), as the “idea that the President must have exclusive control over the politics of executive branch decision-making” and finding it problematic that, “in a situation in which an executive branch official must choose between two actions, both of which comply with the law, the “political dimension” insists that the sitting President’s political preference becomes the determining factor in making the decision. More troubling, the President and loyal subordinates may support policies in considerable tension with the goals of the law they should administer. The political dimension—the idea that the President’s personal preferences must govern administration—can lead to opportunistic construction of the law, which can distort it. The unitary executive theory’s political dimension lies at the heart of the unitary executive theory’s tendency to undermine the rule of law.”).
- 6 Project 2025, *supra* note 2, at 583
- 7 *Id.*
- 8 *Id.* at 319.
- 9 See, e.g., K-12 Education Nationally, Black Girls Receive More Frequent and More Severe Discipline in School Than Other Girls, U.S. Gov’t Accountability Off. (Sept 10, 2024), <https://www.gao.gov/products/gao-24-106787>.
- 10 Project 2025, *supra* note 2, at 340-41.
- 11 *Id.* at 337.
- 12 Michael Harriot, *I Read the Entire Project 2025. Here Are the Top 10 Ways It Would Harm Black America*, the Griot (July 15, 2025), <https://thegriot.com/2024/07/15/i-read-the-entire-project-2025-here-are-the-top-10-ways-it-would-harm-black-america/>.
- 13 Project 2025, *supra* note 2, at 554; see Project 2025: What’s at State for Criminal Justice Reform, The Leadership Conf. Educ. Fund (Aug., 2024), <https://civilrights.org/wp-content/uploads/2024/08/Project-2025-Justice-Reform.pdf>.

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- 14 Tracy L. Snell, Bureau of Stats., Off. of Just. Programs, U.S. Dep’t of Just., Capital Punishment, 2021—Statistical Tables, at 6 (Nov. 2023), <https://bjs.ojp.gov/document/cp21st.pdf>; Ella Wiley, *How Racism in the Courtroom Produces Wrongful Convictions and Mass Incarceration*, Legal Def. Fund (July 20, 2022) <https://www.naacpldf.org/racism-wrongful-convictions-mass-incarceration/>.
- 15 Project 2025, *supra* note 2, at 557.
- 16 Sam McCann, *Everything You Need to Know About Consent Decrees: Understanding Federal Oversight of the Criminal Legal System*, Vera Inst. (Aug. 30, 2023), <https://www.vera.org/news/everything-you-need-to-know-about-consent-decrees>.
- 17 Project 2025, *supra* note 2, at 510.
- 18 Sabrina Talukder, *The Sweeping Consequences of the Far Right’s Plan to Effectuate a Backdoor National Abortion Ban in Project 2025*, Am. Progress (July 17, 2024), <https://www.americanprogress.org/article/the-sweeping-consequences-of-the-far-rights-plan-to-effectuate-a-backdoor-national-abortion-ban-in-project-2025/>.
- 19 Roger Severino, *Dep’t of Health and Hum. Servs.*, in Project 2025, *supra* note 2.
- 20 Project 2025, *supra* note 2, at 450; *see generally id.*
- 21 *Id.* at 562 (stating, “Announcing a Campaign to Enforce the Criminal Prohibitions in 18 U.S. Code §§ 1461 and 1462 Against Providers and Distributors of Abortion Pills That Use the Mail. Federal law prohibits mailing ‘[e]very article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion.’ Following the Supreme Court’s decision in *Dobbs*, there is now no federal prohibition on the enforcement of this statute. The Department of Justice in the next conservative Administration should therefore announce its intent to enforce federal law against providers and distributors of such pills.”)
- 22 Jeff Diamant et al., *What the Data Says About Abortion in the U.S.*, Pew Rsch. Ctr. (March 25, 2024), <https://www.pewresearch.org/short-reads/2024/03/25/what-the-data-says-about-abortion-in-the-us/> (citing Katherine Kortsmit et al., *Abortion Surveillance – U.S., 2021*, 72 Surveillance Summaries, tbl.6, <https://www.cdc.gov/mmwr/volumes/72/ss/ss7209a1.htm#T6> down); *see also*, Talukder, *supra* note 18 (“One study found that under a nationwide total abortion ban, there could be a 24 percent increase in expected maternal deaths nationwide, with Black women projected to experience a 39 percent increase.”); *id.* (“Given that Black women are more likely to be diagnosed with ectopic pregnancies than white women, and 6.8 times more likely to die from an ectopic pregnancy, a delay or denial in accessing medication abortion will have a disparate impact.”).
- 23 Project 2025, *supra* note 2, at 421.
- 24 Jane Rosenthal et al., *Project 2025 Would Make It Easier for Big Corporations to Dump Dangerous Toxins that Poison Americans*, Am. Progress (Aug. 7, 2024), <https://www.americanprogress.org/article/project-2025-would-make-it-easier-for-big-corporations-to-dump-dangerous-toxins-that-poison-americans/>.
- 25 Jack Greenberg, *Crusaders in the Courts: How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution* (BasicBooks, 1994).
-

EQUALITY UNDER FIRE

Threats to Civil Rights Protections and Equal Opportunity

“Much progress remains to be made in our Nation’s continuing struggle against racial isolation.... [Civil rights laws] must play an important part in avoiding the Kerner Commission’s grim prophecy that ‘[o]ur Nation is moving toward two societies, one [B]lack, one white—separate and unequal.’”

—Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519 (2015)¹

PROJECT 2025 WILL CURTAIL BLACK PEOPLE'S CIVIL RIGHTS

Project 2025 will dismantle the civil rights tools that people living in the United States have relied on for decades to create a fairer and more inclusive society and economy, and eliminate federal policies and practices that help ensure equal opportunities for Black people. These proposals, from ending data collection on race to weakening the government's ability to fight discrimination, will frustrate efforts to remedy racial inequality. Opponents of civil rights are already working to turn these proposals into reality. In terms of civil rights enforcement, Project 2025 will harm Black communities by:

Preventing the enforcement of anti-discrimination laws by halting the collection of workforce data

The U.S. Equal Employment Opportunity Commission (EEOC), the federal agency charged with investigating and prosecuting employment complaints, collects data from large employers and federal contractors on the race and gender composition of their workforces.² These disclosures make it harder for employers to hide discrimination and help civil rights enforcement agencies identify organizations that may be violating the law. Project 2025 will weaken the federal government's ability to identify and fight employment discrimination by preventing the collection of race and gender data.³

Eliminating policies that ensure equal employment opportunities at the federal level

From access to clean water to fair employment conditions, federal agencies touch nearly every aspect of our daily lives. The importance of a

politically independent federal workforce that represents the full range of talent in the country cannot be overstated. The federal government is the country's largest employer, with more than two million employees total from every state and territory.⁴ The federal government also employs a higher percentage of Black people than the civilian workforce.⁵ Despite this greater representation in the government workforce, Black federal workers are still less likely to hold senior positions than they are in the private sector.⁶ Federal agencies operate programs to help ensure a fair workplace and proactively prevent employment discrimination, such as initiatives that promote diversity, equity, inclusion, and accessibility (DEIA). These programs can serve as models for the private sector.⁷

Project 2025 proposes eliminating federal DEIA programs, which will make it harder for the federal government to meet its civil rights obligations and deter private employers from implementing similar programs.⁸ Project 2025 will also strip an estimated 50,000 federal employees⁹ of their rights and make it easier to replace these nonpartisan experts with political appointees who would do what future presidents want, regardless of whether it is good policy.¹⁰

Curtailling civil rights protections, making it harder to identify and remedy discrimination

Federal law prohibits employers and recipients of federal funding from discriminating on the basis of race, color, national origin, gender, or disability status. These laws and regulations prohibit both

disparate treatment (explicitly treating people differently based on race or other protected characteristics) and disparate impact (policies or practices that appear neutral but result in an unjustifiable discriminatory effect).¹¹ Disparate impact claims also play “a role in uncovering discriminatory intent” by permitting “plaintiffs to counteract unconscious prejudices and disguised animus that escape easy classification as disparate treatment.”¹² This is particularly important as bad actors have become better at concealing discrimination and discriminatory motives.

Project 2025 will end disparate impact claims in employment, education, federal contracting, and other sectors, making it harder to identify and remedy discrimination.¹³

Project 2025 will also dismantle the Office of Federal Contract Compliance Programs—the federal agency that ensures taxpayer dollars do not go to discriminatory contractors—and repeal Executive Order 11246, which prohibits most federal contractors from discriminating based on race, color, religion, sex, sexual orientation, gender

identity, or national origin.¹⁴ Furthermore, Project 2025 calls for the federal government to eliminate civil rights protections for entire communities by removing prohibitions against discrimination based on sexual orientation, gender identity, and sex characteristics in employment, education, and federally funded programs.¹⁵ These proposals will collectively make it more challenging to root out discrimination faced by Black LGBTQ+ people.

Weaponizing civil rights enforcement by the EEOC and the DOJ

Discrimination based on race and gender remains a persistent problem in the United States, and the EEOC consistently receives more complaints alleging race and gender discrimination each year than it does for discrimination based on other protected characteristics.¹⁶ Yet Project 2025 directs the EEOC to reorient its enforcement priorities and limit its investigations of alleged race and gender discrimination even though they are the most common complaints.¹⁷ In addition, Project 2025 calls on the Department of Justice (DOJ) and the EEOC to investigate and prosecute state and local governments, colleges, universities, and private employers that have policies and practices intended to advance racial equity, including trainings to promote diversity, equity, inclusion, and accessibility.¹⁸ Several state attorneys general¹ have similarly threatened legal action against employers¹⁹ and higher education institutions that seek to promote equity,²⁰ and legal organizations that oppose civil rights have argued that programs aimed at remedying discrimination harm white men.²¹ Project 2025 will turn civil rights enforcement on its head by targeting programs designed to increase equal opportunity.

¹ Each state has an attorney general, which is typically an elected position. State attorneys general are states' chief legal officers and are responsible for enforcing both state and federal laws, including the U.S. and state constitutions.

IMPORTANCE OF ANTI-DISCRIMINATION TOOLS

One of the most important tools in civil rights enforcement is the ability to challenge disparate impact discrimination by employers, federal funding recipients, and other actors. In a 1971 case brought by LDF, *Griggs v. Duke Power Co.*, a group of Black workers sued their employer for racial discrimination, claiming that the company imposed unnecessary requirements that disproportionately excluded Black workers from certain jobs, even though the company did not explicitly consider race. In *Griggs*, the U.S. Supreme Court decided that, “not only overt discrimination, but also practices that are fair in form, but discriminatory in operation” violate federal law unless those practices are justified by a legitimate purpose.²² Duke Power’s requirements created unlawful disparate impact because they operated “as ‘built-in headwinds’ for minority groups” and were “unrelated to measuring job capability.”²³ Subsequent Supreme Court decisions and guidance by federal agencies have likewise found that other civil rights statutes also prohibit policies that have a disparate racial impact.²⁴

In the decades since the Supreme Court decided *Griggs*, Black communities and the federal government have used disparate impact claims to challenge numerous discriminatory policies, including: inequitable disaster recovery funding;²⁵ unequal access to water, sanitation,²⁶ and transportation;²⁷ disproportionate exposure to environmental harms;²⁸ and employment restrictions based on past arrests and convictions.²⁹ Federal agencies have also provided guidance

explaining how emerging practices violate the law, such as employers’ use of algorithmic decision-making tools³⁰ (e.g., resume screening tools using artificial intelligence) that disproportionately exclude Black applicants and workers without justification.

In order to comply with their nondiscrimination obligations, many organizations have voluntarily adopted policies and practices that seek to recruit, retain, and support talented individuals of all backgrounds. Research has shown that dedicated DEIA teams,³¹ mentoring programs,³² and other efforts can counteract unfair barriers that often exclude qualified Black employees. These programs play an essential role in mitigating the risk of future discrimination and harassment, by ensuring that current policies do not “‘freeze’ the status quo of prior discriminatory employment practices.”³³ Similarly, DEIA initiatives such as affinity groups, mentorship programs, and programs that offer opportunities for students to connect with faculty and staff have improved academic outcomes in postsecondary education, such as re-enrollment in classes and graduation rates.³⁴ Researchers have also found that educator diversity results in improved reading and math skills, as well as lowered absenteeism and suspension rates for students of color.³⁵

Nevertheless, the United States has yet to achieve the goal of a society in which educational and employment opportunities are equally open to all. As discussed in more detail in later sections, Black

students continue to experience discrimination that limits their ability to access educational opportunities and succeed in pre-kindergarten through high school and higher education institutions.³⁶ A recent study found that one in five Black students experiences discrimination on college and university campuses, and Black students attending the least racially diverse schools experience discrimination most frequently.³⁷ Moreover, Black workers are overrepresented in dangerous jobs with worse pay and fewer benefits.³⁸ Even as the number of Black people with college degrees has increased in the past twenty years, Black people continue to work in lower-wage jobs and less-lucrative industries than white people with similar levels of education.³⁹ More than one in four Black women work in the lowest-wage jobs, such as childcare, housekeeping, and social work.⁴⁰ Black people also experience unemployment at a rate twice as high as that of white people—and face higher unemployment rates when compared to white workers with the same educational attainment, skills, or residential location.⁴¹ Given these ongoing disparities, it is unsurprising that, in Fiscal Year 2023, the EEOC received more than

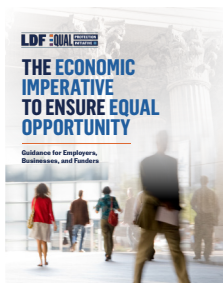
81,000 employment discrimination complaints.⁴² More than a third of these complaints were for race discrimination, and an additional thirty percent were for gender discrimination.⁴³

Tools such as workforce data collection requirements, disparate impact liability, and DEIA programs remain vital to ensure that Black people have equal access to opportunities. Project 2025 will roll back these advancements and thereby permit employers, schools, and other entities that receive federal taxpayer dollars to discriminate. Moreover, it proposes using federal enforcement tools to attack state and local governments, employers, and other private parties that are trying to remove barriers to opportunity in their own institutions. Under Project 2025's policy agenda, Black communities—particularly those in the South—will be vulnerable to abuses from people and institutions with the most economic and political power. In the face of these attacks, all Americans must redouble their commitment to achieving an economy and society where everyone can succeed and where thriving is the standard.

LDF Resources Informing this Chapter

REPORT

The Economic Imperative to Ensure Equal Opportunity: Guidance for Employers, Businesses, and Funders



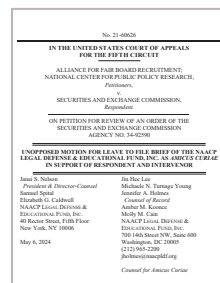
COMMENT

U.S. Department of Commerce's Proposed Business Diversity Principles



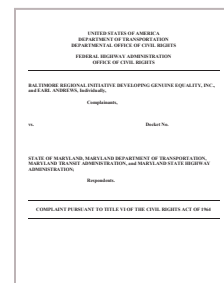
AMICUS BRIEF

Alliance for Fair Board Recruitment v. Securities and Exchange Commission
Amicus Brief



CASE

Baltimore Red Line



LDF'S VISION FOR CIVIL RIGHTS AND EQUAL OPPORTUNITY



Photo by Andre D. Wagner/The New York Times/Redux

The foundation of a thriving multi-racial democracy is a society in which high-quality education, good jobs, and economic mobility are available to all—regardless of race, gender, sexual orientation, disability, or other protected characteristics. All Americans benefit from workplaces and institutions where everyone is valued and can contribute their skills and perspectives. Talent is everywhere; policymakers must ensure that opportunity is, too.

Importantly, removing barriers for Black people and other historically marginalized groups increases opportunities for all. Closing racial gaps in wages and access to financial and educational resources will help grow the economy. Due to discrimination, since 2000 the United States has lost out on \$16 trillion in goods and services.⁴⁴ As the nation becomes increasingly diverse,⁴⁵ creating an inclusive and equitable society is an even greater moral and economic imperative.

Endnotes

- 1 *Tex. Dep't of Hous. & Cmty. Affs. v. Inclusive Cmty. Project*, 576 U.S. 519 (2015), <https://www.justice.gov/sites/default/files/crt/legacy/2015/06/25/tdhcainclusiveopinion.pdf>.
- 2 29 U.S.C. §§ 1602.7-1602.14, <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XIV/part-1602>.
- 3 Paul Dans & Steven Groves, eds., *Mandate for Leadership 2025: The Conservative Promise*, Heritage Found. [hereinafter Project 2025], https://static.project2025.org/2025_MandateForLeadership_FULLL.pdf.
- 4 Ben Leubsdorf & Carol Wilson, Cong. Rsch. Serv., R47716, *Current Federal Civilian Employment by State and Congressional District* at 1 (2023), <https://crsreports.congress.gov/product/pdf/R/R47716/1>.
- 5 U.S. Gov't Accountability Off., GAO-24-105924, *Federal Workforce: Data Reveal Minor Demographic Changes 2011-2021* 6 & Fig. 2 (2023), <https://www.gao.gov/assets/d24105924.pdf>.
- 6 U.S. Off. Pers. Mgmt., *Government-wide DEIA: Our Progress and Path Forward to Building a Better Workforce for the American People* at 5 (2022), <https://www.opm.gov/policy-data-oversight/diversity-equity-inclusion-and-accessibility/reports/DEIA-Annual-Report-2022.pdf>.
- 7 *Government-Wide Strategic Plan to Advance Diversity, Equity, Inclusion and Accessibility in the Federal Workforce*, The White House (Nov. 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/11/Strategic-Plan-to-Advance-Diversity-Equity-Inclusion-and-Accessibility-in-the-Federal-Workforce-11.23.21.pdf>.
- 8 Project 2025, *supra* note 3, at 358, 582.
- 9 Donald Moynihan, *The Risks of Schedule F for Administrative Capacity and Government Accountability*, Brookings Inst. (Dec. 12, 2023), <https://www.brookings.edu/articles/the-risks-of-schedule-f-for-administrative-capacity-and-government-accountability/>.
- 10 Project 2025, *supra* note 3, at 79-81.
- 11 *Inclusive Cmty.*, 576 U.S. at 540.
- 12 *Id.* at 521.
- 13 Project 2025, *supra* note 3, at 335, 583.
- 14 *Id.* at 583-84.
- 15 *Id.* at 333-334.

-
- 16 *Enforcement and Litigation Statistics* tbl. E1a, U.S. Equal Emp. Opportunity Comm’n, <https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0>.
- 17 Project 2025, *supra* note 3, at 587.
- 18 *Id.* at 582-83, 561-62.
- 19 Letter from Attorneys General of 13 States to Fortune 100 CEOs (July 13, 2023), <https://s.wsj.net/public/resources/documents/AGLetterFortune100713.pdf>.
- 20 Mem. from Ohio Attorney General Dave Yost (June 30, 2023), <https://woub.org/wp-content/uploads/2024/02/AG-memo-on-Supreme-Court-ruling.pdf>; Letter from Attorneys General of 21 States to Council of the American Bar Association (June 3, 2024), <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2024/pr24-47-letter.pdf>.
- 21 *E.g., Am. All. for Equal Rts. v. Fearless Fund Mgmt., LLC*, No. 23-12138 (11th Cir June 3, 2024), <https://media.ca11.uscourts.gov/opinions/pub/files/202313138.pdf>.
- 22 *Griggs v. Duke Power Co.*, 401 U.S. 424, 431 (1970).
- 23 *Id.* at 432.
- 24 *Inclusive Cmtys.*, 576 U.S. at 521; *Smith v. City of Jackson*, 544 U.S. 228, 232 (2005); *e.g.* 34 CFR 100.3(b)(2).
- 25 Letter from Christina Lewis, Region VI Dir., Off. of Fair Hous. & Equal Opp. to Tex. Gen. Land Off. Finding Noncompliance with Title VI and Section 109 (Mar. 4, 2022), <https://texashousers.org/wp-content/uploads/2022/03/HUD-Letter-Finding-Noncompliance-with-Title-VI-and-Section-109-.pdf>.
- 26 Complaint Letter Under Title VI of the Civil Rights Act of 1964 from Nat’l Res. Def. Council et al., to U.S. EPA (Mar. 6, 2023), <https://www.nrdc.org/sites/default/files/2023-10/creej-nrdc-title-vi-complaint-20230306.pdf>.
- 27 *Case: Baltimore Red Line Light Rail Cancellation Federal Complaint*, Legal Def. Fund (Feb. 16, 2018), <https://www.naacpldf.org/case-issue/baltimore-red-line/>.
- 28 Letter from U.S. Dep’t of Hous. & Urb. Dev. to City of Chicago Finding Noncompliance with Title VI and Section 109 (July 19, 2022), <https://www.fairhousingnc.org/wp-content/uploads/2022/12/Letter-of-Finding-05-20-0419-City-of-Chicago.pdf>.
- 29 *EEOC Sues Sheetz, Inc. For Racially Discriminatory Hiring Practice*, U.S. Equal Emp. Opportunity Comm’n (Apr. 18, 2024), <https://www.eeoc.gov/newsroom/eeoc-sues-sheetz-inc-racially-discriminatory-hiring-practice>.

-
- 30 *Select Issues: Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964*, U.S. Equal Emp. Opportunity Comm'n, (May 18, 2023), <https://www.eeoc.gov/laws/guidance/select-issues-assessing-adverse-impact-software-algorithms-and-artificial>.
- 31 Alexandra Kalev et al., *Best Practices or Best Guesses? Diversity Management and the Remediation of Inequality*, 71 Am. Socio. Rev. 589 (2006), https://web.cfa.harvard.edu/cfawis/Dobbin_best_practices.pdf.
- 32 Frank Dobbin et al. *Diversity Management in Corporate America*, 6 Contexts 21 (2007), <https://journals.sagepub.com/doi/10.1525/ctx.2007.6.4.21>; Emilio Castilla, *Social Networks and Employee Performance in a Call Center*, 110 Am. J. of Socio. 1243 (2005), [https://web.mit.edu/~ecastill/www/publications/Castilla\(AJSMarch202005\).pdf](https://web.mit.edu/~ecastill/www/publications/Castilla(AJSMarch202005).pdf).
- 33 *Griggs*, 401 U.S. at 430.
- 34 Tammie Cumming et al., *DEI Institutionalization: Measuring Diversity, Equity, and Inclusion in Postsecondary Education*, 55 Change: The Mag. of Higher Learning 31 (2023); Momoh S. Dudu, *Impact of Targeted Diversity, Equity, and Inclusion (DEI) Initiatives on the Retention and Graduation Rates of Students of Color at Community Colleges* (2023) (Ph.D. dissertation, Hamline Univ.), https://digitalcommons.hamline.edu/hsb_all/26.
- 35 Desiree Carver-Thomas, *Diversifying the Teaching Profession: How to Recruit and Retain Teachers of Color*, Learning Poly' Inst. (Apr. 2018), https://learningpolicyinstitute.org/sites/default/files/product-files/Diversifying_Teaching_Profession_REPORT_0.pdf.
- 36 Legal Def. Fund, *Written Testimony of Jin Hee Lee Submitted to H. Higher Educ. & Workforce Dev. Subcomm. of the U.S. H.R. Educ. & Workforce Comm.*, (Mar. 7, 2024), <https://www.naacpldf.org/wp-content/uploads/LDF-Testimony-of-Jin-Hee-Lee-for-House-Ed-and-Workforce-Hearing-on-DEIA38.pdf>.
- 37 Camille Lloyd & Courtney Brown, *One in Five Black Students Report Discrimination*, Gallup (Feb. 9, 2023), <https://news.gallup.com/poll/469292/one-five-black-students-report-discrimination-experiences.aspx>.
- 38 Rebecca Dixon & Amy Traub, *Desegregating Opportunity: Why Uprooting Occupational Segregation Is Critical to Building a Good-Jobs Economy* 1, Nat'l Emp. Law Project (May 2024), <https://www.nelp.org/app/uploads/2024/05/Desegregating-Opportunity-May-2024.pdf>.
- 39 Ashley Jardina et al., *The Limits of Educational Attainment in Mitigating Occupational Segregation Between Black and White Workers*, at 9 (Nat'l Bureau of Econ. Res., Working Paper No. 31641, Aug. 2023), <https://doi.org/10.3386/w31641>.
- 40 Kemi Role & Shayla Thompson, *Purpose & Resistance: Black Women Workers Confronting Occupational Segregation*, Nat'l Emp. Law Project (Apr. 2024), <https://www.nelp.org/app/uploads/2024/04/NELP-Report-Black-Women-Workers-Confront-Occupational-Segregation-4-2024.pdf>.

-
- 41 Algernon Austin, The Continuing Power of White Preferences in Employment, Ctr. for Econ. & Pol’y Rsch. (Aug. 1, 2023), <https://cepr.net/report/the-continuing-power-of-white-preferences-in-employment/>.
- 42 EEOC Enforcement and Litigation Statistics, *supra* note 16, at Table E1a.
- 43 *Id.*
- 44 Dana M. Peterson & Catherine L. Mann, *Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.*, Citi Glob. Persp. & Sols 7 (2020), <https://www.citigroup.com/global/insights/citigps/closing-the-racial-inequality-gaps-20200922>.
- 45 Press Release, U.S. Census Bureau, U.S. Census Bureau Projections Show a Slower Growing, Older, More Diverse Nation a Half Century from Now (Dec. 12, 2012), <https://www.census.gov/newsroom/releases/archives/population/cb12-243.html>; Matt Lavietes, *Nearly 30% of Gen Z Adults Identify as LGBTQ, National Survey Finds*, NBC News (Jan. 24, 2024), <https://www.nbcnews.com/nbc-out/out-news/nearly-30-gen-z-adults-identify-lgbtq-national-survey-finds-rcna135510>.

THREATS TO PROVIDING BLACK STUDENTS A SAFE, INCLUSIVE, AND QUALITY EDUCATION

“Among the individual complainants is Student A, a Black student in the [Carroll Independent School District in the Dallas, Texas, area]. At least once each year for over three years, he has been called [the n-word]. He was also called a ‘porch monkey.’ Derogatory language and proxy terms like these are known to be commonplace among students in [Carroll Independent School District]. When reported, they are often unaddressed, and students who report are retaliated against. Student A was ostracized and called a ‘snitch’ by other students for reporting racial slurs used against him. This student has suffered severe psychological anguish as result of this demeaning harassment.”

—Summary of LDF’s complaint to the Department of Education’s Office of Civil Rights in *Cultural & Racial Equity for Every Dragon, Southlake Anti-Racism Coalition, et al. v. Carroll Independent School District, et al.*¹

PROJECT 2025 WILL DISMANTLE THE DEPARTMENT OF EDUCATION AND ELIMINATE CIVIL RIGHTS PROTECTIONS FOR ALL STUDENTS, ESPECIALLY BLACK STUDENTS

Project 2025 calls for the federal government to abolish the Department of Education (ED), the agency tasked with enforcing civil rights in education, distributing federal funding, and administering programs to address inequities in educational access and participation.² Dismantling the ED and reshuffling oversight of its programs to states and other federal agencies, such as the Department of Justice (DOJ) and the Census Bureau, will severely undermine federal efforts to provide accessible, inclusive, and high-quality public education for all students—from early childhood to higher education—in safe learning environments that do not threaten their civil rights. These policy proposals will destabilize the United States’ system of public education by:

Ending the ED’s obligations under federal law to administer student discipline in a nondiscriminatory manner

Project 2025 calls for sweeping action to ensure that any guidance or regulation that interprets Title VI of the Civil Rights Act of 1964—which prohibits federal funding recipients from discriminating based on race, color, or national origin—explicitly rejects the disparate impact theory of liability. Based on the erroneous assumption that permitting claims of discrimination based on disparate impact inverts the purpose of the Civil Rights Act of 1964, it claims that “federal overreach has pushed many

school leaders to prioritize the pursuit of racial parity in school discipline over student safety.”³ Eliminating the disparate impact theory of liability will hamstring the federal government’s ability to fulfill its legal obligations to protect students from all forms of discrimination, including in school discipline. This is particularly important in cases where schools or school districts have well-documented histories of disproportionately meting out punishment to Black students for allegedly violating facially neutral policies, proper enforcement of which requires the ability to bring claims based on disparate impact.

Numerous Supreme Court decisions and more than twenty-five federal agencies have previously upheld the disparate impact theory to find unlawful discrimination. In a joint guidance letter issued in 2014, the ED and the DOJ clarified, “Schools also violate Federal law when they evenhandedly implement facially neutral policies and practices that, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of discriminating against students on the basis of race.”⁴ This guidance, which Project 2025 denounces as “overreach in Title VI enforcement,” is vital to fostering safe, positive school climates and improving academic achievement, especially for Black students. An analysis of data conducted by the Civil Rights Data Collection (CRDC) in the 2015-16

school year revealed that Black students and other students of color were more likely to be suspended from school and therefore have less time learning in class.⁵ This finding is not unique: Black students have consistently experienced—and continue to experience—higher rates of discipline in schools for largely subjective reasons, such as “disruptive behavior,” and punishments meted out to Black students are often more severe than those given to their white peers for similar, or even the same, behaviors.⁶ The disproportionate frequency and severity of discipline for Black students in schools contributes not only to the overrepresentation of Black students in referrals to law enforcement, but also to the diversion of Black youth from schools to prisons.⁷ All students deserve a safe environment in schools, and to be protected from disproportionate punishment.

Eliminating Head Start and universal access to quality early childhood education

Project 2025’s call to eliminate Head Start and “prioritize funding for home-based childcare, not universal day care”⁸ will compound racial achievement gaps. Head Start is a federally funded program that provides early childhood education, health, and family support services to low-income children to promote school readiness. The national Head Start program has served approximately thirty-nine million children and families since it started in 1965.⁹ Between 2021 and 2022, the program enrolled over 800,000 students and pregnant people, with Black participants composing the second-largest share of enrollees at about twenty-eight percent.¹⁰ Early childhood education programs like Head Start have clear benefits for Black children and offer a promising strategy to close racial achievement gaps, especially if policymakers prioritize universal preschool education.¹¹ One study found that Black children who participated in preschool performed seventeen percentage points higher on a cognitive assessment

compared to Black children who did not participate in preschool.¹²

Early education programs not only benefit children’s learning outcomes but also foster healthy parenting dynamics and well-being. Caregivers who participated in Head Start programs were more emotionally supportive of their children and more engaged in their early learning than parents who did not.¹³ Interventions such as Head Start can also have positive intergenerational effects. The children of mothers exposed to the program exhibited long-term benefits, including increases in wages and educational attainment.¹⁴ Moreover, access to early education, Head Start, or universal childcare facilitates increased educational attainment and labor force engagement, particularly among Black parents.¹⁵ Although research illustrates that access to quality, federally supported early childhood education benefits both children and their families, Project 2025 will disrupt, rather than invest in, early childhood education programs.

Defunding public education and changing student loan policies to privilege wealthier families

Project 2025 strives to defund public education and eliminate any level of federal oversight that meaningfully protects the civil rights of all students. It proposes an educational system that redirects taxpayer dollars away from public schools in favor of expanding “school choice” policies. Through school vouchers, education savings accounts (ESAs), and “school choice” programs for “federal children” (i.e., those who are “connected to military families, who live in the District of Columbia, or who are members of sovereign tribes”), Project 2025 will privatize the public education system and thereby significantly divest from public education, heighten school segregation,¹⁶ and increase the resources available to wealthy families to attend private schools, effectively denying low-income families an equal opportunity or access to quality education.



Examples of School Choice Policies

School Vouchers

“Vouchers are state-funded programs—often called scholarship programs—that allow students to use public monies to attend a private school. The state provides a set amount of money for private school tuition. This amount is typically based on the state’s per-pupil amount.”¹⁷

Tax Credit Scholarships

“Tax credit scholarship programs provide a tax credit to businesses and individual taxpayers for donating funds to scholarship granting organizations. Nonprofit organizations manage and distribute donated funds in the form of private school tuition scholarships to eligible students.”¹⁸

Education Savings Accounts

“Education Savings Accounts (ESA) are private savings accounts funded by a deposit from the state government and managed by a parent or guardian. The deposit amount varies from state-to-state and is typically based on the state’s per-pupil amount. To use an ESA, parents withdraw their child from the public school system and use their ESA funds to purchase specified educational services, like tutoring, online courses, or private school tuition.”¹⁹

Even though research demonstrates that voucher and ESA programs lack public accountability and transparency,²⁰ Project 2025 proposes that academic assessments should not be required for private schools that enroll students using vouchers and ESAs.²¹ Academic assessments are crucial for tracking the quality of education received through vouchers.²² Notably, researchers have found that voucher students “perform no better—and in many cases worse—than their peers” in public schools.²³ These evidence-based findings run contrary to Project 2025’s baseless claim that research shows “positive outcomes for students from education choice policies.”²⁴ Moreover, experts point out that voucher programs have higher expulsion and dropout rates, leading to lowered educational quality for Black and other marginalized students.²⁵

Voucher and ESA programs also lack fiscal transparency, obscuring how taxpayer dollars are spent.²⁶ Some ESA programs have allowed parents and caretakers to keep the money to use on college tuition, consequently stripping public school students of resources while potentially funding wealthier students to attend college.²⁷ Project 2025’s proposals are an extension of privatization efforts in states such as Florida,²⁸ where lawmakers’ expansions of voucher and ESA programs without accountability measures have led to questionable purchases with public dollars (e.g., big screen televisions) by those who receive these funds regardless of need.²⁹ Arizona has also embraced ESAs and vouchers, which take up nearly \$1 billion of the state budget, draining resources from public schools.³⁰

Furthermore, expanding voucher programs will worsen the racial isolation of Black students, who are more likely to remain in public schools.³¹ Since private and religious schools

Average public education spending per student, by state

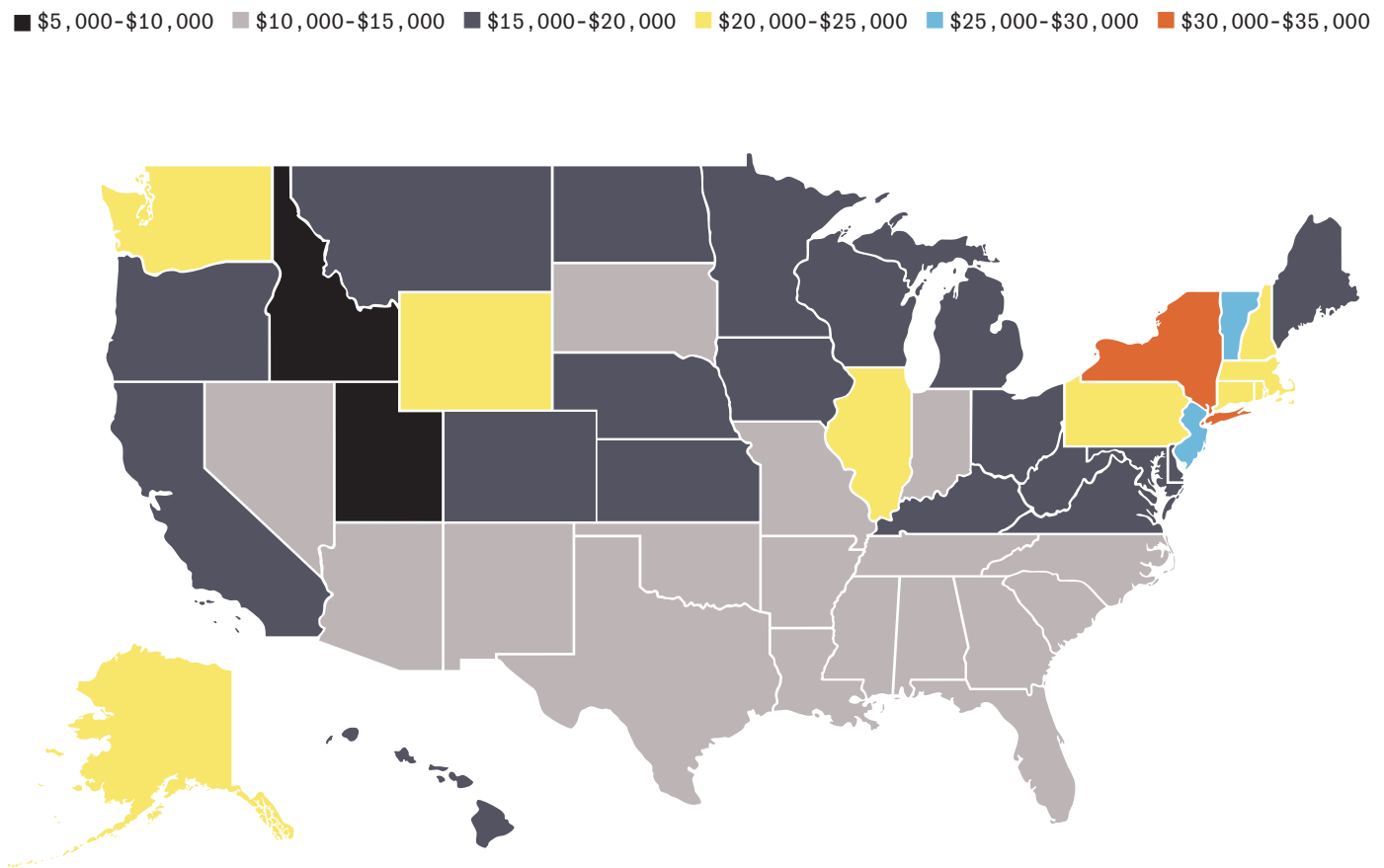


CHART: Legal Defense Fund. SOURCE: Education Data Initiative.

are not required to enroll all students—and have a history of rejecting students of color, students with disabilities, and LGBTQ+ families—Black students will likely face discrimination during the admissions process.³² When students with more resources and networks of support leave public schools, students who are left behind lose out on the positive educational benefits from attending schools with more economic diversity.³³ The resulting isolation, often along the lines of race, has been shown to have a negative relationship with learning outcomes.³⁴

Overall, vouchers, ESAs, and other school privatization strategies are efforts to defund and cut resources for public schools, limiting their capacity to serve all students while increasing the financial revenues of private school operators. This will worsen existing school resource disparities: “African American students are twice as likely as white students to be in districts with funding below estimated adequate levels, and 3.5 times more likely to be in ‘chronically underfunded’ districts.”³⁵

The most underfunded districts are found in ten states: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, and Texas.³⁶ Eight of these states (all aside from New Mexico and Texas) have adopted voucher policies.³⁷ In Maryland, another state with school

vouchers, Baltimore City Public Schools were underfunded by at least \$342 million in 2017, not including the estimated more than \$3 billion needed to renovate facilities.³⁸ Project 2025's call to double down on school privatization will heighten these racialized funding disparities.

Percent of students in school districts with below-adequate funding, by race/ethnicity

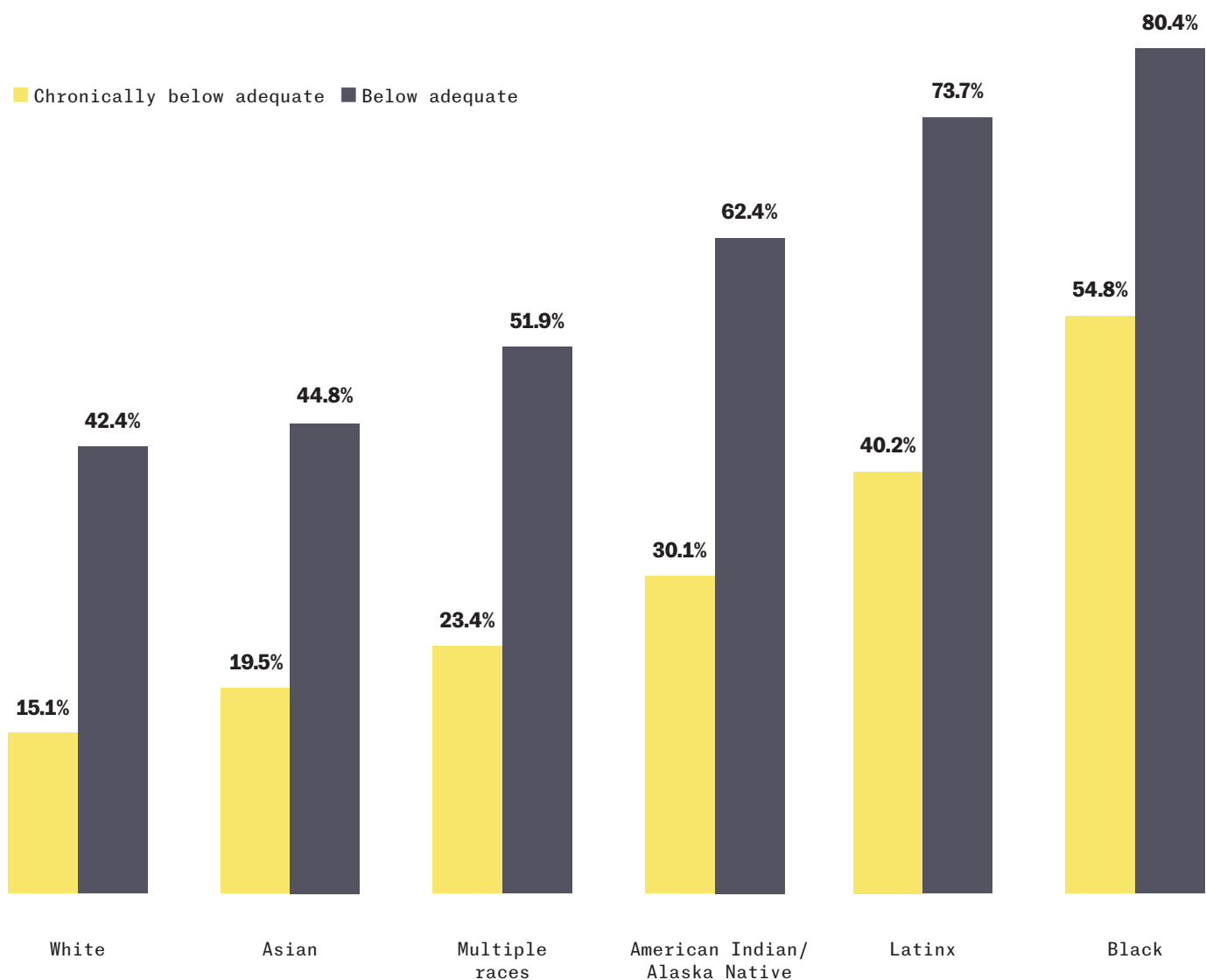


CHART: Legal Defense Fund. SOURCE: Baker, Di Carlo, and Weber, 2024.

In addition to divesting from public schools, Project 2025 will force Black students in higher education to fall deeper into debt and block them from building wealth. Project 2025's proposals will widen the racial wealth gap and greatly harm Black students, a majority of whom utilize federal loans to offset the costs of higher education. Project 2025 advocates for the federal government to turn over student lending to for-profit lenders and end all subsidies and loan forgiveness programs,³⁹ which will limit public accountability and avenues for relief from student loans and leave Black students even more vulnerable to predatory lending practices.

A majority of Black students qualify for federal Pell Grants, a form of financial aid that helps undergraduate students who demonstrate exceptional needs to pay for college.⁴⁰ During the 2020-21 academic year, ninety-seven percent of students who qualified for Pell Grants had family incomes at or below \$60,000.⁴¹ As of the 2015-16 academic year, Black learners made up about seventy-two percent of Pell-eligible students.⁴² Nearly sixty percent of all Black students relied on Pell Grants.⁴³ Across income groups, Black students take on more student loans.⁴⁴ About one-third of Black men and more than forty percent of Black women who attended some college have student loan debt.⁴⁵

Percent of those who ever attended college who currently have student loan debt, by race and gender

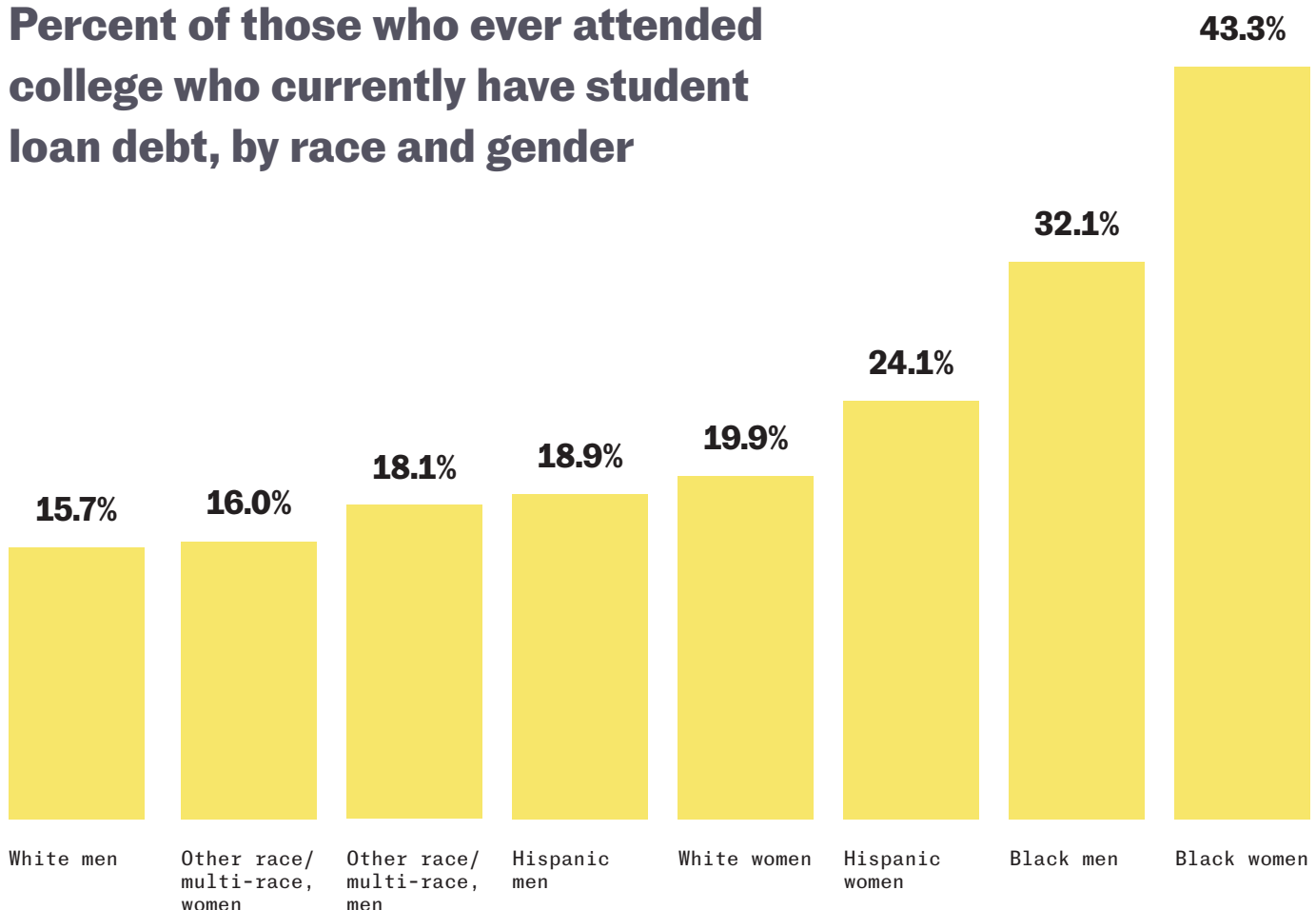


CHART: Legal Defense Fund. SOURCE: Center for Economic and Policy Research.



Student debt relief activists participate in a rally as they march from the U.S. Supreme Court to the White House on June 30, 2023, in Washington, D.C. In a six-to-three decision, the Supreme Court struck down the Biden administration's student debt forgiveness program in *Biden v. Nebraska*. Photo by Kevin Dietsch/Getty Images

Project 2025's proposals to change student loan policies will greatly disadvantage Black graduates, who are more likely to have higher debt-to-wealth ratios than their peers.⁴⁶ Although Black students hold more debt on average than their white peers, they are less likely to earn comparable yearly salaries.⁴⁷ In 2018, the median annual income for Black women and men with bachelor's degrees was \$47,600 and \$42,100, respectively, compared to \$50,000 for white women and \$62,000 for white men with the same level of education.⁴⁸ Although most Black borrowers who responded to a 2021 survey (seventy-two percent) were enrolled in income-driven repayment (IDR) plans designed to lower the cost of monthly payments, many still

struggled to afford savings accounts, food, and rent.⁴⁹ IDR plans help make loan repayments more manageable by extending payment periods, but they also result in higher balances that may take decades to pay off or result in loan default.⁵⁰

Reduced access to debt relief will also block Black college students and their families from building wealth because education debt remains a major obstacle to economic advancement and wealth accumulation.⁵¹ For example, disproportionate student loan burdens make it harder for Black people to achieve homeownership, which is a key pathway to economic advancement.⁵²

Restricting access to inclusive, accurate, and quality instruction

Project 2025 seeks to expand the ongoing, coordinated attack on truth in schools and libraries, which will further deny our nation's shameful legacy of racism. Many states have passed laws that ban or restrict what students can learn about history, with the intention of silencing dissent and punishing those who speak the truth to counter whitewashed falsehoods.⁵³

Mirroring Executive Order 13950⁵⁴ and the 1776 Commission Report,⁵⁵ Project 2025 will ban critical race theory as racial discrimination under the Civil Rights Act of 1964 and prohibit K-12 schools from teaching about race or gender as a violation of parental rights.⁵⁶ It claims that incorporating teachings about systemic racism in school assignments, school activities, or teacher education violates the ideals of freedom and opportunity.⁵⁷

Status of laws banning critical race theory, by state

- Bill has been proposed or is moving through state legislature
- Bill has been vetoed, overturned, or stalled indefinitely
- Bill was signed into law or a similar state-level action was approved
- No state-level action or bill introduced

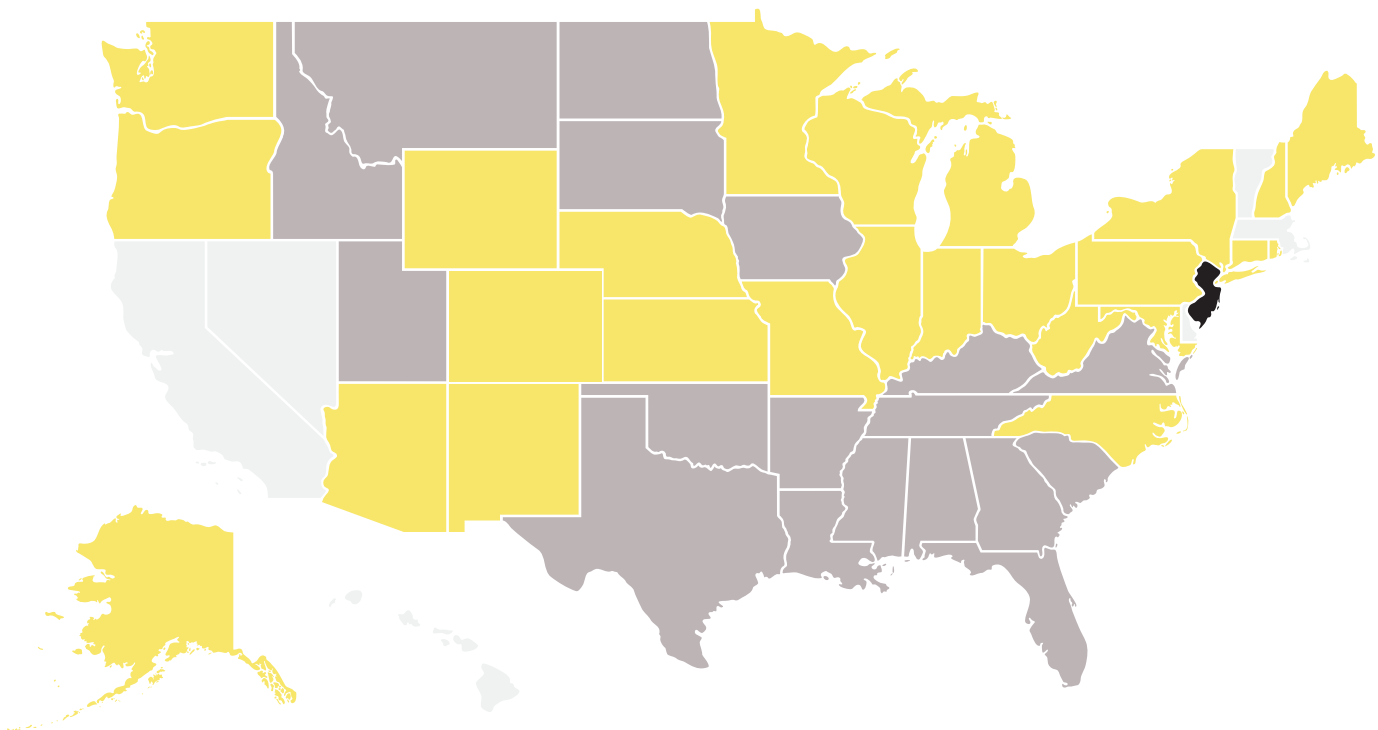


CHART: Legal Defense Fund. SOURCE: EdWeek.



Students hold books during the Rally for Our Rights on May 24, 2022, organized by Orange County high school students, Florida Freedom to Read Project, and Voters of Tomorrow. *Photo courtesy of Stephana Ferrell*

Racially inclusive school curricula improve the academic performance of Black students, other students of color, and white students alike.⁵⁸ Research shows that students who see positive representations of themselves in their curriculum have improved educational outcomes.⁵⁹ For students of color, as well as white students, culturally responsive education decreases dropout rates and suspensions while increasing student participation, confidence, academic achievement, and graduation rates.⁶⁰ Project 2025's proposal also disregards research about cognitive development in children, who are naturally curious about race, racism, and other phenomena of fairness.⁶¹ Overall, the framing

of racially inclusive school curricula as somehow harmful to the self-image of the nation is, like book-burning, a hallmark of authoritarian rule.⁶² A public education system that seeks to serve only some of its students threatens the existence of our multi-racial democracy.

Project 2025 proposes to close the ED and end federal enforcement of civil rights, deregulate and eliminate federal funding for educational programs, and restrict access to inclusive, accurate, and quality instruction. These proposals will jeopardize the education of Black students and all students who rely on our nation's public schools.

LDF'S VISION FOR EDUCATIONAL EQUITY



During the National March for Public Education, participants protest federal funding cuts and the expansion of private-school vouchers outside the Department of Education building. *Photo by Bob Korn/Shutterstock*

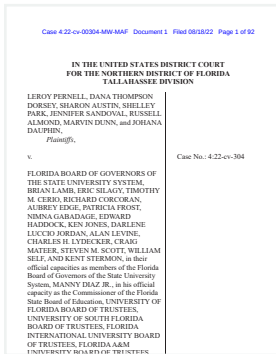
LDF envisions a future in which all people, especially Black people, have access to high-quality, racially integrated educational opportunities, from preschool through higher education. Prior to and since LDF's successful litigation of the historic U.S. Supreme Court case *Brown v. Board of Education*, 347 U.S. 483 (1954), LDF has represented Black students in the fight to desegregate schools, particularly in the Deep South. LDF strives for safe and inclusive learning environments that equip all students with the critical thinking skills needed to realize the promise and constitutional ideals of a multi-

racial democracy. In pursuit of this mission, LDF advocates for the equitable distribution of opportunities and resources, including college and career preparation, access to diverse and high-quality educators, and improved facilities. Furthermore, LDF relentlessly challenges laws and policies that seek to exclude historically marginalized communities' histories, perspectives, and experiences from school initiatives and classroom instruction and materials. LDF utilizes legal advocacy, community organizing, storytelling, and policy reform to realize this vision.

LDF Resources Informing this Chapter

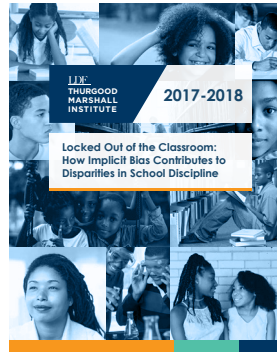
CASE

Pernell v. Lamb: Lawsuit Challenging Florida's Stop WOKE Act



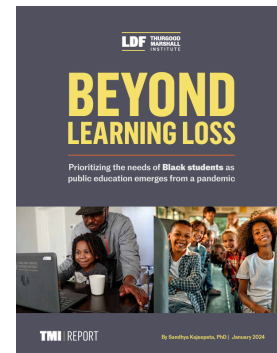
REPORT

*Locked Out of the Classroom:
How Implicit Bias
Contributes to Disparities
in School Discipline*



REPORT

*Beyond Learning Loss:
Prioritizing the Needs of Black
Students as Public Education
Emerges from a Pandemic*



REPORT

*Our Girls, Our Future:
Investing in Opportunity and
Reducing Reliance on the
Criminal Justice System in
Baltimore*



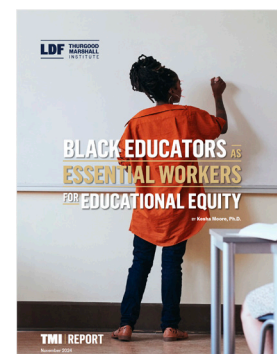
BRIEF

*Whose History? How
Textbooks Can Erase the
Truth and Legacy of Racism*



REPORT

*Black Educators as
Essential Workers for
Educational Equity*



Endnotes

- 1 *Summary of Complaint: Cultural & Racial Equity for Every Dragon, Southlake Anti-Racism Coalition, et al. v. Carroll Independent School District, et al.*, Off. of C. R., Dep’t of Educ., <https://www.naacpldf.org/wp-content/uploads/2022-02-15-Southlake-Complaint-Summary-1.pdf>.
- 2 Paul Dans & Steven Groves, eds., *Mandate for Leadership: The Conservative Promise*, Heritage Found. at 319-63 (2023) [hereinafter Project 2025], https://static.project2025.org/2025_MandateForLeadership_FULL.pdf, (stating, “Federal education policy should be limited and, ultimately, the federal Department of Education should be eliminated.”).
- 3 *Id.* at 334.
- 4 Letter from C.R. Dov., U.S. Dep’t of Just. & Off. for C.R., Dept of Educ. Regarding Guidance to Administer Student Discipline (Jan. 8, 2014), <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:f97fab94-7eba-481d-9b26-3dc27395d60c>.
- 5 Daniel J. Losen & Paul Martinez, *Lost Opportunities: How Disparate School Discipline Continues to Drive Differences in the Opportunity to Learn*, UCLA C.R. Project (Oct. 2020), https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/lost-opportunities-how-disparate-school-discipline-continues-to-drive-differences-in-the-opportunity-to-learn/Lost-Opportunities_EXECUTIVE-SUMMARY_v17.pdf.
- 6 Annie Ma & Cheyanne Mumphrey, *Why Black Students Are Still Disciplined at Higher Rates: Takeaways from AP’s Report*, AP News (Aug. 30, 2024), <https://apnews.com/article/school-discipline-takeaways-ferguson-black-lives-matter-efabdb403d4e34e9c607f039c827d72a>.
- 7 U.S. Gov’t Accountability Off., GAO-24-106787, *Nationally, Black Girls Receive More Frequent and More Severe Discipline in School than Other Girls* (2024), <https://www.gao.gov/assets/gao-24-106787.pdf>; U.S. Gov’t Accountability Off., GAO-18-258, *Discipline Disparities for Black Students, Boys, and Students with Disabilities* (Mar. 2018), <https://www.gao.gov/assets/gao-18-258.pdf>; Losen & Martinez, *supra* note 5.
- 8 Project 2025, *supra* note 2, at 486.
- 9 *Head Start Program Facts: Fiscal Year 2022*, Head Start: Early Childhood Learning & Knowledge Ctr., <https://eclkc.ohs.acf.hhs.gov/data-ongoing-monitoring/article/head-start-program-facts-fiscal-year-2022#> (last updated Aug. 26, 2024).
- 10 *Id.*
- 11 Daphna Bassok, *Do Black and Hispanic Children Benefit More From Preschool? Understanding Differences in Preschool Effects Across Racial Groups*, 81 Child Dev. 1828 (2010), <http://www.jstor.org/stable/40925302>; *See Myths and Facts About Vouchers*, The Metro. Ctr. for Rsch. On Equity and the Transformation of Schs., <https://steinhardt.nyu.edu/metrocenter/ejroc/myths-and-facts-about-vouchers> (last visited Dec. 23, 2024).
- 12 *Id.*
- 13 John M. Love, et al., *The Effectiveness of Early Head Start for 3-Year-Old Children and Their Parents: Lessons for Policy and Programs*, 41 Dev. Psych. 885, <https://pubmed.ncbi.nlm.nih.gov/16351335/>; Alexander Gelber & Adam Isen, *Children’s School and Parents’ Behavior: Evidence from the Head Start Impact Study*, 101 J. Pub. Econ. 25, <https://www.sciencedirect.com/science/article/abs/pii/S0047272713000339>; Amy E. Heberle & Rachel Chazan-Cohen, *Longitudinal and Reciprocal Relations Among Parent and Child Outcomes for Black Early Head Start Families*, 34 Early Educ. & Dev. 387, <https://doi.org/10.1080/10409289.2022.2045461>.
- 14 Andrew Barr & Chloe R. Gibbs, *Breaking the Cycle? Intergenerational Effects of an Antipoverty Program in Early Childhood*, 130 J. Pol. Econ. (Dec. 2022), <https://www.journals.uchicago.edu/doi/10.1086/720764>.

-
- 15 Terri J. Sabol, P. Lindsay Chase-Lansdale, *The Influence of Low-Income Children's Participation in the Head Start on Their Parents' Education and Employment*, 34 J. Pol'y Analysis and Mgmt. 136 (2015), <https://www.jstor.org/stable/43866090>; Rasheed Malik, *Effects of Universal Preschool in Washington, D.C.: Children's Learning and Mother's Earnings*, Am. Progress (Sept. 26, 2018), <https://www.americanprogress.org/article/effects-universal-preschool-washington-d-c/>.
- 16 Bettina L. Love, *Punished for Dreaming: How School Reform Harms Black Children and How We Heal* ch. 4, (St. Martin's Press, 2023), <https://us.macmillan.com/books/9781250280381/punishedfordreaming>.
- 17 *50-State Comparison: Private School Choice*, Educ. Comm'n. of the States (Jan. 24, 2024), <https://www.ecs.org/50-state-comparison-private-school-choice-2024/>.
- 18 *Id.*
- 19 *Id.*
- 20 *School Vouchers Lack Necessary Transparency and Accountability*, Ariz. Ctr. for Econ. Progress (July 1, 2023), <https://azeconcenter.org/school-vouchers-lack-necessary-transparency-and-accountability/>.
- 21 Project 2025, *supra* note 2, at 347.
- 22 Ariz. Ctr. for Econ. Progress, *supra* note 20.
- 23 *Myths and Facts About Vouchers*, *supra* note 11.
- 24 Project 2025, *supra* note 2, at 342.
- 25 *Myths and Facts About Vouchers*, *supra* note 11.
- 26 Ariz. Ctr. for Econ. Progress, *supra* note 20.
- 27 *Id.*
- 28 Project 2025, *supra* note 2, at 348.
- 29 Norin Dollard, *Florida Needs More Transparency and Accountability Around School Vouchers*, Fla. Pol'y Inst. (June 10, 2024), <https://www.floridapolicy.org/posts/florida-needs-more-transparency-and-accountability-around-school-vouchers?42f82863>.
- 30 Governor Katie Hobbs Announces Plan for ESA Accountability and Transparency, Off. Gov. Katie Hobbs (Jan. 2, 2024), <https://azgovernor.gov/office-arizona-governor/news/2024/01/governor-katie-hobbs-announces-plan-esa-accountability-and>; *Do Education Savings Accounts Lead to Better Results for Families*, Network for Pub. Educ. (Apr. 2021), <https://networkforpubliceducation.org/wp-content/uploads/2021/04/Do-Education-Savings-Accounts-lead-to-better-results-for-families.pdf>.
- 31 Chris Ford et al., *The Racist Origins of Private School Vouchers*, Am. Progress (July 12, 2017), <https://www.americanprogress.org/article/racist-origins-private-school-vouchers/>; *Myths and Facts About School Vouchers*, *supra* note 11; Emma E. Rowe & Christopher Lubienski, *Shopping for Schools or Shopping for Peers: Public Schools and Catchment Area Segregation*, 32 J. of Educ. Pol'y 340 (Dec. 2016), <https://doi.org/10.1080/02680939.2016.1263363>.
- 32 *Private School Programs that are Subsidized with Taxpayer Funds Continue to Sanction Discrimination and Widen the Equity Gap in K-12 Education*, GLSEN, <https://www.glsen.org/activity/issue-brief-private-school-programs> (last accessed Oct. 1, 2024); Julia Donheiser, *Chalkbeat Explains: When Can Private Schools Discriminate Against Students*,
-

-
- Chalkbeat (Aug. 10, 2017), <https://www.chalkbeat.org/2017/8/10/21107283/chalkbeat-explains-when-can-private-schools-discriminate-against-students/>; Ford, *supra* note 31.
- 33 Michael Fabricant & Michelle Fine, *Changing Politics of Education: Privatization and the Dispossessed Lives Left Behind* ch. 6 (Routledge, 2013), <https://doi.org/10.4324/9781315635606>.
- 34 Stan. Ctr. for Educ. Pol’y Analysis, *Is Separate Still Unequal? New Evidence on School Segregation and Racial Academic Achievement Gaps* at 33 (CEPA Working Paper No.19-06, 2022), <http://cepa.stanford.edu/wp19-06>.
- 35 Press Release, Am. Fed’n of Teachers, *New Report Finds Most States Have Deprived Schools of Hundreds of Billions of Dollars Since 2016* (Jan. 17, 2024), <https://www.aft.org/press-release/new-report-finds-most-states-have-deprived-schools-hundreds-billions-dollars-2016>.
- 36 Melanie Hanson, *U.S. Public Education Spending Statistics*, Educ. Data Initiative (July 14, 2024), <https://educationdata.org/public-education-spending-statistics>.
- 37 *Id.*
- 38 Alaizah Koorji, *A Right Without a Remedy?: Maryland Must Finally Ensure Baltimore City Schoolchildren Have the Funding Necessary to Obtain an Adequate Education*, Legal Def. Fund (Nov. 8, 2023), <https://www.naacpldf.org/a-right-without-a-remedy-baltimore-public-schools/>.
- 39 Project 2025, *supra* note 2, at 353-54.
- 40 Cassandria Dortch, Cong. Rsch. Serv., R45418, *Federal Pell Grant Program of the Higher Education Act: Primer* (2023), <https://crsreports.congress.gov/product/pdf/R/R45418>.
- 41 *Id.*
- 42 *Pell Grant Statistics*, Educ. Data Initiative, <https://educationdata.org/pell-grant-statistics>
- 43 *Indicator 22: Financial Aid*, Nat’l. Ctr. for Educ. Stats., https://nces.ed.gov/programs/raceindicators/indicator_rec.asp (Feb. 2019).
- 44 Ji Hye “Jane” Kim et al., *Race and Ethnicity in Higher Education 2024 Status Report*, Am. Council on Educ. (2024), https://www.equityinhighered.org/wp-content/uploads/2024/05/REHE2024_Full_Report.pdf.
- 45 Emma Curchin, *Student Loan Debt is Common Across All Race and Gender Groups, Especially for Black Women*, CEPR (Jan. 10, 2024), <https://cepr.net/student-loan-debt-is-common-across-all-race-and-gender-groups-especially-for-black-women/>.
- 46 Urvi Neelakantan, *Black-White Differences in Student Loan Default Rates Among College Graduates*, Fed. Reserve Bank of Richmond (Br No. 23-12, 2013), https://www.richmondfed.org/publications/research/economic_brief/2023/eb_23-12.
- 47 Marisa Wright, *How Student Loan Forgiveness Can Help Close the Racial Wealth Gap and Advance Economic Justice*, Legal Def. Fund (Apr. 17, 2023), <https://www.naacpldf.org/student-loans-racial-wealth-gap/>.
- 48 Jalil B. Mustaffa & Jonathan C.W. Davis, *Jim Crow Debt: How Black Borrowers Experience Student Loans*, The Educ. Trust (Oct. 20, 2021), https://edtrust.org/wp-content/uploads/2014/09/Jim-Crow-Debt_How-Black-Borrowers-Experience-Student-Loans_October-2021.pdf.
- 49 *Id.*
-

-
- 50 Marshall Steinbaum, *The Student Debt Crisis is a Crisis of Non-Repayment*, Phenomenal World (Nov. 18, 2020), <https://www.phenomenalworld.org/analysis/crisis-of-non-repayment/>; *Id.*
- 51 Wright, *supra* note 47.
- 52 Andre M. Perry et al., *Student Loans, the Racial Wealth Divide, and Why We Need Full Student Debt Cancellation*, Brookings Inst. (June 23, 2021), <https://www.brookings.edu/research/student-loans-the-racial-wealth-divide-and-why-we-need-full-student-debt-cancellation/>.
- 53 Sarah Schwartz, *Map: Where Critical Race Theory is Under Attack*, Ed. Week (June 11, 2021), <https://www.edweek.org/policy-politics/map-where-critical-race-theory-is-under-attack/2021/06> (last updated Aug. 28, 2024); *Map*, CRT Forward, <https://crtforward.law.ucla.edu/map/>; Jakiyah Bradley, *Whose History? How Textbooks Can Erase the Truth and Legacy of Racism*, Thurgood Marshall Inst. Ed. Equity No.7 (Feb. 16, 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4707885.
- 54 *Executive Order on Combating Race and Sex Stereotyping*, Trump White House Archives (Sept. 22, 2020), <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/>.
- 55 The President's Advisory 1776 Comm'n, *The 1776 Report* (Jan. 2021), <https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/The-Presidents-Advisory-1776-Commission-Final-Report.pdf>.
- 56 Project 2025, *supra* note 2, at 342-346.
- 57 *Id.* at 342-343.
- 58 Christine E. Sleeter & Miguel Zavala, *Transformative Ethnic Studies in Schools: Curriculum Pedagogy, and Research* ch. 3 pp. 8, 17 (Teachers Coll. Press, 2020), <https://www.nea.org/sites/default/files/2020-10/What%20the%20Research%20Says%20About%20Ethnic%20Studies.pdf>.
- 59 Thomas Dee & Emily Penner, *The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum*, 54 Am. Educ. Rsch. J. (CEPA Working Paper No.16-01, 2016), <https://cepa.stanford.edu/content/causal-effects-cultural-relevance-evidence-ethnic-studies-curriculum>; Sleeter, *supra* note 58.
- 60 Dee & Penner, *supra* note 59.
- 61 J. Sullivan et al., *Adults Delay Conversations About Race Because They Underestimate Children's Processing of Race*, 150 J. of Experimental Psych. 385, <https://www.apa.org/pubs/journals/releases/xge-xge0000851.pdf>.
- 62 Jason Stanley, *Erasing History: How Fascists Rewrite the Past to Control the Future* chs. 2, 5 (Atria/One Signal Publishers, Sept. 10, 2024).
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RISKS TO VOTING RIGHTS, DEMOCRACY, AND BLACK POLITICAL POWER

“The United States is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race.”

—The majority opinion in *Smith v. Allwright*, the Supreme Court case argued by Thurgood Marshall that declared all-white Texas primaries unconstitutional.¹

PROJECT 2025 WILL LIMIT BLACK COMMUNITIES' POLITICAL PARTICIPATION

Project 2025 proposes policy changes to limit the political participation of Black and other marginalized communities, which will significantly discourage both census participation and voter engagement. These policy proposals will directly harm Black communities and other communities of color, undermining efforts to achieve an accurate census count and weakening the Department of Justice's (DOJ) capacity to defend voting rights. Project 2025 will undercut efforts to increase Black people's political participation by:

Politicizing the Census Bureau's operations to further partisan ends

The U.S. Census Bureau, the federal government's largest statistical agency, regularly conducts a census to determine the population of the United States.² Article I, Section Two of the U.S. Constitution provides that the census must be conducted every ten years and gives Congress the power to carry out the census in a manner that is directed by law.³ Pursuant to this provision, Congress passed the Census Act,⁴ which requires the Secretary of Commerce to “take a decennial census of population” and grants the secretary discretion to do so “in such form and content as he may determine”⁵ and to “obtain such other census information as necessary.”⁶ The Bureau's charge is to “provide information that is accurate, reliable, and unbiased” and to “ensure that its information products are presented in an accurate, clear,

complete, and unbiased manner,” noting that “using highly qualified people to prepare data products” is important to achieving objectivity.⁷

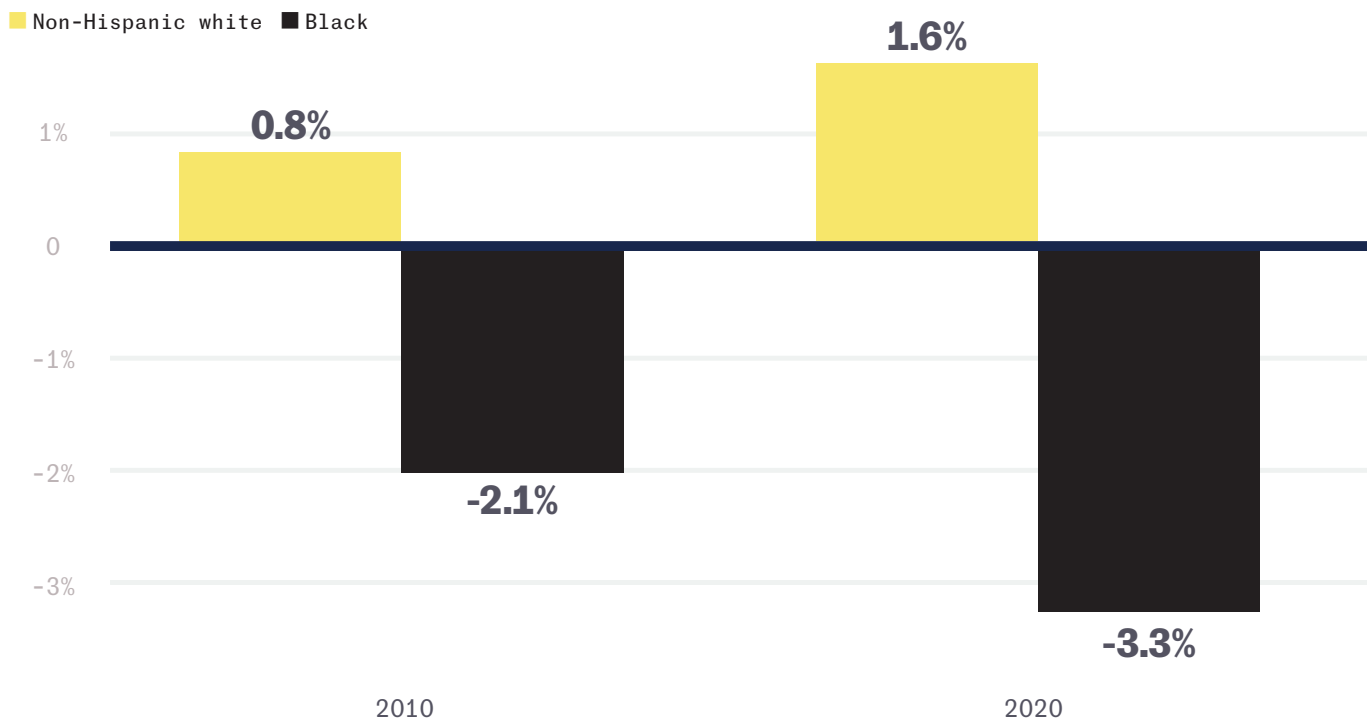
Mistrust of the government is a significant challenge to full census participation, potentially affecting both accuracy and completeness. For over 200 years, the Bureau has aimed to be a professional scientific agency, keeping its distance from partisan reactions to the statistics generated. The Bureau's reputation for nonpartisan, independent science is the bedrock of voting rights enforcement because it earns public cooperation and respect.

Project 2025 will overhaul the Census Bureau and make changes that will politicize and jeopardize its role as a nonpartisan agency responsible for accurately counting everyone. Project 2025's policy agenda includes consolidating the U.S. Department of Commerce's Bureau of Economic Analysis (BEA),ⁱ the Census Bureau, and the Department

ⁱ The BEA is an agency within the Department of Commerce. Like the Census Bureau, it produces economic statistics that enable government and business decision-makers, researchers, and the American public to follow and understand the performance of the nation's economy. Bureau of Econ. Analysis, U.S. Dep't of Com., *Who We Are*, <https://www.bea.gov/about/who-we-are> (last updated on Sept. 16, 2024). The BEA is composed entirely of career civil servants who follow rigorous statistical policies and operate autonomously from any administrative, regulatory, law enforcement, and policymaking entities. Bureau of Econ. Analysis, U.S. Dep't of Com., *Ensuring Data Integrity & Quality at Bea* (Apr. 2018), <https://www.bea.gov/sites/default/files/2018-04/BEA%20Data%20Integrity%20Final.pdf>.

Black people are undercounted in the census

Net coverage error rates by race in the two most recent census counts



A positive coverage error indicates an overcount and a negative coverage error indicates an undercount.

CHART: Legal Defense Fund. SOURCE: U.S. Census Bureau.

of Labor’s Bureau of Labor Statistics (BLS)ⁱⁱ into one agency⁸ and replacing experienced career civil servants with “strong political leadership” in order “to increase efficiency and align the Census Bureau’s mission with conservative principles.”⁹ The BEA, Census Bureau, and BLS are statistical

ⁱⁱ The BLS measures labor market activity, working conditions, price changes, and productivity in the U.S. economy to support public and private decision-making. The BLS adheres to values and principles such as executing its mission independently from partisan interests. The BLS strives to meet the needs of a diverse set of customers with accurate, objective, relevant, timely, and accessible information, and it protects the confidentiality of its data providers. The BLS is part of the executive branch and conducts its “work with independence to ensure that [its] data and analyses are objective and free of partisan influence.” *U.S. Bureau of Labor Statistics Strategic Plan, FY 2020-2025*, U.S. Bureau of Lab. Stats, <https://www.bls.gov/bls/bls-strategic-plan-2020-25.htm> (last updated Jan. 6, 2020).

agencies created independently with different missions and functions, and they often work cooperatively. Consolidating these agencies will centralize control of data collection, replacing the current decentralized statistical system and making it easier for political appointees to influence the collection, interpretation, and dissemination of vital economic, labor, demographic, and voting data. Under this proposal, the federal government will also allocate additional political appointee positions to the Census Bureau.¹⁰ Political appointees are in direct conflict with the Bureau’s commitment to objectivity.¹¹ The changes proposed in Project 2025 will tarnish the Bureau’s reputation, risk data collection, and diminish public confidence in census data.

The politicization of the Census Bureau will exacerbate the undercount of Black, Latinx, and Indigenous communities. The Census Bureau has a long history of undercounting these communities while overcounting white communities, a disparity that will only worsen under Project 2025’s proposals.¹²

Manipulating the census count

The 2020 census count provides a window into how political interference undermines a fair and accurate census count. Executive interference to subvert the 2020 count severely limited the Bureau’s data collection by canceling field tests due to budgetary constraints, forcing leadership changes,¹³ and obstructing data processing operations.¹⁴ During this period, political appointees repeatedly rejected the scientific judgments of career Census Bureau officials

about the best methods to conduct an accurate and inclusive count.¹⁵ Executive efforts to subvert the 2030 count through political appointees, as Project 2025 proposes, will likely repeat and intensify these tactics. Rejecting the best statistical science and manipulating the census will lead to biased decision-making and exacerbate the undercount of Black communities.¹⁶ There are extreme political motivations behind these efforts because census data are crucial for political representation and the allocation of essential resources.

Census data affect the allocation of resources

The Census Bureau estimates that census data are used to allocate more than \$675 billion annually to fund critical education, employment, health care, transportation, housing, and veterans’ services at the local level.¹⁷

TABLE 1 **Selected List of Programs Utilizing Census Data¹⁸**

Career and Technical Education Funding	School Lunch Programs
Federal Pell Grant Program	Rural Rental Assistance Payments
Foster Care Title IV-E	Section 8 Housing Choice Voucher Program
Grants for the Prevention & Treatment of Substance Abuse	State Children’s Health Insurance Program (CHIP)
Head Start	Supplemental Nutrition Assistance Program (SNAP)
HOME Investment Partnerships Program	Temporary Assistance for Needy Families (TANF)
Improving Teacher Quality State Grants	Unemployment Insurance
Low-Income Housing Energy Assistance Program	Water & Waste Disposal System for Rural Communities
Medicaid	

Cumulative enrollment in Head Start, by race/ethnicity

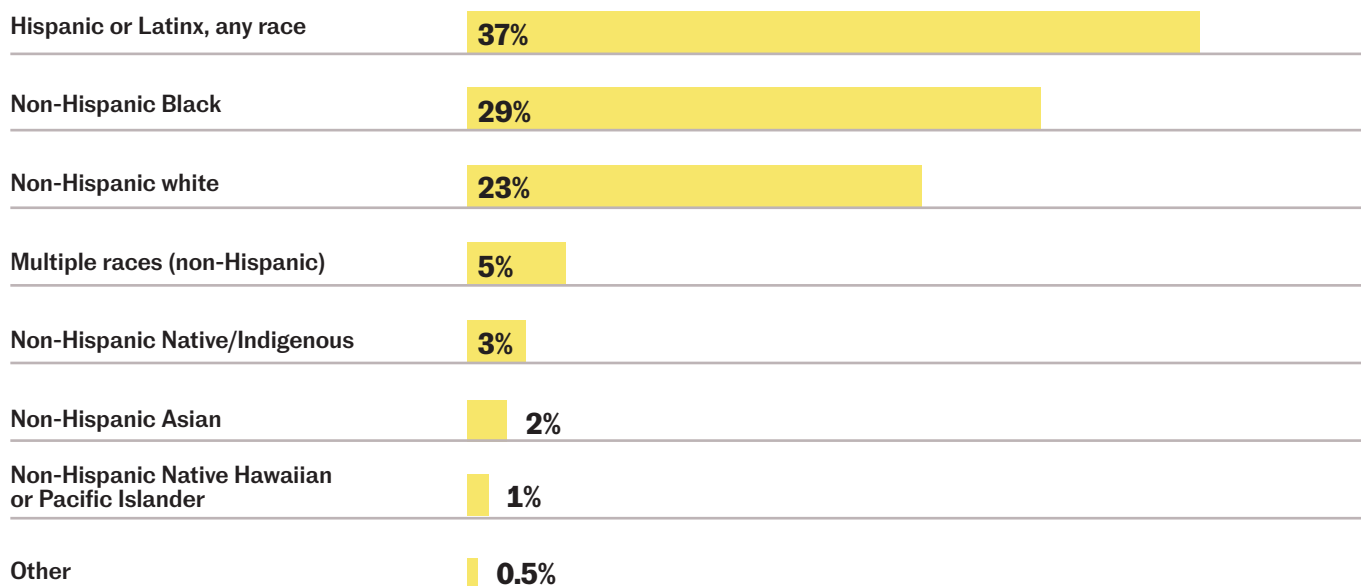


CHART: Legal Defense Fund. SOURCE: U.S. Department of Health and Human Services, Administration for Children & Families.

Undercounting Black people in the census leads to insufficient funding of infrastructure and social services. The National Urban League estimates that each completed census form is worth over \$4,000 per person.¹⁹ Therefore, an undercount of two million people could result in a loss of more than \$8 billion in funding.²⁰ Without an accurate census count, programs such as Head Start that provide vital education, health, and nutrition resources to low-income families will not be funded at adequate levels to meet the needs of local community members.

Census data are the cornerstone of political representation

The influence of political appointees in the Census Bureau may lead to biased data practices that distort vital demographic statistics, such as data on population, voter registration, and citizen voting age, that are essential for redistricting,

enforcing voting rights laws, and ensuring the fair representation of Black communities. The undercount of Black people affects the integrity of local and state governance, redistricting, representation, and the composition of both the Electoral College and U.S. Congress,²¹ all of which substantially limits the Black community's political power. A significant undercount can cause a state to lose seats in the U.S. House of Representatives.²² States with large populations of historically undercounted groups, such as California, Texas, and New York, are at higher risk. California, for instance, faces an undercount risk ranging from 0.95% to 1.98%.²³ Given that each congressional district represents about 700,000 people, this undercount equates to the loss of approximately three seats in the House of Representatives.²⁴ Undercounting Black communities shifts political representation from areas with high Black populations to predominantly white areas.²⁵

Adding a citizenship question to the census

Project 2025 proposes adding a citizenship question to the census, which will likely deter Black people and other people of color from participating in the census.²⁶ This policy, along with proposals to restructure the Census Bureau and replace long-term civil servants with political appointees, will undermine the accuracy of the 2030 census and efforts to facilitate full political participation in a multi-racial democracy.

Prior administrations have already attempted to add a citizenship question to the census. In March 2018, U.S. Secretary of Commerce Wilbur Ross announced his decision to reinstate a citizenship question on the 2020 census questionnaire at the request of the DOJ, which asserted that it would use census block-level citizenship data to enforce the Voting Rights Act.²⁷ In 2019, the U.S. Supreme Court held in *Department of Commerce v. New York* that the secretary's decision did not violate the Enumeration Clause of the U.S. Constitution or the Census Act, and that his decision was supported by evidence before the agency.²⁸ However, a plurality of the Justices concluded that the secretary's decision was unlawful because the reason he gave for adding the citizenship question was not the actual reason for his decision.²⁹ The Supreme Court found that Secretary Ross "was determined to reinstate a citizenship question from the time he entered office."³⁰ He adopted the Voting Rights Act as the reason "late in the process" after already having "made up his mind" to add a citizenship question for other, unstated reasons.³¹ Thus, the Supreme Court found his stated reason to be contrived.³² A report procured by the U.S. House Committee on Oversight and Reform found that the unstated reason behind efforts to add a citizenship question to the census was the production of data needed to redraw voting districts in a way that would be "advantageous to Republicans and Non-Hispanic Whites."³³ Such an outcome would have severely jeopardized the census, thereby undermining the

equitable and efficient operations of our democracy. LDF and other civil rights organizations actively opposed the inclusion of a citizenship question in the 2020 census and advocated for congressional legislation to block it. Ultimately, the citizenship question did not make it into the 2020 census questionnaire.

In 2025, the Census Bureau will start a critical planning period for the upcoming 2030 decennial count. This process must remain nonpartisan and be led by civil servant statisticians who have spent decades working to ensure an accurate census count. Project 2025's proposal directly threatens the success of that process.

Weakening the DOJ's ability to protect the nation's multi-racial democracy

Project 2025 advances policies that jeopardize the United States' multi-racial democracy, including a recommendation to transfer election-related offenses from the DOJ's Civil Rights Division to its Criminal Division.³⁴ This sends a clear message of criminalizing the act of voting, which can discourage Americans from participating in elections for fear of unwarranted prosecution.

Transferring election-related offenses from the Voting Section of the DOJ's Civil Rights Division to the Criminal Division will create yet another barrier to voting for Black people and will lead to enforcement by attorneys who are not trained in civil rights enforcement and the unique history of obstacles to voting. Voting rights attorneys have experience and knowledge of the federal voting rights laws enforced by the Civil Rights Division's Voting Section. Moving enforcement of these civil laws, which offer civil remedies, to a section with experience in criminal enforcement will dilute the ability of the DOJ to defend voting rights.

This change will also signal a shift in what the government considers to be key violations of voting

States that have enacted restrictive voting laws, 2021-24

■ have enacted ■ have not enacted

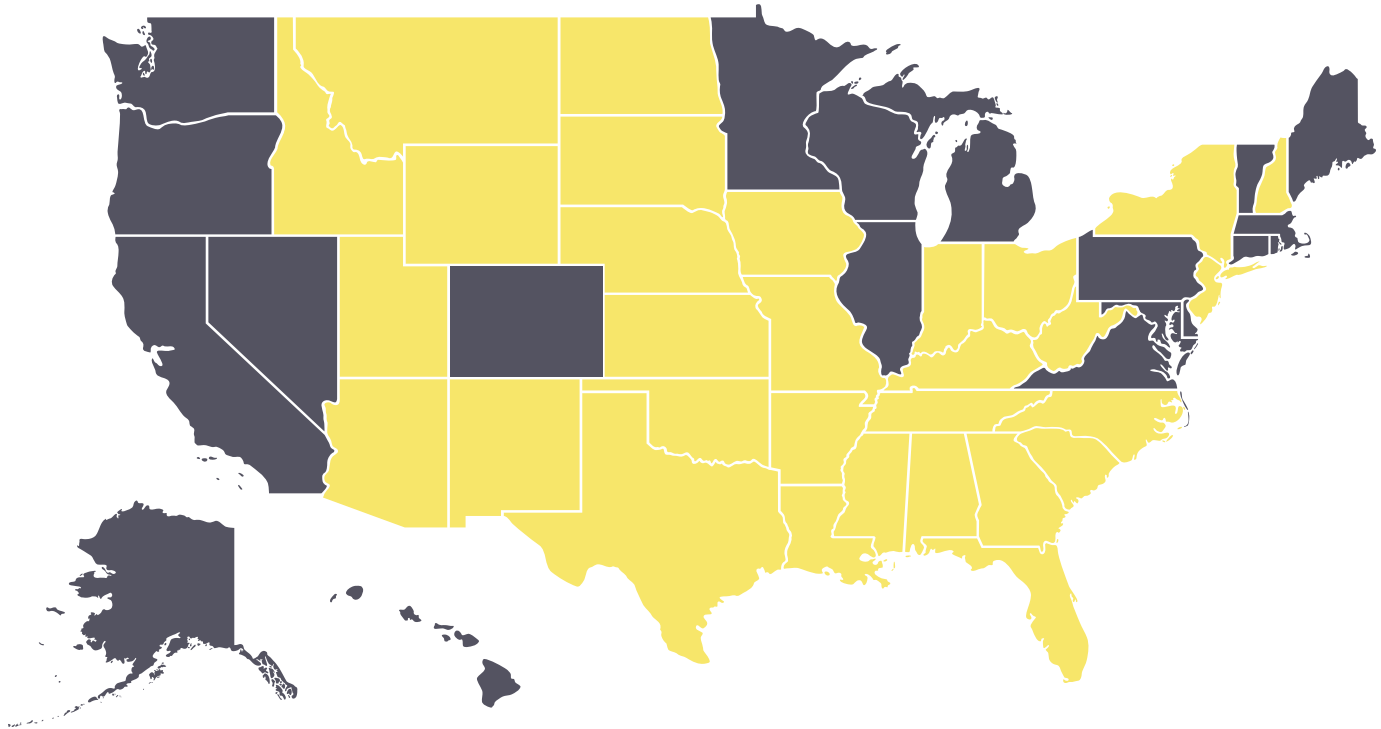


CHART: Legal Defense Fund. SOURCE: Brennan Center for Justice.

rights laws. The purpose of the Voting Section has long been to enforce statutes that eliminate barriers to voting for communities that have struggled to exercise their right to vote. However, some officials have claimed, without evidence, that voting fraud is a more significant issue than these historic and persistent barriers to voting. Although extensive research reveals that voter fraud is very rare and that many instances of alleged fraud are actually isolated mistakes by voters or administrators,³⁵ numerous states have embraced the criminalization of voting, serving as a runway for Project 2025's federal efforts.

In many locales, Black residents already struggle to vote due to obstacles such as long lines, restrictions on absentee ballots, and voter purges. Recent

legislation has gone even further: Since the 2020 election, twenty-six states have either enacted new or toughened existing punishments for a total of 120 election-related crimes.³⁶ Eighteen of these election-related crimes punish people for making an error while voting or during the voter registration or ballot request process, and eleven of these voter fraud crimes are deemed felonies.³⁷ Florida's new Office of Election Crimes and Security arrested nineteen residents, fifteen of whom were Black, for allegedly committing voter fraud in the 2020 election.³⁸ Those arrested face up to five years in prison and fines of up to \$5,000. However, numerous media reports found that the people arrested did not know they were ineligible to vote, and in some cases, they were even told by local election officials that they could vote.³⁹

The criminalization of voting will have a suppressive effect on people's ability to exercise a critical constitutional right that, in the words of the Supreme Court, is "preservative" of all rights.⁴⁰ It will also likely lead to more cases of unfair arrest and incarceration of Black voters, including increased voter intimidation for formerly incarcerated people seeking to restore their voting rights. More than four million people are disenfranchised in the United States due to a felony conviction.⁴¹ Because of the myriad ways in which the criminal legal system disproportionately surveils, targets, and punishes Black communities, Black people are disproportionately shut out from voting booths. One in nineteen Black adults of voting age is disenfranchised, a rate that is 3.5 times higher than that of non-Black individuals.⁴² Formerly incarcerated people already must navigate convoluted and ever-changing processes to restore their right to vote. States typically offer little to no

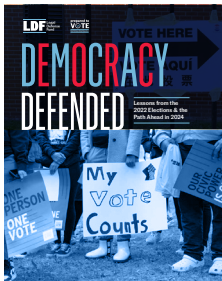
help so that people can determine their eligibility to vote, and officials often provide incorrect information.⁴³ As a result, efforts to criminalize voting pose unique threats to formerly incarcerated people, who may face a multi-year prison sentence for simply making an innocuous error when trying to navigate the complex voter rights restoration process.⁴⁴ Project 2025's proposals will amplify and strengthen the punitive legislation many states have enacted to threaten and suppress the voting rights of Black people and other people of color.

In sum, Project 2025's proposals will have a chilling effect on both census participation and voter turnout. By undercutting efforts to secure an accurate census count and weakening the DOJ's ability to defend voting rights, these policies will inflict substantial harm on Black communities and other communities of color by depriving them of representation, resources, and political power.

LDF Resources Informing this Chapter

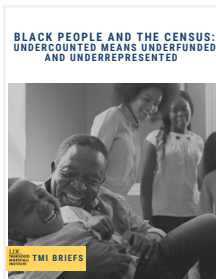
REPORT

Democracy Defended



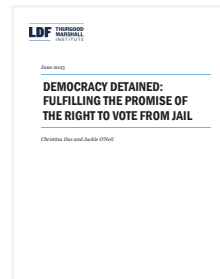
BRIEF

Black People and the Census



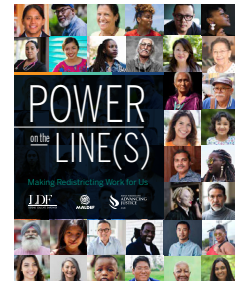
REPORT

Democracy Detained



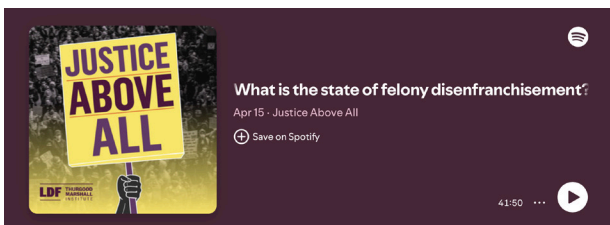
REPORT

Power on the Line(s)



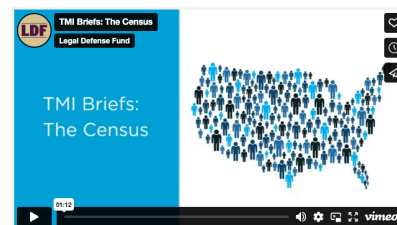
PODCAST

What is the State of Felony Disenfranchisement?

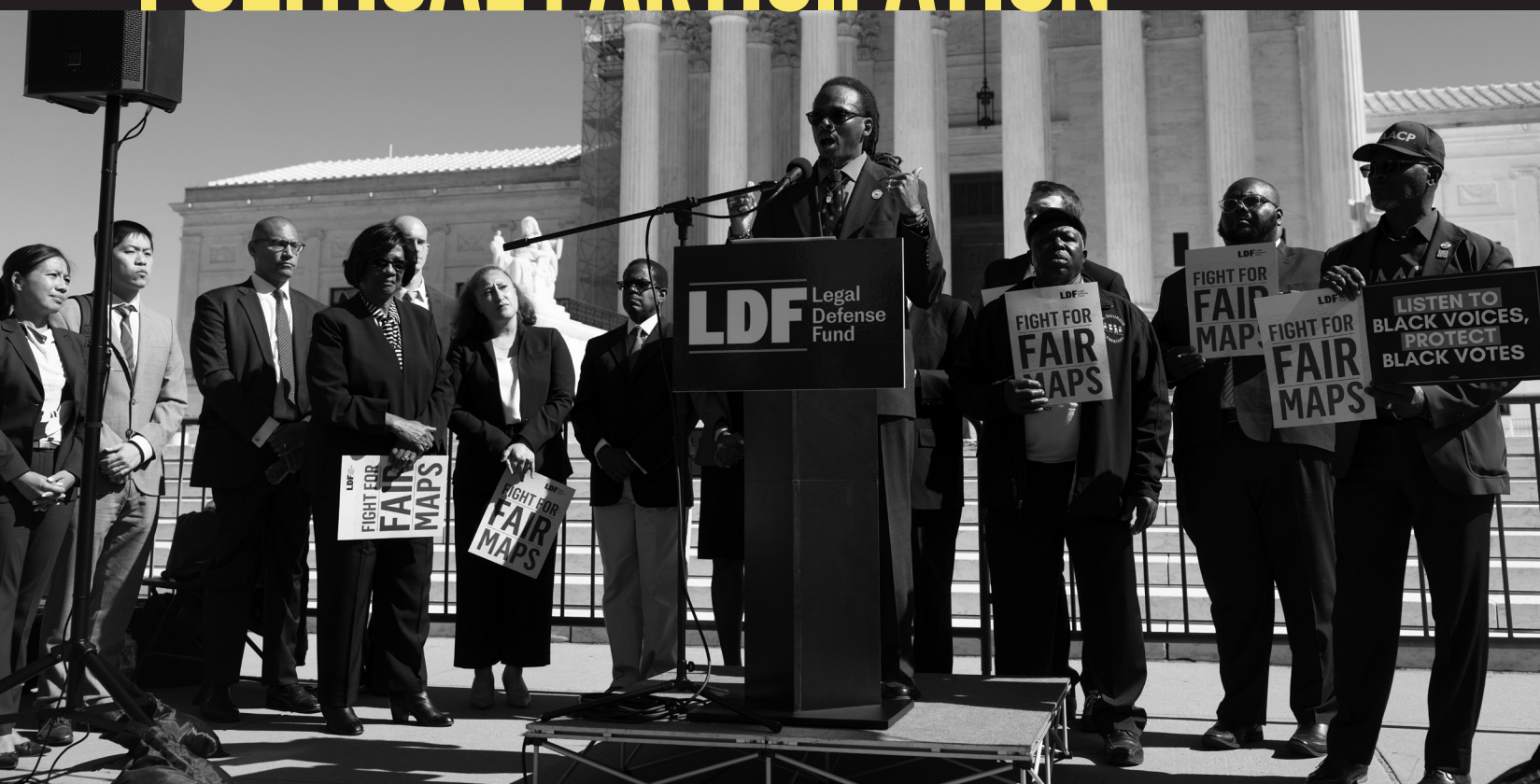


BRIEF

The Census



LDF'S VISION FOR BLACK POLITICAL PARTICIPATION



Taiwan Scott speaks at a press conference following oral arguments before the U.S. Supreme Court in *Alexander v. South Carolina State Conference of the NAACP* on Oct. 11, 2023. The case challenged South Carolina's congressional redistricting map as a racial gerrymander designed with discriminatory purpose in violation of the Fourteenth and Fifteenth Amendments to the U.S. Constitution. Photo by Allison Shelley

LDF holds an affirmative vision of a multi-racial democracy where dignity is sacred and power is shared. In pursuit of this vision, LDF engages in advocacy efforts to defend and advance democracy by building Black political power, fighting against efforts to suppress it, and challenging anti-democratic policies and practices. LDF played an instrumental role in

securing the passage of the Voting Rights Act of 1965 and has continued to ensure that Black political participation is not curtailed through gerrymandering and voter suppression efforts. For decades, LDF has fought vigorously to expand and defend voting rights and mobilize Black communities so they do not fall victim to fear-based tactics that hinder their political participation.

Endnotes

- 1 *Smith v. Allwright*, 321 U.S. 649 (1944).
- 2 *About the Decennial Census of Population and Housing*, U.S. Census Bureau, <https://www.census.gov/programs-surveys/decennial-census/about.html> (last updated Dec. 16, 2021).
- 3 Section Two states, “The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.” See also *id.* (stating, “In 1954, Congress codified earlier census acts and all other statutes authorizing the decennial census into law under Title 13, U.S. Code. Title 13 requires the Census Bureau to notify Congress of the planned subjects for the census no later than three years before that census, and of the specific wording of questions to be asked no later than two years before that census.”).
- 4 13 U.S.C. §141.
- 5 *Id.*
- 6 *Id.*
- 7 Objectivity, U.S. Census Bureau, <https://www.census.gov/about/policies/quality/guidelines/objectivity.html> (Dec. 16, 2021).
- 8 Paul Dans & Steven Groves, eds., *Mandate for Leadership: The Conservative Promise*, Heritage Found. at 664 (2023) [hereinafter Project 2025], https://static.project2025.org/2025_MandateForLeadership_FULL.pdf.
- 9 *Id.* at 679.
- 10 *Id.*
- 11 Objectivity, *supra* note 7.
- 12 Hansi Lo Wang, *The 2020 Census Had Big Undercounts of Black People, Latinos and Native Americans*, NPR (Mar. 11, 2022), <https://www.npr.org/2022/03/10/1083732104/2020-census-accuracy-undercount-overcount-data-quality>.
- 13 Douglas Strane & Heather M. Griffis, *Inaccuracies in the 2020 Census Enumeration Could Create a Misalignment Between States’ Needs*, 108 Am. J. Pub. Health 1330 (Oct. 2018), <https://pmc.ncbi.nlm.nih.gov/articles/PMC6137784/>.
- 14 Thomas Wolf et al., *Improving the Census*, Brennan Ctr. For Just. (Sept. 13, 2022), <https://www.brennancenter.org/our-work/policy-solutions/improving-census>.
- 15 *Id.*
- 16 Kenneth Prewitt, *Politics and Science in Census Taking*, PRB (Nov. 20, 2003), <https://www.prb.org/resources/politics-and-science-in-census-taking/>.

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- 17 Thurgood Marshall Inst., *Black People and the Census: Undercounted Means Underfunded and Underrepresented* (Apr. 2020), <https://tminstituteldf.org/wp-content/uploads/2020/04/TMI-Census-Brief-1-1.pdf> (citing Andrew Reamer, who finds that census data are involved in the distribution of \$1.5 trillion in public funding. The Census Bureau calculates the number at \$675 billion. Reamer argues that his accounting is more comprehensive than the Census Bureau's because it is more current: His analysis is based on Fiscal Year 2017; the Census Bureau analysis is based on Fiscal Year 2015. The Census Bureau finds 132 programs to Reamer's 316. In both cases, inflation and population growth would mean that the dollar amounts would be higher in 2020 than what is found in those analyses.) See Andrew Reamer, *Counting for Dollars 2020: The Role of the Decennial Census in the Geographic Distribution of Federal Funds*, Brief 7: Comprehensive Accounting of Census-Guided Federal Spending (FY2017), Part B: State Estimates 1, 9, Geo Wash. Inst. Of Pub. Pol'y (Feb. 2020), <https://gwipp9.drupal.gwu.edu/sites/g/files/zaxdzs6111/files/downloads/Counting%20for%20Dollars%202020%20-%20Comprehensive%20Accounting%20Report%207B%20Feb%202020%20rev.pdf>; Marisa Hotchkiss & Jessica Phelan, *Uses of Census Bureau Data in Federal Funds Distribution 3*, U.S. Census Bureau (Sept. 2017), <https://www2.census.gov/programs-surveys/decennial/2020/program-management/working-papers/Uses-of-Census-Bureau-Data-in-Federal-Funds-Distribution.pdf>.
- 18 Hotchkiss & Phelan, *supra* note 17.
- 19 Nat'l Urb. League, *Historic Census Undercount of Black Americans Robs Communities of Billions in Funding and Fair Political Representation* (Sep. 30, 2024), <https://nul.org/news/historic-census-undercount-of-black-americans-robs-communities>.
- 20 *Id.*
- 21 Nat'l Urb. League, *Democracy is Destiny—The United States Needs an Accurate Black Count* (Oct. 1, 2024), <https://nul.org/demography-is-destiny>.
- 22 Thurgood Marshall Inst., *Black People and the Census*, <https://tminstituteldf.org/black-people-and-the-census/> (last accessed Oct. 1, 2024).
- 23 Diana Elliott et al., *Assessing Miscounts in the 2020 Census*, Urb. Inst. (2019), https://www.urban.org/sites/default/files/publication/100324/assessing_miscounts_in_the_2020_census.pdf.
- 24 Nat'l Urb. League, *supra* note 19.
- 25 *Id.*
- 26 Project 2025, *supra* note 8 at 680.
- 27 *Dep't of Com. v. New York*, 588 U.S. 752, 752 (2019).
- 28 *Id.* at 756.
- 29 *Id.*
- 30 Davin Rosborough, *Supreme Court Finds That Wilbur Ross Lied to Put Citizenship Question on the 2020 Census*, ACLU (June 27, 2019), <https://www.aclu.org/news/immigrants-rights/supreme-court-finds-wilbur-ross-lied-put-citizenship-question-2020-census>.
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- 31 *Id.*
- 32 *Dep't of Com. v. New York*, 588 U.S. at 756.
- 33 Letter from Dale Ho to Scott Harris, Clerk of the Court, re. *Dep't of Com. v. New York* No. 18-966, Supreme Court Docket, https://www.supremecourt.gov/DocketPDF/18/18-966/101439/20190530142417722_2019.05.30%20NYIC%20Respondents%20Notice%20of%20Filing%20--%20Final.pdf; Exs. at 63, No. 1:18-cv-02921-JMF, May 30, 2019, ECF 587-1, <https://www.documentcloud.org/documents/6077735-May-30-2019-Exhibit.html#document/p63/a504019>.
- 34 Michael Harriot, *I Read The Entire Project 2025. Here Are the Top 10 Ways It Would Harm Black America*, the Griot (July 15, 2024), <https://thegriot.com/2024/07/15/i-read-the-entire-project-2025-here-are-the-top-10-ways-it-would-harm-black-america/>.
- 35 Debunking the Voter Fraud Myth, Brennan Ctr. For Just. (Jan. 31, 2017), <https://www.brennancenter.org/our-work/research-reports/debunking-voter-fraud-myth>.
- 36 Kira Lerner, *Election Officials Risk Criminal Charges Under 31 New GOP-Imposed Penalties*, Kan. Reflector (July 17, 2022), <https://kansasreflector.com/2022/07/17/election-officials-risk-criminal-charges-under-31-new-gop-imposed-penalties/>.
- 37 *Id.*
- 38 Governor Ron DeSantis Announces the Appointment of Peter Antonacci as Director of the Office of Election Crimes and Security, Off. of Ron DeSantis Fla. Governor (July 6, 2022), <https://www.flgov.com/eog/news/press/2022/governor-ron-desantis-announces-appointment-peter-antonacci-director-office>; Nicole Lewis & Alexandra Arriaga, *Florida's Voter Fraud Arrests Are Scaring Away Formerly Incarcerated Voters*, The Marshall Project (Nov. 4, 2022), <https://www.themarshallproject.org/2022/11/04/florida-s-voter-fraud-arrests-are-scaring-away-formerly-incarcerated-voters>; Wayne Washington, *Voter Intimidation? Black Voters Over-Represented Among Those Arrested So Far for Election Crimes*, Palm Beach Post (Oct. 10, 2022), <https://www.flgov.com/eog/news/press/2022/governor-ron-desantis-announces-appointment-peter-antonacci-director-office>.
- 39 Matt Dixon, *Defendants Targeted in DeSantis' Voter Fraud Crackdown Were Told They Could Vote*, Politico (Aug. 26, 2022), <https://www.politico.com/news/2022/08/26/desantis-voter-fraud-defendants-florida-00053788>.
- 40 *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886); see also, *Harper v. Virginia Bd. of Elections*, 383 U.S. 663, 667 (1966) (stating, “[u]ndoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.”).
- 41 Christopher Uggen et al., *Locked Out 2022: Estimates of People Denied Voting Rights*, The Sentencing Project (Oct. 25, 2022), <https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>.
- 42 *Id.*
- 43 Lewis & Arriaga, *supra* note 38.
- 44 See, e.g., Sam Levine, *The Untold Story of How a U.S. Woman Was Sentenced to Six Years for Voting*, the Guardian (Dec. 27, 2022), <https://www.theguardian.com/us-news/2022/dec/27/pamela-moses-voting-rights-mistake-jail>.
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COUNTER- PRODUCTIVE PUBLIC SAFETY PROPOSALS

Less Accountability for Law Enforcement, More Punishment of Black Communities

“Our nation is at an inflection point in its struggle to keep communities safe. Our current system of law enforcement has largely been unsuccessful in reducing violence and increasing public safety on a sustained basis. It is also historically rooted in the racial subjugation of the people it disproportionately targets and harms. We must consider an alternative to the current system and advance a plan for effective, equitable and humane public safety structures.”

—LDF’s Justice in Public Safety Project, Framework for Public Safety¹

PROJECT 2025 WILL WEAPONIZE THE DEPARTMENT OF JUSTICE TO ROLL BACK PUBLIC SAFETY PROTECTIONS WITHIN BLACK COMMUNITIES



Lead counsel Christina Swarns (L) for Texas death row inmate Duane Buck (not pictured) hugs Buck's stepsister Phyllis Taylor in front of the U.S. Supreme Court in Washington, D.C., on Oct. 5, 2016. Photo by REUTERS/Gary Cameron

Project 2025 will propel the United States backwards by dismantling rights and protections that are intended to enable all Americans to live their lives safely and freely. Project 2025 will weaponize the U.S. Department of Justice (DOJ) to promote failed and punitive criminal legal strategies that have harmed Black communities for generations. Furthermore, Project 2025 will undermine the mission and jurisdiction of the DOJ, which houses the Civil Rights Division and was established in 1870 with a mandate to uphold the rule of law, keep the country safe, and protect civil rights.² In contravention of these goals, Project 2025 will turn the mission and purpose of the Department of *Justice*¹ on its head by:

¹ Notably, the Department of Justice is the only federal agency with a value in its title.

Enforcing and expanding a racially discriminatory death penalty

“There has never been a time, there has never been a place in the administration of the death penalty where there isn’t a race effect. Period. Hard stop.”

—Christina Swarns, former LDF Attorney and current Executive Director of the Innocence Project, on *Buck v. Davis*³

Project 2025 will establish an extremely punitive approach to justice, based on the erroneous assumption that harsher punishments lead to less crime.⁴ It calls on the DOJ to do “everything possible” to execute anyone currently held on federal death row.⁵ It will also expand the number of cases that qualify for a death sentence.⁶ Although this expansion of the death penalty violates existing Supreme Court precedent,⁷ Project 2025 will urge the administration to pursue this policy “until Congress says otherwise through legislation.”⁸

Numerous cases and data underscore racial discrimination in capital punishment. For example, in 1997, a Texas jury convicted Duane Buck of capital murder.⁹ During the capital sentencing phase, Mr. Buck’s defense attorney called a psychologist to testify about whether Mr. Buck

Black people are starkly overrepresented among people facing the death penalty

■ People on death row in federal prisons ■ People on death row in state prisons ■ U.S. population

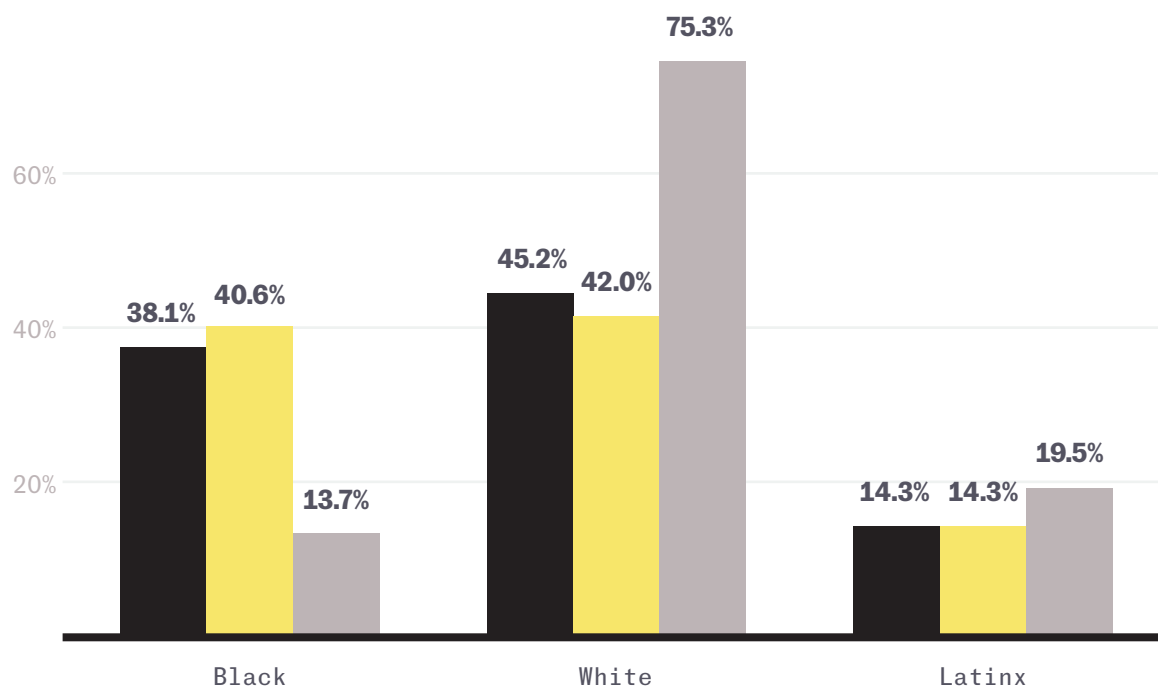


CHART: Legal Defense Fund. SOURCE: DEATH ROW U.S.A. Summer 2024, Legal Defense Fund.

would be violent in the future.¹⁰ This psychologist testified that a person's race is among the pertinent factors in determining their propensity for violence—and that Black men, like Mr. Buck, were statistically more likely to be violent.¹¹ The trial prosecutor exploited this testimony and used it to argue in favor of a death sentence.¹² The jury sentenced Mr. Buck to death.¹³

Nearly two decades later, in 2016, LDF argued on Mr. Buck's behalf before the U.S. Supreme Court in *Buck v. Davis*.¹⁴ The Supreme Court reversed the

lower court's decision, holding that Mr. Buck was denied the effective assistance of counsel when his own attorney called a witness that provided racially biased testimony that contributed to his death sentence. In his majority opinion, Chief Justice John Roberts stated, "Our law punishes people for what they do, not who they are. Dispensing punishment on the basis of an immutable characteristic flatly contravenes this guiding principle."¹⁵ Mr. Buck was removed from death row and resentenced to life in prison in October 2017.¹⁶

Project 2025 will increase the use of the death penalty,¹⁷ despite the stark racial disparities throughout the criminal legal system, including the administration of capital punishment. The death penalty is disproportionately applied against Black individuals,¹⁸ especially in cases involving white victims,¹⁹ and an increase of its use will only exacerbate that injustice. Currently, 38.1% of people on death row in federal prisons are Black.²⁰ In state prisons, 40.6% of people on death row are Black, 14.3% are Latinx, and 42.0% are white.²¹ According to the census, 13.7% of the U.S. population is Black, 19.5% is Latinx, and 75.3% is white.²² Black people are vastly overrepresented on death row at the federal and state level, and the overrepresentation of people of color on death row has increased every decade since 1980.²³

The criminal legal system is prone to wrongful convictions and extreme sentences that are achieved through constitutional errors rendering the legal proceedings fundamentally unfair,²⁴ as demonstrated by *Buck v. Davis* and countless other cases. There are several racially biased decision-making points that result in the overrepresentation of Black people and other people of color on death row. Cases with white victims are more likely to be investigated and assigned a capital charge.²⁵ Additionally, jurors of color are systemically excluded from participating in death penalty trials.²⁶ The racial composition of the jury pool is influential for trial outcomes because research shows that less diverse juries convict and sentence Black people to death at much higher rates than white people.²⁷ In some states, a unanimous jury is not required for a death sentence.²⁸ In 2023, Florida's governor signed into law a bill that allows people to be convicted and sentenced to death with only eight consenting jurors—the lowest number in the United States.²⁹ Nearly sixty percent of current death row sentences in Florida are from non-unanimous juries.³⁰

In addition to enforcing and expanding the discriminatory practice of capital punishment, Project 2025 will also broaden the crimes for which individuals can be given the death penalty, exacerbating racial disparities even further. The charge of rape has a long history of differential responses based on the race of the victim. During slavery, courts applied the death penalty for rape overwhelmingly against Black men where the victim was a white woman.³¹ The rape and attempted rape of a white woman was a capital offense in most states in the South, yet no white man was ever executed under these charges.³² In contrast, raping Black, enslaved women was a legal right of the white man who considered them his “property,” and rape by a different white man was considered a less serious offense.³³

The death penalty plays a key role in racialized vengeance and the exertion of social control over Black communities. Project 2025's call for the enforcement and expansion of the death penalty is particularly dangerous for Black people and members of other marginalized groups.

Dismantling law enforcement accountability measures by eliminating consent decrees

One of Project 2025's most significant proposals will terminate the use of consent decrees, which are a primary legal mechanism through which the federal government ensures that state and local jurisdictions, agencies, and private actors comply with the U.S. Constitution and federal law.³⁴ These agreements are legally binding and court-enforced, aiming to remedy violations of federal law. In cases related to protecting the safety of Black people, consent decrees are an important tool when it is necessary to compel prison and jail systems or police departments to remedy systemic violations of law.³⁵ Nationwide, there are nearly two dozen active consent decrees involving law enforcement and

prison or jail practices, including in cities such as Baltimore, Maryland; New Orleans, Louisiana; and Los Angeles, California.³⁶

Project 2025 will have the federal government review all consent decrees and “seek to terminate any unnecessary or outdated consent decree to which the United States is a party.”³⁷ Efforts to undermine or end consent decrees, and to refuse to enter into such agreements in the future, are essentially efforts to eliminate a critical tool that is necessary to force intransigent law enforcement agencies to remedy systemic unlawful police conduct.³⁸

Ending consent decrees will have real consequences. Following investigations that reveal unlawful conduct by law enforcement agencies or prison or jail systems, including patterns or practices of racially discriminatory conduct, the DOJ has historically negotiated consent decrees to correct and prevent additional unlawful conduct.³⁹ Attempting to terminate consent decrees will remove an important accountability measure and permit unlawful and abusive conduct by governmental and private actors to continue unchecked, especially those who are resistant to other forms of oversight and reform.⁴⁰ Currently, the DOJ has not yet reached agreements to remedy the systemic unlawful conduct that its investigations found in the police departments of Louisville, Kentucky, and Minneapolis, Minnesota, among others. A decision to not seek court-enforced agreements to remedy agencies’ unlawful conduct will signal an abdication of the DOJ’s duty to enforce civil rights laws against police departments, placing Black communities at even greater risk of discriminatory and oftentimes violent policing.

Project 2025 will require the DOJ to terminate “unnecessary or outdated” consent decrees;⁴¹ however, the DOJ does not have the authority to unilaterally end consent decrees. Instead, the DOJ

will have to request that the court end each consent decree, and the court would then accept or reject the request.⁴² Even so, if the DOJ follows Project 2025’s suggestion to ignore its responsibility to hold law enforcement agencies, prison and jail systems, and other institutions accountable for systemic constitutional violations against Black community members, it will send an undeniably harmful signal and encourage actors and institutions to engage in unlawful conduct without fear of any consequences or repercussions.

Increasing sentencing and pursuing mandatory minimums

Project 2025 will require the DOJ to pursue mandatory minimum sentences under the Armed Career Criminal Act (ACCA) and support legislation that increases sentences for individuals.⁴³ Project 2025 erroneously claims that criminal justice reforms have hampered law enforcement and led to “catastrophic increases in crime—particularly violent crime—nationwide.”⁴⁴ Based on this false premise, Project 2025 will have the DOJ more doggedly pursue mandatory minimums. This proposal ignores the demonstrated harms of such punitive sentencing, particularly for Black people.

Mandatory minimums have resulted in exponential growth in the number of people incarcerated and the length of incarceration, without any documented improvement in public safety.⁴⁵ Black communities bear a disproportionate weight of these harms. In a 2019 study of felony sentencing in New York City, Black and Latinx people were more likely than white people to be arrested for and convicted of charges with mandatory minimums.⁴⁶ Black people comprise fifty-eight percent of all arrests with mandatory minimums and fifty-nine percent of all convictions with mandatory minimums, while white people make up seven percent of both.⁴⁷ An analysis of federal data on felony misdemeanor convictions from 2017 to 2021 revealed that Black men received sentences 13.4% longer than white men convicted

of the same crime.⁴⁸ Research shows that federal prosecutors are sixty-five percent more likely to make mandatory minimum charges against Black as compared to white defendants, and more than half of the Black-white disparities in sentencing can be explained by these prosecutorial charging decisions.⁴⁹

Evidence also suggests that mandatory minimums make communities less safe. A 2017 study revealed that a 1.0% increase in the prison population was associated with a 0.28% increase in violent crime and a 0.17% increase in property crime.⁵⁰ Additionally, taxpayers and communities suffer when carceral systems grow. While jails and prisons directly cost taxpayers \$80 billion annually, a study by the Institute for Justice Research and Development at Florida State University estimated that incarceration generates an additional ten dollars in social costs for every dollar of financial costs.⁵¹

Promoting xenophobic policies that increase anti-Black and other hate violence

Project 2025 will restart the China Initiative, a DOJ effort that resulted in the surveillance and harassment of people of Chinese heritage under allegations of economic espionage, and will promote the aggressive enforcement of immigration laws and other laws against immigrants. Project 2025 states that its goals for the DOJ “will require creative use of the various immigration and immigration-related

authorities.”⁵² Reinstating the China Initiative and aggressively enforcing laws against immigrants is likely to increase violence and hate crimes against Asians, Black people, and other communities of color. The previous investigations launched through the China Initiative failed to achieve their purported aims and instead increased surveillance of Asians.⁵³ Prior anti-immigrant and xenophobic rhetoric by officials has been correlated with increases in hate crimes against racial minorities, particularly against Black people.⁵⁴ Additionally, research suggests that exposure to xenophobic rhetoric increases expressions of prejudice.⁵⁵ This can prove deadly: in 2022, a mass shooter who targeted a Black community and murdered ten Black people at a grocery store in Buffalo, New York, explained his motivations as drawing from the racist “great replacement theory.”⁵⁶

Taken together, Project 2025’s counterproductive “public safety” proposals to expand the racially discriminatory death penalty, undermine key federal levers for law enforcement accountability like consent decrees, increase sentencing through mandatory minimums, and promote xenophobic policies will make Black communities and other vulnerable groups less safe. In summary, these measures threaten to exacerbate systemic inequalities, further marginalizing already at-risk Black communities while failing to deliver genuine improvements in public safety.

FERGUSON, MISSOURI

CONSENT DECREE IMPACT

Between 2014 and 2023

FERGUSON’S TICKET ISSUANCE

↓ **91.8%**

FERGUSON’S WARRANT ISSUANCE

↓ **95.3%**

LDF'S VISION FOR PUBLIC SAFETY



On August 9, 2015, Michael Brown Sr. (center, front) leads a march from the location where his son, Michael Brown Jr., was shot and killed by a police officer in Ferguson, Missouri, one year before. *Photo by Scott Olson/Getty Images*

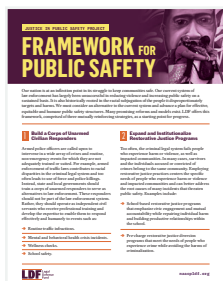
All people—including Black people—deserve communities where they can work, learn, play, thrive, and live with dignity, respect, and safety. However, the current system of law enforcement disproportionately targets and harms Black communities. LDF’s “Framework for Public Safety” articulates an affirmative vision for an effective, equitable, and humane system of public

safety that respects the inherent dignity of all people through three critical strategies: (1) building a corps of trained, unarmed civilian responders;⁵⁷ (2) expanding and institutionalizing restorative justice programs;⁵⁸ and (3) increasing investments in community resources and ensuring economic security.⁵⁹

LDF Resources Informing this Chapter

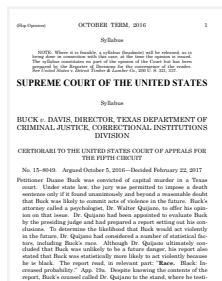
FRAMEWORK

*Justice in Public Safety Project:
Framework for Public Safety*



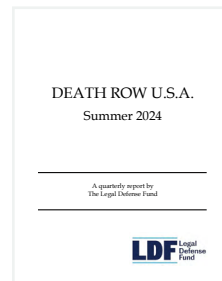
CASE

Buck v. Davis



REPORT

Death Row U.S.A. Summer 2024



CITY	CONSENT DECREE	IMPACT
Ferguson, Missouri (2016)	Two years after the killing of Michael Brown, and after a DOJ investigation revealed a pattern of First and Fourth Amendment violations, excessive force, and due process violations, the City of Ferguson entered into a court-enforceable consent decree to “implement reforms to bring about constitutional and effective policing.” ⁶⁰	As a result of the reforms enacted under the consent decree, Ferguson’s ticket issuance declined by 91.8% and warrant issuance by 95.3% between 2014 and 2023. ⁶¹
Baltimore, Maryland (2017)	In the wake of the killing of Freddie Gray, the DOJ launched an investigation into the Baltimore Police Department that revealed a pattern of unconstitutional stops, excessive force, retaliation against constitutionally protected expression, and “severe and unjustified disparities in the rates of stops, searches, and arrests of African Americans.” The report resulted in the City of Baltimore agreeing to enter into a consent decree. ⁶²	The consent decree monitor reported that incidents of bodily force declined from 2,427 in 2018 to 1,183 in 2021, and incidents of pointing a firearm decreased from 461 to 209 during the same period. ⁶³ The monitor also reported that the quality of the Baltimore Police Department’s misconduct investigations had markedly improved, with seventy-two percent of 2022 investigations marked as “very good” or “excellent,” compared to just twenty-three percent in 2018. ⁶⁴ Due to technology delays and data limitations, the public currently does not know what, if any, progress has been made in reducing racial disparities in stops or searches. ⁶⁵
Louisville, Kentucky (2021)	The DOJ opened an investigation into the Louisville/Jefferson County Metro Government (Louisville Metro) and Louisville Metro Police Department (LMPD) in 2021. The DOJ had reason to believe that Louisville Metro and the LMPD engaged in a pattern of conduct that deprived people of their rights under the Constitution and federal law, and their investigation confirmed as such. The DOJ found that Louisville Metro and LMPD deprived people of their rights by unlawfully executing search warrants without knocking and announcing, violating the rights of people engaged in protected speech critical of police, and discriminating against people with behavioral disabilities when responding to them in a crisis, among other actions. ⁶⁶	The DOJ, Louisville Metro, and LMPD reached an agreement in principle in 2023, but a final agreement has not yet been reached and filed in court. ⁶⁷
Minneapolis, Minnesota (2023)	Following the killing of George Floyd, the DOJ opened an investigation of the Minneapolis Police Department (MPD) and the City of Minneapolis. The DOJ found that the MPD used excessive force, unlawfully discriminated against Black and Native American people in its enforcement activities, violated the rights of people engaged in protected speech, and (along with the City) discriminated against people with behavioral health disabilities when responding to calls for assistance. The City and MPD entered into an agreement in principle to resolve the DOJ’s findings through a court-enforceable consent decree.	An agreement between the DOJ, the City of Minneapolis, and MPD has not yet been reached and filed in court. A decision to eliminate the use of consent decrees could result in an agreement solely between the parties and not enforced by a court in this case, meaning no independent body would ensure that the provisions of the agreement are implemented without further litigation.

Endnotes

- 1 *Justice in Public Safety Project: Framework for Public Safety*, NAACP Legal Def. Fund, <https://www.naacpldf.org/framework-for-public-safety/> (last accessed Sept. 29, 2024).
- 2 *Organization, Mission and Functions Manual*, U.S. Dep’t of Just., <https://www.justice.gov/doj/organization-mission-and-functions-manual> (last accessed Sept. 29, 2024).
- 3 *New Podcast: Duane Buck’s Appeal Lawyer Tells Story of His Case, Discusses Future Dangerousness and Racial Bias*, Death Penalty Info. Ctr. (Jun. 11, 2024), <https://deathpenaltyinfo.org/new-podcast-duane-bucks-appeal-lawyer-tells-story-of-his-case-discusses-future-dangerousness-and-racial-bias>.
- 4 Paul Dans & Steven Groves, eds., *Mandate for Leadership: The Conservative Promise* 553–54, Heritage Found. (2023) [hereinafter Project 2025], https://static.project2025.org/2025_MandateForLeadership_FULLL.pdf.
- 5 *Id.* at 544.
- 6 *Buck v. Davis*, 580 U.S. 100 (2017).
- 7 See *Enmund v. Florida*, 458 U.S. 782 (1982); *Coker v. Georgia*, 433 U.S. 584 (1977); *Kennedy v. Louisiana*, 554 U.S. 407 (2008).
- 8 Project 2025, *supra* note 4, at 544.
- 9 *Buck*, 580 U.S. at 104.
- 10 *Id.*
- 11 *Id.*
- 12 *Buck v. Davis*, Legal Def. Fund, <https://www.naacpldf.org/case-issue/duane-buck-sentenced-death-black/> (last accessed Sept. 29, 2024); *see also*, *Buck*, 580 U.S. at 108.
- 13 *Buck*, 580 U.S. at 108.
- 14 *Id.*
- 15 *Id.* at 100.
- 16 Legal Def. Fund, *supra* note 12.
- 17 Project 2025, *supra* note 4, at 544. See *Project 2025: What’s At Stake for Criminal Justice Reform*, Leadership Conf. Educ. Fund (Aug. 2024), <https://civilrights.org/wp-content/uploads/2024/08/Project-2025-Justice-Reform.pdf>.
- 18 See *McCleskey v. Kemp*, 481 U.S. 279 (1987).
- 19 Legal Def. Fund, *supra* note 12.
- 20 *Death Row U.S.A.*, Legal Def. Fund (2024), <https://www.naacpldf.org/wp-content/uploads/DRUSASummer2024.pdf>.

-
- 21 *Id.*
- 22 *Population estimates, July 1, 2023, (V2023)*, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/US/PST045222> (last accessed Sept. 29, 2024).
- 23 *Enduring Injustice: The Persistence of Racial Discrimination in the U.S. Death Penalty*, Death Penalty Info. Ctr. (2020), <https://dpic-cdn.org/production/documents/pdf/Enduring-Injustice-Race-and-the-Death-Penalty-2020.pdf>.
- 24 *Buck v. Davis*, 580 U.S. 100 (2017). *See also* Legal Def. Fund, *supra* note 12.
- 25 Death Penalty Info. Ctr., *supra* note 23.
- 26 Barbara O'Brien, Catherine M. Grosso, & Abijah P. Taylor, *Examining Jurors: Applying Conversation Analysis to Voir Dire in Capital Cases, a First Look*, 107 J. Crim. L. & Criminology 687 (2017), <https://scholarlycommons.law.northwestern.edu/jclc/vol107/iss4/4/>; Ann M. Eisenberg, *Removal of Women and African-Americans in Jury Selection in South Carolina Capital Cases, 1997-2012*, 9 NE. Univ. L. Rev. 299 (2017), https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=2171&context=law_facpub.
- 27 William J. Bowers, Benjamin D. Steiner, & Marla Sandys, *Death Sentence in Black and White: An Empirical Analysis of the Role of Jurors' Race and Jury Racial Composition*, 3 J. Const. L. 172 (2001), <https://core.ac.uk/download/151687076.pdf>.
- 28 Mitch Perry, *DeSantis Signs Law Allowing 8 Jurors, Not 12, to Recommend Death Penalty; Lowest in U.S.*, Fla. Phoenix (Apr. 20, 2023), <https://floridaphoenix.com/2023/04/20/desantis-signs-law-allowing-8-jurors-not-12-to-recommend-death-penalty-lowest-in-u-s/>.
- 29 *Id.*
- 30 Legal Def. Fund, *supra* note 20 at 38.
- 31 Death Penalty Info. Ctr., *supra* note 23.
- 32 *Id.*
- 33 *Id.*
- 34 Tobias B. Wolff, *Consent Decrees and Federal Jurisdiction*, 84 Univ. of Pittsburgh L. Rev. 457, Univ. of Penn. L. Rev. 457, Univ. of Penn. Sch. Pub. L. Rsch. Paper No. 23-39 (2023), <https://ssrn.com/abstract=4645262>.
- 35 *Police Reform and Accountability Accomplishments*, U.S. Dep't of Just. C.R. Div. (Dec. 4, 2015), www.justice.gov/opa/file/797666/dl.
- 36 Sam McCann, *Everything You Need to Know about Consent Decrees Understanding Federal Oversight of the Criminal Legal System*, Vera Inst. (Aug. 30, 2023), <https://www.vera.org/news/everything-you-need-to-know-about-consent-decrees>.
- 37 Project 2025, *supra* note 4, at 558.
- 38 *Id.*
- 39 McCann, *supra* note 36.
-

-
- 40 *Id.*
- 41 Project 2025, *supra* note 4, at 558.
- 42 McCann, *supra* note 36.
- 43 Project 2025, *supra* note 4, at 553-54.
- 44 *Id.* at 552.
- 45 Claire Kebodeaux, *Rape Sentencing: We're All Mad About Brock Turner, But Now What?*, 27 Univ. of Kan. Sch. L. 30 (2020), <https://lawjournal.ku.edu/wp-content/uploads/2020/08/Kebodeaux-V27I1.pdf>; Families for Justice Reform, *The Case against Mandatory Minimum Sentences* (Apr. 2021), <https://famm.org/wp-content/uploads/2021/04/The-Case-against-Mandatory-Minimum-Sentences.pdf>.
- 46 Fred Butcher, Amanda B. Cissner, & Michael Rempel, *Felony Sentencing in New York City: Mandatory Minimums, Mass Incarceration, and Race* 10–11, Ctr. for Court Innovation (Dec. 2022), https://www.innovatingjustice.org/sites/default/files/media/document/2022/Felony_Sentencing_Minimums_Race.pdf.
- 47 *Id.*
- 48 *Demographic Differences in Federal Sentencing*, U.S. Sentencing Comm'n (Nov. 14, 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.
- 49 M. Marit Rehavi & Sonja B. Starr, *Racial Disparity in Federal Criminal Sentences*, 122 J. Pol. Econ. 1343–45, 1350 (2014), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2413&context=articles>.
- 50 Geert Dhondt, *The Effect of Prison Population Size on Crime Rates: Evidence from Cocaine and Marijuana Mandatory Minimum Sentencing*, 12 Am. Rev. Pol. Econ. 1 (2018), <https://arpejournal.com/article/id/150/>.
- 51 Michael McLaughlin et al., *The Economic Burden of Incarceration in the United States*, Inst. For Just. Rsch. & Dev. (2016), https://ijrd.csw.fsu.edu/sites/g/files/upcbnu1766/files/media/images/publication_pdfs/Economic_Burden_of_Incarceration_IJRD072016_0_0.pdf.
- 52 Project 2025, *supra* note 4, at 567 (emphasis added).
- 53 Matt Schiavenza, *How the China Initiative Went Wrong*, Foreign Pol'y (Feb. 13, 2022), <https://foreignpolicy.com/2022/02/13/china-fbi-initiative-spying-racism/>; Michael German & Alex Liang, *Why Ending the Justice Department's 'China Initiative' is Vital to U.S. Security*, Brennan Ctr. for Just. (Jan. 4, 2022), <https://www.brennancenter.org/our-work/analysis-opinion/why-ending-justice-departments-china-initiative-vital-us-security>.
- 54 Daniel Villarreal, *Hate Crimes Under Trump Surged Nearly 20 Percent Says FBI Report*, Newsweek (Nov 16, 2020), <https://www.newsweek.com/hate-crimes-under-trump-surged-nearly-20-percent-says-fbi-report-1547870>.

-
- 55 Vanessa Williamson & Isabella Gelfand, *Trump and racism: What do the data say?*, Brookings Inst. (Aug. 14, 2019), <https://www.brookings.edu/articles/trump-and-racism-what-do-the-data-say/>.
- 56 Michael Feola, *How ‘Great Replacement’ Theory Led To The Buffalo Mass Shooting*, Wash. Post (May 25, 2022), <https://www.washingtonpost.com/politics/2022/05/25/buffalo-race-war-invasion-violence/>.
- 57 Legal Def. Fund, *supra* note 1.
- 58 *Id.*
- 59 *Id.*
- 60 Press Release, Off. of Pub. Aff., Justice Department and City of Ferguson, Missouri, Resolve Lawsuit with Agreement to Reform Ferguson Police Department and Municipal Court to Ensure Constitutional Policing (Mar. 17, 2016), <https://www.justice.gov/opa/pr/justice-department-and-city-ferguson-missouri-resolve-lawsuit-agreement-reform-ferguson>.
- 61 Press Release, Arch City Defenders, Reflecting on a Decade of Reforms Post-Ferguson, ArchCity Defenders Urges Consolidation of St. Louis’ Municipal Courts (July 25, 2024), <https://www.archcitydefenders.org/decade-of-reforms-post-ferguson-archcity-defenders-white-paper-debtors-prisons/>.
- 62 *Investigation of the Baltimore City Police Department*, U.S. Dep’t of Just. C.R. Div. (Aug. 10, 2016), <https://www.justice.gov/crt/file/883371/dl>; *City of Baltimore Consent Decree*, City of Baltimore, <https://consentdecree.baltimorecity.gov/> (last accessed Sept. 29, 2024).
- 63 *Baltimore Consent Decree Monitoring Team Compliance Review and Outcome Assessment Regarding Use Of Force*, CD Monitoring Team (Dec. 21, 2022), <https://static1.squarespace.com/static/59db8644e45a7c08738ca2f1/t/63a32a64ca07762bafec2a18/1671637605442/BPD+-+Use+of+Force+Assessment+-+12.21.22.pdf>.
- 64 *Id.*
- 65 Consent Decree, *United States v. Police Dep’t of Baltimore City, et al.*, No. 1:17-cv-99-JKB (D. Md. Jan. 12, 2027) (ECF No. 2-2).
- 66 *Investigation of the Louisville Metro Police Department and Louisville Metro Government*, U.S. Dep’t of Just. C.R. Div. & U.S. Attorney’s Off. W. Dist. Ky. Civ. Div. (Mar. 8, 2023), <https://www.justice.gov/crt/case-document/file/1572951/dl>.
- 67 Press Release, U.S. Dep’t of Just. C.R. Div. & Louisville Metro Gov’t, Agreement in Principle Among the United States and Louisville/Jefferson County Metro Government and the Louisville Metro Police Department (Mar. 8, 2023), <https://www.justice.gov/opa/press-release/file/1573016/dl?inline>.

THE URGENT NEED TO PROTECT AND EXPAND EQUAL ACCESS TO HOUSING

“I’m grateful that the Baltimore Housing Mobility Program will continue because it has changed my family’s life for the better. I signed up for the program because I needed to see a pathway out of poverty. Now, my daughter’s terrible asthma is non-existent, and my son made the honor roll for the first time. While working part time, I’m taking classes at Anne Arundel Community College and creating a better future for us.”¹

—Sabrina Oliver, an LDF clientⁱ

ⁱ *Thompson v. HUD* sought to eradicate the legacy of decades of government-sponsored racial segregation in Baltimore, Maryland. The litigation led to establishing the Baltimore Housing Mobility Program, through which families can choose to move to mixed-income neighborhoods with better access to employment and educational opportunities.

PROJECT 2025 WILL LIMIT THE BLACK COMMUNITY'S ACCESS TO SAFE AND AFFORDABLE HOUSING

Fair housing is critical to the fight for a stronger, more equitable, and more prosperous country. The U.S. Department of Housing and Urban Development (HUD) occupies a leadership role in creating thriving, sustainable, inclusive communities and quality affordable homes.² The federal government has publicly acknowledged the role it has historically played in “systematically declining to invest in communities of color and preventing residents of those communities from accessing the same services and resources as their white counterparts.”³ In contrast, Project 2025 opposes efforts to correct the country’s long history of discriminatory housing practices, and it outlines several tactics to undermine the fair housing rights that the Rev. Martin Luther King Jr. and many others helped to secure.⁴

Project 2025’s main thesis is that housing assistance and other programs to expand housing access produce “intergenerational poverty traps”⁵ and “discourage work, marriage, and meaningful paths to upward economic mobility.”⁶ To implement its policy goals, Project 2025 will reorient HUD away from racial justice and fair housing and reassign the majority of permanent jobs held by long-term career employees to temporary, political appointees.⁷ Project 2025 claims that “install[ing] motivated and aligned leadership” will empower an

administration seeking to dismantle fair housing rights and protections to act more swiftly “with or without congressional action.”⁸ These policies, which fail to recognize how housing assistance has historically benefited white families to the exclusion of Black families, will dismantle fair housing rights, protections, and programs by:

Destroying tools essential to combating housing discrimination and delegating housing enforcement to state and local governments

Project 2025 will block the federal government from tracking racial disparities and discrimination in housing. Project 2025 suggests that all forms of racial classification, including the collection of data on racial groups, are inherently racist, and will therefore suspend all government efforts to gather evidence of discrimination.⁹ It will also end fair housing testing, which the government uses to identify bias and discrimination in the housing market. This testing typically involves individuals posing as prospective renters or buyers to determine whether housing providers are complying with fair housing laws.¹⁰

Project 2025 will transfer all of HUD’s enforcement obligations to state and local governments, creating a patchwork system of independent fair housing enforcement and ending HUD’s ability to effectively

enforce federal fair housing laws.¹¹ Given the anti-civil rights positions certain states and localities have taken, both historically and in recent years, this shift will subject countless families and individuals to housing discrimination.¹² Project 2025 also encourages local governments to invest exclusively in single-family zoning, rather than also investing in multi-family zoning. Single-family zoning has a long history of being racially motivated to exclude Black families from white neighborhoods.¹³ This proposal poses a direct threat to Black communities and will further restrict housing supply during a nationwide housing crisis, making it more difficult for lower-income families to live in low-poverty, well-resourced neighborhoods.

Taken together, these proposals to weaken HUD's authority and relegate the enforcement of fair housing protections to the discretion of state and local governments will strip Black communities of their civil rights under federal law. For instance, states hostile to civil rights may expand the use of "crime-free" ordinances, which encourage or require private landlords to exclude or evict tenants who have had encounters with the criminal legal system even if they present no danger to others, thereby facilitating racial discrimination. These ordinances have the purported goal of stemming crime in rental housing, but in practice, they systematically exclude Black people from housing and promote racial segregation because of bias and discrimination in the criminal legal system.¹⁴ Such policies treat housing applicants and tenants as suspects, blurring the line between housing decisions and policing.

¹¹ Project 2025's proposal goes well beyond HUD's partnership with and oversight of certain states and localities that participate in HUD's Fair Housing Assistance Program. See https://www.hud.gov/program_offices/fair_housing_equal_opportunity/partners/FHAP

Dismantling HUD's rental assistance programs

Project 2025 will limit the reach of HUD's rental assistance programs to as few households as possible, despite the nation's housing affordability crisis.¹⁵ It will achieve this through: 1) reducing investments in housing assistance, with drastic cuts to subsidized housing and voucher programs;¹⁶ 2) adding more requirements to applications for rental assistance;¹⁷ and 3) ending housing subsidies even to low-income households who comply with all program requirements.¹⁸

Cutting housing assistance programs will have a devastating impact on the Black people and other traditionally marginalized groups that these programs serve. The majority of Black households rent rather than own their home (fifty-six percent vs. forty-four percent), and Black households are substantially overrepresented in subsidized housing.¹⁹ A growing body of research documents that Black renter households and neighborhoods with higher percentages of Black renters face disproportionately high rates of eviction filings, including for no-fault evictions.²⁰ As a result, Black renter households are again likely to bear the brunt of the consequences from Project 2025's proposals.

Fair housing is a
hard-won right
achieved by civil
rights advocates
and guaranteed
under federal law.

Black renters are starkly overrepresented among renters facing eviction

■ Share of renters ■ Share of eviction filings ■ Share of eviction judgments

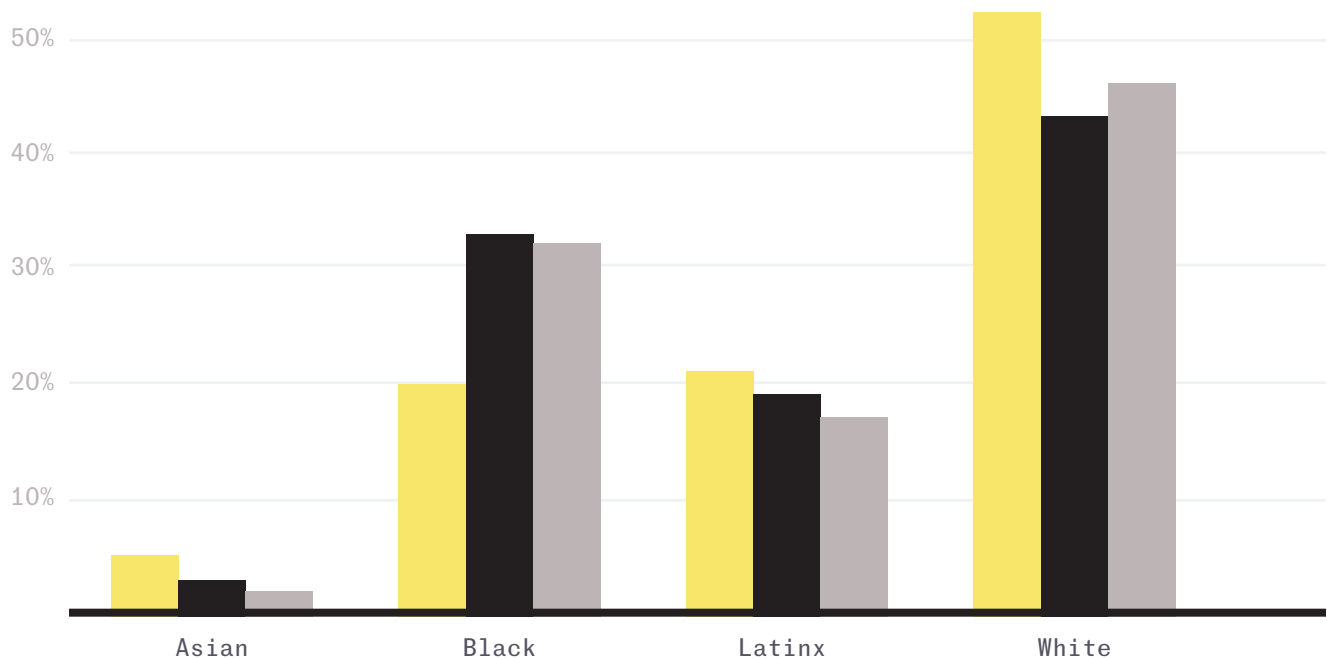


CHART: Legal Defense Fund. SOURCE: Eviction Lab.

The largest subsidized housing program, the “Section 8” Housing Choice Voucher program, is a crucial anchor for millions of low-income families, providing secure homes in which they can grow and thrive. There is already an insufficient supply of vouchers to meet the overwhelming demand.²⁰ The federal government should expand housing assistance to ensure that every extremely low-income household can access affordable housing,²¹ not cut housing assistance as Project 2025 proposes.

Project 2025’s counterproductive proposals will perpetuate homelessness for Black and Indigenous people, who experience homelessness at higher rates than white people largely due to longstanding structural racism.²²

Black people represent less than fourteen percent of the general population, but account for thirty-seven percent of people experiencing homelessness and more than fifty percent of homeless families with children.²³ The lack of affordable housing creates additional obstacles for families and individuals who

Black and Indigenous people are overrepresented among people experiencing homelessness

■ Share of U.S. population ■ Share of homeless population

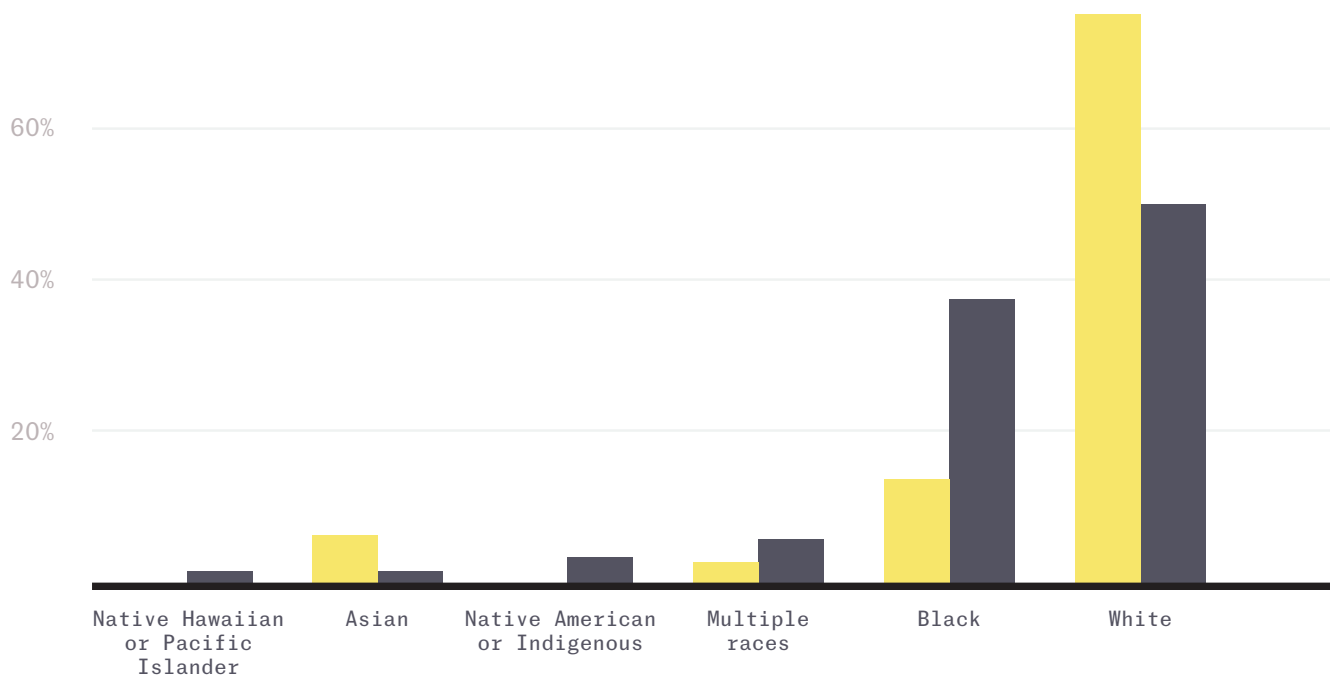


CHART: Legal Defense Fund. SOURCE: Department of Housing and Urban Development.

are experiencing homelessness and are trying to get back on their feet. Housing is foundational to—not the reward for—health, recovery, and economic success. Tactics that exacerbate homelessness will impact Black communities most severely.

Limiting the Black community's ability to build intergenerational wealth by eliminating homeownership assistance programs

Despite noting that “homeownership remains the most accessible way to build generational wealth for millions of Americans,”²⁴ Project 2025 will restrict access to homeownership by increasing mortgage insurance premiums and decreasing down-payment assistance.²⁵ This will make it harder for first-time homebuyers, many of whom are Black, to achieve the dream of homeownership.²⁶

Project 2025 will restrict access to homeownership by increasing mortgage insurance premiums and decreasing down-payment assistance.²⁷

Decades of housing discrimination have produced a stark racial homeownership gap in the United States, where Black households are significantly less likely to own their homes than white households.²⁸ Because homeownership is one of the most common ways for families to build wealth, this pronounced racial homeownership gap also contributes to the racial wealth gap and serves as a longstanding barrier to wealth generation and economic prosperity for Black families.²⁹ Efforts to weaken homeownership and equal credit opportunities for Black families will lead to decreased wealth and well-being while exacerbating economic inequality.

Fair housing is a hard-won right achieved by civil rights advocates and guaranteed under federal law. Housing policies and programs like fair housing enforcement, rental assistance, and homeownership assistance are necessary for Black households to access safe housing, build wealth, safeguard their health, and live productive and fulfilling lives. Project 2025 will undermine efforts to create thriving, integrated neighborhoods and a more just society. Policymakers and advocates must resist proposals to block people of color, especially low-income Black people, from accessing safe and stable housing. Instead, they should continue to fight for fair housing so that all people—regardless of race, color, birthplace, gender, religion, family status, or disability status—have equal access to quality housing.

Homeownership rates by race

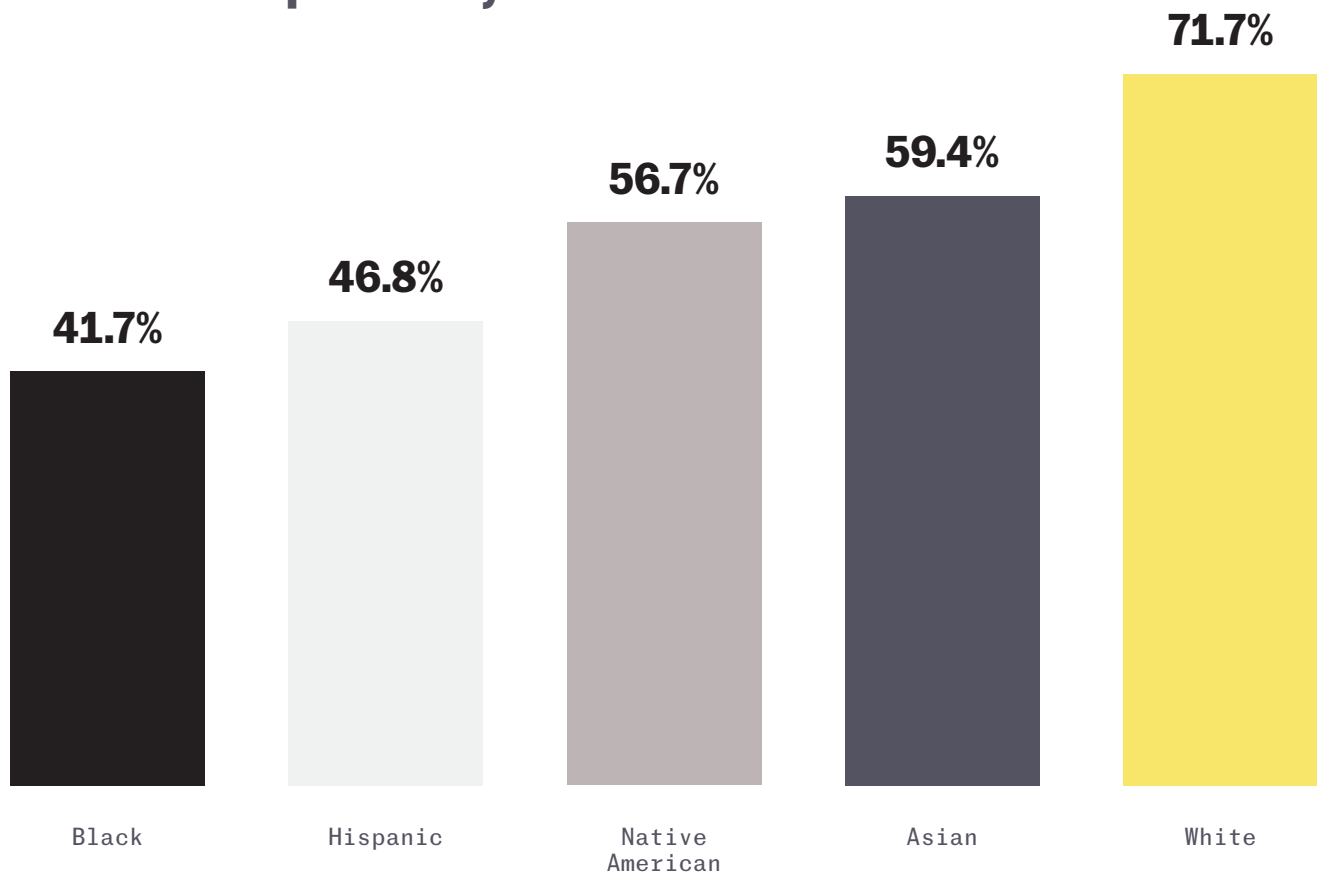


CHART: Legal Defense Fund. SOURCE: Joint Center for Housing Studies of Harvard University.

LDF'S VISION FOR FAIR HOUSING

Every person deserves safe, affordable, and quality housing. To that end, LDF works to protect and expand equal access to housing for Black people and to combat the lasting effects of historic and ongoing housing discrimination and segregation. For decades, housing in the United States has been shaped by anti-Black discriminatory policies and practices, including redlining, the placement of housing for Black families near environmental hazards, the withholding of public services, bias and discrimination in lending and appraisals, and state-sanctioned violent resistance when Black families attempt to move into white neighborhoods.³⁰ This foundation of structural racism in the housing sector has resulted in widespread racial residential segregation and has severely impacted Black families' ability to secure and maintain safe and affordable housing in well-resourced neighborhoods. To realize the vision of equal access to quality housing for all, LDF is tackling present-day housing discrimination and the legacy of past discrimination by expanding access to quality housing, defending everyone's right to choose where they live, advancing equal housing and credit opportunities, and closing the racial homeownership and wealth gaps. Protecting and expanding equal access to housing while fighting the lasting effects of housing discrimination requires robust fair housing regulations and implementation guidance; ongoing investments in housing assistance, neighborhood resources, infrastructure, and the local organizations that address housing discrimination;ⁱⁱⁱ and the expertise of a nonpartisan federal workforce.



Pamela Mims waters her front yard at the Alice Griffith housing project in San Francisco, California, in 2011. Photo By Paul Chinn/The San Francisco Chronicle via Getty Images

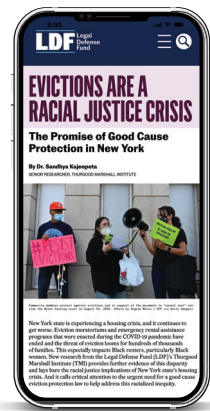
ⁱⁱⁱ See https://www.hud.gov/program_offices/fair_housing_equal_opportunity/partners/FHIP (describing how fair housing organizations and other nonprofits receive funding through HUD's Fair Housing Initiatives Program [FHIP] to assist people who believe they have been victims of housing discrimination).



LDF Resources Informing this Chapter

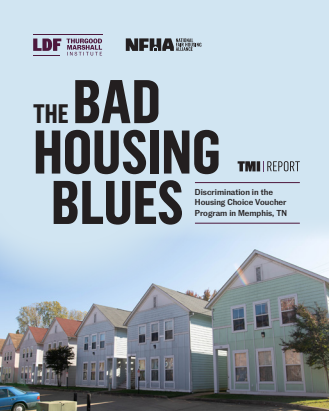
BLOG

Evictions Are a
Racial Justice Crisis



REPORT

The Bad Housing Blues



REPORT

Spatial and Racialized
Disparities in Evictions

Spatial and Racialized Disparities in Evictions: Case Studies from New York and Maryland

Thurgood Marshall Institute's Social Science Review Research Paper (forthcoming)

21 Pages • Posted: 8 Aug 2024

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NACAP Legal Defense and Educational Fund

Date Written: August 06, 2024

Abstract

Evictions are increasing across the U.S. with devastating consequences for neighborhood stability. Growing evidence suggests that Black renters are disproportionately impacted by evictions. The present study builds on the existing evidence by 1) presenting spatial analyses of the association between an area's racial composition and its eviction filing rate in two states with large Black renter populations (New York and Maryland) and 2) evaluating the association between neighborhood racial composition and individual/household eviction filings in these two states in the absence of good cause eviction laws, which would prevent evictions without a justifiable reason. In both case studies, areas with higher percentages of Black renters face statistically significantly higher rates of eviction filings. Areas with higher percentages of Black renters also face significantly higher rates of landlord eviction filings. Smart protections to reduce evictions, and specifically landlord evictions, like good cause eviction, are expected to advance racial equality in housing.

Keywords: eviction, racial disparities, spatial disparities, renters, Black renters, eviction filings

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Endnotes

- 1 Press Release, NAACP Legal Def. Fund, Baltimore Public Housing Families Applaud Settlement of Fair Housing Lawsuit at Hearing (Nov. 20, 2012), <https://www.naacpldf.org/press-release/baltimore-public-housing-families-applaud-settlement-of-fair-housing-lawsuit-at-hearing/>.
- 2 *FY 2022-2026 HUD Strategic Plan: One HUD, For All*, U.S. Dep’t of Hous. & Urb. Dev., <https://www.hud.gov/HUD-FY22-26-Strategic-Plan-Focus-Areas> (last accessed Sept. 29, 2024). HUD’s FY 2022-26 Strategic Plan states that “pursu[ing] transformative housing and community-building policy and programs” is the agency’s “overarching goal.”
- 3 Memorandum from the President of the United States for the Sec. of Hous. & Urb. Dev. (Jan. 26, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-redressing-our-nations-and-the-federal-governments-history-of-discriminatory-housing-practices-and-policies/>.
- 4 Bill Lann Lee, *An Issue of Public Importance: The Justice Department’s Enforcement of the Fair Housing Act*, 4 Cityscape: A J. of Pol’y Dev. & Rsch. 35 (1999), <https://www.huduser.gov/Periodicals/CITYSCPE/VOL4NUM3/lee.pdf>.
- 5 Paul Dans & Steven Groves, eds., *Mandate for Leadership: The Conservative Promise* 503, Heritage Found. (2023) [hereinafter “Project 2025”], https://static.project2025.org/2025_MandateForLeadership_FULLL.pdf.
- 6 *Id.* at 503, 509.
- 7 *Id.* at 508 (urging “HUD political leadership . . . [to] change any current career leadership positions into political and non-career appointment positions.”)
- 8 *Id.* at 508.
- 9 *Id.* at 507; *see also id.* at 509 (targeting “data on the Low-Income Housing Tax Credit [LIHTC]; and annual Fair Market Rents and Income Limits data, among other statistical publications and datasets on the characteristics of families assisted under HUD programs.”)
- 10 Libby Perl, Cong. Rsch. Serv., R44557, *The Fair Housing Act: HUD Oversight, Programs, and Activities* 6 (2018).
- 11 Project 2025, *supra* note 5, at 511.
- 12 Richard Rothstein, *The Color of Law* 57 (Perfection Learning Corp. 2019).
- 13 Rachel M. Kleinman & Sandhya Kajeepeta, *Barred From Work: The Discriminatory Impacts of Criminal Background Checks in Employment*, Thurgood Marshall Inst. (Apr. 2023), <https://tminstituteldf.org/criminal-background-checks-employment/>.
- 14 *The White House Blueprint for a Renters’ Bill of Rights*, Domestic Pol’y Council, Nat’l Econ. Council (Jan. 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/01/White-House-Blueprint-for-a-Renters-Bill-of-Rights.pdf> (“Even before the pandemic, rents were rising much faster than wages. In 2019, almost one quarter of the 44 million renter households spent at least half their earnings on rent. In the last three years, rental affordability has worsened, with rents rising nearly 26% nationally during the pandemic, forcing many Americans to make difficult trade-offs in their household budgets between food, healthcare, and education because ‘the rent eats first.’”).
- 15 Project 2025, *supra* note 5, at 509.

-
- 16 *Id.* (stating that “HUD should implement reforms reducing the implicit anti-marriage bias in housing assistance programs.”).
- 17 *Id.* at 511.
- 18 *Dataset/Assisted Housing: National and Local*, Off. of Pol’y Dev. & Rsch., <https://www.huduser.gov/portal/datasets/assthsg.html> (last accessed Sept. 29, 2024); Sandhya Kajeepeta, *Spatial and Racialized Disparities in Evictions: Case Studies from New York and Maryland*, Thurgood Marshall Inst. (2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4919121.
- 19 *Id.*; Sandhya Kajeepeta, *Evictions Are a Racial Justice Crisis: The Promise of Good Cause Protection in New York*, Thurgood Marshall Inst., <https://www.naacpldf.org/evictions-racial-justice-good-cause-protection-new-york/> (last accessed Sept. 29, 2024); Peter Hepburn, Renee Louis, & Matthew Desmond, *Racial and Gender Disparities Among Evicted Americans*, 7 Socio. Sci. 649 (2020), https://sociologicalscience.com/download/vol-7/december/SocSci_v7_649to662.pdf.
- 20 The Housing Choice Voucher (HCV) program reaches “only one quarter of eligible families, and waitlists for the Housing Choice Voucher can extend for several years before a family reaches the top. HCVs cannot satisfy all of our low income housing needs . . .” Philip Tegeler, *Housing Choice Voucher Reform: A Primer for 2021 and Beyond* 5, Poverty & Race Rsch. Action Council (Aug. 2020), <https://www.prrac.org/pdf/housing-choice-voucher-reform-agenda.pdf>.
- 21 Domestic Pol’y Council, Nat’l Econ. Council, *supra* note 14 at 6 (“In fiscal year 2022 and fiscal year 2023, the President’s Budget proposed the largest expansion of the Housing Choice Voucher program in decades.”).
- 22 *Homelessness and Racial Disparities* n. 1, Nat’l All. to End Homelessness (Dec. 2023), https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/inequality/#_ftn1.
- 23 *Id.* (analyzing census data to explain, “Poverty, and particularly deep poverty, is a strong predictor of homelessness. Black and Latinx groups are overrepresented in poverty relative to their representation in the overall population, and are most likely to live in deep poverty, with rates of 10.8% and 7.6%, respectively.”)
- 24 *Id.*
- 25 Project 2025, *supra* note 5, at 510.
- 26 *Id.*
- 27 *Id.*
- 28 *Demographic Characteristics for Occupied Housing Units*, U.S. Census Bureau Am. Cmty. Survey (2023), <https://data.census.gov/table?q=S2502>.
- 29 Jung Hyun Choi & Amalie Zinn, *The Wealth Gap between Homeowners and Renters Has Reached a Historic High*, Urb. Inst. (Apr. 19, 2024), <https://www.urban.org/urban-wire/wealth-gap-between-homeowners-and-renters-has-reached-historic-high>; Press Release, NAACP Legal Def. Fund, LDF Commends New Guidance to Promote Homeownership Equity (Dec. 8, 2021), <https://www.naacpldf.org/wp-content/uploads/LDF-Commends-HUD-FHEO-Effort-to-Promote-Homeownership-FINAL-1.pdf>.
- 30 Rothstein, *supra* note 12.
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HEALTH CARE AT RISK

Further Limiting Black Communities' Access to Abortion Care

“We’re getting more and more people [in Tennessee] who are scrambling to find people they’re in community with who know someone who might know someone that can help them out. And we’re also seeing a lot of people continue unintended pregnancies because they don’t have access to a clinic that’s nearby. . . . I think that, for Black people, abortion is a liberatory point of access because of the blockages for upward mobility when people experience unintended pregnancies—the lack of access to career options, college, and education—[and] because of the high rates of maternal mortality.”

—Tia Freeman, a reproductive health organizer in Tennessee¹

PROJECT 2025 WILL BAN ABORTIONS

One of the top priorities outlined in Project 2025 is its misleading mandate for “protecting life, conscience, and bodily integrity.”² Contrary to what this framing suggests, Project 2025 proposes to exclude abortion from health care services, in direct opposition to the position of leading health organizations.³ Project 2025’s agenda will severely limit access to abortion care in several ways. By implementing these proposals, the federal government will restrict the availability of abortion care and add to the challenges Black people already face in accessing equitable, quality, and comprehensive health care. When Black pregnant people wish to terminate a pregnancy but nevertheless remain pregnant because they cannot access abortion care, they are at greater risk for adverse health outcomes.⁴ Restricting access to abortion care by banning or limiting access to mifepristone (a drug used to end a pregnancy through ten weeks gestation), barring hospitals from providing emergency abortion care, and increasing abortion surveillance will exacerbate existing inequities.⁵ Project 2025 will limit abortion access for Black communities by:

Restricting access to medication abortions

Project 2025 will end access to medication abortions, which account for the majority of all abortions in the United States.⁶ More than twenty years ago, the Food and Drug Administration (FDA) approved the drug mifepristone as safe and effective for the medical termination of pregnancy as part of a two-drug protocol.⁷ In 2016 and 2021, the FDA acted reasonably to make modifications to mifepristone’s label and the Risk Evaluation and Mitigation Strategy (REMS), a formal plan to ensure that the benefits of certain drugs outweigh their risks, based on an exhaustive

review of available scientific evidence.⁸ In 2016, the FDA approved several changes to mifepristone’s conditions of use and modified the REMS, including allowing non-physician health care providers who are licensed to prescribe medications to become certified prescribers of mifepristone.⁹ In 2021, after a thorough scientific review, the FDA announced that it would further modify the mifepristone REMS to eliminate in-person dispensing requirements for the medication because it determined there was enough scientific evidence that it would remain safe and effective.¹⁰ This gave people the option of accessing mifepristone through the mail.¹¹

This past term, the U.S. Supreme Court decided a case brought by a group of anti-abortion doctors and organizations who challenged the FDA’s actions regarding mifepristone.¹² The Supreme Court found that these anti-abortion groups lacked jurisdictional standing to challenge the FDA’s 2016 and 2021 actions with respect to mifepristone because they were not injured and could not prove that the FDA’s actions caused any injury. Although the Court disposed of this particular case based on jurisdictional standing, it did not address the merits of the anti-abortion doctors and organizations’ claims,¹³ thus leaving open the possibility that access to mifepristone could be restricted or eliminated in the future.

Project 2025 will achieve what the anti-abortion doctors and organizations tried to accomplish through the courts, by using the FDA itself to significantly limit access to mifepristone. The report asserts, “Abortion pills pose the single greatest threat to unborn children in a post-*Roe* world.”¹⁴ It will have the FDA reverse its approval of mifepristone in order to restrict access to

medication abortions.¹⁵ In the interim, it suggests that the FDA immediately restore the pre-2016 REMS, which will make it harder to obtain mifepristone¹⁶ by, among other things, reinstating medically unnecessary in-person dispensing requirements.¹⁷ Further, Project 2025 will ban the delivery of abortion medications via mail based on the Comstock Act, an 1873 anti-vice law that forbids the mailing of “obscene” materials or drugs and instruments related to abortion.¹⁸

Denying emergency abortion care in hospitals

The Emergency Medical Treatment and Labor Act (EMTALA) is a federal statute that requires Medicare-funded hospitals to provide “necessary stabilizing treatment” for any patient with an “emergency medical condition,” regardless of the patient’s ability to pay.¹⁹ Congress amended the statute in 1989 to clarify and extend protections for pregnant people. EMTALA thus ensures meaningful access to emergency health care for everyone, including for pregnant patients who may require pregnancy termination as part of their necessary stabilizing treatment.

The U.S. Supreme Court considered a case this past term about whether an Idaho state law could limit the scope of EMTALA for pregnant people, but the Court ultimately declined to rule on the merits and instead sent the case back down to the lower courts because it determined that it had intervened in the case too early.²⁰ Project 2025, however, is clear in its interpretation of the law, stating, “EMTALA requires no abortions, preempts no pro-life state laws, and explicitly requires stabilization of the unborn child.”²¹ Under this interpretation of EMTALA, states such as Idaho will be permitted to ban abortion care even when it is necessary during a medical emergency to protect the pregnant patient’s health.

Surveilling and collecting data on Black pregnant people seeking abortion care

Threatening patient privacy and security, Project 2025 will create “abortion surveillance” systems to collect “[a]ccurate and reliable statistical data about abortion [and] abortion survivors.”²² To address the purported problem of certain states becoming “sanctuaries for abortion tourism,” Project 2025 will have the U.S. Department of Health and Human Services (HHS) “use every available tool, including the cutting of funds, to ensure that every state reports exactly how many abortions take place within its borders, at what gestational age of the child, for what reason, the mother’s state of residence, and by what method.”²³ The report further suggests that the Centers for Disease Control and Prevention also surveil and collect data on abortions as a condition of federal Medicaid payments for family planning services.²⁴

The heightened abortion surveillance and potential enforcement of the Comstock Act proposed in Project 2025 will increase pregnant people’s risk of contact with the criminal legal system, which has already been an issue in parts of the United States and is of particular concern for Black pregnant people. A report discussing the arrests of and forced interventions on pregnant women from 1973 to 2005 found that there were more than 400 cases of pregnant women subjected to arrest, detention, and forced interventions.²⁵ The overwhelming majority of these women were economically disadvantaged, with Black pregnant women disproportionately represented, and the largest percentage of cases came from the South.²⁶ Eight of the 400 cases were related to allegations of women self-managing their abortions, while other cases involved state action against women who experienced a pregnancy loss or whose conduct allegedly harmed a fetus.²⁷

The report further found that, despite privacy protections, some medical and public health professionals provided patient information to law enforcement and other state actors, and they were more likely to disclose information about patients of color.²⁸

Another recent report determined that between 2000 and 2020, sixty-one people, including seven minors, were criminally investigated or arrested for allegedly ending their own pregnancy or assisting the termination of another's pregnancy.²⁹ This analysis examined how people have been

surveilled for their conduct during pregnancy since the Supreme Court's decision in *Roe v. Wade*. Criminalization and the threat of criminalization, including for health care providers and others, have continued since the Supreme Court issued its *Dobbs* decision. For example, in 2023, Alabama's attorney general threatened to prosecute people who help Alabamians cross state lines to get abortion care, including health care workers, abortion funds, and other support people.³⁰ The chilling effects of such threats and criminalization impede the ability of pregnant people to seek care and the ability of others to support them.³¹

During a June 18, 2022, demonstration for abortion access, a person holds a sign in front of the U.S. Supreme Court in Washington, D.C. Photo by Shutterstock



NEGATIVE IMPACTS ON HEALTH AND ECONOMIC OPPORTUNITIES

Restricting access to abortion care will harm Black pregnant people's health and limit their economic opportunities. Black womenⁱ are three times more likely to die from an issue related to pregnancy than white women due to multiple factors, including structural racism and implicit bias.³² A recent study by the National Bureau of Economic Research found that the highest-income Black women had equally high maternal mortality rates as low-income white women.³³ The study "demonstrates that disparities are not explained by income, age, marital status, or country of birth" and that structural racism plays a major role.³⁴ Further restrictions on abortion access, including restrictions on medication abortions and access to abortion care in emergency situations, will likely exacerbate these problems if Black people who are especially vulnerable to pregnancy-related health conditions are unable to terminate a pregnancy. This is already a grave risk for the fifty-seven percent of all Black women of reproductive age (more than 6.7 million Black women) who live in the twenty-six states that have banned or are likely to ban abortions, according to the National Partnership for Women and Families.³⁵

Abortion access is further complicated by income and insurance limitations, which disproportionately impact Black people. Low-income people who live in states with bans or extreme restrictions on abortions often lack the funds to travel to a state where they may obtain abortion care.³⁶ Whether

a pregnant person has health insurance, and what type of insurance they have, can also determine their access to abortion care. Black women of reproductive age face the largest disparity in health insurance coverage.³⁷ Thirteen percent of Black women ages fifteen to forty-nine have no health insurance, compared with eight percent of white women.³⁸ Nearly 1.8 million Black women covered by Medicaid live in states that have banned or are likely to ban abortion.³⁹ Because they are more likely to be insured under Medicaid, Black women have for decades had to pay out of pocket to cover their abortion care or forego abortion care entirely due to the Hyde Amendment, which prohibits the use of federal funds for abortion except in cases of rape, incest, or if the pregnant person's life is in danger.⁴⁰ Even Black pregnant people who have private insurance may be unable to use their benefits to access abortion care if their state prevents private insurers from covering such care.⁴¹ Inadequate insurance coverage means that Black pregnant people are less likely to access quality health care, including reproductive care, which leads to worse health outcomes overall.⁴²

Additionally, abortion bans have made high-quality maternal health care less accessible for Black pregnant people. Broadly speaking, bans like the Idaho law in the EMTALA case that was before the Supreme Court this past term have led to obstetricians and gynecologists leaving their home states, forcing the closure of labor and delivery wards and limiting access to maternal health care services.⁴³ Abortion bans and restrictions also impact patients' ability to seek health care due to a pregnancy loss. Although there is limited data

ⁱ LDF's use of "woman" or "women" refers to available statistical data and is not meant to exclude or minimize the impact of these policies on transgender men and nonbinary people who may become pregnant and need to seek abortion services.

on racial and ethnic disparities in miscarriage, the rates of fetal mortality are higher among Black women and other women of color.⁴⁴ Because the medications and procedures used to manage miscarriages and stillbirths are often identical to those used in abortions, health care providers in states with abortion bans or restrictions may delay care or not be able to provide care for people experiencing pregnancy loss due to potential exposure to criminal or civil penalties.⁴⁵

Project 2025 will also limit the already scant economic opportunities for Black pregnant people. The benefits of better access to reproductive health care, including abortion care, are significant. For example, Black women are likely to see a seven-percent increase in employment opportunities if they live in places where abortion access is protected.⁴⁶ Additionally, pre-*Dobbs* research demonstrated that the legalization of abortion led to increased rates of high school graduation, college entrance, and participation in the workforce for Black women.⁴⁷ Black people are more likely than white people to live in poverty for three consecutive generations,⁴⁸ and because many people who seek abortion care are already parents, limiting access to abortion care can substantially increase financial burdens on Black families and contribute to the racial wealth gap.⁴⁹ The Turnaway Study, a pre-

Black women are three times more likely to die from an issue related to pregnancy than white women.

Dobbs research study analyzing the experiences of women after they were denied an abortion, found that women who were denied a wanted abortion faced economic hardship and insecurity, such as not having enough money for necessities like food and housing, for years.⁵⁰

Black pregnant people who live in an “abortion desert,”⁵¹ a place where people must travel at least 100 miles to reach an abortion facility, may encounter additional economic barriers if they travel out of state for abortion care. Black women have historically faced and continue to face wage disparities⁵² and are disproportionately represented in lower-paying jobs where they are less likely to have benefits such as paid sick days,⁵³ which would allow them to travel and recover after an abortion. When seeking abortion care while living in a state that outlaws it, pregnant people will at minimum have to shoulder the unexpected costs of an abortion procedure along with travel to the medical facility and lodging, and they must also cover any loss from missing days at work. Childcare costs pose an additional financial burden for those who are already parents and must pay for childcare while they access abortion care. Although proposed legislation such as the Build Back Better Act⁵⁴ provides a framework for affordable, high-quality childcare, the United States lacks adequate federal childcare infrastructure, resulting in childcare deserts.⁵⁵ Research suggests that during the COVID-19 pandemic, Black residents were likely to have experienced worsening childcare deserts.⁵⁶ Being able to make decisions about whether to have children is a matter of economic justice for Black pregnant people.

In these ways, Project 2025’s plan to restrict access to abortion care by banning or limiting access to mifepristone, barring hospitals from providing emergency abortion care, and increasing abortion surveillance will exacerbate existing inequities and pose dire risks for Black pregnant people’s health, contact with the criminal legal system, and economic opportunities.

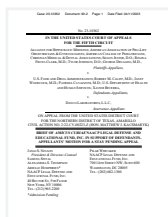
LDF'S VISION FOR ACCESSIBLE HEALTH CARE

All people in the United States deserve equal access to comprehensive, high-quality health care, especially Black communities that are more likely to live in medically underserved areas. Comprehensive health care must encompass sexual and reproductive health care services, including, but not limited to, access to contraception, abortion care, pregnancy care from the prenatal to postpartum period, and gender-affirming care. Although providing the entire spectrum of comprehensive sexual and reproductive health care services is crucial, Project 2025 directly threatens access to safe abortion care for Black people. Access to abortion care is critical for Black people to make decisions that shape their lives and impact their health, family life, and economic opportunity.

LDF Resources Informing this Chapter

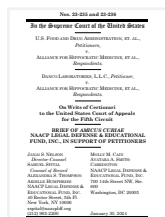
AMICUS BRIEF

LDF Amicus Brief to the U.S. Court of Appeals for the Fifth Circuit in *FDA v. Alliance for Hippocratic Medicine* and *Danco Laboratories, LLC v. Alliance for Hippocratic Medicine*



AMICUS BRIEF

LDF Amicus Brief to the U.S. Supreme Court in *FDA v. Alliance for Hippocratic Medicine* and *Danco Laboratories, LLC v. Alliance for Hippocratic Medicine*



Abortion rights activists protest in front of the U.S. Supreme Court in Washington, D.C., on June 24, 2024, to mark the second anniversary of the Court's ruling in *Dobbs v. Jackson Women's Health Organization*, which reversed federal protections for access to abortions. Photo by Aashish Kiphaty/Middle East Images via AFP





Endnotes

- 1 Sarah Varney & Layla Quran, *How Abortion Restrictions Have Disproportionately Impacted Black Women*, PBS (July 2, 2024), <https://www.pbs.org/newshour/show/how-abortion-restrictions-have-disproportionately-impacted-black-women>.
- 2 Paul Dans & Steven Groves, eds., *Mandate for Leadership: The Conservative Promise* 450, Heritage Found. (2023) [hereinafter “Project 2025”], https://static.project2025.org/2025_MandateForLeadership_FULL.pdf.
- 3 Abortion, World Health Org., https://www.who.int/health-topics/abortion#tab=tab_1 (last accessed Sept. 29, 2024); *Facts Are Important: Abortion Is Healthcare*, Am. Coll. of Obstetricians & Gynecologists, <https://www.acog.org/advocacy/facts-are-important/abortion-is-healthcare> (last accessed Sept. 29, 2024); Kevin B. O’Reilly, *AMA Holds Fast to Principle: Reproductive Care is Health Care*, Am. Med. Ass’n (Nov. 17, 2022), <https://www.ama-assn.org/delivering-care/public-health/ama-holds-fast-principle-reproductive-care-health-care>.
- 4 M. Antonia Biggs et al., *Women’s Mental Health and Well-Being 5 Years After Receiving or Being Denied an Abortion*, 74 JAMA Psychiatry 169 (2016), https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2592320#google_vignette; Latoya Hill et al., *What are the Implications of the Dobbs Ruling for Racial Disparities?*, Kaiser Family Found. (Apr. 24, 2024), <https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/>.
- 5 Project 2025 includes other proposals to restrict access to comprehensive sexual and reproductive health care that are beyond the scope of this chapter, including to end policies that “facilitate abortion for servicemembers.” Project 2025, *supra* note 2, at 104.
- 6 Brief of Amicus Curiae NAACP Legal Defense & Educational Fund, Inc. in Support of Defendants-Appellants’ Motion for a Stay Pending Appeal, *All. For Hippocratic Med. v. Food & Drug Admin.*, No. 23-10362 (5th. Cir. Apr. 11, 2023), <https://www.naacpldf.org/wp-content/uploads/2023.04.11-LDF-Amicus-Brief.pdf>.
- 7 Brief of Amicus Curiae NAACP Legal Defense & Educational Fund, Inc. in Support of Petitioners, *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, Nos. 23-235 & 23-236 (Jan. 30, 2024), https://www.supremecourt.gov/DocketPDF/23/23-235/299242/20240130150052194_2024-01-30%20FDA%20v.%20AFHM%20Amicus%20Brief_V9_AS.pdf.
- 8 *Risk Evaluation and Mitigation Strategies | REMS*, U.S. Food & Drug Admin., (May 16, 2023), <https://www.fda.gov/drugs/drug-safety-and-availability/risk-evaluation-and-mitigation-strategies-rems>; *Information about Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation*, U.S. Food & Drug Admin., U.S. Food & Drug Admin (Mar. 23, 2023), <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/information-about-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation>.
- 9 Brief of Amicus Curiae, *supra* note 6 at 4; Brief for the Federal Petitioners 5, *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, Nos. 23-235 & 23-236 (Jan. 2024), <https://www.justice.gov/d9/2024-03/Brief%20for%20the%20Federal%20Petitioners.pdf>.
- 10 Brief of Amicus Curiae, *supra* note 6.

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- 11 U.S. Food & Drug Admin., *supra* note 8 (on information about mifepristone).
- 12 The anti-abortion physicians and organizations sought to challenge the FDA's actions from the drug approval over twenty years ago up through the FDA's actions in 2021. *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 377–78 (2024). However, by the time the case made it to the U.S. Supreme Court, the only merits issues that survived were their challenges to the FDA's actions in 2016 and 2021 and whether the physicians and organizations had standing to bring their case. *Id.*
- 13 Molly Cain, *SCOTUS 2023 Term: Cases and Decisions Roundup*, Thurgood Marshall Inst., <https://tminstituteldf.org/scotus-2023-roundup/> (last accessed Sept. 29, 2024).
- 14 Project 2025, *supra* note 2, at 457.
- 15 *Id.* at 458.
- 16 *Id.* at 458
- 17 *Id.* at 459.
- 18 *Id.* at 459.
- 19 42 U.S.C. § 1395dd(b).
- 20 *Moyle v. Idaho*, 603 U.S. ____ (2024).
- 21 Project 2025, *supra* note 2, at 473–74.
- 22 *Id.* at 455.
- 23 *Id.*
- 24 *Id.* at 455–56.
- 25 Lynn M. Paltrow & Jeanne Flavin, *Arrests of and Forced Interventions on Pregnant Women in the United States, 1973–2005: Implications for Women's Legal Status and Public Health*, 38 J. Health Pol. Pol'y L. 299 (2013), <https://read.dukeupress.edu/jhpl/article/38/2/299/13533/Arrests-of-and-Forced-Interventions-on-Pregnant>.
- 26 *Id.*
- 27 *Id.*
- 28 *Id.*
- 29 Laura Huss & Goleen Samari, *Self-Care, Criminalized: The Criminalization of Self-Managed Abortion From 2000 to 2020* 21, IfWhenHow (2023), <https://ifwhenhow.org/wp-content/uploads/2023/10/Self-Care-Criminalized-2023-Report.pdf>.
- 30 *Judge to rule on Alabama's threat to prosecute out-of-state abortion assistance*, Ala. Pol. Rep. (Aug. 9, 2024), <https://www.alreporter.com/2024/08/09/judge-to-rule-on-alabamas-threat-to-prosecute-out-of-state-abortion-assistance/>.
- 31 Anna North, *Pregnancy in America is starting to feel like a crime*, Vox (June 25, 2024), <https://www.vox.com/health/356512/pregnancy-america-crime-dobbs-justice>.
-

-
- 32 Camille Kidd, Shaina Goodman, & Katherine G. Robbins, *State Abortion Bans Threaten Nearly 7 Million Black Women, Exacerbate the Existing Black Maternal Mortality Crisis*, Nat'l Partnership for Women & Families (2024), <https://nationalpartnership.org/report/state-abortion-bans-threaten-black-women/>.
- 33 Kate Kennedy-Moulton et al., *Maternal and Infant Health Inequality: New Evidence from Linked Administrative Data* 29 (Nat'l Bureau of Econ. Rsch., Working Paper No. 30693, 2022), https://www.nber.org/system/files/working_papers/w30693/w30693.pdf.
- 34 Sarah Kliff, Claire C. Miller, & Larry Buchanan, *Childbirth Is Deadlier for Black Families Even When They're Rich, Expansive Study Finds*, N.Y. Times (Feb. 12, 2023), <https://www.nytimes.com/interactive/2023/02/12/upshot/child-maternal-mortality-rich-poor.html>.
- 35 Kidd, Goodman, & Robbins, *supra* note 32.
- 36 *Id.*
- 37 *Fact Sheet: Black Women Experience Pervasive Disparities in Access to Health Insurance* 2, Nat'l Partnership for Women & Families (Apr. 2019), <https://www.nationalpartnership.org/our-work/resources/health-care/black-womens-health-insurance-coverage.pdf>.
- 38 Liza Fuentes, *Inequity in U.S. Abortion Rights and Access: The End of Roe Is Deepening Existing Divides*, Guttmacher Inst. (Jan. 17, 2023), <https://www.guttmacher.org/2023/01/inequity-us-abortion-rights-and-access-end-ro-deepening-existing-divides>.
- 39 Kidd, Goodman, & Robbins, *supra* note 32.
- 40 *See* Kidd, Goodman, & Robbins, *supra* note 32. Since 1977, the Hyde Amendment has prohibited the use of federal funds for abortion except in the case of rape, incest, or if the pregnant person's life is in danger. Alina Salganicoff et al., *The Hyde Amendment and Coverage for Abortion Services Under Medicaid in the Post-Roe Era*, Kaiser Family Found. (Mar. 14, 2024), <https://www.kff.org/womens-health-policy/issue-brief/the-hyde-amendment-and-coverage-for-abortion-services-under-medicare-in-the-post-ro-era/>.
- 41 Ushma Upadhyay et al., *Trends in Self-Pay Charges and Insurance Acceptance for Abortion in The United States, 2017–20*, 41 Health Aff., 507 (2022), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.01528>.
- 42 Kidd, Goodman, & Robbins, *supra* note 32.
- 43 *Idaho v. United States* and *Moyle v. United States Factsheet*, Nat'l Women's L. Ctr. (Feb. 2024), <https://nwlc.org/wp-content/uploads/2024/02/Idaho-v.-United-States-and-Moyle-v.-United-States-Factsheet-Updated-1.pdf>; *see* Kidd, Goodman, & Robbins, *supra* note 32.
- 44 Latoya Hill et al., *supra* note 4.
- 45 *Id.*
- 46 Kaylee Kaestle, *The Economic Implications of Abortion Bans*, Color. Fiscal Inst. (June 24, 2022), <https://www.coloradofiscal.org/the-economic-implications-of-abortion-bans/issues/economic-prosperity/>.
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- 47 Inst. for Women's Pol'y Rsch., *The Economic Effects of Abortion Access: A Review of the Evidence* (July 2019), https://iwpr.org/wp-content/uploads/2020/07/B377_Abortion-Access-Fact-Sheet_final.pdf.
- 48 Kaestle, *supra* note 46.
- 49 *Id.*
- 50 *The Harms of Denying a Woman a Wanted Abortion Findings from the Turnaway Study*, Advancing New Standards in Reprod. Health (Apr. 16, 2020), https://www.ansirh.org/sites/default/files/publications/files/the_harms_of_denying_a_woman_a_wanted_abortion_4-16-2020.pdf; Diana G. Foster et al., *Socioeconomic Outcomes of Women Who Receive and Women Who Are Denied Wanted Abortions in the United States*, 112 Am. J. of Pub. Health 1290, 1294 (2022), <https://ajph.aphapublications.org/doi/10.2105/AJPH.2017.304247>.
- 51 Alice F. Cartwright et al., *Identifying National Availability of Abortion Care and Distance From Major U.S. Cities: Systematic Online Search*, 20 J. Med. Internet Rsch. E186 (2018), <https://www.jmir.org/2018/5/e186/>.
- 52 Jasmine Tucker, *Black Women Have Been Undervalued and Underpaid for Far Too Long*, Nat'l Women's L. Ctr. (June 2024), <https://nwlc.org/wp-content/uploads/2024/07/BWEPD-2024.6.28v4.pdf>.
- 53 Lauren Hoffman & Isabela Salas-Betsch, *Including All Women Workers in Wage Gap Calculations*, Ctr. for Am. Prog. (May 24, 2022), <https://www.americanprogress.org/article/including-all-women-workers-in-wage-gap-calculations/>.
- 54 Press Release, White House, Build Back Better Framework (Oct. 28, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/28/build-back-better-framework/>.
- 55 *Percent Living in a Child Care Desert*, Ctr. for Am. Prog. (2018), <https://childcasredeserts.org/2018/>.
- 56 Rasheed Malik et al., *The Coronavirus Will Make Child Care Deserts Worse and Exacerbate Inequality*, Ctr. for Am. Prog. (June 22, 2020), <https://www.americanprogress.org/article/coronavirus-will-make-child-care-deserts-worse-exacerbate-inequality/>.

RESISTING THREATS TO THE SAFETY AND WELL-BEING OF THE PLANET AND ITS INHABITANTS

“We have been totally left out of everything. All the communities around us are on the new sewer system, and yet our community is still on septic tanks. When it rains here, most of the people in our community are getting flooded out, they are not able to flush their toilets or take showers, and it causes mildew and mold to fester in people’s homes. It feels like we are being walked over.”¹

—Kirk Parker, a longtime resident of Athens, Alabama, where recent expansions of the city’s sewer lines have excluded Black households¹

¹ As climate change and the ensuing extreme weather events place further strain on failing water and wastewater infrastructure, Black communities will face the brunt of the consequences. See Sandhya Kajeepeta, Jason Bailey, & David Wheaton, *Water/Color 2023: An Update on Water Crises Facing Black Communities*, Thurgood Marshall Inst. (Dec. 2023), <https://tminstituteldf.org/wp-content/uploads/2024/02/2024-02-08-LDF-TMI-Water-Brief.pdf>.

PROJECT 2025 WILL WEAKEN BLACK PEOPLE'S ACCESS TO SAFE AIR, CLEAN WATER, AND CLIMATE-RESILIENT HOUSING

Project 2025 will dismantle federal efforts to expand Black communities' access to safe air, clean water, and climate-resilient housing. These proposals will weaken, defund, and, in some cases, completely eliminate programs, regulations, and offices that strive to keep the environment safe and livable for humans and wildlife, while undermining science and investments in combating climate change. Project 2025 will also withdraw the United States from international commitments to address climate change, including the United Nations Framework Convention on Climate Change and the Paris Agreement.² Furthermore, Project 2025 will drastically weaken environmental protections by significantly reducing the size and capacity of the U.S. Environmental Protection Agency (EPA), which received the highest funding per worker in the agency's history in 2023.³ It will also restrict the EPA's ability to engage in new scientific research projects, calling for the EPA to cease ongoing or planned research for which there is no clear and current congressional authorization.⁴ Scientists at the EPA use research to inform evidence-based decision-making about climate science. This attack on the EPA's ability to conduct such research is consistent with other recent litigation and efforts to consolidate power, increase partisan interference, and undermine the expertise of federal agencies.⁵ Due to persistent environmental racism, such rollbacks will be particularly harmful to Black communities by:

Reducing federal oversight and enforcement of environmental protections for clean air, land, and water

The EPA is responsible for establishing and enforcing environmental regulations to protect air, water, and the climate. The EPA's budget for the 2023 fiscal year was \$10.135 billion. The Department of Justice (DOJ) also plays a role in holding local jurisdictions accountable when they violate environmental civil rights protections. Targeting both agencies, Project 2025 will severely decrease the federal government's oversight capacity and enforcement of key environmental regulations that protect Americans' access to clean air, land, and water.

Project 2025's proposals to reduce environmental regulations and the enforcement of environmental protections will exacerbate environmental racism and cause Black communities, who already face more severe and prolonged exposure to environmental hazards, to suffer further from air pollution, water contamination, and natural disasters.

THE CURRENT IMPACTS OF ENVIRONMENTAL RACISM ON BLACK COMMUNITIES

AIR QUALITY

Research shows that Black people face the highest overall exposure to air pollution across racial groups and represent the only racial group to face higher-than-average exposure to pollution from every type of source (such as industrial facilities, road traffic, coal production, and construction sites).⁶ The nation's long history of housing discrimination and exclusionary zoning laws have led to racial residential segregation, and policymakers have selectively targeted majority-Black neighborhoods as the sites for these harmful environmental exposures.⁷ This disproportionate air pollution results in Black communities facing higher risks of asthma, lung disease, and cancers.⁸

WATER QUALITY AND SANITATION

Black communities are also more likely to experience water contamination, inadequate access to plumbing, and water affordability issues.⁹ Five of every 1,000 Black households in the United States lack complete plumbing, which is double the rate among white households.¹⁰ Additionally, majority-Black neighborhoods and cities have suffered from decades of disinvestment, leading to crumbling water and wastewater infrastructure in desperate need of repair.¹¹ As a result, water systems serving communities of color have higher rates of drinking water violations due to contamination.¹² Moreover, available evidence suggests that communities of

color are charged higher rates for water and sewer services despite being served by lower-quality systems, and therefore face higher rates of service shutoffs due to unaffordability.¹³ To learn more about threats to water quality and sanitation in Black communities, read *Water/Color 2023*, a research brief from LDF's Thurgood Marshall Institute.¹⁴

CLIMATE RESILIENCE

Climate change further threatens essential infrastructure and access to clean air and water through extreme weather events, with disproportionate effects on Black communities. Black families are more likely to live in regions of the country with an especially high risk of extreme weather events caused by climate change, such as flooding, hurricanes, and extreme heat.¹⁵ Majority-Black neighborhoods are also more susceptible to the consequences of extreme weather, due to historic and ongoing disinvestment in infrastructure.¹⁶ Despite living in homes and areas that are more vulnerable to the impacts of climate change, Black communities do not receive equal levels of disaster recovery support compared to white communities following extreme weather events.¹⁷ This inequity contributes to further disparities in home values and wealth, the risk of displacement and homelessness, and public health challenges.¹⁸

Decreasing the enforcement of environmental justice and civil rights protections

Project 2025 will decrease the enforcement of environmental regulations and civil rights protections by eliminating the EPA's Office of Environmental Justice and External Civil Rights.¹⁹ It will also end the ability of the DOJ's Office of Environmental Justice to hold jurisdictions that are not in compliance with environmental civil rights protections accountable. Project 2025's proposals to restrict the federal government's ability to enforce civil rights protections will leave marginalized communities without crucial safeguards against the unequal effects of climate change and environmental hazards. For example, in 2023, the DOJ's Civil Rights Division reached a settlement with the Alabama Department of Public Health after determining that the health department discriminated against Black residents by mismanaging their sewage disposal program and denying a credible hookworm outbreak.²⁰ As part of the settlement agreement, Alabama agreed to suspend the enforcement of sanitation laws that could result in criminal charges against residents who could not afford a septic system, which disproportionately affected Black Alabamians.²¹ The DOJ also required Alabama to conduct a comprehensive assessment of septic and wastewater management systems, prioritizing properties with a high risk of exposure to raw sewage.²² Project 2025 proposes that the federal government pause and review all ongoing environmental justice investigations, voluntary resolution agreements, and consent decrees, which will delay action on similar environmental justice matters across the country and have particularly dire consequences for Black communities.

Limiting the monitoring and regulation of harmful pollutants

Project 2025 will limit the EPA's monitoring of environmental hazards. It encourages the federal government to remove the Greenhouse Gas Reporting Program (GHGRP) for any category of greenhouse gas sources that the EPA does not currently regulate, which will impede the EPA's ability to monitor new sources of greenhouse gases.²³ Project 2025 will also curtail clean water regulations by excluding any analyses of future potential harm when testing water under the Clean Water Act.²⁴

Additionally, Project 2025 will hinder the EPA's ability to regulate harmful chemicals such as per- and polyfluoroalkyl substances (PFAS).²⁵ PFAS are a group of manufactured chemicals that have been used in industry and consumer products since the 1940s.²⁶ Recent scientific research suggests that exposure to certain PFAS may lead to adverse health outcomes, including high blood pressure in pregnant women and developmental effects or delays in children.²⁷ Water systems serving Black communities are significantly more likely to be contaminated with PFAS.²⁸

“Community water systems contaminated with per- and polyfluoroalkyl substances (PFAS) [forever chemicals] serve greater proportions of Hispanic/Latino and non-Hispanic Black populations and contain greater numbers of PFAS sources within their watersheds.”²⁹

In 2024, the EPA designated two PFAS compounds as “hazardous substances,” which significantly expanded the EPA’s authority over new and existing cleanup sites. Project 2025 will have the federal government revisit this designation and rescind the EPA’s authority to expedite the cleanup of sites with dangerous PFAS chemicals.

Exacerbating climate change, which increases the risk of natural disasters that disproportionately impact Black communities

Project 2025 will reverse all efforts to invest in a sustainable future and instead will make climate change worse. Investments in climate resilience and disaster preparedness reduce the future costs of disaster relief caused by extreme weather events. Project 2025 will halt and reverse investments in climate resilience and instead prioritize the interests of private fossil fuel companies, putting the future of the planet in peril. Proposals include eliminating incentives to accelerate the construction of clean energy infrastructure³⁰ and terminating EPA grants to environmental advocacy groups,³¹ thereby removing agency from communities to protect their own neighborhoods from the impacts of climate change. Project 2025 will also shutter several Department of Energy offices dedicated to clean energy and climate resilience and will repeal spending on climate resilience in other federal agencies.³²

At the same time, Project 2025 will *increase* spending on fossil fuels and prioritize the interests of fossil fuel corporations over the health of the planet. Specifically, Project 2025 will expand natural gas infrastructure and coal production, eliminate environmental reviews before approving new gas pipelines, and disallow the consideration of any upstream or downstream public health and climate consequences from greenhouse gas emissions.³³ These proposals cater to the interests of the oil and gas industry and will adversely impact Black communities throughout the United States.

More than one million Black residents live within a half mile of a natural gas facility, and more than 6.7 million live in the ninety-one U.S. counties with oil refineries.³⁴

Project 2025’s goal of reversing all investments in climate resilience and increasing investments in fossil fuels will most severely harm the environmental health of Black communities, who already bear a disproportionate burden of climate change consequences, by exacerbating climate change and increasing the risk of natural disasters.

Furthermore, Project 2025 will drastically change how the government responds to natural disasters, such as by shifting the Federal Emergency Management Agency (FEMA)’s emergency spending for most disaster preparedness and response costs from the federal government to state and local governments.³⁵ Although FEMA has historically failed to provide Black communities with equitable disaster relief funds, shifting responsibility to states may result in the further denial of relief for Black people living in states with hostile governments.

Historic and persistent environmental racism means that Black communities will face the greatest risks should the federal government adopt Project 2025’s proposals to roll back funding, regulations, and enforcement that are intended to protect the health of the planet and its inhabitants. As the climate crisis accelerates, these investments and protections are more crucial than ever before.

LDF'S VISION FOR ENVIRONMENTAL JUSTICE



Ariana Hawk of Flint, Michigan, microwaves bottles of water to prepare a bath for her two younger children as her son, Sincere, watches. *Photo by Brittany Greeson*

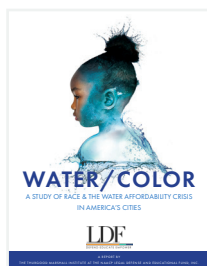
LDF strives to defend the health and safety of the planet and each of its inhabitants by protecting and expanding Black communities' access to safe air, clean water, and climate-resilient housing. While all people are at risk of harmful environmental hazards, such as air pollution and water contamination, many Black communities face more severe and prolonged exposure to these hazards. This injustice is an example of environmental racism, which occurs by design: policymakers have long intentionally targeted majority-Black neighborhoods as the sites

of hazardous environmental exposures, including factories and highways, and have historically deprived these communities of the resources necessary to maintain safe and adequate water and sanitation systems.³⁶ As climate change threatens clean air and water access through extreme weather events, Black communities will bear a disproportionate burden of the health consequences. Therefore, unlike what Project 2025 proposes, the federal government should ensure more—not fewer—protections against environmental hazards.

LDF Resources Informing this Chapter

REPORT

Water/Color: A Study of Race and the Water Affordability Crisis in America's Cities



BRIEF

Water/Color 2023: An Update on Water Crises Facing Black Communities



Endnotes

- 1 Sandhya Kajeepeta, Jason Bailey, & David Wheaton, *Water/Color 2023: An Update on Water Crises Facing Black Communities*, Thurgood Marshall Inst. (Dec. 2023), <https://tminstituteldf.org/wp-content/uploads/2024/02/2024-02-08-LDF-TMI-Water-Brief.pdf>.
- 2 Paul Dans & Steven Groves, eds., *Mandate for Leadership: The Conservative Promise* 709, Heritage Found. (2023) [hereinafter “Project 2025”], https://static.project2025.org/2025_MandateForLeadership_FULL.pdf.
- 3 *EPA’s Budget and Spending*, U.S. Env’t Prot. Agency, <https://www.epa.gov/planandbudget/budget> (last accessed Sept. 29, 2024).
- 4 Project 2025, *supra* note 2, at 437.
- 5 *See Loper Bright Enter. v. Raimondo*, 144 S.Ct. 2244 (2024).
- 6 Christopher W. Tessum et al., *PM2.5 Polluters Disproportionately and Systemically Affect People of Color in the United States*, 7 Sci. Advances eabf4491 (2021), <https://www.science.org/doi/10.1126/sciadv.abf4491#sec-2>.
- 7 Allison Shertzer, Tate Twinam, & Randall P. Walsh, *Race, Ethnicity, and Discriminatory Zoning*, 8 Am. Econ. J. 217 (2016), <https://pubs.aeaweb.org/doi/pdfplus/10.1257/app.20140430>.
- 8 Lesley Fleischman & Marcus Franklin, *Fumes Across the Fence-Line the Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities*, Clean Air Task Force & NAACP (Nov. 2017), https://cdn.catf.us/wp-content/uploads/2017/11/21094509/CATF_Pub_FumesAcrossTheFenceLine.pdf.
- 9 Kajeepeta, Bailey, & Wheaton, *supra* note 1; Coty Montag, *Water/Color: A Study of Race and the Water Affordability Crisis in America’s Cities*, https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf.
- 10 Zoë Roller et al., *Closing the Water Access Gap in the United States: A National Plan* 22, Dig Deep & U.S. Water All. (Sept. 2023), https://uswateralliance.org/wp-content/uploads/2023/09/Closing-the-Water-Access-Gap-in-the-United-States_DIGITAL.pdf.
- 11 Montag, *supra* note 9 at 8.
- 12 Kajeepeta, Bailey, & Wheaton, *supra* note 1 at 5.
- 13 *Id.* at 17; Montag, *supra* note 9 at 22.
- 14 Kajeepeta, Bailey, & Wheaton, *supra* note 1.
- 15 *Impacts of Climate Change on Black Populations in the United States*, McKinsey Inst. for Black Econ Mobility (Nov. 30, 2023), <https://www.mckinsey.com/bem/our-insights/impacts-of-climate-change-on-black-populations-in-the-united-states>.
- 16 Kajeepeta, Bailey, & Wheaton, *supra* note 1 at 7.

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- 17 Justin Dorazio, *How FEMA Can Prioritize Equity in Disaster Recovery Assistance*, Ctr. for Am Prog. (July 19, 2022), <https://www.americanprogress.org/article/how-fema-can-prioritize-equity-in-disaster-recovery-assistance/>.
- 18 *Id.*
- 19 Project 2025, *supra* note 2, at 421.
- 20 Keith Rushing & Anna Sewell, *DOJ Reaches First-Ever Settlement in Environmental Justice Probe in Alabama*, EarthJustice (May 5, 2023), <https://earthjustice.org/press/2023/doj-reaches-first-ever-settlement-in-environmental-justice-probe-in-alabama>.
- 21 *Id.*
- 22 *Id.*
- 23 Project 2025, *supra* note 2, at 425.
- 24 *Id.* at 429.
- 25 *Id.* at 431.
- 26 *Our Current Understanding of the Human Health and Environmental Risks of PFAS*, U.S. Env't Prot. Agency (May 16, 2024), <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas>.
- 27 *Id.*
- 28 Jahred M. Liddie, Laurel A. Schaidler, & Elsie M. Sunderland, *Sociodemographic Factors Are Associated with the Abundance of PFAS Sources and Detection in U.S. Community Water Systems*, 57 Env't Sci. & Tech. 7902 (2023), <https://pubs.acs.org/doi/full/10.1021/acs.est.2c07255>.
- 29 *Id.*
- 30 Project 2025, *supra* note 2, at 368, 372, 378.
- 31 *Id.* at 422.
- 32 *Id.* at 369, 386, 508.
- 33 *Id.* at 406–07.
- 34 Fleischman & Franklin, *supra* note 8 at 4.
- 35 Project 2025 at 135.
- 36 Shertzer, Twinam, & Walsh, *supra* note 7; Kajeepeta, Bailey, & Wheaton, *supra* note 1; Montag, *supra* note 9.

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PROJECT 2025



CONCLUSION

As LDF continues its mission to protect and defend the full dignity and citizenship rights of Black people, it is crucial to recognize that the challenges presented by Project 2025 are not new; rather, they are part of a long history of attempts to undermine the rights and progress of Black communities. However, just as LDF has been a steadfast force in fighting Jim Crow laws and dismantling racial inequities, it remains committed to defending against this latest threat. The vision of an inclusive, multi-racial democracy that offers equal opportunities for all is not just a goal, but a mandate—one that requires vigilance, advocacy, and the same enduring strength and resilience that have guided previous generations. With continued effort and determination, LDF will work to ensure that the rights Black communities have fought for are not erased but are preserved and expanded for future generations.

LDF's vision for a just and equitable society transcends traditional approaches to civil rights, education, political participation, public safety, housing, health care, and environmental justice. Each of these initiatives is vital to ensuring that historically marginalized communities, especially Black communities, are no longer subjected to discrimination and inequality. Through these strategies, LDF not only challenges existing systems of oppression but also provides a roadmap for building a future where dignity is sacred and equal opportunity is guaranteed to all. The work ahead is crucial in shaping a society that honors and protects the humanity of every individual.

As alarming as the threat of Project 2025 is, it does not have to be our destiny.



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