



July 6, 2021

Shalanda Young
Acting Director
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Re: Center for American Progress Written Comment on FR DOC # 2021-09109

Submitted via <https://www.regulations.gov/>.

Dear Acting Director Young,

We write to submit a comment in response to the Request for Information (RFI) from the Office of Management and Budget (OMB) regarding Executive Order 13985, *Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, (EO 13985). EO 13985 charges OMB, in partnership with the heads of federal agencies, with developing public policy strategies that advance equity across the federal government, including by identifying effective strategies and methods for assessing and remedying barriers, burdens, and inequities in agency policies and programs to ensure the federal government equitably serves all eligible individuals and communities, including Black, Indigenous and other people of color (BIPOC) and others that are currently and historically underserved.

The [Center for American Progress](#) (CAP) is an independent non-partisan think tank committed to improving the lives of all Americans through bold, progressive ideas as well as strong leadership and concerted action. We conduct valuable research and engage in meaningful advocacy to identify and redress the myriad and intersecting ways that historic and current laws and policies perpetuate racial injustice and impede equitable opportunities for other underserved communities, including religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ) persons; persons with disabilities; persons who live in rural areas; women and girls; and persons otherwise adversely affected by persistent poverty or inequality.

Our comments (enclosed) address Area 1 of the RFI-- Equity Assessments and Strategies. Specifically, our materials contain some promising methods and strategies federal agencies can undertake to advance equity on urgent agency priorities ranging from closing the racial wealth gap and building a stronger and more equitable economy for all, to improving the public health system, securing a more equitable and sustainable climate, reforming the justice system, and building a stronger and more inclusive democracy.

1. Background on EO 13985

EO 13985's directive for a bold whole-of-government equity agenda presents an extraordinary opportunity to meet the longstanding challenge of racial injustice and build a better America where all Americans have an equal opportunity to thrive. This is a pivotal moment for racial justice in America. The COVID-19 pandemic and resulting recession have [exposed and exacerbated deeply rooted structural racial inequalities](#) in our public health and economic systems and across American society. The horrific murder of George Floyd and the unceasing and unbearable loss of Black and disabled lives at the hands of the police officers sworn to protect them has prompted some of the [largest and most multiracial protests](#) for systemic criminal justice reform in modern history. The increased media focus on [east Asian hate crimes](#) has helped make more visible the prejudices Asian American and Pacific Islander communities face. The [barrage of racialized state legislation seeking to suppress the vote](#) has fueled a renewed movement to eradicate entrenched racial discrimination in voting and expand voter access for all. As families, businesses, and communities strive to recover from the converging crises of the past few years, there is an unprecedented opportunity to rebuild America's economy, health systems, and its core democratic institutions to be stronger and more equitable for all.

Below we submit a comprehensive set of promising methods and strategies for advancing equity on urgent or immediate agency priorities including, rebuilding a better and more equitable economy; strengthening public health systems and eradicating health disparities; securing a more equitable and sustainable climate; reforming the justice system; and creating a stronger and more inclusive democracy.

2. Closing the Racial Wealth Gap and Building a Stronger and More Equitable Economy for All

Eliminating the stark and persistent wealth gap between Black, Indigenous, and other people of color (BIPOC) and white Americans is critical to achieving the long overdue promise of equal opportunity for all Americans. Building wealth makes it possible to achieve the American dream of purchasing a home, starting a business, attending college, or putting a child through school. It also provides stability for individuals and families and allows them to overcome adversities and emergencies, such as illnesses, job losses, unexpected expenses, and economic downturns.

The current wealth gap is a result of centuries of government policies that have systematically facilitated the deprivation of BIPOC Americans. Native American households hold just [8 cents of wealth for every dollar](#) that the average white family possesses. Similarly, Black families have [12 cents of wealth for every dollar of white wealth](#), while the gap between Latino and white families hovers around [21 cents per \\$1 of white wealth](#). The racial wealth gap was forged from the brutal displacement of Indigenous people from their land and the savage exploitation of African Americans over the course of almost 250 years of slavery. It expanded during Jim Crow segregation and through government policies excluding BIPOC Americans or creating or maintaining barriers that hindered them

from accessing many critical programs that fostered economic opportunity and enhanced wealth for white Americans. At the same time, chronic disinvestment in BIPOC schools, businesses, homeownership, and communities, coupled with the frequent building of federal highways through the heart of Black neighborhoods, further cut off BIPOC families from economic opportunities. The racial wealth gap persists today through institutionalized racism and is evident in disparate access to and outcomes in virtually every aspect of life from education, employment, housing, health care, financial markets, civil and criminal justice, and democratic participation, among others.

The racial wealth gap is a cyclical problem in that the uneven distribution of wealth impedes the advancement of BIPOC Americans in other facets of life, and the corresponding lack of equitable outcomes in education, employment, housing and the like further hinders BIPOC families from accumulating wealth. It is also an [intergenerational problem](#) because wealth deprivation compounds to the detriment of future generations of BIPOC Americans in much the same way as interest compounds to the benefit of wealthier white Americans.

Experts at CAP have developed a series of policy solutions to help eliminate this racial wealth gap.

Recommendations

[Expanding inclusive communities and enhancing safe, stable, accessible, and affordable housing](#)

Securing safe, stable, accessible, and affordable housing provides a pathway out of poverty and has unlocked the doors of opportunity for countless Americans. Homeownership, in particular, is a key vehicle for building wealth given the significant savings and tax benefits associated with owning a home and growing home equity. Yet deeply entrenched discrimination in the housing market has persistently prevented generations of Black, Brown, Indigenous, disabled, LGBTQ, and other Americans from renting or buying homes in the communities of their choice. The effects of this discrimination are apparent in the ongoing racial inequality in land use patterns; sustained systemic barriers to safe, accessible, affordable housing for BIPOC, disabled, and LGBTQ individuals across America; greater exposure to climate change risks and environmental toxins by BIPOC and disabled people; growing racial homeownership gap; and chronic undervaluation of properties owned by families of color.

The Biden Administration has taken a series of pivotal actions to redress discrimination in the housing market including [issuing a memorandum](#) directing the U.S. Department of Housing and Urban Development (HUD) to work with communities to end housing discrimination and secure equal access to housing opportunities for all; [proposing new rules](#) on combatting housing practices with discriminatory effects and fulfilling the obligation to affirmatively further fair housing; creating a first-of-its-kind interagency effort to address inequity in home appraisals; and seeking robust budget investments to promote fair and equitable housing opportunities, including critical commitments in the [American Jobs Plan](#)

to alleviate the racial gap in homeownership; remedy residential segregation caused by federal highway construction; eradicate exclusionary zoning policies; ensure sufficient physically accessible housing and expand affordable housing. Key additional actions could include:

Reinvigorate the affirmatively furthering fair housing rule. (HUD). HUD's recent reinstatement of the Affirmatively Furthering Fair Housing rule is essential to eradicating longstanding discrimination in the housing market. Because the newly reinstated rule removes the requirement for jurisdictions to report their progress in identifying and addressing barriers to fair housing, HUD should issue guidance on how localities must collect, manage, and maintain data showing their efforts to actively address housing discrimination in their communities.

Develop comprehensive rules surrounding land installment contracts. (Consumer Financial Protection Bureau (CFPB)). Land installment contracts are an alternative to traditional mortgage options that were historically used by Black Americans who were excluded from traditional finance contracts and that continue to target Black Americans who have less access to more standard housing finance products. CFPB should institute extensive rules governing land installment contracts including vital protections for borrowers such as the recording of land contracts; the requirement for an independent appraisal; the prohibition of liens on a property prior to entering into a purchase contract; the establishment of an interest cap; and the right to cure in situations of default.

Apportion federal community development investments toward Community Land Trusts (CLTs) and extend affordability periods for key development programs. (HUD). CLTs are an important tool to preserve affordability and prevent displacement of existing community members when neighborhood improvements increase rents and home costs. HUD should require state and local government receiving HOME Investment Partnerships program (HOME) grants to build, purchase or upgrade affordable housing to direct a portion of the HOME funds they receive to support CLTs. HUD should also increase the affordability period in programs such as HOME, which currently requires minimum affordability periods of five years to 15 years for homeownership projects, depending on the amount of HOME funds invested in the housing units. Community Development Block Grant (CDBG) recipients should also be encouraged to use a portion of their funds to support CLTs.

Remedy racial inequities in evictions. (HUD). Neighborhoods with more renters of color have higher eviction rates. Black women, in particular, experience [alarming eviction rates](#), with 1 in 5 Black women facing eviction in their lifetime, compared with 1 in 15 white women. Similar to HUD's newly formed interagency effort to address inequity in home appraisals, HUD should establish a housing instability initiative to provide guidance on how to prevent inequitable evictions, incentivize landlords to institute recommended eviction procedures, and collect uniform eviction data. This could include recommendations regarding pre-filing notice requirements; enhancing access to counsel; investments in preventive eviction diversion programs and housing stability crisis programs; and uniform eviction data collection, among others.

Ensuring every community has access to affordable financial services

While increased homeownership and access to stable and affordable rental housing is paramount for closing the racial wealth gap and promoting equal economic opportunity, underserved communities also require greater access to different types of asset-generating tools and improved access to financial services, including banking and retirement savings plans, to foster a more equitable economy.

Create postal banking. (U.S. Department of the Treasury (Treasury)). Longstanding policies excluding Black people from accessing financial institutions coupled with entrenched racial discrimination in mainstream banking institutions has resulted in only [50 percent of Black people](#) having a checking and/or savings account, and far too many Black people resorting to predatory lenders that unfairly strip wealth from customers who can least afford it by charging excessive fees and costs for basic services. Creating a postal banking system would help address structural inequality by offering much needed accessible and affordable financial services, including bank accounts, small loans, and check cashing to people lacking access to mainstream and community-based banking institutions and too often relying on predatory lenders.

Expand Community Development Financial Institutions (CDFIs) and Community Development Corporations (CDCs). (Treasury). CDFIs and CDCs provide critical financial services to distressed communities and to individuals without access to financing to promote greater economic opportunity and empowerment for those most in need including preserving and providing access to affordable housing and supporting small businesses. Treasury should set an ambitious goal of expanding the number of organizations it certifies to participate in the Community Development Financial Institutions Fund and targeting the creation of new CDFIs and CDCs in communities that do not yet have one. Additionally, as discussed in the Climate section below, CDFIs' and CDCs' investments in community economic development projects should be required to reduce local pollution and emissions, support resilient community development, avoid community displacement, and engage affected community members.

Develop a national savings plan. (Treasury). Occupational segregation and other forms of discrimination have resulted in Black Americans being disproportionately clustered in low-wage jobs that fail to offer retirement plans. Slightly more than [one-third of Black Americans](#) have a retirement savings account, compared with nearly 70 percent of their white counterparts. The median balance for Black retirement accounts is also considerably smaller, equaling approximately [1/3 of the median balance for white Americans](#). Treasury should reinstate the “[myRA](#)” savings plan for Americans who do not have access to an employer-sponsored retirement savings plan.

Create enhanced pathways for entrepreneurs of color to succeed

American entrepreneurship has long been a quintessential element of achieving the American dream, providing a pathway for prosperity and opportunity for business owners and boosting employment, goods, and services for the broader community. However, [Black Americans lag far behind their white counterparts](#) in realizing this aspect of the American

dream, owning less than [2 percent of small businesses with employees, and Black women own less than 1 percent of such businesses](#). This is due in large part to racial inequities in access to the capital needed to start and grow a business and persistent discrimination in credit systems. If financial capital were more evenly distributed and Black Americans were able to seize the opportunity to unleash their ingenuity at rates similar to white Americans, there would be approximately [860,000 additional Black-owned firms employing more than 10 million people](#). The Biden Administration has committed to grow federal contracting with small and disadvantaged businesses by 50 percent and provide substantial investments in small business programs that will increase access to capital and provide technical assistance to small and minority-owned businesses.

Revamp the Minority Business Development Agency. (MBDA). Increasing the capabilities of the MBDA could further accelerate the growth of minority-owned businesses. [Key ideas for enhancing the MBDA](#) include developing an economic equity grant program that could support municipal projects to boost wealth generation in minority communities; creating an office of research and evaluation within MBDA to examine barriers to wealth and business development in minority communities and conduct and evaluate pilot and demonstration projects attempting to reduce racial disparities in wealth and business development; instituting a minority business investment company program modeled after the SBA's Small Business Investment Company (SBIC) program; and establishing an office of advocacy and intergovernmental affairs to better coordinate the federal government's efforts to support minority businesses.

[Address pay disparities](#)

Collect employer pay data disaggregated by gender, race, ethnicity, and other factors.

(Equal Employment Opportunity Commission and Department of Labor, Office of Federal Contract Compliance Programs). Working women—particularly [women of color](#)—in the U.S. have encountered longstanding pay disparities, some of which are attributable to pay discrimination. One key enforcement mechanism to address this problem is to improve the data collection tools that can be used by enforcement officials to better evaluate pay disparities and practices. More comprehensive access to pay data is a critical strategy that enforcement officials have pursued for decades – it was a centerpiece of the Obama Administration's equal pay [efforts](#), but was discontinued by the Trump Administration. Specifically, the Obama Administration finalized a rule adding a new component to the Employer Information Report, also called the EEO-1 form, to require the collection of pay data across 10 occupational categories disaggregated by race, gender, and ethnicity from employers of 100 or more employees. The EEO-1 form has been used for decades as an enforcement tool to collect information about workforce demographics from employers. The addition of the new requirement to gather pay information was a crucial step forward, in particular, because it enabled enforcement officials to gather more information about pay disparities experienced by women of color—disparities that often do not get sufficient attention. The Trump Administration took action to discontinue the EEO-1 pay data collection rule and now the Biden Administration should move quickly to restart it, to maximize the tools available to evaluate where pay disparities are occurring.

Redress discrimination against Black farmers and reshape rural economic development programs

Any effort to advance equity within economic policy should include elements to redress the [lengthy and well-documented history of discrimination](#) at the U.S. Department of Agriculture (USDA) that has contributed to the near elimination of Black-owned family farms which [now comprise less than half of one percent of all farm acreage](#) and also generate substantially less income in comparison to white-owned farms. President Biden's American Rescue Plan apportioned over \$1 billion for a [variety](#) of purposes, "including an Equity Commission which will identify and offer solutions for addressing and removing longstanding discrimination and barriers facing USDA programs and services." In line with that effort, the USDA must take a series of targeted measures to preserve the little remaining Black-owned farmland and expand assistance to Black farmers.

Provide resources to Black farmers lacking legal titles and living wills. (USDA). Farmers lacking formal titles and living wills are vulnerable to partition, sale, or loss. The USDA must create a task force providing estate planning for socially disadvantaged farmers who have no living will and legal assistance to farmers lacking formal title for their land to help preserve the dwindling number of Black-owned farms that can be passed down to the next generation.

Commit to transparency and oversight. (USDA). The USDA should create an online civil rights complaint database that can be monitored by executive and legislative auditing bodies and periodically publish statistics about the USDA's Office of Civil Rights handling of civil rights complaints.

Ensuring fairness in the tax code and tax enforcement

While the federal tax code is progressive overall, many features favor the wealthy, such as tax-advantaged retirement accounts, mortgage interest deduction, and favorable rates for capital gains. These tax provisions compound the concentration of wealth in ways that exacerbate the racial wealth gap. Better data could help us understand the implications of these areas of the tax code on racial equity and how to develop more equitable policies. At the same time, staffing shortages at the Internal Revenue Service (IRS) have caused a sharp reduction in audits of high-income individuals and large corporations, and the [IRS has increasingly focused on audits of lower-income taxpayers](#), especially the low-wage and predominantly Black and Latino workers who claim the Earned Income Tax Credit (EITC).

Advance equity in tax enforcement. (IRS). The IRS should reprioritize resources to focus on large corporations, wealthy individuals, business owners, and estates. It must ensure that it is not disproportionately auditing Black and Latino households by focusing an excessive share of audits on low-income tax credit recipients. It must also more broadly assess the racial impacts of its enforcement practices to ensure equity.

Enhancing access to quality and affordable education

For far too long, [systemic and structural barriers](#) have clustered students who are BIPOC, students with disabilities, students who identify as LGBTQ, and students who are English language learners into under-resourced and underperforming schools or otherwise created school environments that inhibit their opportunities to access a high-quality education.

Providing a high-quality education for every child where all students feel safe and supported in their learning environments, have access to equitable school infrastructures and educational resources, and learn from similarly well-prepared and diverse teachers will dramatically improve the well-being and economic opportunities of future generations and help to shrink the racial wealth gap. Additionally, ensuring there is access to universal pre-school and affordable child care and making higher education more accessible and affordable will also help to unlock the doors of economic prosperity for more Americans and reduce the inequitable racial distribution of wealth.

President Biden has made [key budget commitments](#) to enhance access to a high-quality education for all and make higher education more affordable. These include dramatically increasing funding for Title I schools, investing in infrastructural equity amongst schools, increasing Pell grants, making two years of community college free and providing tuition subsidies to low- and middle-income students attending historically Black colleges and universities (HBCUs) and other minority serving institutions (MSI), among other things. To further this Administration's efforts to advance equity in educational opportunities, the White House and federal agencies could take the following steps:

Reestablishing and strengthening the White House Initiatives on Education. (US Department of Education (ED) and Executive Office Building (EOB)). The Administration should issue Executive Orders to reestablish and streamline the work of the five White House Initiatives housed between ED and EOB. The executive orders should strengthen those entities, make clear their reporting structure, and offer a mechanism that supports inter-agency coordination along with external outreach supporting the Biden Administration's stated desire to do policy with community by engaging people closest to the issues those policies seek to address. These initiatives should continue to have Commissions connected to them allowing for external advisement to the White House, President, and agency heads from experts well versed and credible on issues related to outcomes for BIPOC students and children and youth with disabilities from birth through post-secondary education. A key to these executive orders is the establishment of a Deputy Assistant Secretary housed at ED who can coordinate the White House Initiatives' work with broader governmental efforts as well as with OMB.

Ensuring a racially and linguistically diverse educator workforce. (ED). It is [well documented](#) that BIPOC students are more likely to excel academically having had one or more educators who share their identity. It is also the case that despite over half of the public-school population being a new majority of BIPOC students, the educator workforce vastly differs from the student population. Only 2% of the [teaching workforce](#) is Black male, and 3% is Latino and there are even fewer AAPI and Native American educators of any gender. The percentage of BIPOC school leaders are even lower. Recruitment and retention of educators who share the cultural and linguistic identity of the majority of the student population requires a concerted effort that cuts across federal agencies. For this reason, CAP proposes an interagency working group to study and make recommendations on rapidly expanding the racial and linguistic diversity of the educator workforce. This proposal calls for a public advisory group, includes a limited time span, and has been shared previously with OMB and ED.

Ensuring all schools are safe and supportive environments. (ED) Expanding collection of the Civil Rights Data Collection (CRDC) to have disaggregated data about student opportunities, discipline practices and achievement is critical to ensure the rights of all students are protected. The CRDC is an important tool making it possible for students, families, educators, and policymakers to understand where and how students are being served by America’s public education system. CAP also supports the establishment of a national clearinghouse on the status of public-school facilities. Over a [quarter of public-school students](#) are attending schools that need expansive remodeling or replacement. Many more students learn in school environments lacking basic tools for success such as broadband connectivity, proper ventilation, physically accessible buildings, or drinkable water. Students educated in these conditions tend to overwhelmingly be BIPOC students and/or students from families and communities with low resources. Therefore, it is important to establish a nationwide system to ensure the infrastructure of public schools are maintained, if not made state of the art, as expeditiously as possible.

Enhance debt relief. (ED). ED can also take several additional steps to address racial inequities and stimulate the economy by tackling student loan debt—[particularly the burden on Black borrowers](#). ED should provide at least [\\$10,000 in universal relief to all student loan borrowers and should provide targeted relief to specific groups of borrowers](#), including those who die or have a [total and permanent disability](#) or have been misled by predatory colleges. The department should also prioritize reducing the backlog of applications from [defrauded borrowers](#) whose claims have been stalled for years. President Biden should also appoint a commission to examine the plight of Black student loan borrowers. The higher education system is failing Black students so badly that a dozen years after starting college, the average Black bachelor’s degree recipient [owes more](#) on their loans than they originally borrowed.

Disaggregate data and conduct equity audits. ((ED and the Office of Federal Student Aid (FSA)). ED should enhance disaggregation of federal data by race, ethnicity, and economic status in order to reveal inequities in the system. CAP endorses the recommendations submitted by the Postsecondary Data Collaborative, which provide more detail on how to improve data on higher education outcomes and the data available to students, policymakers, and researchers.

FSA could also use its program reviews of colleges to conduct [equity audits](#) that would identify whether certain student groups are suffering worse academic or loan outcomes.

3. Eliminating Health Disparities and Strengthening Public Health Systems

The Centers for Disease Control and Prevention has declared [racism to be a serious public health threat](#), and an underlying cause of health inequities, health disparities and disease. In addition, fifteen to thirty percent of [LGBTQ](#) Americans reported in the last year experiencing difficulties accessing necessary medical care due to cost issues and postponing or

avoiding medical treatment due to discrimination; these percentages are higher for transgender Americans. Individuals with [disabilities](#) are more likely than people without disabilities to report poorer overall health and less access to adequate health care. [Rural](#) Americans are at greater risk of poor health outcomes and face numerous health disparities. And the COVID-19 pandemic has exacerbated the [mental health needs](#) of many children and adults and disproportionately affected the health of communities of color. [Research](#) has associated Medicaid coverage with a greater likelihood of having a regular source of health care, decreased likelihood of having unmet medical care and prescription drug needs, reduction in personal bankruptcies and household debt, and improved financial well-being.

Addressing social determinants of health such as income, education, housing, employment, transportation, and neighborhood conditions [improves health](#), [reduces racial disparities](#), and creates more accessible, affordable, and equitable systems. An intentional focus on social and structural determinants of health, structural and institutional racism, and access to high quality health care is critical to [eliminating disparities](#) in health outcomes.

Recommendations

The federal government can identify and improve the state of equity in its policies, programs, services, processes and operations by embedding equity in health care payment and delivery approaches, regulations, and demonstrations; eligibility and enrollment systems; and public health infrastructure.

Address social determinants of health and improve coordination among health and social services. (Department of Health and Human Services (HHS)). HHS and Center for Medicare and Medicaid Innovation (CMMI) should develop [demonstrations](#) and [grant-funded programs](#) that focus on social determinants of health and improved coordination of services across health and social sectors for vulnerable communities and individuals. CMMI can build on its [Accountable Health Communities](#) demonstration that focuses on the gap between clinical care and community services. Demonstrations should provide flexibility for braiding and blending funds and employ a longer-term savings time frame. Such programs should include linking of data across programs to measure impact on the health of participants and track cross-sector savings.

Align eligibility and benefit policies. (HHS). Federal agencies should [align eligibility and benefit policy](#) across federal health, nutrition, housing, and social supports to ensure that people are connected to the full range of assistance needed to improve health. This includes sustaining authorities linked to the public health emergency that provided [paths for streamlining eligibility and enrollment processes](#).

Require uniform collection and reporting of demographic data. (HHS). HHS should require uniform collection and reporting of [race and ethnicity](#) and other demographic data across programs to identify disparities, and design incentives to encourage improvement. Due to the fragmentation of numerous data sources, such information

across systems is often incomplete, not standardized, and not comparable, preventing identification of disparities and hampering reforms to target them. Demographic data is critical to design effective public health interventions, yet failure to identify beyond broad race categories can hinder efforts to target appropriately, since [variation](#) within a racial group can be as significant as the variation between racial groups. Similarly, there is a significant need to expand and enhance data collections efforts to capture demographic information on sex, sexual orientation, gender identity, and intersex status to improve analysis of intersectional barriers to public health and develop promising interventions. Uniform collection standards would improve understanding of the impact of health conditions and interventions for various subpopulations and improve data sharing between various health and social services and providers to enhance care and service coordination. CAP endorses the recommendations on sex, gender, sexual orientation and gender identity data collection in health and other key federal data collection mechanisms included in comments submitted by our partner organizations the Movement Advancement Project and the National Women's Law Center.

Invest in public health infrastructure. (HHS). HHS should sustain and increase investments in bio-preparedness and public health infrastructure. During the COVID-19 pandemic, decades of chronic underfunding of public health systems became apparent in critical activities, including disease surveillance, contact tracing, vaccine delivery, and communications. COVID-19 emergency funding, critical to the pandemic response, does not compensate for this chronic underinvestment or create sustainable systems that ensure preparedness for future disease. An interagency directorate to prepare and respond to future public health emergencies should ensure that all future pandemic preparation and response actions prioritize advancing health equity, and provide adequate funding for research to promote innovation, development of the public health data infrastructure, and capacity building for public health staff.

Expand behavioral health services. (HHS). HHS and the Department of Veterans Affairs (VA) should improve and expand [behavioral health](#) services, with a focus on at-risk populations such as veterans and LGBTQ populations, particularly youth, and address the opioid crisis. The Centers for Medicare and Medicaid Services should incorporate into [SUD 1115 demonstrations](#) a focus on coverage of a full continuum of SUD services in state Medicaid programs, including a focus on community-based care.

Continue augmented telehealth services. (VA). Federally-funded health care programs should continue expanded coverage and availability of [telehealth services](#) to address mental and behavioral health needs. In addition to providing funding for [mental health and substance use services](#) during the pandemic, stimulus bills allowed for expanded telehealth services through Medicare and the VA, and flexibility provided to states to relax regulations and require [Medicaid](#) plans to cover telehealth through emergency orders.

Expand health care coverage. (HHS). HHS should take specific actions to increase and enhance health care [coverage](#), including ensuring eligible individuals can enroll in and maintain Medicaid coverage and reinstating and maintaining beneficiary protections. Specific examples include, expanding coverage for low-income populations, including

expanding Medicaid coverage in targeted areas; rescinding CMS guidance that welcomes state waivers with [work requirements](#) as a condition of Medicaid eligibility; ensuring Medicaid beneficiaries have free choice of provider; and engaging in notice-and-comment rulemaking to clarify, strengthen, and expand nondiscrimination protections under Section 1557 of the Affordable Care Act.

Improving access to reproductive and maternal health services. (HHS). HHS should finalize the proposed rule, [Ensuring Access to Equitable, Affordable, Client-Centered Quality Family Planning](#), to rescind Trump-era policies that have [undermined](#) the Title X program; enhance nondiscrimination protections against Title X providers, and ensure those providers participating in the program deliver evidence-based care and provide information for the full range of reproductive health care services. Women of color disproportionately rely upon the Title X due to current and historical systemic oppression, and the ability to choose a culturally competent provider that best meets their needs can be lifesaving given [bias](#) in health care delivery. HHS should also rescind regulations that allow virtually any employer or university to deny contraceptive coverage based on religious or moral objections and should instead improve the Affordable Care Act birth control benefit to expand over-the-counter coverage for contraceptives. In addition, to address the maternal health crisis, CMS should issue guidance that encourages states to cover doula care services and increase related reimbursements as well as incorporate doulas into CMMI demonstration programs aimed at improving maternal health to ensure doulas and other perinatal workers receive needed federal financial assistance.

Adopt the accessible medical equipment standards. (Department of Justice, DOJ and HHS Office of Civil Rights, HHS OCR). Both the DOJ and HHS OCR should adopt the Accessible Medical Equipment Standards to improve access to healthcare for disabled people. Disabled people often face [barriers to receiving treatment](#), including the inability to find accessible healthcare providers. This has resulted in higher mortality rates due to lack of preventive care, which has had a significant impact on [disabled women with breast cancer](#).

Incorporate patient-centered strategies in care models. (HHS) Health care programs should employ patient-centered practices and [cultural humility](#) models to advance health equity. For example, the [person-centered contraceptive counseling measure](#), a recently developed measure endorsed by the National Quality Forum, would help to assess whether a patient has received information about the full range of contraceptive options and was supported in their contraceptive choice based on preference and other factors. Also, to better protect LGBTQ people touched by the federally funded child welfare system from discrimination and mistreatment, we also wish to endorse the recommendations submitted in comments by our partner organization Family Equality Council.

4. Securing a Sustainable and Equitable Climate

BIPOC and disabled people have long suffered from environmental injustice and disproportionately endure dangerous and life-threatening environmental and health risks. There are also stark racial and economic disparities in access to nature in America. President

Biden's historic commitments to direct 40% of his Administration's climate and clean energy investments to disadvantaged communities (Justice40 Initiative) and conserve at least 30 percent of American lands and oceans by 2030 (America the Beautiful Plan) provide a crucial opportunity to redress persistent racial, environmental, and economic injustices. Additionally, updates to the CRA to require inclusion of race and environmental justice criteria in CRA examinations would incentivize banks to provide loans and boost investment in communities of color that face critical challenges related to climate change and environmental racism.

Recommendations

Accelerate implementation of the landmark Justice40 Initiative

CAP recently released a [report](#) detailing several key steps the White House can direct the National Climate Advisor, the Council on Environmental Quality (CEQ), the Office of Management and Budget (OMB), and other agency leaders to take to accelerate the delivery of “new investments in legacy pollution cleanup, pollution-free energy and transportation, workforce development, quality and affordable housing, and critical clean water infrastructure in communities that need it the most,” as well as to redress persistent environmental, racial, and economic injustice. Key highlights include:

Review and tailor federal program criteria to ensure they maximize their impact in underserved communities. (White House). In some cases this involves loosening eligibility requirements and expanding the program's scope. For example, the Weatherization Assistance Program (WAP) program supports home energy efficiency improvements to reduce energy use and utility bills. Yet, households or renters unable to keep up with needed repairs may be ineligible for the program. To better reach more underserved families, the program could expand its scope to support more basic home repairs that are a prerequisite to efficiency and weatherization improvements (such as roofing, siding, or plumbing repairs). It could also expand to support home improvements that protect against flooding and other damage from more extreme weather driven by climate change (such as grading lawns, planting trees and shrubs, raising electrical outlets, installing sump pumps or elevating homes).

Conversely, if program criteria or guidance are too loose, then grantees may use federal funds to invest in projects that do not directly benefit communities. For example, the CDBG program allocates funds to local governments for community development projects in low-income neighborhoods and gives significant leeway to grantees to decide how to spend the money. CDBG funds are often then used to cover existing expenses and fill budget gaps rather than support new and innovative community development projects.

Develop and use investment criteria and guidance to ensure that federally funded projects avoid unintentional harms to the communities that they are aiming to benefit. (White House). Many federal programs do not have criteria supporting pollution reduction. Federal agencies should be wary of investing in projects that continue or increase emissions of greenhouse gases and toxic air pollutants, which contribute to climate change

and public health risks that disproportionately impact BIPOC and disabled people. For example, the Federal Transit Administration's Low or No Emissions Vehicles program supports purchasing or leasing zero-emission and low-emission transit buses that emit greenhouse gases and air pollutants. To reduce health and climate change burdens on underserved communities, federal programs must ensure that proposed projects will reduce local air and water pollution, soil contamination and greenhouse gas emissions to the greatest extent possible.

Require all federally-funded projects to be built to withstand climate change effects to ensure that communities are not left with damaged infrastructure and costly repairs.

(White House). Most federal programs do not require projects they support to be built to withstand more extreme heat and more powerful storms tied to climate change. As a result, some federally-funded projects may not adequately prepare communities for or protect them from extreme weather.

Avoid displacing existing community members. (White House). Without specific interventions, gentrification of predominantly Black and Brown neighborhoods may force existing community members to move to more affordable areas that are often further away from economic opportunities and critical services. The White House Environmental Justice Advisory Council (WHEJAC) recommends that agencies develop project criteria to ensure that Justice40 investments do not displace existing residents.

Meaningfully engage community stakeholders. (White House). The Biden Administration must gather community input to develop clear guidance for funding recipients on how to successfully design projects that meet community priorities and deliver community benefits. Federal agencies should expand their field offices and their capacity to support funding recipients in developing projects that incorporate community input and match community needs.

Remove cost-share requirements for local governments and entities in disadvantaged communities. (White House). Several programs aimed at helping disadvantaged communities have cost-share requirements, which place a substantial financial burden on city governments or other applicants representing low-income communities.

Increase the amount of federal funding that flows directly to communities, including by changing distribution formulae. Several federal programs that benefit disadvantaged communities allocate funds based on a formula. For example, for CDBG funds, 70 percent goes to larger cities and urban counties ("entitlement communities") and 30 percent goes to states. Because the criteria for entitlement communities is based on population and not need, funds often go to wealthier communities with less pressing project needs than BIPOC communities harmed by systemic racism and discriminatory housing, infrastructure, and other policies. Also, rural communities who can face elevated environmental and public health risks, may have difficulty accessing CDBG funds because of their smaller populations. Congress and the Administration should improve grant formulas to ensure that funds are directed to communities with high concentrations of poverty who are

intended to benefit from these funds. For CDBG specifically, Congress should create a single formula recommended by the Urban Institute that “[provides similarly needy communities with comparable funding per capita and more needy communities with more funding per capita than less needy communities.](#)”

Support tribal sovereignty in the ambitious America the Beautiful Plan and expand equitable access to nature

Implement policies that support tribal sovereignty and Indigenous-led conservation efforts.

(Department of Interior (Interior)). Interior should [establish a tribal-led task force](#) to advise the secretary on tribal priorities in administering the America the Beautiful Plan. Potential actions that the task force could consider include efforts to: improve and embed tribal consultation in decision making; provide tribes with conservation funding opportunities; enable tribal co-management on public lands; reform research engagement to better incorporate knowledge held and produced by tribes; explore new avenues for Indigenous-led conservation; and prioritize tribal homeland restoration.

Protect recreation areas accessible to communities of color, low-income communities, and urban areas. (Interior). Because conservation efforts have traditionally focused on remote wilderness locations, the America the Beautiful Plan should prioritize increasing protections and accessibility to natural areas near urban communities, especially those with historical ties to [nature-deprived groups](#) such as low-income communities and communities of color.

Ensure that recreational areas are welcoming to all. (Interior). Land management agencies must ensure inclusive programs and services, including ensuring safe and equal access to bathrooms, programs, and any other sex-segregated facilities based on gender identity; providing multilingual and culturally appropriate signage, information, and safety resources; following the U.S. Access Board and the National Park Service’s All In! strategy for creating accessible spaces for aging and disabled people; and studying the costs and fees that restrict access to outdoor participation as well as developing solutions to alleviate these burdens and promote greater equity.

Create a climate resilience and environmental justice finance mandate for the Community Reinvestment Act (CRA)

Modernize the CRA. (The Office of the Controller of the Currency, the Federal Insurance Corporation, and the Board of Governors of the Federal Reserve System). The CRA’s mandate to combat redlining and other forms of racial discrimination in lending should be [updated to spur lending, investment, and other services that address structural inequities and climate resilience in low-income communities of color.](#) Federal financial regulators could accomplish this by taking environmental factors into account when evaluating compliance with the CRAs; extending CRA coverage to institutions like credit unions; developing performance benchmarks that track social and economic outcomes and assess the responsiveness of the investments to community environmental needs; requiring formal community benefits agreements to ensure that communities of color have a role in identifying investment needs; and expanding and standardizing the data CRAs report publicly.

5. Reforming the Criminal and Civil Justice Systems

Criminal Justice Reforms

Decades of overcriminalization and mass incarceration have failed America and decimated underserved communities. Current criminal justice policies separate families, further entrench poverty for justice-impacted families, significantly curtail future opportunities for justice-impacted individuals to thrive, and place impacted individuals in carceral facilities that are too frequently violent and inhumane and too rarely provide adequate services to prepare individuals for successful reentry. It is well documented that communities of color, and Black people in particular, are disproportionately affected at every step of the criminal legal system from more [stops by police](#), [arrests](#), and [convictions](#), to higher rates of [incarceration](#) and [longer sentences](#). The national anguish over the unbearable loss of Black and disabled lives by law enforcement has prompted a historic movement to redress systemic racism within the criminal justice system. There is also growing recognition of the ways in which individuals with disabilities are [too often swept up into the criminal justice system](#). [This has been magnified](#) following the widespread closure of government institutional facilities for individuals with disabilities and the accompanying failure to invest in community-based alternatives. Similarly, [LGBTQ](#) individuals are overrepresented in the criminal justice system and particularly vulnerable to abuse within carceral facilities.

Recommendations

Identify and address prosecutorial bias. (DOJ). Prosecutors exercise significant discretion in making charging, prosecution, and sentencing decisions. DOJ should develop a task force to eliminate bias in prosecutorial decision-making. The task force should analyze the evidence surrounding bias at key prosecutorial decision points, provide guidance to prosecutors on removing such bias, and realign metrics for evaluating prosecutorial performance to incentivize fair and equitable decision-making that reduces racial and other disparities and minimizes unnecessary justice involvement.

Revamp clemency. (DOJ). Executive [clemency](#) is no substitute for comprehensive criminal justice reform, but it does provide a vital tool for correcting individual injustices in the absence of sweeping legislative change. Yet clemency is vastly underutilized by modern presidents and mired in DOJ bureaucracy that requires significant financial resources to navigate. The cumulative effect is that federal clemency is often reserved for the rich and powerful, while the rest of the federal prison population – a significant percentage of whom come from underserved communities – are left without a remedy for unjust and excessive sentences. To address this inequity, the Biden Administration must reinvigorate and overhaul the clemency review process, starting by moving it out of DOJ. As scholar Rachel Barkow [recommends](#), the “review of clemency petitions should be entrusted to a commission that has a diverse, standing membership,” whose findings would be sent directly to the White House. Such a shift would eliminate cumbersome layers of bureaucracy and protect against the conflict-of-interest that can arise from the current process, which requires DOJ staff to review clemency petitions for individuals prosecuted by the agency’s own attorneys.

Revise Byrne JAG reporting requirements. (DOJ). The Obama Administration took important steps toward revamping reporting requirements for recipients of Byrne Justice Assistance Grants (JAG)—the primary source of federal criminal justice funding to state and local governments. DOJ should further refine these reporting requirements to strengthen accountability and advance equity within state and local justice systems. For example, DOJ does not currently ask law enforcement grantees to report on racial or other disparities in policing practices, undermining efforts to create accountability for equitable outcomes.

Reinstate the working group on military equipment in policing. (DOJ). The Trump Administration rolled back [Obama-era restrictions on the transfer of military equipment to state and local law enforcement agencies](#) and disbanded the permanent working group charged with ensuring that law enforcement agencies that do receive restricted equipment complied with civil rights laws and programmatic requirements. It is essential that the Biden Administration re-instate the working group and task them with developing a set of restrictions on the types of military-style equipment that law enforcement agencies can acquire, both via transfers from the Department of Defense and by purchasing such equipment from commercial sources using federal Byrne JAG grant dollars.

Reduce unnecessary collateral consequences in federal programs and regulations. (White House). Individuals with criminal records face numerous collateral consequences (legal sanctions, restrictions, or disqualifications) that present barriers to accessing [employment](#), [voting](#), [education](#), and [government benefits and programs](#), among other things. The [National Inventory of Collateral Consequences](#) identifies more than 900 collateral consequences at the federal level, including many that are codified through federal regulations. For justice-involved Americans and their [families](#) these regulations can create unnecessary barriers to building a healthy and stable life in the community. The Biden Administration should undertake a whole-of-federal government review of collateral consequences imposed by federal policies and regulations to prevent unnecessary collateral consequences.

Reinstate federal guidance on court fines and fees. (DOJ). The Obama Administration issued [guidance](#) regarding the assessment and enforcement of fines and fees. The unjust imposition and collection of fines and fees criminalizes poverty and exacerbates racial inequities. DOJ should reissue and update the guidance to once again drive reforms restoring integrity to America's justice system and eliminating unjust fines and fees.

Civil Justice Reforms

Marginalized communities face significant barriers when it comes to navigating the U.S. legal system. Civil justice in America has long been in a crisis. [Every year](#), millions of individuals and families find themselves navigating civil law issues without legal assistance. Those with the means to hire a private attorney are much more likely to prevail in court, while the millions who cannot afford to do so far too often are unable to protect themselves from unjust outcomes.

Infuse civil justice perspective into agency equity efforts. (DOJ & White House) [Civil legal aid helps advance](#) housing security, employment, family stability, and consumer protection by ensuring that all individuals understand and can exercise their rights, regardless of their ability to pay. The newly restored DOJ Office for Access to Justice and a revitalized White House Legal Aid Interagency Roundtable (LAIR) can support federal agencies' responses to the executive order by [infusing civil justice remedies](#) in their efforts to benefit individuals—especially individuals from underserved racial and ethnic communities—struggling with housing, credit, employment and other critical civil legal problems that undermine equity.

Propose a new civil justice corps program. (White House). In his budget, President Biden could propose a new national service programs for recent law school graduates to fund two years of service with an organization that holds a proven track record of success in improving civil justice within underserved communities. The program could be federally run and administered by DOJ and/or the Corporation for National & Community Service.

6. Restoring Democracy

America's ongoing quest to build a truly multi-racial and representative democracy has been severely undermined in recent years by the rise in racially divisive and authoritarian views and leaders, the spike in white supremacist violence, and the onslaught of state legislation seeking to suppress voting, particularly by people of color, all of which builds on a long and sordid history of excluding people of color from the democratic process. There are several critical steps the Administration can take to strengthen our democracy and make our government more accessible to all Americans and more representative of the people our government institutions are meant to serve.

Recommendations

Vigorously enforce civil rights protections in voting. (DOJ) Provide DOJ with the resources necessary to prosecute violations of federal voting law and submit amicus briefs in cases brought by voting advocates challenging unlawful voter suppression tactics.

Enhance voting access for disabled voters. (White House). There are many actions executive agencies could pursue to enhance voting access for individuals with disabilities. These include commissioning an updated assessment of National Voting Rights Act compliance by federally funded programs serving people who are disabled to identify where and why disabled people are not offered registration services; assembling a bipartisan working group tasked with undertaking a full assessment of barriers for disabled voters in federal elections similar to President Obama's Presidential Commission on Election Administration; expanding automatic voter registration programs from DMVs alone to education and health care agencies that more frequently serve disabled people;

creating a new entity tasked with developing technologies to improve participation for disabled and non-disabled Americans while protecting democratic institutions; and initiating a series of new challenge.gov competitions for developing accessible voting technology and programs to drive participation among the disability community.

Combat white supremacist violence. (National Security Council). Ending white supremacist violence must start with federal leadership that acknowledges and prioritizes the problem by vocally opposing white supremacy; driving resources, manpower, and attention to the issue; developing cooperative strategies across federal government departments and agencies on a scale that is consistent with the threat; and focusing particularly on white supremacy and racial bias within the federal workforce. To advance the White House's [National Strategy for Countering Domestic Terrorism](#), and as detailed in CAP and the McCain Institute's [National Blueprint for Ending White Supremacist Violence](#), there are several concrete action items for executive agencies including: developing interoffice strategies to prevent and address the threat of white supremacist violence; allocating federal resources commensurate with the threat of white supremacist violence within existing federal prioritization frameworks; enhancing cooperation with state, local, and tribal law enforcement to identify and investigate white supremacist violence; collaborating with international partners, academic institutions, and nonprofit organizations that have expertise in understanding and addressing white supremacist violence; and conducting a thorough federal-level review of previous counter-terrorism initiatives.

7. Conclusion

Now is the time to reckon with the centuries of systematic oppression and discrimination embedded in our laws, our policies, and our institutions which drive the vast racial disparities that persist today. This Administration is poised to root out enduring systemic inequities and implement a targeted and expansive racial equity policy agenda. This is a pivotal moment to advance bold, large-scale policy solutions that meet the longstanding challenge of racial injustice and seize the current opportunity to build a better America where all Americans have an equal opportunity to thrive.

Please do not hesitate to contact Nicole Lee Ndumele, ndumele@americanprogress.org, if you have any questions about this comment or would like any additional information. Thank you for your time, and we look forward to continuing this discussion with you.

Sincerely,

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