

# HEALTH, HOUSING, AND RACIAL JUSTICE: AN AGENDA FOR THE TRUMP ADMINISTRATION

Dayna Bowen Matthew  
Richard V. Reeves  
Edward Rodrigue  
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# 1. Introduction: Two societies, still

As the Trump administration takes office, a good deal of attention has been paid to the need to help the white middle and working classes. This is understandable given the nature of Mr. Trump's victory.

But the truth is that the problems faced by black Americans are deep, stubborn, and structural, and should be a high priority for the new administration, especially for the new Secretaries of Housing and Urban Development (HUD) and Health and Human Services (HHS). Each of these two departments is vital to helping the other succeed. People with access to safe housing and neighborhoods tend to be healthier and more likely to succeed in terms of upward mobility, employment, and financial security.

HHS and HUD each have potent tools to achieve greater racial equality. Better coordination between the two would ensure their individual efforts go even further, because HHS and HUD are, in many respects, working on the same issue: Americans' well-being. Racial equity is not a liberal or conservative goal, but one that spans the political spectrum. In many cases, the way to greater equality is through more freedom in market competition: zoning being a case in point. And if members of the new administration are determined to move further and faster towards closing race gaps, they will find that many of the legal means are already in existence.

The case for urgent action is strong. The 21st century has been hard for black America, despite the election and re-election of our first black president. There has been progress on some fronts, including better high school graduation rates, declining rates of teen pregnancy, and fewer suicides among black men. There are more black Americans in the middle class. But the average black American will be as just as far behind whites in 2017 as they were in 2000 in terms of income, wealth, unemployment, earnings, most health disparities, and the risk of incarceration. In the last couple of decades, progress towards equity for African Americans has effectively come to a halt.

Black Americans lead lives that are, in critical ways, distinct and separate from their fellow citizens. Compared to whites, black Americans face the same risk of unemployment today as in the 1960s.<sup>1</sup> Between 2007 and 2013, the net wealth of the median black household fell from 10 percent to 8 percent of median white household wealth, largely result of the differential impact of the Great Recession. The median white household now has a net wealth 13 times greater than the median black household.<sup>2</sup> In 2000, the median black household income was 66 percent of the median white one, in 2015 that figure was 59 percent.<sup>3</sup> Residential segregation of blacks remains stubbornly high, and health gaps remain stubbornly wide.

The *physical experience* of living as an African American in this country is different than living as a white person. This is true across the income scale. Racism is a problem not only for poor and low-income blacks, but also for moderate-income blacks as well, as we will show. Being black in America is an isolating experience felt at both the individual and neighborhood level.

Black and white Americans have starkly different views on progress towards racial justice. Fewer than one in ten blacks say that the country has made the changes necessary for racial equality—but almost four in ten whites say that we already have. Four in ten blacks are skeptical that such changes will ever be made; only one in ten whites believes the same. The two groups are, as the Pew Research Center puts it, “worlds apart.”<sup>4</sup>

Many of the barriers blacks face result from the invisible, insidious force of unconscious bias. Whether it is water quality in Flint, school quality in Ferguson, environmental hazards in Dickson, Tennessee, or the inferior health care quality that the majority of black patients receive nationwide, the experience of living African American is *different*, and is allowed to be different, than any that would ever be accepted for white communities. Racism, even if unintentional, determines where, how, and how well black people live, relative to other groups in America.<sup>5</sup>

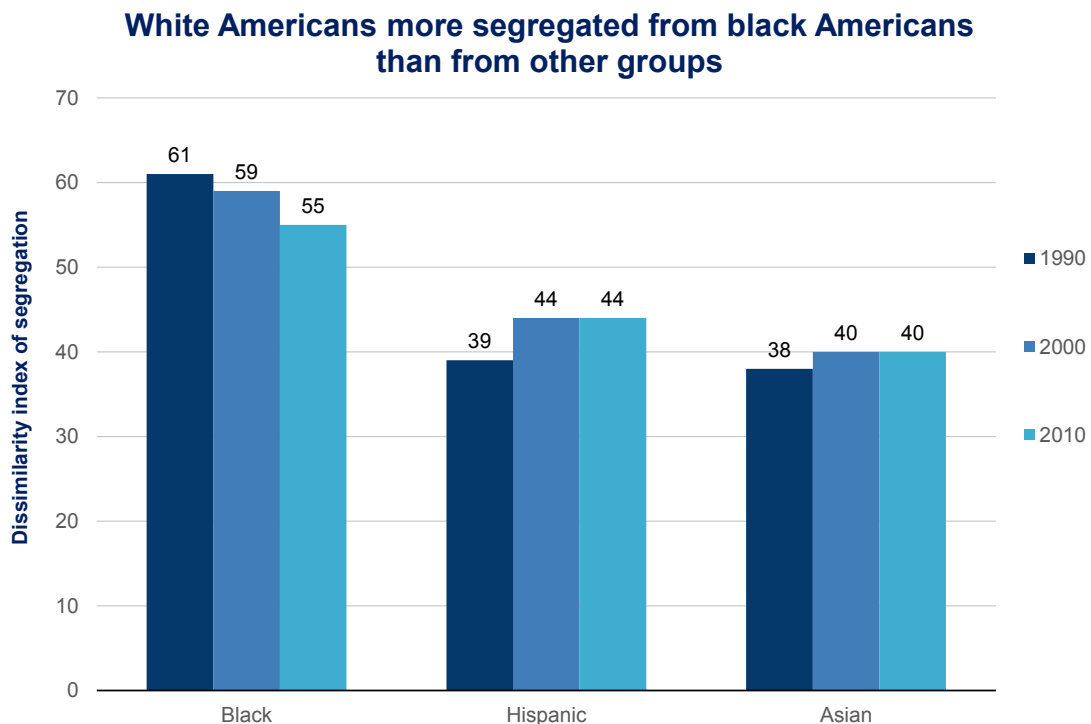
Fairness is a deeply held American value, and has been enshrined in the nation’s laws. But fairness has not yet been fully embraced in social relationships, or embedded into the practice of institutions. In this paper, we focus on two areas in particular: housing and healthcare. After outlining the nature causes and costs of racial inequalities in each, we propose a series of solutions. In other words, we ask: *what* is causing inequality, *why* it matters, and *what* to do about it.

## 2. Residential segregation

Many American cities and towns remain deeply segregated, with zip codes, neighborhoods, and school districts delineating racial divides. Black and white Americans, in particular, live geographically separate lives. For a nation that prides itself on diversity and equality, this degree of segregation is, in and of itself, unacceptable. But racial segregation has concrete costs too, in terms of health, education, wealth, employment, and upward social mobility.

It is true that in recent decades, the extent of residential segregation by race has declined. But the decline has been modest, and from a high starting point. Black Americans are much more segregated in U.S. metro areas than in those in other nations.<sup>6</sup> For example, native-born black Americans experience levels of neighborhood segregation nearly three times higher than native-born black British citizens, according to a study of 293 U.S. and 59 British metro areas by John Iceland, Pablo Mateos, and Gregory Sharp.<sup>7</sup>

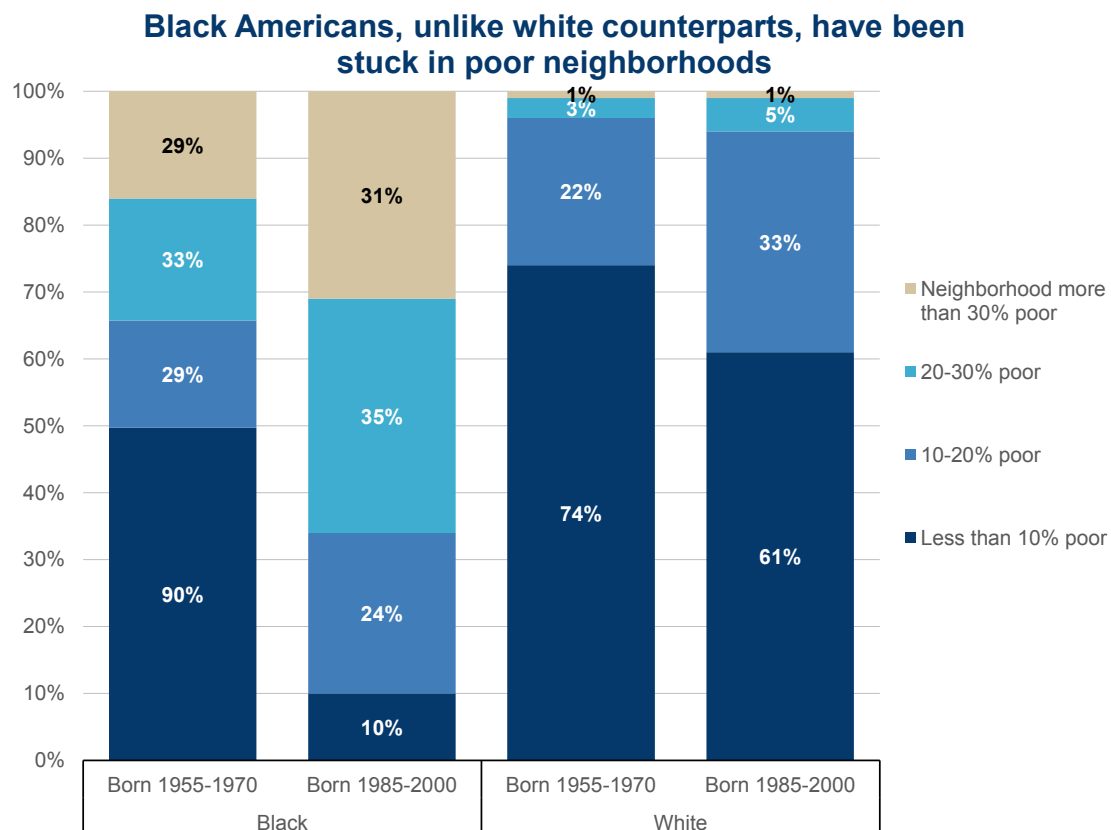
More than half of the black or white residents of the largest U.S. metro areas would have to move to a different census tract in order to fully integrate those cities, according to research by Sophie Litschwartz.<sup>8</sup> At the current rate of progress, our cities will not be fully integrated until the year 2120. White Americans are also more segregated from black Americans than from either Asian or Hispanic Americans, according to analyses by our Brookings colleague William Frey:



Source: William Frey analysis of Census data.

American neighborhoods have become more diverse. But part of the reason for this in the past few decades is the growth and dispersion of the Asian and Hispanic American populations, rather than significant movement by either black or white Americans.<sup>9</sup>

And there is an overlap between residential segregation on the grounds of race and of class. Even as racial segregation, at least on some measures, has declined modestly, economic segregation has gotten worse. A quarter of blacks living in U.S. metro areas are in census tracts with poverty rates above 30 percent, compared to 1 out of every 25 non-Hispanic whites.<sup>10</sup> Sociologist Patrick Sharkey has shown how government policy and business practices have kept black Americans “stuck in place” in poor neighborhoods. Younger black city-dwellers (born between 1985 and 2000) are just as likely to be living in a high-poverty neighborhood as the previous generation (born between 1955 and 1970):



Source: Patrick Sharkey, *Stuck in Place: Urban Neighborhoods and the End of Progress Toward Racial Equality* (Chicago: University of Chicago Press, 2013)

It is important to stress that black Americans do not have to be poor to live in a poor neighborhood. Black families earning at least \$100,000 a year are four times more likely to live in poor neighborhoods than similar white families, according to reporting by the *New York Times*—and only half as likely to live in affluent neighborhoods.<sup>11</sup> What’s behind the very high levels of racial segregation in the U.S.? Four causal factors stand out.



## CAUSES

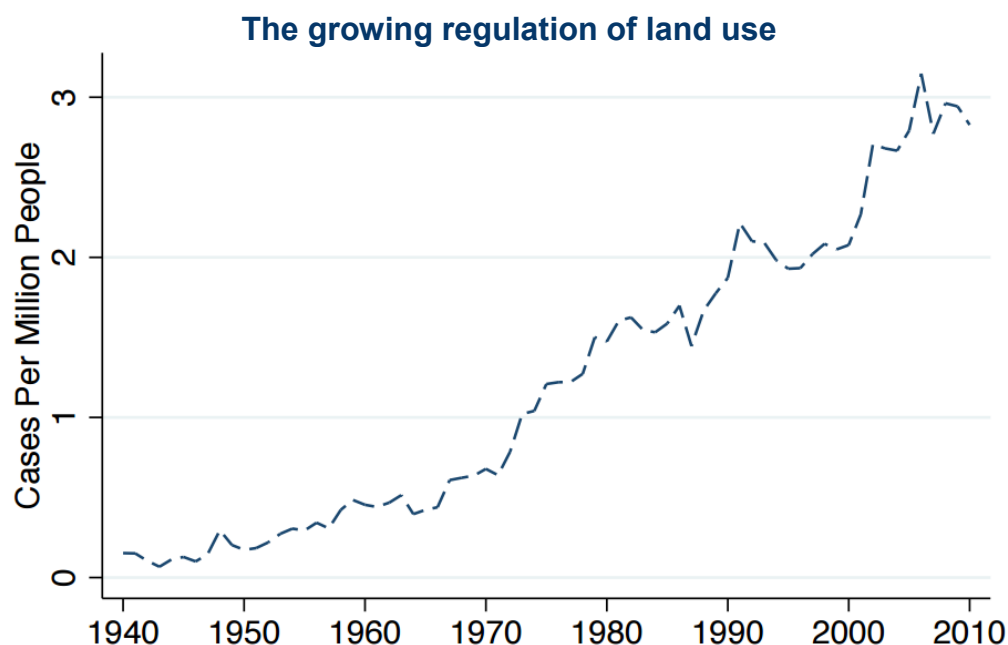
Let's start with the obvious: the history of race and racism in America. Half a century ago, white policymakers at the highest levels of U.S. government made keeping black Americans out of white neighborhoods an explicit and unabashed goal of government policy.<sup>12</sup> Bankers, realtors, investors, and brokers refused to serve black customers, profited on white Americans' fear of black neighbors, and exploited black borrowers with deals that would be illegal in many states today, irrespective of skin color. But even after the successes of the civil rights movement, a number of factors have preserved segregation to this day.

### Zoning

In the first decade of the 20th century, many cities passed explicitly racist zoning regulations. Baltimore passed the first such law in 1910.<sup>13</sup> Cities from Richmond and Atlanta to Louisville and Birmingham, among others, followed suit.

Even after the removal of explicitly racist ordinances, local officials used other forms of land-use regulations based on families' economic standing to perpetuate segregation, like minimum lot sizes, minimum floor-to-area ratios, single-family, stand-alone unit requirements, and often arbitrary, byzantine approval processes.

Zoning became a favorite local American activity the second half of the last century. The number of court cases mentioning "land use" (an innovative measure of regulation used in a Hutchins Center working paper by Peter Ganong and Daniel Shoag) rose steadily:



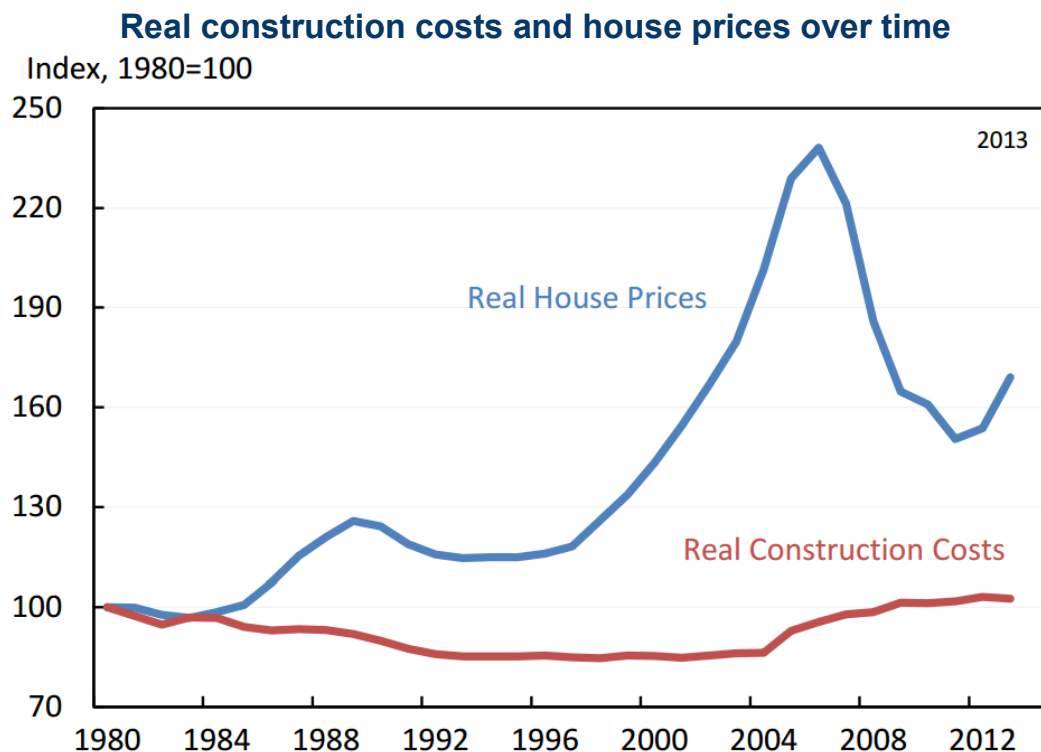
Source: Peter Ganong and Daniel Shoag, "Why has regional income convergence declined?" Hutchins Center Working Paper #21 (Washington: Hutchins Center on Fiscal & Monetary Policy at Brookings, July 2016), figure 8.



In 1975, the Supreme Court refused to hear *Warth v. Seldin*.<sup>14</sup> The plaintiffs argued that Penfield, a wealthy suburb of Rochester, unfairly prevented moderate income people from living in the neighborhood through zoning ordinances that reserved the vast majority of the town's available land for single family, detached homes. The justices said they had no case: you couldn't pin the high home prices in Penfield on zoning—which restricted the housing supply and raised prices—so much as “economics” in general. Justice Powell wrote, “Their inability to reside in Penfield is the consequence of the economics of the area housing market, rather than of respondent's assertedly illegal acts.”<sup>15</sup> These rulings, along with other forms of discrimination, helped white residents who left for the suburbs to pull up the ladder behind them.

The development of complex webs of zoning ordinances across U.S. cities, superimposed on already highly-segregated neighborhoods, impedes integration. Once these ordinances were in place, counties and local governments simply had to retain them. As Solomon Greene of the Urban Institute argues, zoning can “lock in” prior preferences, even if those preferences subsequently change.<sup>16</sup> When there is a wide economic gap by race, exclusionary policies based on economic grounds serve as tools for racial segregation.<sup>17</sup>

Virtually all of the jurisdictions within the 50 largest metro areas (where most Americans live) had some form of zoning, according to a 2006 Brookings paper by Rob Puentes, Rolf Pendall, and Jonathan Martin.<sup>18</sup> Even the few cities that do not have formal zoning ordinances, like Houston, have housing regulations that perpetuate exclusion—like deed covenants that mandate large lot sizes or prevent converting homes to duplexes or apartments. As well as impeding integration, the thickening web of zoning laws damages economic growth and labor mobility.<sup>19</sup> A report by CEA Chair Jason Furman suggests that zoning has created unearned economic rents for a fortunate few, dampened people's ability to move for better jobs and prevented them from accessing thriving labor markets.<sup>20</sup> One of Furman's charts provides suggestive evidence for the way housing markets have become distorted:



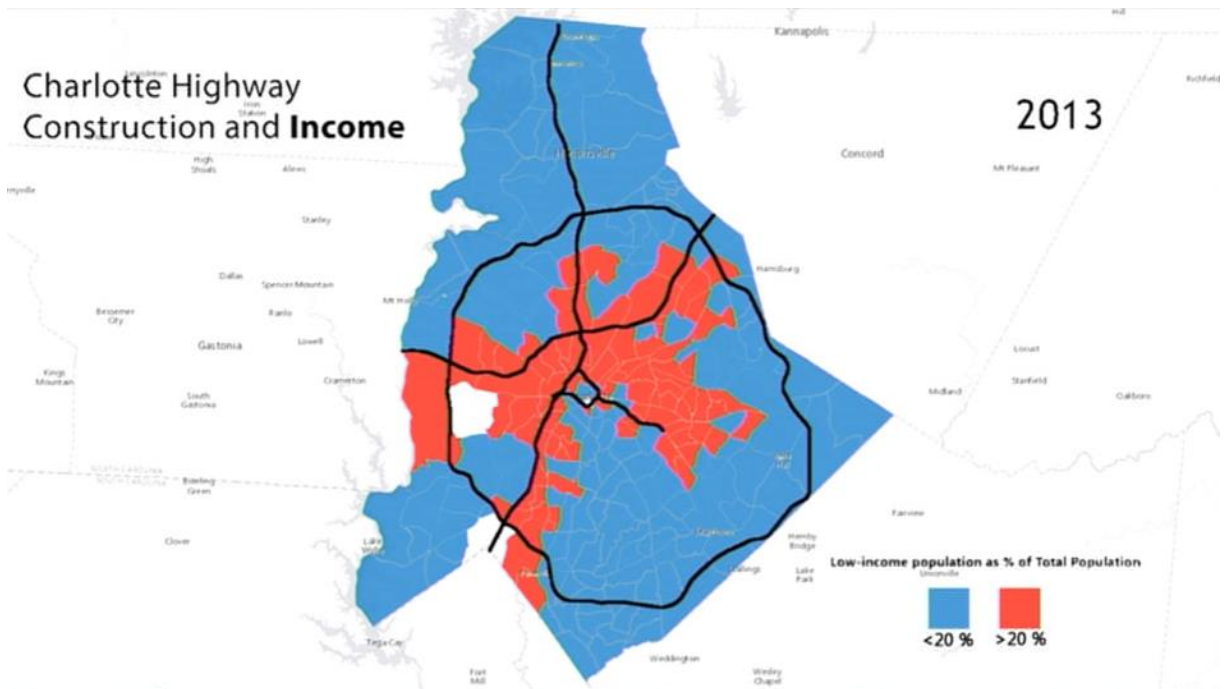
Source: Jason Furman, "Barriers to shared growth: The case of land use regulation and economic rents," remarks presented to the Urban Institute, November 20, 2015, [https://www.whitehouse.gov/sites/default/files/page/files/20151120\\_barriers\\_shared\\_growth\\_land\\_use\\_regulation\\_and\\_economic\\_rents.pdf](https://www.whitehouse.gov/sites/default/files/page/files/20151120_barriers_shared_growth_land_use_regulation_and_economic_rents.pdf), figure 1.

Density restrictions, in particular, can increase segregation by separating communities along economic lines, which amplifies racial inequality.<sup>21</sup>

### *Transportation and infrastructure*

Decisions about the location of roads and railway lines can exacerbate segregation, adding physical barriers to economic ones. In early 2016, Transportation Secretary Anthony Foxx presented a damning quantitative portrait of how infrastructure decisions have destroyed minority neighborhoods.<sup>22</sup> "Highways cut the heart out of poor areas," he said, "We now know—overwhelmingly—that our urban freeways were almost always routed through low-income and minority neighborhoods, creating disconnections from opportunity that exist to this day...We could talk about just about any of our modes of transportation, and, in some way or another, the same story rings true."<sup>23</sup>

The figure below, from Secretary Foxx's presentation, is one example. It shows major highways in Charlotte, North Carolina, with areas where more than 20 percent of residents are poor highlighted in red. It's no coincidence that highways and poverty overlap: the first helped create the second.



Source: Secretary Anthony R. Foxx, "Bridging the Divide: A transportation plan for the 21st century," remarks at the Center for American Progress, March 30, 2016, <https://www.youtube.com/watch?v=QgtJgWaU0zM>.

He gives one particularly jarring example in the light of recent history: the Lambert–St. Louis International Airport needed more runway space in the 1980s and gained permission to build into nearby Kinloch, a middle- and working-class black neighborhood, which was effectively destroyed as a result. Many of the former residents ended up moving to nearby Ferguson.<sup>24</sup>

But black areas can also be isolated from job opportunities or educational institutions by a lack of transportation links. "It is also likely that public transportation systems were endogenously determined by the flight of the affluent to the suburbs," write Rothwell and Massey in a 2010 paper, "since suburban residents often block the extension of public lines into their municipalities precisely to forestall the entry of poor, minority families from the inner city."<sup>25</sup>

### *Racism in the housing market*

Even after the civil rights era and the introduction of anti-discrimination legislation, black and white homeowners and renters were "steered" towards separate neighborhoods. As Massey summarizes audit studies in Boston and Denver, "Through various lies and deceptions [during the early 1980s], Blacks were informed of only 65 of every 100 units presented to Whites, and they inspected fewer than 54 of every 100 shown to Whites."<sup>26</sup> In 2012, white and black "homebuyers" (in fact actors) were sent to 8,000 randomly selected realtors. Black home-seekers were shown 18 percent fewer homes.<sup>27</sup>

Segregation is also perpetuated in daily discrimination: the way black residents of mostly white neighborhoods are treated by the police, the way some of their white neighbors approach

them, and the way their children are treated by white peers in school.<sup>28</sup> Many white Americans strongly prefer to live with only a minority of black neighbors, up to roughly 20 percent of the neighborhood, according to some studies. Black Americans, meanwhile, generally prefer “50-50” neighborhoods, and are averse to homogeneous neighborhoods.<sup>29</sup> Even fairly small differences in the kinds of communities people prefer to live in can have significant aggregate effects, as Thomas Schelling famously showed in his book, *Micromotives and Macrobehavior*.

### *Access to home loans*

Black Americans, unlike their white counterparts, were denied home loans from both the private sector and the government during the 20th century through practices like red-lining; they were also kept from buying homes in wealthy, white communities with legal chicanery and violence.<sup>30</sup> A 1938 manual for the FHA encouraged officials to avoid mixing “inharmonious racial or nationality groups” and to avoid “the occupancy of properties except by the race for which they are intended.”<sup>31</sup> As Charles Abrams, an architect and urban planner who helped form the New York Housing Authority wrote in 1955:<sup>32</sup>

[T]he FHA adopted a racial policy that could well have been culled from the Nuremberg laws. From its inception, FHA set itself up as the protector of the all-white neighborhood. It sent its agents into the field to keep Negroes and other minorities from buying houses in white neighborhoods.<sup>33</sup>

Black veterans were also unable to use GI Bill subsidies to purchase homes, while white veterans used the money to move to the rapidly expanding suburbs.<sup>34</sup>

Banks still engage in practices that perpetuate racial inequities and segregation. Wells Fargo, for example, pushed black homebuyers into subprime mortgage deals before the Recession, even if they had good credit. In 2012, the Justice Department and the bank settled for \$175 million.<sup>35</sup> The DOJ also reached a \$21 million settlement with SunTrust, because the bank was charging equally-qualified black and Hispanic borrowers more for similar loans. And Bank of America paid \$335 million for, among other things, steering minority borrowers into subprime deals.<sup>36</sup>

There are other factors that lead to racial segregation. But the four we have discussed—zoning, transportation and infrastructure, steering, and access to credit—all play a major part. The next question is: what costs are imposed by racial segregation?

## **COSTS**

Physical segregation by race is costly to society simply in terms of race relations. It is harder to foster an equal, tolerant, multi-racial society when people of different races live in enclaves

of their own. But there are more tangible costs, too, especially in terms of wealth disparities, educational opportunities, concentrated poverty and neighborhood effects, and implications for wellbeing and health. We briefly address each of these in turn, before offering some solutions.

### *Wealth creation, wealth destruction, and wealth gaps*

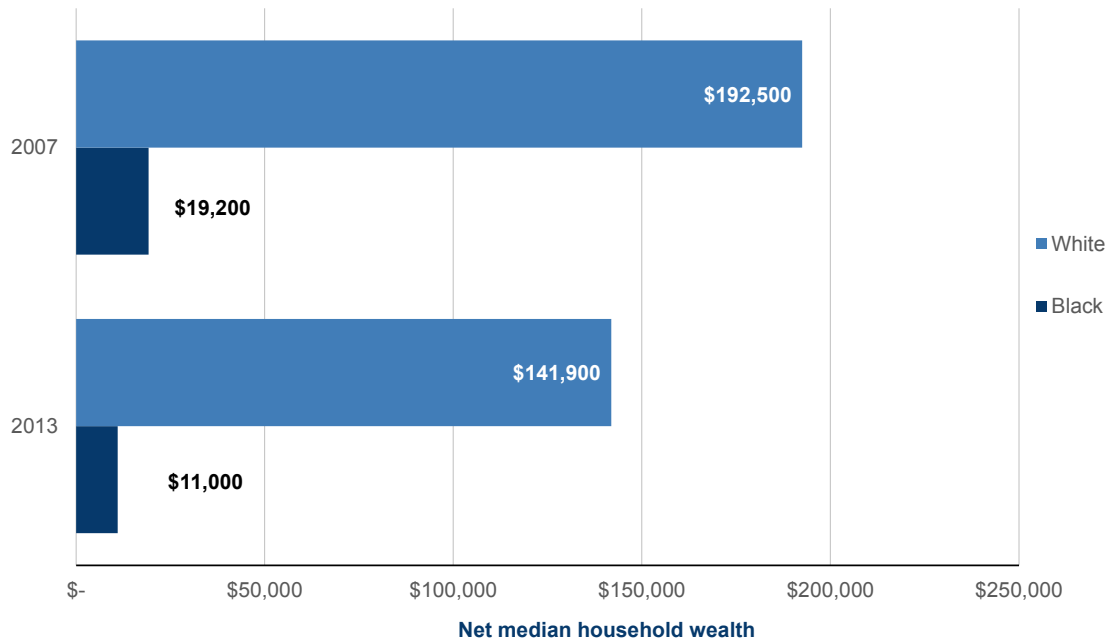
Home equity is wealth, so housing inequalities create wealth inequalities. Americans have historically relied heavily on the economic value of their homes for financial security. But the history and practice of racism in housing, and its expression in residential segregation, has kept black Americans locked out of the wealth creation machine that is the American housing market. Here is how the writer Ta-Nehisi Coates summarizes it:

Locked out of the greatest mass-based opportunity for wealth accumulation in American history, African Americans who desired and were able to afford home ownership found themselves consigned to central-city communities where their investments were affected by the “self-fulfilling prophecies” of the FHA appraisers: cut off from sources of new investment[,] their homes and communities deteriorated and lost value in comparison to those homes and communities that FHA appraisers deemed desirable.<sup>37</sup>

The results of this discrimination are profound: only 28 percent of black parents have more than \$75,000 in wealth, versus 83 percent of white parents, according to a 2015 analysis of the Panel Study of Income Dynamics by Fabian Pfeffer and Alexandra Killewald.<sup>38</sup> Black parents are also less able to pass on their wealth to their children. More than twice as many black grandparents in the study did not own homes. The grandchildren of those who did were less likely than their white peers to also own their own home.

On average, black wealth barely exists, and the yawning gaps in wealth widened during the Great Recession. The median wealth of white households is now 13 times greater than for black households—the largest gap in a quarter century, according to analysis by the Pew Research Center. Black median wealth almost halved during the recession, falling from \$19,200 in 2007 to \$11,000 in 2013:

## Black wealth barely exists



Source: Pew Research Center, Analysis of Federal Reserve's Survey of Consumer Finances.

### *Separate, unequal: residential segregation and school inequality*

There is a strong connection between area of residence and school quality. Poorer areas are typically served by weaker schools; more integrated schools are usually much better for lower-income students than highly segregated ones. Zoning, economic inequalities, segregation and school quality are all intertwined.

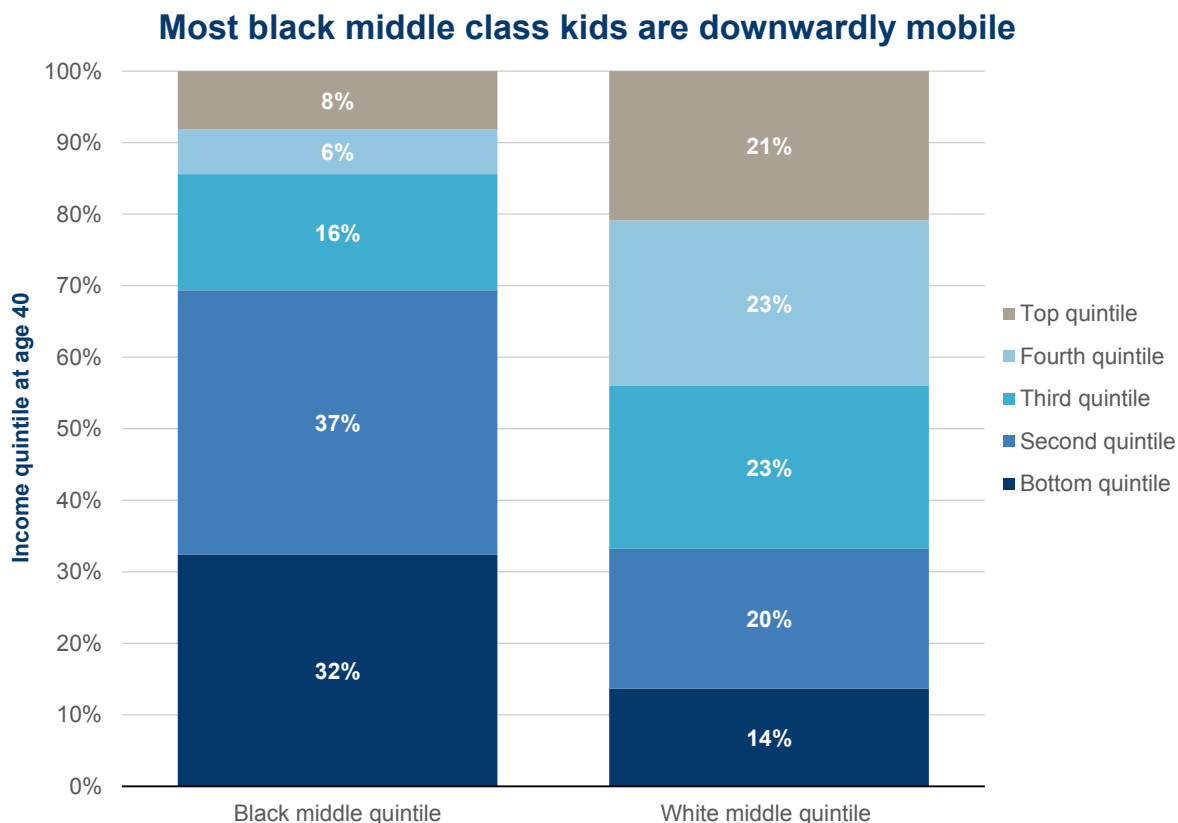
There is, for example, a link between exclusionary zoning practices and test-score gaps between low-income students and middle/high income students, according to research by Jonathan Rothwell. Metros that had less tight zoning restrictions had smaller test-score gaps. As he writes, "Eliminating exclusionary zoning in a metro area would, by reducing its housing cost gap, lower its school test-score gap by an estimated 4 to 7 percentiles—a significant share of the observed gap between schools serving the average low-income versus middle/higher-income student."<sup>39</sup>

Districts across the country are struggling to create diverse schools and classrooms, but these efforts are stymied by existing patterns of residential segregation—it's hard to have diverse schools when black and white students live in different parts of town.<sup>40</sup> While it is true that black students are more likely to be poor and live in a poorer neighborhood served, usually, by a weaker school, there are also costs for middle-class black families. Recent research by Sean Reardon, Demetra Kalogrides, and Kenneth Shore, as summarized in the *New York Times*, shows:

Not only are black and Hispanic children more likely to grow up in poor families, but middle-class black and Hispanic children are also much more likely than poor white children to live in neighborhoods and attend schools with high concentrations of poor students.

These schools can face a myriad of challenges. They tend to have more difficulty recruiting and keeping the most skilled teachers, and classes are more likely to be disrupted by violent incidents or the emotional fallout from violence in the neighborhood. These schools often offer fewer high-level classes such as Advanced Placement courses, and the parents have fewer resources to raise extra money that can provide enhanced arts programs and facilities.<sup>41</sup>

This may be one reason why black children born into middle-income families are twice as likely to be downwardly mobile as middle-income whites:<sup>42</sup>



Source: Tabulations by Joanna Venator of Social Genome Model data, based on NLSY79 and 97 data.

Localized school funding streams exacerbate these educational divides. In 23 states, according to 2012 data, richer school districts get more state and local funding than poor districts. Federal funding helps bring most of these states to parity, but as Education Secretary Arne Duncan told *The Washington Post*, “The point of [the federal] money was to supplement [rather than



equalize funding], recognizing that poor children...come to school with additional challenges... What it says very clearly is that we have, in many places, school systems that are separate and unequal.”<sup>43</sup>

The ongoing segregation of black students into poor neighborhoods and schools allows wealthier, often white parents and policymakers to treat the struggles of low-income black families as separate from their own lives. The convenient separateness of segregation allows them to see black student's struggles as another community's problem.

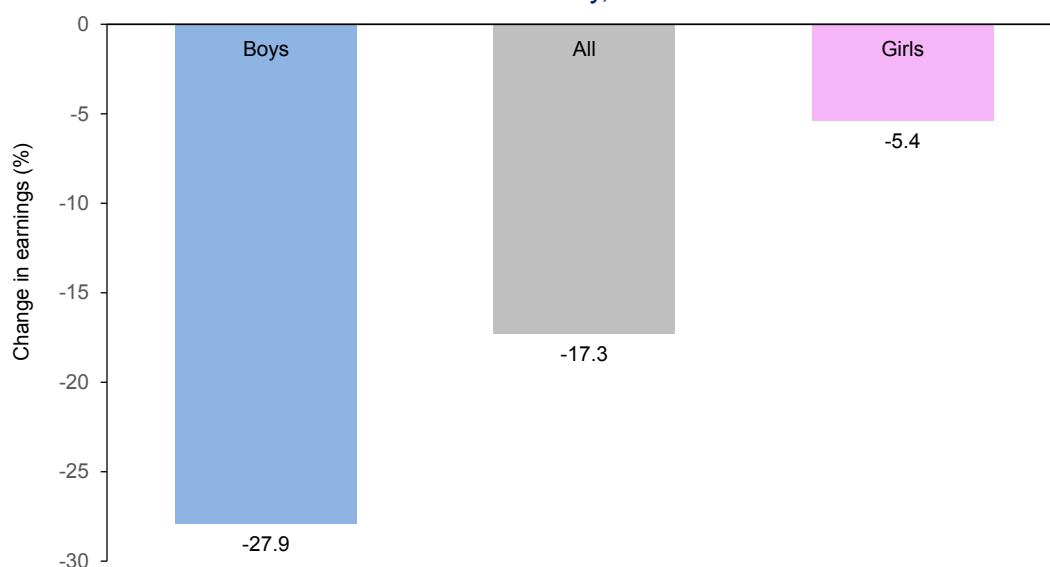
### *Harmful neighborhood effects for children*

Neighborhood schools are the most obvious way in which geography matters for children's life chances. But there are other neighborhood effects too, including on social capital, physical amenities, safety, and security.<sup>44</sup>

Recent research suggests that these neighborhood factors matter. Children moving to lower-poverty areas, for example, see improvements on a number of measures, according to Raj Chetty, Nathaniel Hendren, and Lawrence Katz, who used tax data to analyze Moving to Opportunity, a program that allowed some families in high-poverty neighborhoods to move to lower-poverty neighborhoods. Relative to children in the control group (whose families were not offered vouchers to move) the experimental group children saw a 16 percent increase in college attendance; lived in lower-poverty, less segregated neighborhoods as adults; and were much less likely to become single parents. Those who moved earned 31 percent more in their mid-twenties.<sup>45</sup>

But millions of black children live the control group experience: racism, both past and present, has left them stuck in segregated, high-poverty neighborhoods. In recent work, Chetty and Hendren find that growing up in segregated counties damages upward mobility.<sup>46</sup> A boy who grows up entirely in segregated Baltimore City, for example, earns 28 percent less than the national average at age 26.<sup>47</sup>

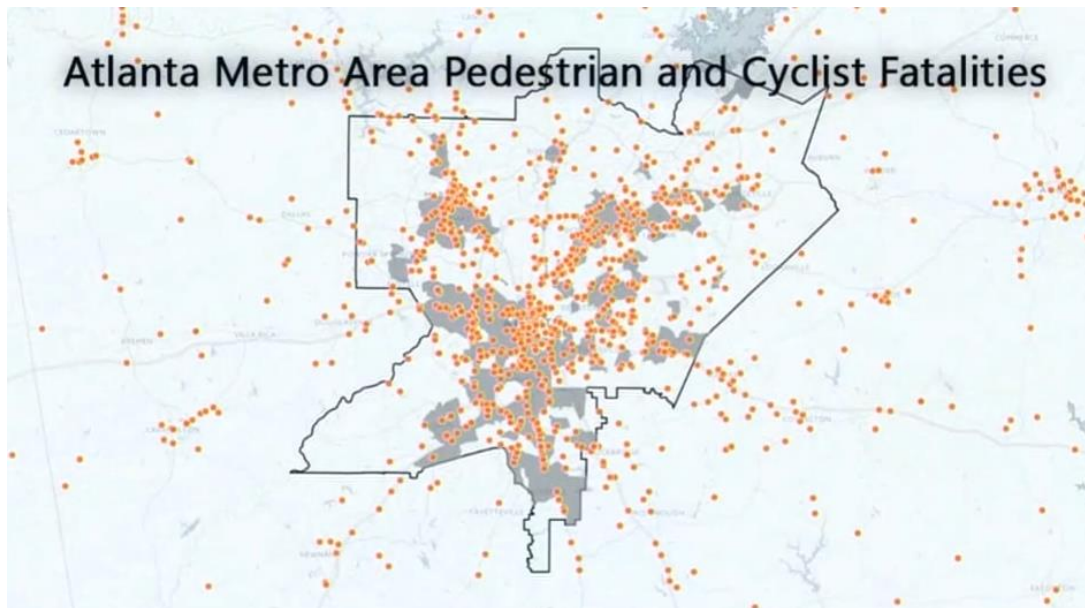
### Causal effects on earnings of children born in low-income families (25th percentile) Baltimore City, MD



Source: Raj Chetty and Nathaniel Hendren, "The impacts of neighborhoods on intergenerational mobility: Childhood exposure effects and county-level estimates" (Cambridge, MA: Harvard University and NBER, May 2015).

The segregation of neighborhoods has implications for health, wellbeing and physical safety, too. The social determinants of health, discussed in more detail below, include housing quality, environmental health, and safety. Here we will simply note that segregative land-use rules mean that toxic dumps and power plants are often found nearest to poor, predominantly minority, neighborhoods.<sup>48</sup> As in education, segregation means that the health of low-income black Americans is all too often out of sight, and out of mind—until a crisis of national proportions erupts, such as the one in Flint, Michigan.

Life in poorer areas differs in a myriad of ways—even for those residents who are not poor themselves. Just one example: according to Secretary Foxx, only half of low-income neighborhoods have sidewalks, compared to nine in ten affluent neighborhoods.<sup>49</sup> Sidewalks are not simply an aesthetic advantage; they keep people alive. In the map of Atlanta below from Secretary Foxx's presentation, the areas of concentrated poverty are shaded in grey; the red dots signify pedestrian and cyclist fatalities.



Source: Anthony Foxx, "Bridging the divide: A transportation plan for the 21<sup>st</sup> century," remarks at the Center for American Progress, March 30, 2016, <https://www.youtube.com/watch?v=QgtJgWaU0zM>.

So far we have sketched some of the causes and consequences of residential segregation by race. So what can Dr. Carson do?

## SOLUTIONS

Here are five steps the Trump administration can take on day one.

### 1. Incentivize housing authorities to collaborate across regions

One obstacle to more integrated cities is the misalignment of housing authorities and housing markets in many of our cities. In the Washington, DC metro area, for example, Montgomery County, Prince George's County, Arlington County, and the District of Columbia each have their own housing authority and their own voucher programs. But the DC metro area forms one broader housing and job market, and having separate housing authorities inefficiently duplicates administrative functions. More importantly, it limits the ability of low-income voucher-holders to move to opportunity-rich neighborhoods in other parts of the metro region.

Chicago and Baltimore are examples of cities that have adopted a more regional approach. The Chicago Regional Housing Choice Initiative is a collaboration of eight public housing authorities and housing organizations, which has streamlined the voucher application process across multiple jurisdictions, and provided low-income families with relocation counseling, as our colleagues Alan Berube and Natalie Holmes write.<sup>50</sup> Regional approaches are especially

important because of the danger of what Berube and Holmes label “suburban fragmentation.”

As they explain:

Smaller municipalities typically have little capacity to tend to the needs of poor families, and when it comes to economic development, they often compete with one another for opportunities despite the fact that they inhabit part of a wider regional economy and labor market.

The joint “dear colleague” letter issued by the Obama administration on housing says that “HUD strongly encourages regional coordination in preparing an Assessment of Fair Housing under the AFFH rule. The reason is simple: many of the issues at stake are not confined to any one local jurisdiction’s borders, nor are the tools to address those issues always within the power of a single agency acting alone.”<sup>51</sup>

The new HUD secretary should also encourage more cities to adopt Bruce Katz and Margery Turner’s proposal to “streamlin[e] Section 8 housing voucher administration by shifting governance of the program to one organization or consortium at the metropolitan level through a competitive process.”<sup>52</sup> Among other things, this would simplify low-income families’ application process by limiting the number of authorities they have to interact with.

More collaboration by housing authorities, up to and including the creation of formal regional consortia, would also make the proposed Inter-Agency Working Group on Residential Segregation more effective. Integration usually requires a metro-level commitment, with suburban and urban jurisdictions working together. When they are working jointly to integrate their cities, they are also jointly accountable, and equally incentivized to win federal funding. Metro regional initiatives and consortia help to ensure that suburban areas have “skin in the game.”

## **2. Create a “Stop and Think” trigger for federal funding to segregated metro areas**

Segregation results in part from social engineering in the form of exclusionary and onerous land-use laws, like stringent zoning restrictions. Efforts to lower the barriers to more integrated housing are largely about making markets work more effectively, rather than rigging them. Fairer housing requires freer markets.

But since zoning is largely a local, city, or state-level issue, what is the role of the federal government? Largely it is to incentivize freer markets and fairer housing. And the federal government does have one powerful means to incentivize integration: money. It has the power to withhold funding, whether in housing, schools, or transportation, from highly segregated

places until they take meaningful action to remove policies that undermine free markets and perpetuate segregation. Places that allow more integration, meanwhile, could be rewarded. Money can thus be a carrot or a stick.

Of course, withholding funds is an aggressive move. Federal agencies, especially HUD, are understandably reluctant to pull funds, especially from the poorer areas that are most reliant on the Department's support.<sup>53</sup> But HUD is not the only agency sending federal money to segregated cities. The president should bring more federal agencies and departments to the table, by creating an Inter-Agency Working Group on Residential Segregation, with HUD, the Department of Education, the Department of Transportation, and other department secretaries.

A "dear colleague" letter on fair housing issued jointly in June 2016 by the secretaries of HUD, Education, and Transportation urges local education, housing, and transportation agencies to work together to realize the "benefits of socioeconomic and racial diversity in schools and communities" which can "help establish access points for opportunity and mobility" with the goal of ensuring "that every child and family is provided with transportation, housing, and education tools that promote economic mobility."<sup>54</sup>

Our proposal is that the president provides stronger leadership by convening a standing working group with these three agencies, as well as the Departments of Commerce, Treasury, and HHS. This new Inter-Agency Working Group on Residential Segregation could be modeled on the "Interagency Environmental Justice Working Group," recently revived with an inter-agency Memorandum of Understanding, and an environmental justice order.<sup>55</sup>

The new Group would use data, more readily available as a result of work by the previous administration, to assess levels of segregation in cities due to receive funds from any of these departments. Funds scheduled to be released to highly segregated areas would be stopped, and the Group would consider both the evidence of segregation and the strength of local efforts to promote integration. This would be a "stop and think moment." The Group could demand more information from mayors and other agency leaders in the affected city.

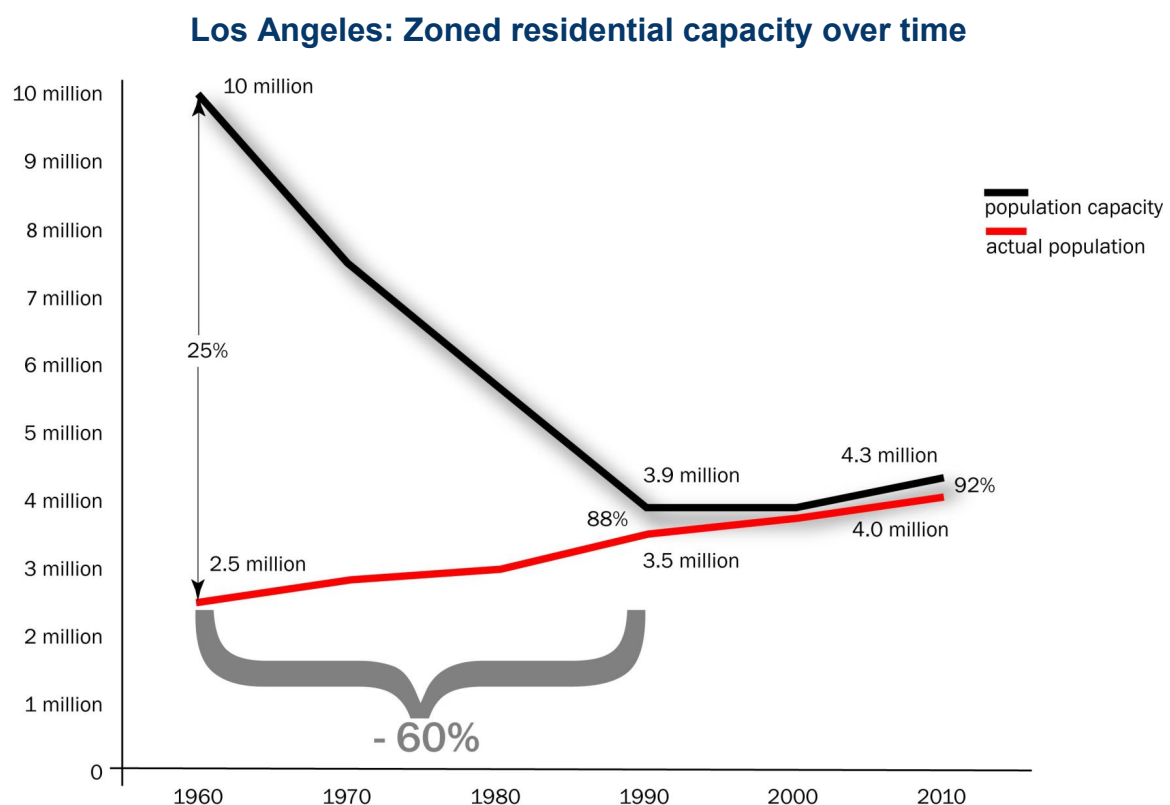
The idea here is to strike a balance between cutting funding altogether, and simply continuing to send it out of the door. Simply hitting "pause" on the payments and forcing a moment for reflection and dialogue ought to focus the minds of local leaders.

The Group could also highlight the experience of communities that turn towards more inclusive approaches such as Mt. Laurel, New Jersey, which finally allowed affordable units for low-income families after decades of fighting such plans in court. The effect of the affordable housing on crime rates, property values, and tax rates was zero, according to a detailed study by Douglas Massey and colleagues. Meanwhile, the new residents had lower participation in

welfare programs, higher employment rates and earnings, better grades in schools, and an improved quality of life. As the town's former mayor said, "I wish other places could learn from our example."<sup>56</sup>

### 3. A new "model" template for integrated zoning

Many of America's cities are now zoned to protect the wealth of affluent residents rather than to provide affordable homes to lower-income families, promote economic growth, or to create more integrated neighborhoods. In many cities, there is a serious housing supply shortage, often as a result of onerous land-use restrictions. Los Angeles is a case in point. Originally zoned to accommodate 10 million residents, the city has progressively been constricted by zoning ordinances, and is now zoned for just over 4 million, close to its actual population, as an analysis by Gregory Morrow referenced in an White House paper on zoning shows:<sup>57</sup>



Source: Greg Morrow, "The homeowner revolution: Democracy, land use and the Los Angeles Slow-Growth Movement, 1965-1992" (doctoral thesis, UCLA, 2013), 3, <http://escholarship.org/uc/item/6k64q20f#page-18>.

Meanwhile, Los Angeles is suffering from a lack of multi-family developments, and an associated affordability crunch.

In order to move forward, we might take a lesson from history here. The Standard State Zoning Enabling Act and Standard City Planning Enabling Act were not traditional acts passed by

Congress, but model zoning laws created by the Commerce Department under Herbert Hoover to serve as a template for cities and towns to follow. They were, in effect, an “off the peg” approach to zoning. Even today, many city and town land regulation practices and institutions follow this original template.<sup>58</sup>

Today, of course, our cities have a complex web of zoning ordinances, rather than a blank canvas—indeed, that’s part of the problem. Reform will also have to come at a community level: HUD can’t unilaterally change local land-regulation practices by itself. But in the same spirit as the Hoover-era Acts, the executive branch can help make it easier for places to change their practices by doing some of the work and releasing new model land regulations. These could build on existing innovations such as “form-based code,” which puts the emphasis on what kinds of buildings are permitted, rather than the use they are put to.<sup>59</sup> Cities like Cincinnati, Ohio; Dallas, Texas; and Denver, Colorado already use form-based code to plan. Such changes in land regulation are no guarantee of fair housing, but at least it sparks a more open conversation about what land regulation is for.

It is important to remember that the highly complex forms of zoning as widely practiced today is a recent phenomenon; as Laurence Gerckens wrote in *Planning Commissioners Journal*:

When New York City adopted America's first comprehensive zoning code in 1916, it created only three land-use categories: residence, business, and industry. While areas designated for residence were protected from the intrusion of new commercial or industrial uses, all forms of residence were permitted—including boarding houses, multiple-dwellings, and tenements.<sup>60</sup>

The president should instruct HUD, in collaboration with Treasury and Commerce, to draw up 21st century model templates for our cities, specifically aimed opening up the supply of affordable housing and curbing segregation.

#### **4. Scale up “small area fair market rents” and expand mobility counseling**

In many metro areas, HUD benchmarks the value of housing vouchers to typical costs across the entire metro. This means voucher holders can’t afford to rent in more expensive, opportunity-rich neighborhoods, and are effectively forced into neighborhoods with cheaper housing.<sup>61</sup>

In some places, like Dallas, voucher amounts are indexed to zip codes rather than entire metro areas. This means the allowance falls slightly in lower-rent areas, but rises in higher-rent areas. In a recent study of this “small area fair market rent” (SAFMR) approach in Dallas, Robert Collinson and Peter Ganong find that SAFMR led voucher families to enter neighborhoods with



less poverty, unemployment, and violent crime.<sup>62</sup> Across five SAFMR demonstration sites, the total cost of the program actually fell by 5 percent between 2012 and 2014.<sup>63</sup> This doesn't mean that SAFMR will make sense everywhere, but HUD should permit and encourage more cities to adopt the approach, especially in those areas with concentrated poverty.

Opening up broader markets for voucher recipients will help to create more integrated cities; a powerful complement would be “mobility counseling” that helps voucher holders find new residences. In Chicago, the Housing Opportunity Program offers a range of services, including housing search counseling and unit referrals, free credit reports, financial counseling, transportation to potential new homes, expedited HUD Quality Standards inspections, legal workshops, and post-move support and house visits.<sup>64</sup> The program helps families move to lower-poverty neighborhoods, according to research studies including a 2005 analysis by Mary Cunningham and Noah Sawyer.<sup>65</sup> Recent analysis of the Baltimore Mobility Program suggests that families who get this kind of extra support raise their neighborhood and school expectations, and move to areas with higher-quality schools.<sup>66</sup>

## 5. Launch a “Let’s Live Together” campaign

Tackling segregation is a cultural challenge as well as an economic one. The hard power of money, incentives and law needs to be accompanied by the soft power of persuasion and collaboration. Shifting attitudes and changing behavior through a campaign modeled on Michelle Obama’s anti-obesity *Let’s Move!* campaign would support other policy-based initiatives.<sup>67</sup> The FDA has reworked nutrition labels to be more transparent, started to ban trans fats; students are eating healthier lunches, all because of a “soft,” collaborative approach to change in industry and government.

Through a similar *Let’s Live Together* campaign, the new administration could work to explode myths about integration, celebrate successes and promote positive change. More tangible support could be offered to cities committed to working towards integration: for instance, providing technical assistance with zoning code reform or fair housing analyses.

There are also opportunities to work with the real estate industry to improve transparency, encourage good practice, and empower consumers. Many local real estate boards and rental managers, for example, have signed “Voluntary Affirmative Marketing Agreements” with HUD.<sup>68</sup> The signatories promise to affirmatively further fair housing, through outreach to minority homebuyers, for example. But in the 1980s, the list of signatories was made secret, “available to parties other than HUD only on such terms and conditions as are mutually agreed upon by HUD and the [real estate] Board.”<sup>69</sup>

An early goal of the *Let’s Live Together* campaign could be working with leaders in real estate

to make these agreements public and easily accessible to consumers (rather than simply sequestered on HUD's website). Online housing services, for example, could highlight the work of the best realtors. The administration's "college scorecard," which was picked up by other platforms, offers a potential model.<sup>70</sup>

These proposals are offered in the spirit of generating some ideas, rather than in a prescriptive way. The key point is to see that the goal of more integrated communities is not likely to be achieved through solely technocratic means, but through a broader shift in mindset and attitudes.

### *Leadership: The magic ingredient*

All of these proposals will require ongoing leadership from the new president. But they will also require bolder action from HUD. Leadership of that department is therefore critical. We need another Romney—George Romney, that is. "Some white people and public officials will advocate the return to state's rights as a way to legalize segregation" he said in the wake of the 1967 race riots. "As citizens of Michigan, as Americans, we must unhesitatingly reject all these divisive courses." As Governor (in the state where one Ben Carson was growing up), Romney then enacted a statewide fair housing law, and told voters he wanted to end local zoning where it facilitated segregation and evenly distribute affordable housing around metro areas.<sup>71</sup>

Appointed Secretary of HUD by Nixon, Romney didn't hesitate to use the tools at his disposal—and which are still at HUD's disposal. As Nikole Hannah-Jones reports:

Romney ordered HUD officials to reject applications for water, sewer and highway projects from cities and states where local policies fostered segregated housing...[he saw his goal as using] his power as secretary of Housing and Urban Development to remake America's housing patterns, which he described as a "high-income white noose" around the black inner city...HUD terminated grants to the Boston, Baltimore and Toledo metro areas after they rejected low-income housing slated for white neighborhoods, and won concessions.

Since then it's been a different story. Between the end of Romney's HUD tenure in 1972 and 2012, Nikole-Jones could find only two occasions when the department cut funding to recipients for violating the Fair Housing Act of 1968. "HUD has sent grants to communities," she wrote for ProPublica, "even after they've been found by courts to have promoted segregated housing or been sued by the U.S. Department of Justice."<sup>72</sup> As we've already argued, it should not only be HUD that is expected to stop and think before sending federal dollars to segregated communities, but other federal agencies, too. But as we've also said, it is easy to understand the reluctance of federal agencies to deny communities funds. As in many areas of policy, there is a difficult balance to be struck here. The threat of delay or loss of funding has to be credible,

but as with most deterrents, it should hopefully need to be used sparingly.

We'll stress once again that our proposals are narrowly confined to what can be achieved through executive authority alone. There are many other reforms in relation to the home mortgage interest deduction, size of the housing voucher program, infrastructure investments and others that are outside the Administration's direct control. The administration should work with Congress to address these, too. But there is plenty that the president and HUD can do on their own, on day one, to tackle racial segregation.

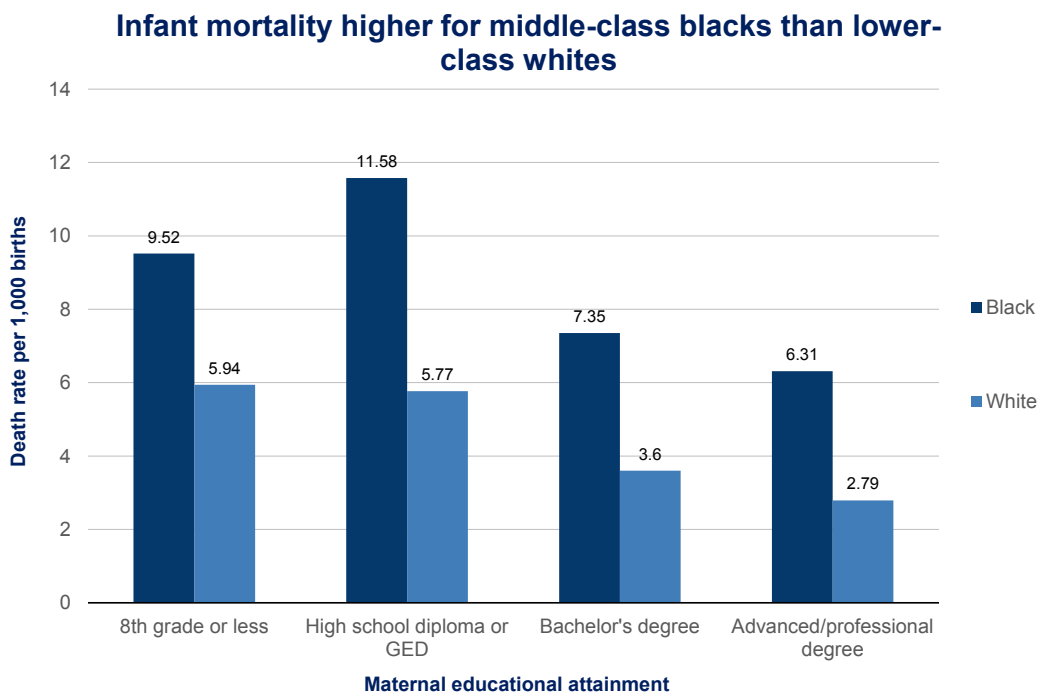
In the previous section we described some of the costs of segregation—including for health inequities. The 2008 PBS documentary called “Unnatural Causes: Place Matters” powerfully highlighted the link between residential segregation and the adverse public health outcomes that black Americans suffer. Where people live is so highly correlated to their morbidity and mortality that experts now say that in America, “your zip code is a better predictor of your health than your genetic code.” In the remainder of this paper, we focus on health inequities, which are another manifestation of the racial divide that keeps blacks and whites in this country “worlds apart.”

# 3. Health inequality

## CAUSES

Whatever the fate of the Affordable Care Act, the new administration must confront the fact that expanding access to healthcare for nearly three million newly insured black Americans<sup>73</sup> has not eliminated enormous morbidity and mortality gaps between blacks and whites in this country. The disparities that persist are those that will remain undisturbed despite expanded access to care. This is because health disparities that are fundamentally caused by racial inequality will persist as long as our nation continues to tolerate a separate and unequal health care system for black Americans. To eradicate health inequality, the president and new administration must intentionally and comprehensively address the causes, costs, and solutions to health inequality in this country.

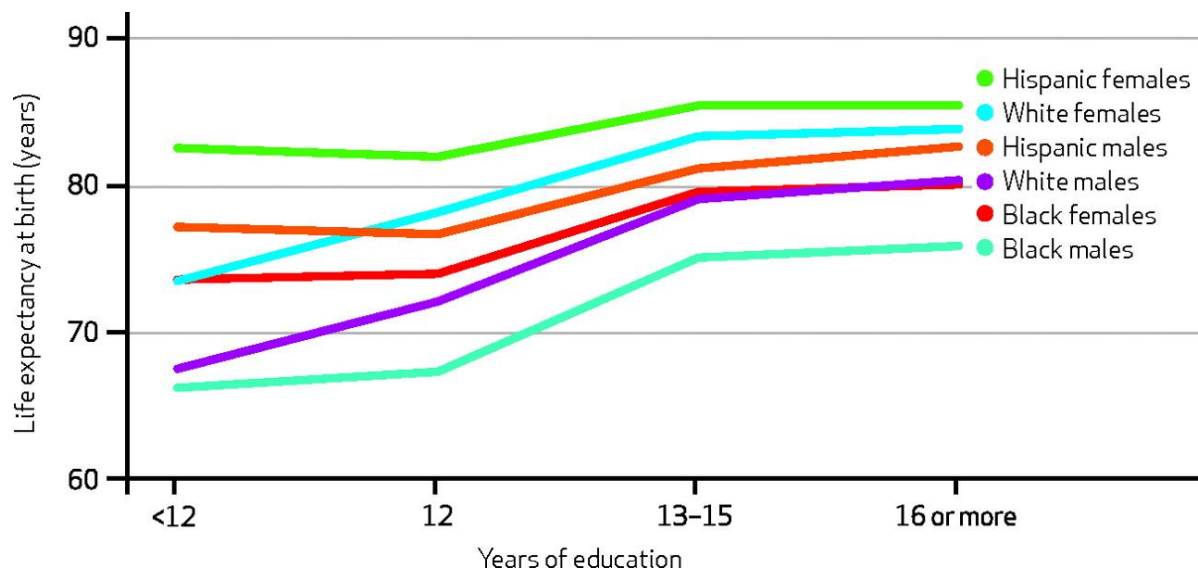
While some health disparities that separate blacks and whites have narrowed, most have remained stagnant and tragically, gaps in some of the leading indicators of health are actually widening. The infant mortality rate for black babies remains more than twice the rate for whites. Furthermore, the gap between the rate of black and white infant deaths widens as the mother's education and income increase.<sup>74</sup> Babies born to well educated, middle-class black mothers are more likely to die before their first birthday than babies born to poor white mothers with less than a high school education.<sup>75</sup>



Source: Centers for Disease Control and Prevention (Wonder), Linked Birth/Infant Death Records, 2007-2013.

Black men continue to have the shortest life expectancy of any other group in America.<sup>76</sup> Moreover, combining education with race accentuates the mortality gap and underscores the cumulative impact that racial inequities impose on health outcomes. White men and women with college degrees live an average of 14.2 years and 10.3 years longer, respectively, than black men and women with less than a high school education.<sup>77</sup>

**Life expectancy at birth, by years of education at age 25, by race and sex, 2008**



Source: S. Jay Olshansky et al., "Differences in life expectancy due to race and educational differences are widening, and many may not catch up," *Health Affairs* 31(2012): 1806.

Black Americans experience earlier deaths, more severe, and more frequent illness due to disparities in several leading causes of death that affect all Americans including cancer, heart disease, and kidney disease. Blacks are also affected by early death rates due to causes that disproportionately impact them such as homicide and HIV.<sup>78</sup> More than 30 years after the Heckler Report first brought national attention to the significant health disparities between black and white Americans, progress has stalled.<sup>79</sup> To move forward, the new administration must choose a strategy that aims boldly and specifically at the causal factors that contribute to inferior health outcomes for African Americans.

As with housing segregation, historical racism is the most obvious place to begin to understand and fully eradicate health inequities. Racial discrimination in America was legally enabled from the day our nation was founded, until passage of the Civil Rights Act of 1964, and has persisted despite explicit anti-discrimination provisions to this day. A recent article by sociologists Phelan and Link explains the reason why: systemic racial discrimination is what sociologists call "a fundamental cause" of health inequality.<sup>80</sup> In lay terms, this means that the discrimination that

produces health disparities did not end with slavery, but instead have been reconstituted into structural institutions from Jim Crow segregation to disproportionate mass incarceration that continue to impact African American health today.

During the Colonial period of our nation's history, African Americans were regarded as property not people,<sup>81</sup> and were generally afforded health care befitting that subhuman station only to the extent that it served white slaveholders' economic self-interest.<sup>82</sup> The post-Civil War period featured the "black codes"—laws that purported to confer new rights, but focused mostly on incentivizing blacks to remain a low-cost source of labor. This task was made easier by the rampant public health crisis of disease and starvation that claimed an estimated one million African American lives between 1862 and 1870.<sup>83</sup> The exact number of deaths is difficult to determine because record-keeping was racially skewed. Documents recording the deaths due to smallpox, also called the "black epidemic" because it killed primarily blacks and Native Americans, are scant while records of deaths from the cholera outbreak in 1866 which claimed white lives primarily are detailed and in contrast reflect a strong public health effort to combat that disease.

From 1865 to 1871, the Freedmen's Bureau provided food and medical care to an estimated half million formerly enslaved blacks.<sup>84</sup> But food rations were discontinued within a year after they began, amid worries that this form of relief would make African Americans lazy. Moreover, since hospitals and doctors that served whites did not generally care for blacks, the Freedmen's Bureau performed everything from public health functions like managing the smallpox and cholera outbreaks and inspecting homes to promote sanitation in deplorably poor rural communities, to running the health care "dispensaries" that provided the majority of basic medical services and pharmaceutical drugs that blacks received during Reconstruction. After Reconstruction, the gains black communities saw were reversed beginning in 1877 when "Pig Laws" began to appear on the books in southern states. These laws imposed harsh criminal penalties on blacks for behaviors that had previously been considered misdemeanors, for attempts by blacks to enforce sharecropping contracts (for example by taking a pig owed to them), and even by jailing blacks for unemployment.<sup>85</sup> Pig laws gave way to Jim Crow laws in the late nineteenth century.

David Barton Smith describes the nation's divided healthcare system that prevailed during Jim Crow segregation<sup>86</sup> when overt bigotry, blessed by the American legal system ensured separate and unequal access to health care for blacks during the three decades between *Plessy v. Ferguson*<sup>87</sup> and *Brown v. Board of Education*.<sup>88</sup> Despite the backlash of massive resistance,<sup>89</sup> access to health and health care improved for black communities as legalized segregation disappeared. Indeed Smith also recounts the health equity triumphs of the civil rights era when physicians and other activists used the Medicare statute as a tool to dismantle

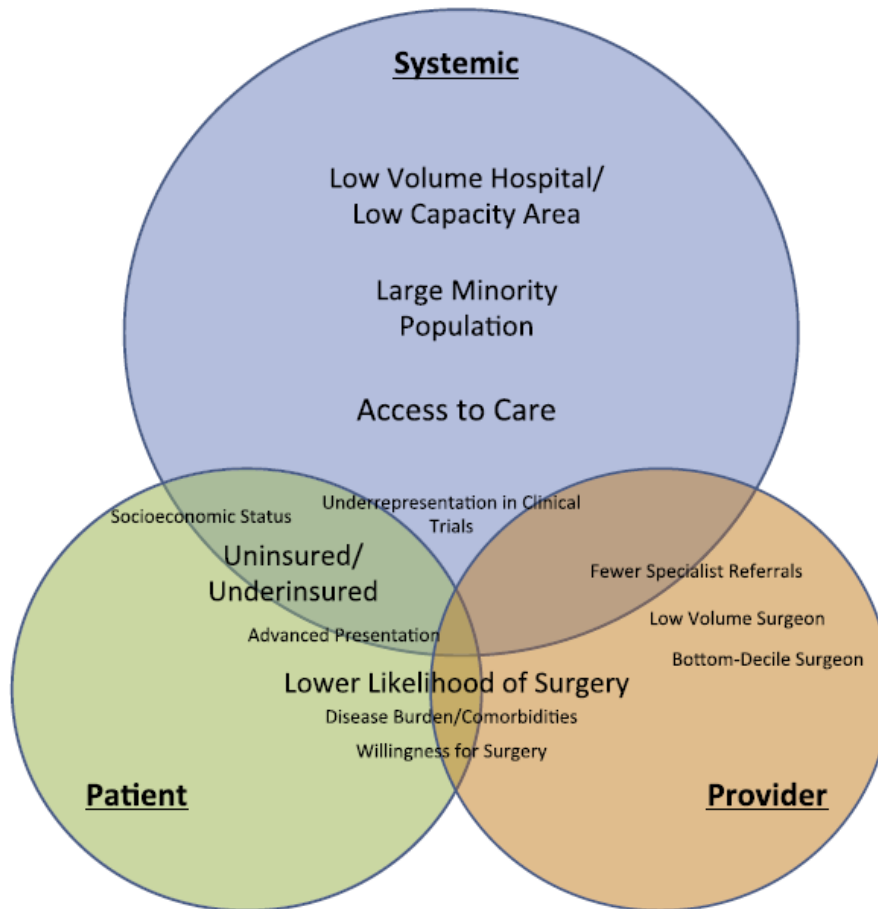
segregated medicine.<sup>90</sup> However, this progress came into tension with the Nixon administration's announcement in 1971 of a "war on drugs" that would lead to a 500 percent increase in incarceration rates, creating a public health crisis in predominately black urban communities.<sup>91</sup> The point is that throughout most of American history, even after slavery ended, legally enforced racial discrimination has harmed African Americans' health by systemically ensuring inferior access to healthcare and other resources. This inequality endures today.

A second cause of health inequity is unintentional racial discrimination in medical care. The quality and access to health care that blacks have enjoyed remains inferior to whites across regions, diseases, facility types, and treatments,<sup>92</sup> even though explicit racism is no longer legal or even approved by many Americans.<sup>93</sup> The best studies of access disparities acknowledge that multiple mechanisms contribute to this fact, including different preferences, socioeconomic status, and disparate disease burden. However, the best available research also acknowledges that racial disparities remain, even after controlling for socioeconomic status, treatment preferences, and comorbidities.

No one could reasonably argue that deliberate racial discrimination is the reason for the health care disparities. However, racial inequities due to unintentional discrimination are a major driver of health disparities. To illustrate, one group of researchers developed a graphic model of the interaction between various clinical and social factors contributing to health care disparities. In their diagram reproduced below, the size of the font denotes the relative contribution each factor makes to differences among blacks' and whites' likelihood of receiving surgery. The point of the diagram is to underscore how racial discrimination can influence the majority of systemic, patient, and provider-level influences on black patients' access to clinical care, and the quality of healthcare they receive.



## Factors contributing to health care disparities



*Note: Size of font reflects perceived relative importance of factor.*

*Source: Adil H. Haider et al., "Racial disparities in surgical care and outcomes in the United States: A comprehensive review of patient, provider, and systemic factors," *Journal of the American College of Surgeons* 216 (2013): 482-492.*

Healthcare facilities with the fewest technological resources and the least experienced clinicians serve predominately black patient populations,<sup>94</sup> while the best equipped healthcare institutions and most highly trained professionals serve predominately white populations.<sup>95</sup> This means that African American patients disproportionately receive trauma<sup>96</sup> and surgical care<sup>97</sup> in lower quality hospitals than white patients. Once admitted, black patients receive less intensive hospital care.<sup>98</sup> This is true for multiple diseases and conditions including the two leading causes of death for black Americans—heart disease and cancer.

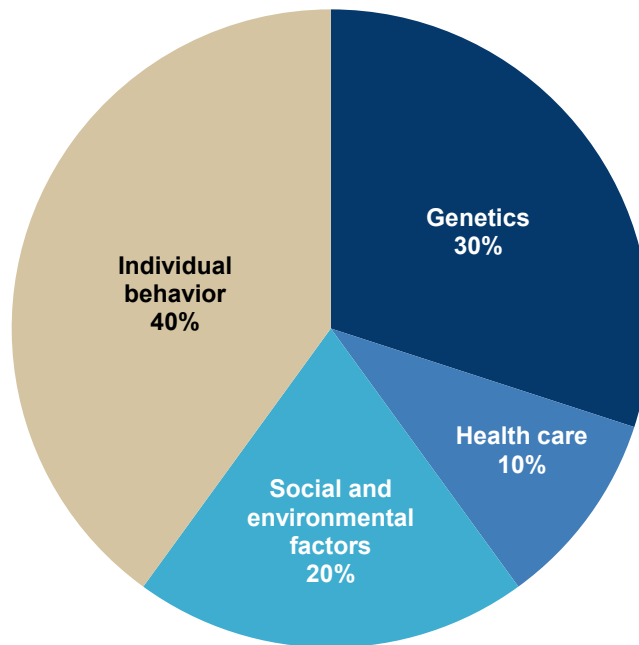
Blacks receive poorer quality cardiac care in hospitals than whites;<sup>99</sup> they are transferred for revascularization more slowly than white patients,<sup>100</sup> and after adjusting for comorbidities and socioeconomic status, receive invasive cardiac procedures such as catheterization angioplasty, thrombolysis, and bypass surgery less frequently than whites even with similar patient

characteristics.<sup>101</sup> Cancer diagnosis and treatment differ by race for men and women. Studies show that only 59.4 percent of black men with prostate cancer receive surgery as compared to 69.5 percent of white men. Black men wait 7 days longer than whites to receive treatment, and black patients are less likely to undergo diagnostic node dissection than whites. Partly due to these differences, black men have higher odds of making costly visits to the emergency room within 30 days of prostate surgery and must spend more on their inferior care than white men spend to receive superior care.<sup>102</sup> Similarly, black women receive lower quality treatment than white women for breast cancer. A recent study reports not only that black women are now more likely to die from breast cancer than white women, but also that the disparity is worsening.<sup>103</sup>

Evidence of health care discrimination appears throughout the medical literature, far beyond heart disease and cancer. Compared to whites, black patients are referred to see specialists less often, receive less preventive care such as mammography and flu vaccines, receive fewer kidney and bone marrow transplants, fewer antiretrovirals for HIV, fewer antidepressants for diagnosed depression, and are admitted less often than whites for similar complaints of chest pain.<sup>104</sup>

A third cause of health inequity is that racial discrimination reaches beyond health care, and affects black Americans' access to all the major social determinants of health. Social determinants of health are the conditions in which Americans live, work, and play; these are the societal causes, behind the causes of health inequity. Only 10 percent of health outcomes are determined by health care. In contrast, social determinants have far greater influence on health disparities than medical care alone. Differences in social and environmental factors account for 20 percent of health outcomes. Another 40 percent of health outcomes are related to health behaviors which occur within a social context and are therefore also susceptible to environmental influences. So social determinants play a much larger role in determining health outcomes than genetics or health care. To the extent that racial discrimination affects access to, and the quality of, these social determinants, health outcomes for blacks relative to whites is disproportionately and adversely impacted.

### Impact of different factors on risk of premature death



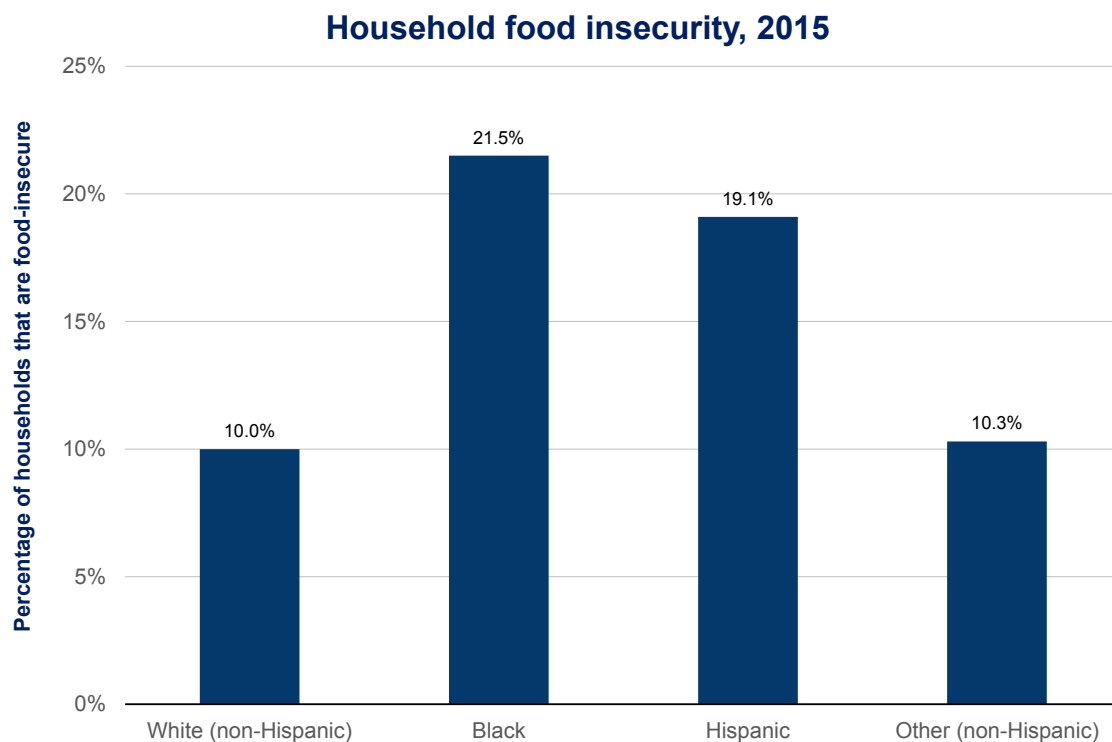
Source: Steven A. Schroeder, "We can do better: Improving the health of the American People," *NEJM* 357(2007): 1222.

Evidence of racial discrimination with respect to three social determinants of health - housing, environment, and food policy provide examples of this third cause of health disparities. Substandard housing conditions such as pest infestation lead contamination, faulty plumbing, and overcrowding lead to health problems including asthma, lead poisoning, heart disease, and neurological disorders. Yet our nation has tolerated the fact that blacks are 1.7 times more likely to occupy homes with severe physical problems compared to rest of population. Black children disproportionately exposed to above average lead exposure resulting in developmental delays, and depressive disorders, with long term, irreversible impact on physical and mental health. The U.S. Department of Housing and Urban Development reports that despite declines in overt racial discrimination, blacks are told about 11.4 percent fewer apartments, and are shown 4.2 percent fewer housing units than white renters when they seek apartments to call home. Similarly, blacks learn about 17 percent fewer homes and get to view 17.7 percent fewer homes than white prospective buyers.<sup>105</sup> As described earlier, collectively these discriminatory practices constitute racial steering that increases the odds of black Americans living in neighborhoods where housing conditions are poor.<sup>106</sup>

In addition to substandard housing conditions, discriminatory housing practices burden African Americans with multiple other ailments. An important example is concentrated exposure to environmental pollutants<sup>107</sup> that disproportionately harms the health of residents in black communities as compared to white communities.<sup>108</sup> Black Americans are significantly more

likely to live within a mile of a polluting facility.<sup>109</sup> Black children are more likely than white children to attend schools located near polluting facilities<sup>110</sup> resulting in poorer student health and academic performance.<sup>111</sup> Dr. Robert Bullard showed that both intentional and unintentional discrimination has led to toxic dumping sites, chemical plants, municipal waste facilities, and other environmental health hazards being disproportionately located in black and low-income communities.<sup>112</sup>

Another health-harming outcome associated with residential discrimination is more limited access to healthy food in black neighborhoods than in white neighborhoods. Several studies show that predominantly African American neighborhoods have a disproportionately higher rate of fast food restaurants and convenience stores, but relatively lower access to supermarkets that which stock fresh produce and health food options.<sup>113</sup> As a result, African Americans suffer greater food insecurity than other population groups. They have the lowest access to chain grocery stores in the United States, while even after controlling for socioeconomic status, liquor stores are disproportionately located in predominantly black neighborhoods—exposing those populations to greater social, psychological, and physiological health risks.<sup>114</sup>



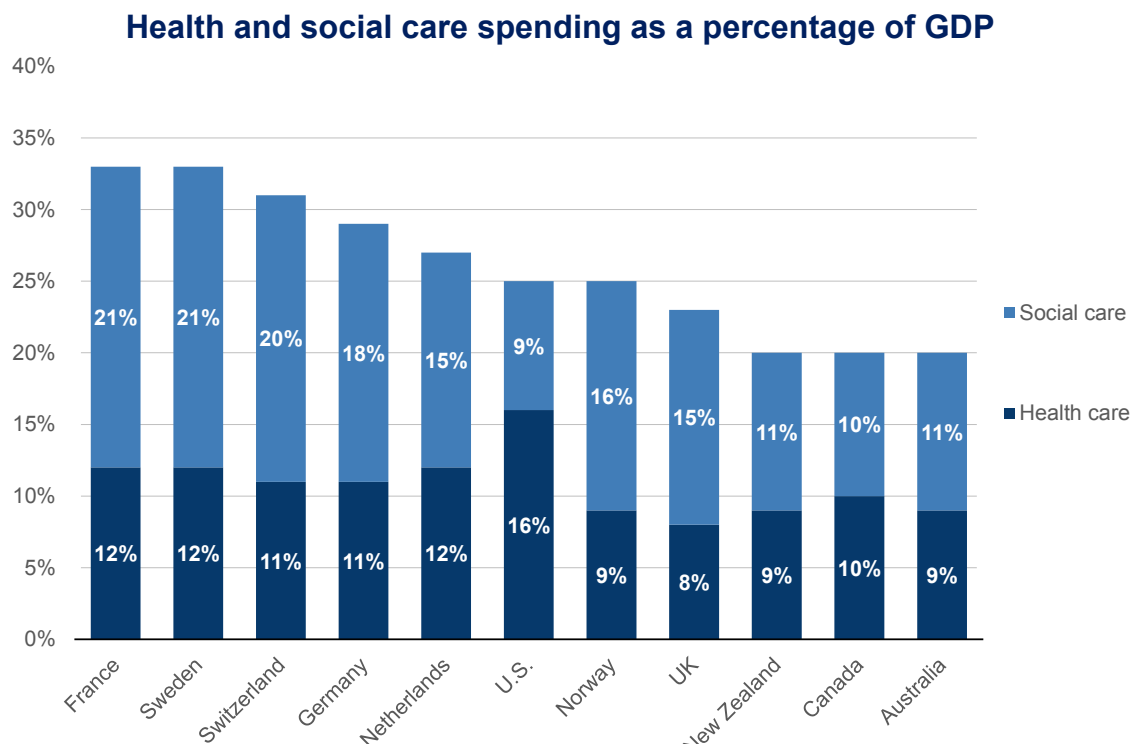
*Source: Household Food Security in the United States in 2015, U.S. Department of Agriculture.*

Finally, employment opportunities and workplace conditions also represent a social determinant of health. African Americans are disproportionately represented in low-skill, low-control, and high-stress jobs that have been shown to produce health disparities. Between 2005 and

2015, the U.S. Equal Employment Opportunity Commission reports that new allegations of racial discrimination by employers increased by 16 percent.<sup>115</sup> This regulatory activity reflects empirical evidence that African-Americans are nearly nine times more likely to experience racial discrimination at work than their white co-workers.<sup>116</sup>

Discrimination that concentrates African American families in low-income and low-resource neighborhoods has a detrimental impact on health behaviors as well as on access to the social determinants of health. Health behaviors occur within a social context. For example, the prevalence of smoking is related to the prominence of tobacco advertising aimed at black youth. Sedentary behaviors are connected to neighborhood violence and inferior built environments that limit recreation and exercise options. Food consumption is associated with the density of fast food and liquor outlets in black neighborhoods, as compared with the paucity of healthy food options such as those available in predominately white neighborhoods. The health outcomes are as dismal as they are predictable: 69 percent of African American men and 82 percent of women are obese or overweight as compared with 32.6 percent of whites.

Together, social and environmental factors, as well as health behaviors that are influenced by them, exert more influence on final health outcomes than medical care alone. Yet the United States spends over 80 percent of its \$3 trillion health budget on medical services,<sup>117</sup> and virtually none of its health care dollars on improving social and environmental influences. However, when compared to other developed nations, our health care spending far outstrips the amount we spend on social services.



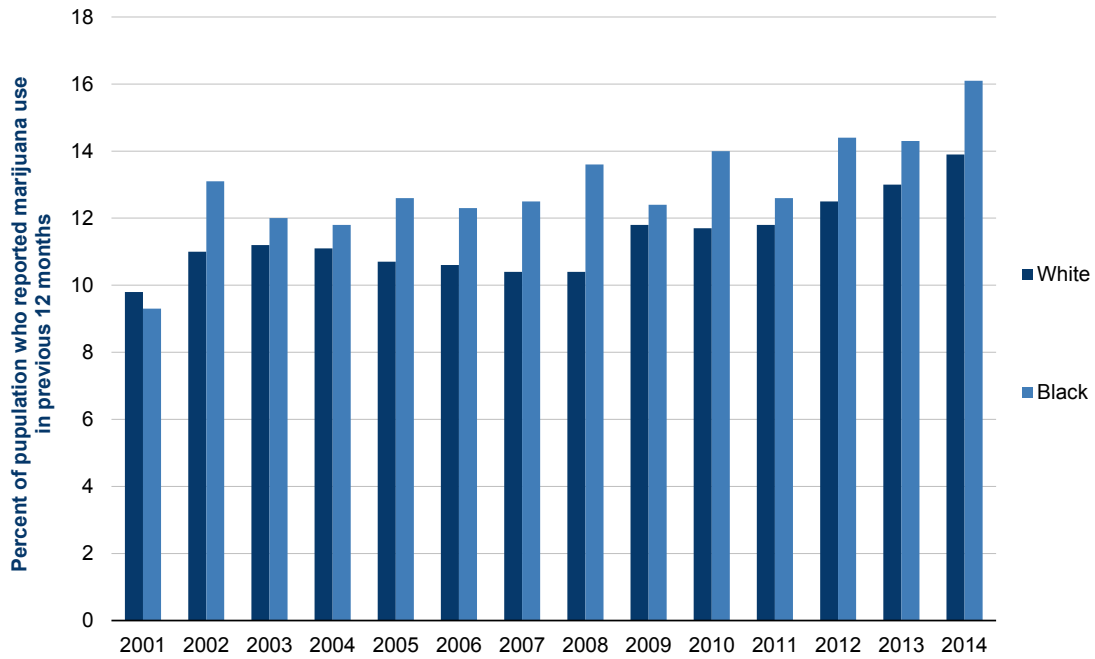
Source: E.H. Bradley and L.A. Taylor, *The American Health Care Paradox: Why Spending More is Getting Us Less* (New York: PublicAffairs, 2013).

On day one, the new administration must set a public health agenda that focuses federal, state, and local attention on increasing the nation's investment in the social determinants of health, and eliminating the unjustified inequities that characterize them.

A fourth cause of health disparities relates to disproportionate law enforcement patterns that differentially impact black and white communities. On one hand, civil anti-discrimination laws designed to equalize the lived experiences of blacks and whites in this country are under-enforced, leaving wide gaps in resources and stressors that equitable law enforcement could repair. With *Alexander v. Sandoval*,<sup>118</sup> the Supreme Court has eviscerated the private cause of action previously used by civil rights advocates to desegregate hospitals, leaving under-funded administrative agencies to enforce this country's civil rights laws. Where protecting African American health is concerned, the administrative record is dismal. The Environmental Protection Agency dismisses or rejects over 90 percent of Title VI complaints filed, takes an estimated average of 350 days to determine whether it will investigate civil rights complaints,<sup>119</sup> and, according to the recently released report from the U.S. Commission on Civil Rights, has not ever, in its history made a formal finding of discrimination, denied or withdrawn financial assistance from a recipient, and yet has cases on its Title VI docket that were filed over 10 years ago.<sup>120</sup>

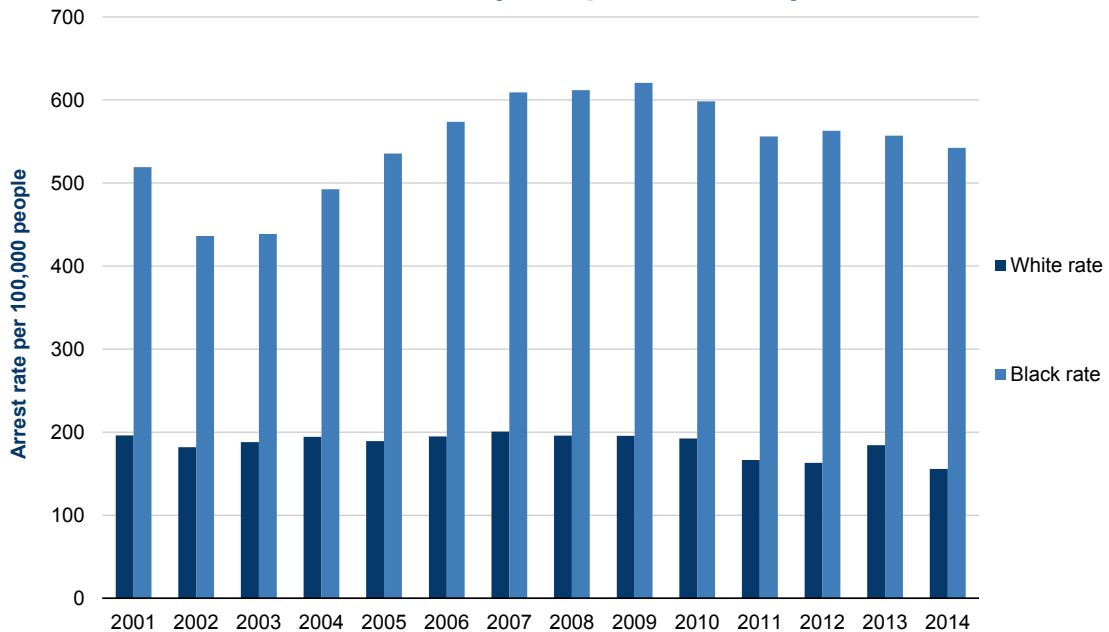
On the other hand, morbidity and mortality in the black community is adversely affected when criminal law is inequitably enforced in African American as compared to white neighborhoods. Black men and women are more likely to be arrested, charged, and convicted than whites who commit the same crimes.<sup>121</sup> Once convicted, the U.S. Sentencing Commission found that black men are given prison sentences that are nearly 20 percent longer than white men for similar crimes.<sup>122</sup> The public health impact on black communities of disparate criminal law enforcement is staggering.

### Annual marijuana use prevalence, by race



Source: Uniform Crime Reporting Program, U.S. Census Bureau  
Data provided by Jon Gettman, Shenandoah University

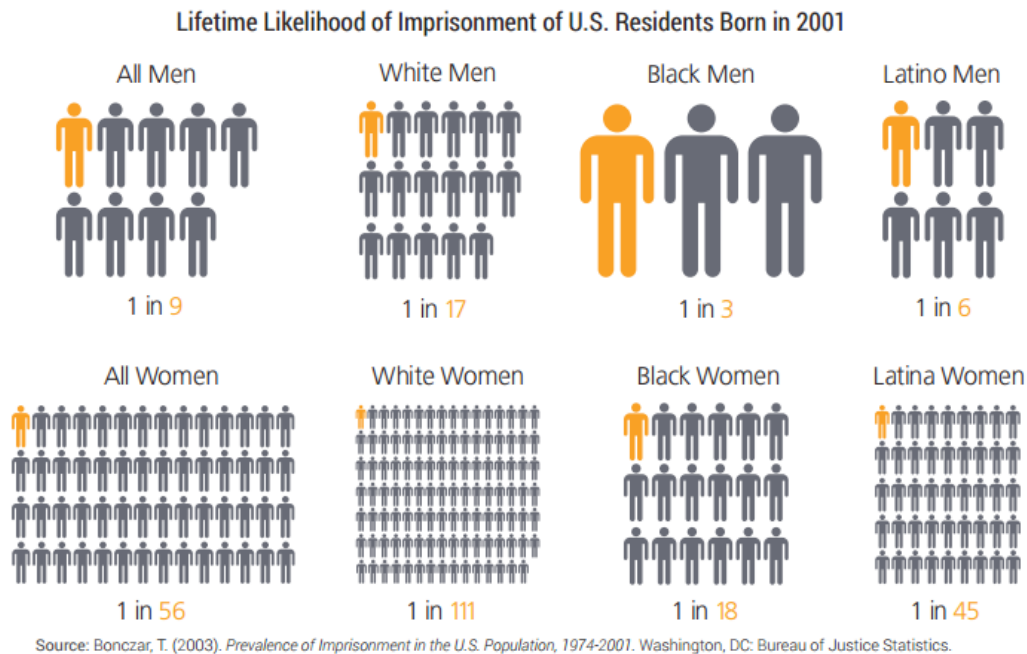
### Arrest rate for marijuana possession, by race



Source: Uniform Crime Reporting Program, U.S. Census Bureau  
Data provided by Jon Gettman, Shenandoah University



Incarceration affects the mental and physical health of communities left behind. Family members experience increased incidence of mental illness such as depression and anxiety disorders, as well as an increased risk of poverty and homelessness.<sup>123</sup> Growing evidence documents that these health consequences are multi-generational; incarceration, for example, is associated with a 30 percent increase in infant mortality.<sup>124</sup>



Incarcerated populations are also at greater risk for transmission of infectious disease such as tuberculosis, viral hepatitis, and sexually transmitted diseases. Moreover, the prevalence of mental illness and injection drug use among incarcerated populations is significantly higher than in the communities at large. Importantly, when prisoners are released back into poor and segregated communities, they bring their higher incidence of disease back with them to the detriment of the entire community's health.<sup>125</sup> Because the majority of people in prison today are black, the public health harms associated with imprisonment are disproportionately visited on black communities and represent a formidable cause of health disparities.

## COSTS

The costs imposed by health inequities are staggering, both in human and economic terms. Former Surgeon General David Satcher examined trends in black-white standardized mortality ratios in order to estimate the cost in terms of lives lost due to racial discrimination in health care. Dr. Satcher's group estimated that over 83,000 African American men and women needlessly lose their lives each year due to the unfair, unjust, and avoidable differences in the quality and quantity of health care provided to minority patients as compared to whites.<sup>126</sup>

African Americans not only die earlier than their white counterparts; while living, blacks are generally sicker than white Americans and therefore represent additional and preventable healthcare costs that could be eliminated by improving health equity. A CDC study estimated that if black Americans had the same adjusted rate of preventable hospitalizations as non-Hispanic whites from 2004 to 2007, the African American population would have endured 430,000 fewer hospitalizations and enjoyed \$3.4 billion in health care savings.<sup>127</sup>

The Joint Center for Political and Economic Studies has estimated that racial and ethnic disparities have cost Americans \$1.24 trillion between 2003 and 2006. Of these costs, \$229.4 billion are attributable to excessive medical care expenditures, and \$1.0 trillion represent the indirect costs of disparities such as lost productivity and unemployment costs.<sup>128</sup> The Urban Institute analyzed the costs of racial and ethnic disparities attributable to diabetes, hypertension, and stroke—three diseases the researchers termed “preventable.” They found that the excess rate of these diseases among black and Latino patients, relative to white patients, will cost \$23.9 billion in 2009. The Medicare program, they estimated, will spend \$15.6 billion of this amount, while private insurers will pay an extra \$5.1 billion.<sup>129</sup> In addition to extra expenditures today, the Urban Institute projected future losses to the American health care system: over the 10-year period from 2009 to 2018, the total cost of health disparities will be approximately \$337 billion, including \$220 billion for Medicare.<sup>130</sup>

## SOLUTIONS

As with residential segregation, our recommendations to address health inequality can be adopted by the new Administration without creating new legislation, regulations, or agencies.

The most important step is for the new HUD and HHS Secretaries is to provide strong, principled political leadership by naming the elimination of health inequality as a top priority. The new administration can set the tone from day one—committing the federal government to refocus and redouble efforts to eliminate racial discrimination in healthcare.

The secretaries of HUD and HHS should comprehensively re-focus the federal government’s attention on the issue of racial discrimination—the form of discrimination that originally gave rise to the civil rights statutes beginning in 1866, but whose promise of equality of opportunity has yet to be fulfilled for black Americans.

Our recommendations focus solely on enforcing the laws and regulations as they pertain to race discrimination; here, we do not undertake a full analysis of the other important anti-discrimination grounds that protect other vulnerable populations. We focus instead on prohibitions against racial discrimination that are woefully under-enforced and therefore arguably contributing rather than reducing health inequality for blacks in this country. We

recommend two important steps:

### **1. Empower your agencies to work collaboratively to the full extent of the law**

First and foremost, the new health and housing administrators must appoint and empower political leaders that are committed to fight health inequality to the full extent of the law. The people who occupy positions throughout these agencies must work collaboratively and must vigorously enforce existing civil rights laws such as Title VI and Title VII of the Civil Rights Act of 1964. Most importantly, leadership in the Offices of General Counsel and Civil Rights must be individuals that are charged and demonstrably committed in their own right to make the elimination of health disparities a top priority of this administration. These agencies have the authority to reach voluntary, negotiated solutions to practices that arise from the unintentional effects of discrimination but are nonetheless harmful. Administrative solutions are long-lasting and less costly than litigation and should be pursued whenever possible. The new administration can offer technical assistance and guidance to providers and stakeholders who want to eliminate disparities but need help identifying and reforming practices that have disparate impacts. Finally, the entire staff at HHS and HUD must have the legal, investigative, scientific, and administrative capacity, in terms of personnel and finances, to meaningfully fight health disparities.

### **2. Use your combined influence to urge President Trump to issue a health equity executive order**

Together with the support of leadership from HUD and HHS, President Trump should use his authority<sup>131</sup> to issue a new Health Equity Executive Order (EO). This EO would be a game-changer for the entire federal family. The Health Equity EO would incentivize collaboration among the several existing agencies, departments, and task forces dedicated to reducing health disparities. The EO would articulate the new administration's vision and commitment to a comprehensive federal framework for combating racial discrimination in public health, housing, and health care. Moreover, the Health Equity EO could elevate a single organization to the level of a White House Initiative to centralize authority and incentivize a shift in existing resources to address racial health inequities.

A Health Equity EO from the president would unify currently fragmented Federal efforts to ensure that all reasonable and lawful means will be used to eliminate all forms of racial discrimination that harm the health of racial minority populations. Just as President Truman used his authority through Executive Order 9,981 to desegregate the armed forces, the 45th President of the United States has an opportunity to ensure that “there shall be equality of treatment and opportunity for all persons” who seek or obtain care from health programs and activities in America, without regard to race, color, national origin, sex, age or disability.

First, this EO should streamline interagency working groups wherever possible, giving clear authority to a group that empowers agency leaders to dedicate resources to health equity. For example, the Federal Interagency Health Equity Team (FIHET) appears ideally situated to unite health care and public health equity efforts but its relationship to the National Partnership for Action (NPA) appears unclear.

Second, the Health Equity EO should direct the HHS secretary to vigorously enforce compliance with ACA Section 1557 and its implementing regulations.<sup>132</sup> Section 1557 of the Patient Protection and Affordable Care Act (ACA) and its accompanying regulations provide powerful enforcement tools for the Federal government to prohibit discrimination on the basis of race by health programs and activities. To date, despite the strong final rule implementing the statute that took effect in July 2016, HHS has underutilized this statute and missed opportunities to support providers committed to eliminating disparities. The EO would repair this oversight.

Third, the Health Equity EO should require the head of each executive department and agency, to conduct its internal programs, policies and activities in a manner that is consistent with the objective of eliminating all racial discrimination that adversely impacts the public health and health of African American and other minority populations. This section of the EO should set forth plainly that it is the policy of the U.S. government to eliminate all racial discrimination that adversely impacts the health of all racial and ethnic minority groups.

While some complain that the exercise of authority granted to the president by the Constitution does not include lawmaking in the form of executive orders,<sup>133</sup> historically, the EO authority has been effectively used by presidents to improve the lives of millions of Americans—desegregating the military, instituting centralized review of proposed regulations, creating the nation's first cybersecurity initiative and enforcing civil rights law.<sup>134</sup> There could not be a more important time in our nation's history than now to exercise the president's executive authority to finally and decisively end the racial discrimination that has produced and perpetuated deadly and unjust health disparities in America.

## 4. Conclusion

As Bill Clinton started his second term in 2001, it was reasonable to hope that a combination of rising prosperity, legal equality, investments in public education and more tolerant attitudes among the population at large would reduce the separateness of the black experience. Perhaps it would take time; but it would happen. Now, as the 45th president takes office, it is clear that our racial divides will not heal on their own. It will take concerted, intentional, intervention. The new president must face this racial reality.

We have set out a series of concrete steps that the new administration can undertake from day one to reduce racial inequalities relating to residential segregation and housing, and health and healthcare. There are many inequalities faced by different racial and ethnic groups in the United States, all of which require urgent attention. But the deepest and most persistent divide is the one between black and white America. After a divisive and turbulent election season, one of the most important challenges for the president and his administration is to help heal this divide.

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