

**Supplemental Response from the United States of
America to the Committee on the Elimination of
Racial Discrimination to Questions Received
August 11-12, 2022, Submitted on August 16,
2022**

Supplemental Response from the State of California, Office of the Attorney General

Coordination mechanism for pursuing racial justice

California, as a state, is contributing to the United States' implementation of its Convention obligations through our federal system by implementing a state-level cross-subject matter coordination of all human rights issues. Specifically, the Civil Rights Enforcement Section of the California Attorney General's office handles systemic civil rights enforcement through investigations of entities (including local governmental actors and companies) and implementation of stipulated judgments obtained through negotiation, which compel the wrongdoing entity to engage in active reforms and changes subject to oversight by an independent monitor.

The Civil Rights Enforcement Section recently created a Racial Justice Bureau which now exists alongside the Section's Bureau of Children's Justice and Disability Rights Bureau to ensure all of the work of the section is handled through a racial justice lens including the following areas:

- reparations and historic racial injustice;
- disability rights;
- LGBTQ rights;
- indigenous rights;
- housing rights;
- environmental justice;
- healthcare rights;
- employment rights;
- children's rights, including specifically the child welfare system, juvenile justice issues, and education rights, which specifically has included judgments addressing racial inequities in education, discrimination in discipline, segregation, and the involvement of law enforcement on campus; and
- law enforcement reform including disproportionate use of force, conditions of confinement, lack of healthcare, and racial profiling (through California's Racial and Identity Profiling Advisory Board).

Reparations

To address the Committee's questions about reparations, information about California's Task Force to Study and Develop Reparation Proposals for African Americans – including links to the bill establishing the Task Force and the first interim report of the Task Force – can be found here: <https://oag.ca.gov/ab3121>.

Data on investigations of shootings by law enforcement officers

The Governor signed Assembly Bill 1506 into law on September 30, 2020 and requires the California Attorney General's office to investigate all incidents of an officer-involved shooting resulting in the death of an unarmed civilian in the state—a departure from the former practice of departments investigating themselves or by other local law enforcement agencies (allows for independence, objectivity and transparency). A link to the webpage that details the requirements

can be found here: <https://oag.ca.gov/ois-incidents>. On the right side of the page, there is a tab for “Current Cases” that identifies all of the cases currently under investigation.

Supplemental Response from the City of Atlanta, Georgia

Hate Crimes: Response to Atlanta Spa shooting

- **On March 2021, Atlanta captured the nation's attention when a lone gunman executed eight people** at three different locations.
- **Families, communities, were shattered. Yong Ae Yue's (Young-Ah-You's) son, Robert Peterson, struggled for months to stop thinking** about the day his mother and seven other people, were killed.
- **With that violent act, we were no longer the City too busy to hate. We were the city that had AAPI community hate crimes not only increase, but spike during the pandemic.** To give you an idea, hate crimes against Asians in the United States, had increased by 300 percent in 2021 versus the number reported in 2020.
- **Since the mass shooting, the gunman has pleaded guilty to four of the killings in Cherokee County and was sentenced to life in prison.** But, he still faces an additional 19 charges in nearby Fulton County.
- **On behalf of the city, I want to be clear, the data is troubling to us,** no one should fear for their safety. I have made it my priority to denounce hate and to build bridges between Atlanta and the AAPI community.
- **We need to listen, really listen to the challenges our communities are facing,** This is why during my short term as Mayor I have called on community leaders to understand challenges and opportunities. I do not have all the answers, I repeat again, I do not have all the answers, but my administration and I are open to open dialogue and to change.

Advancing a whole government approach to equity and racial justice & Immigration: LGBTQ/ Immigrant Affairs/Empowering Women

- **Our City has taken a proactive approach to equity through the creation of the Equity, Diversity, and Inclusion Office.** My administration, much like the Biden Administration, firmly believes that inclusion and equity will strengthen our communities and be the bedrock of our economic growth.
- **Since 2013, Atlanta has had the proud distinction of having a 100% score on the Human Rights Campaign's Municipal Equality Index.** For the last four years, Atlanta has also achieved MEI "All-Star" status – the first city in Georgia to do so - for scoring above 85 despite being in a state with no LGBTQ-inclusive state-level

protections.

- **We are committed to the fair treatment of all Atlantans, including the LGBTQ community.** As the LGBTQ capital of the South, we work hard to best serve all LGBTQ individuals. The City offers employment benefits and trainings tailored to the needs of its LGBTQ employees and has a comprehensive set of non-discrimination laws, which prohibit sexual orientation and gender identity discrimination by business establishments, by commercial housing agents, and by service providers in Atlanta.
- **We are committed to all Atlantans regardless of immigration status, we are proud to be a welcoming City. Our Office of Immigrant Affairs works to ensure that non-citizens have equal access** to city services, rental assistance programs, food access, victim services, legal services and more.
- **In collaboration with Vera Institute of Justice, the City of Atlanta's Public Defender's Office launched the Immigration Defense Unit** in Spring 2019 to provide legal defense representation to those facing deportation proceedings. We are working with APD to schedule in-service language access & cultural competency trainings and deployed a citywide language access line and interpretation/translation services known as I-SpeakATL.
- **We launched MyCity ATL , a Community engagement program in partnership with Atlanta Public Schools Adult ESOL program** that informs and empowers the immigrant and refugee population in Atlanta to directly engage and interact with city services on topics important to new residents, including gaining an understanding of how city agencies work, access to city-social service programs, and learning about ways to meaningfully participate in the community.
- **Through Victim Services Program, we work with local non-profit and governmental agencies** to educate Atlantans on their rights at work and encourage residents to report exploitative and abusive conditions of work.
- **I have met with the Latinx Business leaders and community organizations, and the AAPI community.** While much work remains to be done, we are coming together to have an open and honest dialogue on the challenges and opportunities.

Education/Childcare:

- **We are leveraging education as a tool to combat prejudices and promote understanding.** Launched Peace Week ATL, an initiative that includes interfaith activities, in-school discussions with students, daily mindfulness activities, violence reduction resources, healing circles and various community-centered activities to promote peace and understanding. We launched youth-centered nonviolence and anti-bias training with The Martin Luther King, Jr. Center for Nonviolent Social Change.

- **While we do not implement curriculum, we have forged a formal partnership with the Atlanta Public Schools district to ensure an equitable alignment of resources and initiatives** to include; early childcare education, youth workforce development, health and wellness, and literacy. Statistics show that by the time children begin school, there is already disparity in language abilities. What happens during infancy matters—and we plan to do something about it.
- **There are about 13,000 families in and around the city of Atlanta that are either cost-burdened** — they’re paying well over 40% of their income towards childcare services, that’s way, way too high — or they don’t have access to any kind of program simply because they can’t get there, they can’t afford it.
- **Curbing costs for families is a priority, because access to quality childcare is essential for children’s development. This is why we have a goal of putting \$20 million towards closing this gap**, to repair the fractured ecosystem of childcare providers and resources to support families with children from birth to five years old. The City of Atlanta has never made an investment into early childhood education. This is why for the first time ever, my plan includes for the city to invest \$5 million; another \$5 million from Atlanta Public Schools; and \$10 million from the private sector, half of which has already been donated by the Whitehead Foundation.
- **Childcare and preschool programs are integral to Atlanta’s economy, and this public-private investment sets an example for communities across America.**

Housing Discrimination & Affordable Housing: ARPA funds:

- **Our administration is committed to creating or preserving 20,000 units of affordable housing over the next eight years**, which will be overseen by our Affordable Housing Strike Force—a one-stop shop to oversee all our affordable housing needs. Our City’s commitment of \$58.7 million towards housing is one of the City’s largest-ever single year housing investments.
- **My administration is in the process of deploying those funds toward affordable housing and homelessness initiatives, which include:** \$22.5 million in emergency rental assistance, newly secured from the Federal government. \$9.1 million to support the relocation of residents from the Forest Cove apartments, sourced through the American Rescue plan funds; \$6.2 million in homelessness assistance, sourced also through the American Rescue Plan; and \$20.9 million activated to develop affordable housing through the City’s Affordable Housing Trust.
- **We just marked the completion of over 1,200 affordable housing units and the beginning of construction of over 4,000 units.** This signifies a major step towards meeting our goal.

American Rescue Plan Funds:

- **In 2020, through the American Rescue Plan, Atlanta was among the first U.S. cities to provide COVID-19 relief programs supporting small businesses with more than \$18 million dollars being allocated to 579 businesses** in the first round of Resurgence Grant funding. In February of this year, we relaunched the Grant to continue to help Atlanta small businesses recover from the effects of the COVID-19 pandemic. The program offered \$10.4 million of grant funds to qualifying city of Atlanta businesses and nonprofits to cover pandemic-related business changes and costs. Invest Atlanta will once again administer the program on behalf of the City of Atlanta.

Female Empowerment/Reproductive Care:

- **The Inform Women Transform Lives campaign conducted in conjunction with the Carter Center seeks to arm residents identifying as women with vital information that improves their access to City services.** The campaign focused on gender-based violence, safety, and entrepreneurial development. This is not just a campaign; this is a pillar to the work that we will be doing to further gender-equity. The City of Atlanta has the first municipally led program known as the Women's Entrepreneurship. We believe in empowering women through access to resources and tools to not only have their businesses survive but thrive.
- **Atlanta just made a \$300,000 donation to the abortion fund and we have established a reproductive justice commission.** We have assembled a cross-functional reproductive rights team to explore ways that the City can further support Atlanta residents that need access to reproductive healthcare.
- **Per the passing of Georgia's Heartbeat Bill, a Georgia Law banning abortion when a fetal heartbeat is detected, typically around six weeks, the Atlanta City Council approved a resolution to instruct the city's police department to treat any violations to Georgia's abortion law as the lowest priority.** The resolution stipulates that no city funds shall be used to record and/or investigate reports of abortion care and the Atlanta Police Department is requested to place reports of abortion related care at the lowest possible priority. It also seeks to ban city funds from being used to store or catalogue abortion reports, provide information to any governmental body or agency about any abortion that could be used in a prosecution.

Human Trafficking:

- **Atlanta's underground commercial sex industry accounts for an estimated \$300 million annually.** As the most traveled airport in the world, ATL leaders along with the airport community understood the importance of creating a collaborative. The "Not in my County" collaborative, which will convene once a month, boasts over 35 members-

which includes state, county, and local agencies—to address the region at large about sexual exploitation, forced labor, and the planned work to combat it.

Violence Reduction/Policing

- **In terms of violence, the first-ever Mayor’s Office of Violence Reduction is developing a citywide gun violence reduction strategy, including the expansion of Cure Violence Global’s community violence intervention program and other public health best practices.** The City is one of 16 U.S. Cities partnered with the White House to expand community violence interventions.
- **We have Partnered with Fulton County Juvenile Justice to divert some youth offenders into entrepreneurial education.** Partnered with local nonprofit program providers to incentivize justice-involved youth to attend mentoring sessions, academic credit recovery and skills trade training.
- **The Police Equity Research Forum (PERF) completed an extensive analysis of APD policies in partnership with the Mayor’s Office and APD. Recommendations across a range of issues, including use of force, currently being implemented.** <https://justicereform.atlantaga.gov/police-reform>
- **We have a police department which reflects our communities. APD sworn officer demographics: White non-Hispanic: 29 percent; Black non-Hispanic: 63 percent; Hispanic: 5 percent; Other 3 percent.**

Protecting Voting Rights:

Through bipartisan support the historic civil rights act and the voting rights legislation passed. Black Americans were denied full citizenship and voting rights until 1965. Women were denied the right until just 100 years ago. In Atlanta, we have done the hard work of democracy, by registering, educating, taking the votes to the polls, and building a broad coalition

The Center for Civil and Human Rights, acknowledgement of the King and Carter Center calling Atlanta home.

- In Atlanta we are proud of centers such as the National Center for Civil and Human Rights. A center which provides visitors and audience with immersive exhibitions, events, conversations, and engagement, as well as educational and training programs. The Center which opened in 2014, is a museum and a human rights organization. It features the history of the U.S. civil rights movement and stores from the struggle for human rights around the world today. Our education programs bring history alive for students and provides teachers with tools to teach civil rights history by provoking critical thinking and civic participation. We also provide human rights training for law enforcement officials as well as diversity, equity, and inclusion experiences.

Every K-12 public school student visits the center for free. All APD recruits receive implicit bias and cultural awareness training there.

- We also have the King Center, the center for nonviolent social change founded in 1968 by Coretta Scott King, who started the organization in the basement of the couple's home in the year following the 1968 assassination of her husband, Martin Luther King Jr. The center is dedicated to research, education and training in the principles, philosophies and methods of Kingian nonviolence and carries out initiatives on the domestic and international level.
- Last but not least, we have the Carter Center founded in 1982 by U.S. President Jimmy Carter. The Center is focused on observing elections, strengthening democracy beyond elections, advancing human rights, mediating conflict, oversee disease eradication efforts, implementing disease control and treatment measures, and reducing the stigma of mental illness.

Homelessness:

- The City of Atlanta in conjunction with the Atlanta Continuum of Care, has authorized Partners for HOME to coordinate homeless response services for the local homeless ecosystem. Founded in 2015, Partners for HOME brings nonprofit, government, business and community stake holders together to make homelessness rare, brief, and nonrecurring. While we have made significant progress, no one is satisfied when there's anyone sleeping on the streets.
- **Our Office of Housing and Community Development is working with local nonprofits (Atlanta Volunteer Lawyers Foundation) to develop a new program providing pro bono legal representation to low-income residents.**

Racial Justice and Climate Change; Access to Food:

- **Our City's mission is to Cultivate a more resilient, equitable, inclusive, just, and accessible food system for Atlanta, and ensure that 85% of Atlanta residents are within a 0.5 mile of fresh affordable food by 2022.** Black residents are the largest population in USDA Low Income Low Access areas, which has important implications for equity and access.
- **As mayor, I work with the City Council to achieve our vision of 100 percent clean energy for 100 percent of Atlantans with equity in mind.** I work with the City Council and direct the Mayor's Office of Resilience to ensure that our departmental capacity is staffed and funded at the level needed to advance the plan's implementation at a pace that can meet our goal of transitioning to 100 percent clean energy by 2035 goals.

- **Atlanta is a national climate leader and we will continue to build on the progress we have made.** Atlanta is one of 25 leading cities in the American Cities Climate Challenge that have together reduced emissions at a pace to beat and exceed the goals set in the Paris climate agreement.

Additional Information regarding Covid-19/Health:

Since the onset of the pandemic, the Mayor's Office of Immigrant Affairs Community Navigators have worked to dispel myths and inform residents on COVID-19 spread, prevention, resources, and vaccines. The Mayor's Office of Immigrant Affairs has partnered with numerous organizations to bring medical professionals directly into communities to provide vaccines and other health information in-language and eliminate barriers to vaccine access.

Environment and Food Access:

- **The Mayor's Office of Immigrant Affairs serves 10 communities throughout Atlanta in biweekly food distributions** to ensure that all Atlantans have access to healthy foods. The Grocery Delivery Program and Community Navigator model used by the Office of Immigrant Affairs seeks to remove traditional barriers residents may encounter when accessing food including eligibility requirements, transportation, language access, and cultural competency.
- **Over 70% of the City's Urban Agriculture & Food Systems Team is Black; all have experience growing food, recovering & distributing food, composting, & gardening**
- **Black residents are the largest population in USDA LILA areas (LILA = Low Income Low Access), and seniors (residents over 65) and children live in LILA areas at higher rates than non-LILA areas, which has important implications for equity and access.** (from *2020 Atlanta Fresh Food Access Report*)
- **I was proud of my vote to adopt the Clean Energy Atlanta plan and I'm well aware** that it can ultimately drive job creation and workforce development opportunities, reduce energy bills and create healthier, more affordable homes while reducing greenhouse gas emissions. I am also aware that the administrations that oversaw the implementation of this policy haven't done enough to bring that potential to fruition.
- **As mayor, I will work with the City Council to achieve our vision of 100 percent clean energy for 100 percent of Atlantans with equity in mind.** I will work with the City Council and direct the Mayor's Office of Resilience to ensure that our departmental capacity is staffed and funded at the level needed to advance the plan's implementation at a pace that can meet our 2035 goals.
- **Atlanta is a national climate leader and we will continue to build on the progress we have made. Atlanta is one of 25 leading cities in the American Cities Climate Challenge** that have together reduced emissions at a pace to beat and exceed the goals set in the Paris

climate agreement.

- **Tackling high energy bill: My administration is poised to launch a weatherization program, WeatheRISE ATL, that aims to lower utility bills through energy efficiency retrofits. Utilizing \$3.5MM in federal dollars, we hope to provide direct relief through energy efficiency upgrades and begin to tackle housing affordability from every opening that we see.** Efforts like WeatheRISE ATL are core examples to our commitment to an equitable transition to 100% clean energy.
- **Expanding our city's choices and safety for how we travel: Transportation is the second largest emitter of City of Atlanta's city-side greenhouse gas emissions.** Over the last few years, the Atlanta Department of Transportation has installed and protected over 25 miles of sidewalks and bike lanes. This work and investments in infrastructure are critical for Atlanta to continue to support safe, bike, ped, and multimodal transportation options infrastructure, especially as the City's population grows and becomes more dense over time.
- **Bringing solar energy into Atlanta: The City of Atlanta currently has the largest solar procurement agreement in the state – so far we have added an array of solar panels across 17 municipally owned and operated buildings, and counting including on Fire Stations and Recreation Centers.** Because of this effort, we will project to save \$5MM-7MM on our energy bills over the course of the 20 year contract.
- **The City of Atlanta adopted zoning code amendments for the built environment in collaboration with DCP and ATLDOT (Atlanta Department of Transportation) to ensure that new commercial developments advance the City's Vision Zero and Climate goals by promoting walking, biking, and public transit.**

Supplemental Response from the Executive Office of the President of the United States

Correcting historic racial injustices:

The President supports a study of reparations and the continuing impacts of slavery. However, we will not wait for a study to acknowledge the legacy and harms of slavery in our country's history and the reverberating impact today on Black Americans. And this Administration will not wait for a study to affirmatively advance equity and racial justice and address the lasting impacts of systemic racism on Black communities.

On his first day in office, President Biden signed Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. Executive Order 13985 emphasized the enormous human costs of systemic racism, persistent poverty, and other disparities, and directed the federal government to advance an ambitious whole-of-government equity agenda that matches the scale of the challenges we face as a country and the opportunities we have to build a more perfect union.

In April 2022, more than 90 federal agencies published their equity action plans consistent with that order, for addressing—and achieving—equity in their mission delivery for all Americans. Equity action plans were required to include accountability mechanisms and to identify success metrics and key milestones toward progress.

The Administration has implemented initiatives to expand economic opportunity for Black families, provided historic support for Historically Black Colleges and Universities, improved health outcomes for Black communities, and taken important steps to protect voting rights, advance police reform, and enhance access to justice.

The Administration will continue its efforts to root out inequity from our country and institutions and ensure true liberty and justice for all.

Supplemental Response from the U.S. Department of the Interior

In response to questions from the Committee regarding extractive industries, protecting sacred sites and protecting treaty rights, the United States Department of the Interior is attaching the following documents:

- Tab 1: Sacred Sites Memorandum of Understanding
- Tab 2: Treaty Rights Memorandum of Understanding
- Tab 3: Joint Secretarial Order on Co-Stewardship (Two concrete examples of recently completed work around co-stewardship include Bears Ears National Monument and National Bison Range.)
- Tab 4: CEQ Indigenous Traditional Ecological Memo (ITEK)
- Tab 5: Executive Order establishing the White House Council on Native American Affairs

Additionally, in the Department's comments on meaningful consultation, we were not able to get to updates on the White House Council on Native American Affairs. The White House Council on Native American Affairs was established by Executive Order in 2013. President Biden reinstated the Council after less than 100 days in office. Secretary Haaland co-chairs the Council with Ambassador Susan Rice, Director of the Domestic Policy Council. Under Secretary Haaland and Director Rice's leadership, the Council has held three tribal leader engagement sessions. At these sessions Tribal leaders engaged directly with not only Secretary Haaland but over the three sessions they were joined by the following other cabinet or high ranking USG officials:

- Department of Transportation Secretary
- Department of Energy Secretary
- Department of Homeland Security Secretary
- Department of Agriculture Secretary
- Department of Education Secretary
- Department of Health and Human Services Secretary
- Environmental Protection Agency Administrator
- Department of Justice Deputy Attorney General
- Department of Commerce Deputy Secretary

Furthermore, President Biden hosted the first Tribal Nations Summit of the Biden-Harris Administration. President Biden committed to meeting with representatives of the 574 federally recognized tribes at an annual Tribal Nations Summit. At this Summit Cabinet officials heard directly from tribal leaders on several issues. The second Summit with President Biden and members of the Cabinet is expected this fall.

with the highest rates and increases observed among those aged 10–24 (from 7.0 to 9.8 per 100,000) and 25–44 years (8.2 to 11.0). Rates also increased for both sexes, with a greater increase observed among males (7.6 to 10.4). By race and ethnicity, the highest rates and increases occurred among Black (19.0 to 26.6) and AI/AN populations (6.4 to 8.1). Rates increased across all U.S. Census divisions (relative changes ranged from 24.6% [South Atlantic] to 51.0% [Middle Atlantic]) and across all levels of urbanization (28.5% [nonmetropolitan] to 36.9% [large metropolitan]). Rate differentials are amplified when considering age, sex, and race and ethnicity simultaneously (Supplementary Table 1, <https://stacks.cdc.gov/view/cdc/116520>). The largest increases in firearm homicide rates were among Black males aged 10–24 (54.9 to 77.3) and 25–44 years (66.5 to 90.6) and among AI/AN males aged 25–44 years (18.9 to 28.7). Among females, the highest rates and largest increases were among those who were Black, aged 10–24 (6.4 to 9.1) and 25–44 years (6.9 to 10.2).”

(Source: [*Vital Signs: Changes in Firearm Homicide and Suicide Rates — United States, 2019–2020*](#))

CDC Vital Signs:

- Vital Signs Webpage: [Firearm Deaths Grow, Disparities Widen: Comprehensive Strategies Can Prevent Violence and Help Reduce Racial and Ethnic Disparities](#)
- Full MMWR Vital Signs Report: [Vital Signs: Changes in Firearm Homicide and Suicide Rates — United States, 2019–2020](#)

Additional Resources:

- [Fast Facts: Firearm Violence Prevention | Violence Prevention | Injury Center | CDC](#)
- [National Violent Death Reporting System | NVDRS | Violence Prevention | Injury Center | CDC](#)
- [WISQARS \(Web-based Injury Statistics Query and Reporting System\) | Injury Center | CDC](#)
- [Fatal Injury and Violence Data | WISQARS | Injury Center | CDC](#)
- [Examining differences between mass, multiple, and single-victim homicides to inform prevention: findings from the National Violent Death Reporting System](#)
- [Using the Centers for Disease Control and Prevention's National Syndromic Surveillance Program Data to Monitor Trends in US Emergency Department Visits for Firearm Injuries, 2018 to 2019](#)

Supplemental Response from the U.S. Department Housing and Urban Affairs

Consistent with our obligations under the Convention, the United States Government is continuing to work with individuals, communities, advocates and housing industry leaders to end and prevent housing discrimination, eliminate racial bias and discrimination in all stages of home-buying and renting, lift barriers that restrict housing and neighborhood choice, promote diverse and inclusive communities, ensure sufficient physically accessible housing, and secure equal access to housing opportunity for all.

Despite this work, racially discriminatory housing practices and policies across the country continue to keep too many persons of color from obtaining safe, accessible, quality housing; moving to low poverty well-resourced areas of their choice; residing in areas free from racial isolation; and building wealth that comes through homeownership.

Building on the priorities of the Biden-Harris Administration, the Department is centering equity and support for underserved communities in its policies and actions. In the words of President Biden, this includes pursuing “a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”

Using Enforcement Authority under the Fair Housing Act

The Department’s Office of Fair Housing and Equal Opportunity (FHEO) enforces the Fair Housing Act by investigating complaints of housing discrimination. State and local agencies in the Fair Housing Assistance Program (FHAP) assist the Department in its enforcement efforts. In fiscal year (FY) 2021, the Department and its state and local partners investigated 7,543 housing discrimination complaints and obtained \$7.2 million in compensation for victims. While disability continues to be the top allegation of basis of discrimination (57% 4,791 complaints filed), 30% were basis of race (2,480 complaints) in FY2021. Color (4.3%) and religion (2.2%) were the least reported bases.

Complaints are often filed under more than one basis, and the Department recognizes the importance of intersectionality. In addition to race, discrimination against a single person based one or more of the other six protected classes can also take place. While the Fair Housing Act protected people from discrimination on the basis of sex since the 1970s, the Department clarified that sex included sexual orientation and gender identity and announced that it would direct FHEO and HUD-funded fair housing partners to enforce the Fair Housing Act accordingly. This step is consistent with President Biden’s Executive Order 13988 and the Supreme Court’s ruling in *Bostock v. Clayton County*. Importantly, this action advances equal access to housing and helps ensure protection to a broader community that has been subjected to discrimination.

In FY 2021, through the Fair Housing Assistance Program (FHAP), the Department provided state and local government partners \$26 million to support local enforcement and education and outreach activities. In the same year, the Fair Housing Initiatives Program (FHIP) awarded over

\$46 million in grants to 150 non-governmental organizations (NGOs) for private enforcement to prevent or eliminate discriminatory housing practices, advocate on behalf of victims, and provide educational initiatives to inform individuals of their rights and responsibilities.

Disparate Impact Rule

The discriminatory effects (also referred to as disparate impact) doctrine is a tool for addressing policies that cause systemic inequality in housing. It has long been used to challenge policies that unnecessarily exclude people from housing opportunities, including zoning requirements, lending, and property insurance policies, and criminal records policies.

In responding to President Biden's [Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies](#), HUD was charged with implementing a more effective disparate impact rule. In June 2021, the Department published a notice of proposed rulemaking entitled [Restoring HUD's Discriminatory Effects Standard](#). Enhancing the discriminatory effects standard is vital for the accomplishment of the Biden-Harris Administration's policy goal of a housing market that is free from both intentional discrimination and policies and practices that have unjustified discriminatory effects. The new publication proposes to rescind the 2020 version and restore the 2013 discriminatory effects rule, which is more consistent with decades of caselaw and better effectuates the Fair Housing Act's broad remedial purpose of eradicating unnecessary discriminatory practices from the housing market. Thousands of public comments about the proposed rule are being reviewed by the Department, which intends to release a final rule in the coming months.

The Discriminatory Use of Artificial Intelligence

Consistent with the government's obligations under the Convention, the Department investigates and enforces the Fair Housing Act against parties who discriminate in the housing market, including those engaging in algorithmic bias or the discriminatory use of artificial intelligence must be held accountable. Using this authority the Department investigated Facebook, now known as Meta, for its use of advertisement algorithms in the rental and sale of housing. The Department charged Meta with discriminatory advertising after it found all three aspects of Meta's advertisement delivery, through use of its "special ad audience" tool, were in violation of the Fair Housing Act. Meta used algorithmic measures to determine who received housing advertisements and who did not while relying in part on characteristics protected under the Fair Housing Act.

When the Department charged Meta for discrimination, the company elected to have the matter heard in federal court at which time the Department of Housing and Urban Development referred the matter to the Department of Justice. In June 2022, the Department of Justice settled the case. Under the settlement, Meta will cease using its discriminatory advertisement tool as well as develop a new system for housing advertisements to address disparities for race, ethnicity, and sex between advertisers' targeted audiences and the group of Facebook users to whom Facebook's personalization algorithms actually deliver the ads. The parties will select an

independent, third-party reviewer to investigate and verify on an ongoing basis whether the new system is meeting the compliance standards agreed to by the parties. Additionally, Meta will not provide any targeting options for housing advertisers that directly describe or relate to the Fair Housing Act's protected characteristics, and the company must pay to the United States a civil penalty of \$115,054, the maximum penalty available under the Fair Housing Act.

Environmental Justice and Overburdened Communities

The Department has established environmental justice as a budget priority, ensuring that both its staff and its external stakeholders are aware of the significance of avoiding and reversing environmental inequities. The United States Government strives to maximize investments in low-income communities, communities of color, and other disadvantaged and historically underserved communities. In response to a complaint filed by community members, the Department used its enforcement authority to investigate one of its federal funding recipients for noncompliance with Title VI of the Civil Rights Act of 1964 and Section 109 of the Housing and Community Development Act of 1974. The complaint related to local decisions about the relocation of a factory from a predominantly White neighborhood to a predominantly Black and Latinx neighborhood. The Department issued findings against the local jurisdiction in July 2022 and seeks to resolve the matter as it waits to receive a reply from the local government.

Criminal Records

Stable housing is the foundation for successful reentry from prisons and jails and to public safety. The United States Government is working to improve access to federal housing programs for formerly incarcerated and justice-involved people, as well as help communities meet the housing needs of people returning to the community from prison and jail. The Department of Housing and Urban Development currently has an updated webpage for the public which includes recent guidance, communication, and resources related to improving access to the Department's programs for people with criminal records and creating housing opportunities for formerly incarcerated people.

In 2016, the [Department's Office of General Counsel issued guidance](#) concerning how the Fair Housing Act applies to the use of criminal history by housing providers or operators of housing and real-estate related transactions. Specifically, the guidance addresses how the discriminatory effects and disparate treatment methods of proof apply in Fair Housing Act cases in which a housing provider justifies an adverse housing action – such as a refusal to rent or renew a lease – based on an individual's criminal history.

The Department's Secretary issued an April 2022 memorandum entitled, "Eliminating Barriers that May Unnecessarily Prevent Individuals with Criminal Histories from Participating in HUD Programs" to principal staff. Instructions set forth a Department-wide effort for staff to review the Department's programs and put forth changes that ensure that funding recipients are as inclusive as possible of individuals with criminal histories. In doing so, they are to identify all

existing regulations, guidance documents and other policies and sub-regulatory documents (including model leases and other agreements) that may pose barriers to housing for persons with criminal histories or their families and propose updates and amendments consistent with this directive to make the Department's programs as inclusive as possible. In June 2022, the Principal Deputy Assistant Secretary for the Office of Fair Housing and Equal Opportunity issued a memorandum to staff, the Department's NGO fair housing partners (FHIPs) and the Department's local and state fair housing partners (FHAPs) entitled "[Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions.](#)" The June memorandum is designed to help those who process and investigate fair housing complaints based on use of criminal records as well as those who advise housing providers or operators of housing and real-estate related transactions who have questions about the use of criminal records.

Criminalization of Homelessness

The United States Government is clear that civil and human rights of people experiencing homelessness must be protected. The Department of Housing and Urban Development is aware of the recent increasing number of state and local laws that criminalize daily activities when conducted by people who are experiencing homelessness, and as the Department analyzes these situations it will use its tools to address concerns that infringe upon civil and human rights. As a result of prior civil society consultations, the Department has included an incentive in its annual Continuum of Care funding competition for community NGOs that propose to take steps to reduce the criminalization of homelessness.

The United States Government works with national civil society organizations to provide communities with federal tools and guidance developed by the United States Interagency Council on Homelessness, the Department of Justice, and Department of Housing and Urban Development. The Government has created guidance developed by the USICH on how to respond to homeless encampments that emphasizes the use of homeless outreach to connect people to housing and services, and which ensures that communities adopt policies and processes that uphold civil rights.

Ultimately, this Administration believes that the best way to combat the criminalization of homelessness is to end it—specifically, by helping people to stay in their homes and avoid housing loss, and when housing loss cannot be prevented, by helping people re-enter permanent housing with access to services as needed as quickly as possible. The U.S. Government is committed to achieving an end to homelessness and to ensuring access to adequate housing for all Americans.

Segregation and Affirmatively Furthering Fair Housing

Affirmatively furthering fair housing (AFFH) requires more than simply investigating allegations of discrimination. Upon enactment of the Fair Housing Act of 1968's (FHA) AFFH provision,

the federal government recognized its own role in creating segregated living patterns that continue to have negative impacts on health, education, and the economy and its responsibility to undo the effects of policies, practices, and procedures that result in a lack of equity.

In June 2021, the Department of Housing and Urban Development [published](#) an interim final rule to immediately restore the implementation of the AFFH requirement. The publication provides a robust definition of the duty to affirmatively further fair housing, to which the Department's funding recipients must certify compliance with the Fair Housing Act's affirmatively furthering fair housing requirement. To support compliance, the Department restored technical assistance materials for fair housing planning. Following the July 31, 2021, effective date of the interim final rule, the Department began providing a voluntary process that funding recipients can choose to use to identify the fair housing concerns that exist locally and commit to specific steps to remedy them. The Department also provides technical assistance and support to funding recipients that carry out this voluntary fair housing planning process.

In the fall of 2021, the Department undertook an extensive learning process to uncover opportunities for improvement in the reissuance of the 2015 rule. It held four listening sessions with over 300 invitees and over 60 speakers including fair housing and civil rights organizations, persons with lived experiences, organizations representing HUD grantees including local jurisdictions and public housing authorities, organizations representing housing developers and lenders, as well as researchers and advocates. The Department expects to issue the Notice of Proposed Rule Making during fall 2022 while seeking comments from the public before making the rule final.

Disasters

Equitable disaster recovery and resilience is a priority of [the Department's Climate Action Plan](#). In March 2022, the Department announced the allocation of nearly \$3 billion in Community Development Block Grant-Disaster Recovery (CDBG-DR) funds to help communities recover from disasters and build inclusive resilience to climate change. These additional funds represent the remaining funds of the \$5 billion appropriated on September 30, 2021 (Extending Government Funding and Delivering Emergency Assistance Act) for CDBG-DR funds. The funds will go to recover from and build resilience to natural disasters, including climate disasters, with a specific focus on low- and moderate-income populations. The funds are specified to be used for disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation, in the most impacted and distressed areas. These allocations underscore the Department's and the Biden-Harris Administration's commitment to equitably improving the nation's disaster recovery and building long-term, inclusive resilience to the impacts of climate change, particularly for historically marginalized communities.

CDBG-DR grantees advance equity in disaster recovery by actively involving people who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality in their own recovery, and prioritizing their needs throughout planning and implementation. In 2022, the Department released its Citizen Participation & Equitable

Engagement (CPEE) Toolkit. The toolkit is a resource to aid CDBG-DR grantees in centering equity in disaster recovery programs throughout an enhanced citizen participation process.

On March 4, 2022, the Department's Office of Fair Housing and Equal Opportunity issued a letter of findings to a state agency pursuant to Title VI of the Civil Rights Act of 1964 and Section 109 of the Housing and Community Development Act of 1974. The letter of findings was based on the investigation of a complaint filed with the Department alleging discrimination based on race and national origin in the state agency's administration of the Community Development Block Grant Mitigation ("CDBG-MIT") program. On May 16, 2022, the Department issued a letter of determination sustaining the letter of findings following a thorough review of the investigative record. The Department desires for the matter to be resolved but will employ its available tools as necessary should the state not come into compliance.

Discriminatory Lending Practices and Redlining

Today, homeownership is the principal source of wealth creation for most American households. Unfortunately, the homeownership gap is widening and the barriers to homeownership for individuals and families of color have not been fully addressed. The U.S. homeownership rate climbed to 65.5% in 2020, up 1.3% from 2019 and the largest annual increase on record. More Americans own homes now than during any year following the Great Recession (65.4% homeownership rate in 2010). Despite increasing homeownership rates, the rate for Blacks, at 43.4%, trails behind that of a decade ago (44.2% in 2010). Conversely, Whites (72.1%), Asian Americans (61.7%) and Hispanic Americans (51.1%) all achieved decade long highs in homeownership in 2020 (Source: National Association of Realtors® 2022 Snapshot of Race and Home Buying in America report, February 23, 2022).

The Department of Housing and Urban Development (HUD) and Federal Housing Administration (FHA) are prioritizing closing the racial homeownership and wealth gaps that have persisted for decades. In 2021, FHA announced updates to its student loan monthly payment calculations. This action aims to remove barriers to homeownership and provide more access to affordable single-family FHA-insured mortgage financing for creditworthy individuals with student loan debt, which has a disproportionate impact on people of color. Black households (41%) are the most likely to have student loan debt and also have the largest median student loan balance of \$45,000.

During Fiscal Year 2021, FHA remained a cornerstone for helping those borrowers consistently underserved by the conventional mortgage market. FHA served nearly 1.5 million borrowers through its forward and reverse mortgage insurance programs through September 30, 2021, the largest number since 2010. In FY21, nearly 85% of FHA's total forward mortgage purchase endorsements were for first-time homebuyers – a record percentage. Just over 42% of FHA insurance endorsements for which the borrower reported race in FY 2021 were for borrowers of color.

The Department's robust housing counseling network and programs are key to providing information that assist consumers in making responsible choices to address their unique housing needs. In January 2022, the Department awarded \$51.4 million in housing counseling grants to 177 HUD-approved housing counseling agencies. This includes funding to HUD-approved

housing counseling agencies that are partnering with Historically Black Colleges and Universities and other Minority Serving Institutions.

Several parts of the U.S. Government maintain the authority to address discriminatory lending practices including the Department of Housing and Urban Development (HUD), the Consumer Finance Protection Bureau, the Department of Justice and bank regulating agencies. HUD's authority derives from the Fair Housing Act. In FY2021, the Department had 206 filed fair lending cases. This was an increase of 58% over FY2020 and an increase of 81% over FY2019. In keeping with the Department's Equity Action Plan, greater resources have been sought and deployed to strengthen the Department's handling of fair housing enforcement in order to ensure discrimination complaints are addressed.

In October 2021, Attorney General Merrick Garland and Assistant Attorney General for Civil Rights Kristen Clarke launched the Combatting Redlining Initiative to address the persistent problem of redlining—a pernicious form of discrimination that plagues communities of color and widens existing racial disparities in wealth and homeownership. The Combatting Redlining Initiative is the Department of Justice's most aggressive and coordinated enforcement effort to address the practice of lenders avoid providing services to communities of color because of the race or national origin of the individuals who live there. Through the Initiative, the Department of Justice is partnering with U.S. Attorney's Offices and coordinating with financial regulators to ensure that banks and lenders will be held accountable as we work to combat discriminatory race and national origin-based lending practices. The Department of Justice, the Consumer Financial Protection Bureau (CFPB), and the Attorneys General of Pennsylvania, New Jersey, and Delaware announced, in July 2022, agreements to resolve allegations that Trident Mortgage Company (Trident), which is owned by Berkshire Hathaway Inc., engaged in a pattern or practice of lending discrimination by “redlining” in the Philadelphia metropolitan area, including neighborhoods in Philadelphia, Camden, and Wilmington. This resolution is the first redlining settlement that the Justice Department has reached with a non-bank lender and the second largest redlining settlement in the Department of Justice's history.

Several federal agencies have called for tools to expand access to credit and homeownership. On December 7, 2021, the Department's Office of Fair Housing and Equal Opportunity issued a policy statement that highlighted its position, by way of its Office of General Counsel, that certain Special Purpose Credit Programs, designed and implemented in compliance with the Equal Credit Opportunity Act and Regulation B, generally are not barred by the Fair Housing Act. The Department's guidance clarifies industry uncertainty making way for lenders to resolve inequities in barriers to credit and homeownership faced by people of color and other underserved communities. Special Purpose Credit Programs are designed to assist those who have historically been locked out of homeownership opportunities, such as economically disadvantaged classes of persons and first-time homebuyers whose parents and grandparents may have been excluded from the housing and credit markets by discriminatory policies.

In August 2021, the Department and Federal Housing Finance Agency (FHFA) entered into a first-of-its-kind collaborative agreement regarding fair housing and fair lending coordination. Under a Memorandum of Understanding, the two Agencies are focusing on enhancing their

enforcement of the Fair Housing Act, which the Department is primarily charged with administering with FHFA enforcing their oversight of Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. The agencies have committed to coordinated activity (when possible) and information sharing even when acting independently to ensure we are taking a strong, unified stance for fair lending compliance by Fannie and Freddie as the Federal government. This coordination can include coordinating examination activity, or the agencies pursuing separate examinations and coordinating on conclusions, policy changes, and any resulting enforcement action.

Discriminatory Home Valuations

On June 1, 2021—the 100th anniversary of the Tulsa Race Massacre—President Biden announced he was launching an interagency initiative to combat bias in home appraisals. This initiative became the Interagency Task Force on Property Appraisal and Valuation Equity (PAVE). Co-chaired by U.S. Department of Housing and Urban Development Secretary Marcia Fudge and Domestic Policy Advisor Ambassador Susan Rice, the Task Force was directed to (i) evaluate the causes, extent, and consequences of appraisal bias and (ii) establish a transformative set of recommendations to root out racial and ethnic bias in home valuations. In addition to the Department and the White House Domestic Policy Council, 11 other federal agencies are members of the Task Force. These principal agency leads serve in an advisory role—helping design federal interventions to advance valuation equity.

In March 2022, the PAVE Task Force produced an Action Plan, a document that outlines clear actions that federal agencies will take to root out appraisal bias. The Action Plan is part of an ongoing commitment from the U.S. Government to expand homeownership rates for families and communities of color. This commitment will continue to be informed by data, members of industry, advocacy, fair housing, and academic organizations, and by the stories of all Americans who dream of homeownership. The Task Force has made significant progress since its first meeting in August 2021. For example, the Appraisal Subcommittee (ASC) launched an independent review of the Uniform Standards of Professional Appraisal Practice (USPAP) and the qualification criteria for the appraiser industry to understand potential barriers to entry for underrepresented communities including Blacks, Latinx and other people of color. Additionally, in November of 2021, the Federal Housing Administration issued a Mortgagee Letter to clarify nondiscrimination requirements applicable to appraisers and lenders.

Supplemental Response from the U.S. Department of Labor

Protection of farm workers, including migrants:

The United States is committed to ensuring that all persons in the United States receive the protections to which they are entitled under our Constitution and laws, including applicable international obligations.

- **The protection of farmworkers is vital to the United States. All farm workers, including migrants (regardless of immigration status), deserve to work in an environment where their dignity and human rights are respected.**
- Laws that apply to migrant workers prohibit discrimination in employment on the bases of race, color, national origin (ethnicity), sex (including pregnancy, sexual orientation, and gender identity), religion, age, disability, or genetic information (including family medical history). Wage laws require that covered workers receive at least a certain wage for hours worked and overtime. Environmental laws proscribe how certain chemicals and pesticides must be handled in the workplace. The Immigration and Nationality Act also prohibits certain types of employment discrimination based on citizenship or immigration status against covered persons (U.S. citizens and nationals, many lawful permanent residents, asylees and refugees). Workforce Innovation and Opportunity Act (WIOA) Section 188 and its implementing regulations also prohibit discrimination based on citizenship by entities in the workforce development system against similar categories of covered persons.
- The United States is committed to ensuring that the human rights of all farmworkers and their families are protected and that they have access to the judicial system and other programs to ensure this protection.
- Responsibility for enforcement of these protections spans multiple U.S. agencies including the Department of Labor's (DOL or Department) Occupational Safety and Health Administration (OSHA), Employment and Training Administration (ETA), Wage and Hour Division (WHD), and Civil Rights Center, as well as the Departments of Justice, Education, and Homeland Security, the Equal Employment Opportunity Commission (EEOC) and the Environmental Protection Agency (EPA).
- Although U.S. federal law does not specifically address access by legal personnel, labor and employment laws prohibit retaliation against workers who assert their rights under certain statutes. For example, both the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and Department of Labor H-2A regulations prohibit any person from intimidating, threatening, restraining, coercing, blacklisting, discharging or in any manner discriminating against a worker covered under the statute because such worker has filed a complaint or instituted a proceeding or has testified in a proceeding under the applicable statute. The H-2A regulations also specifically prohibit such forms of retaliation in response to a worker consulting with an attorney or legal assistance program. In addition, it is a violation under the Fair Labor Standards Act (FLSA) for any

person to discharge or in any other manner discriminate against an employee for filing a complaint, instituting a proceeding under the FLSA, or testifying in any such proceeding. Similar prohibitions apply to anyone who has filed a complaint, testified, or otherwise opposed employment discrimination based on race, color, national origin, religion or sex, as covered by Title VII of the Civil Rights Act of 1964, or on other bases covered by statutes enforced by the EEOC (age, disability, and genetic information). It is a violation of the Occupational Safety and Health Act (OSH Act) for any person to discharge or in any other bases covered by statutes enforced by the EEOC (age, disability, and genetic information).manner discriminate against an employee for filing a complaint (including consulting an attorney or legal assistance program) or instituting a proceeding under or related to the OSH Act, testifying in any such proceeding, or exercising any right under the OSH Act.

- U.S. federal labor and employment laws generally apply to all workers located in the United States, regardless of immigration status. When investigating violations, U.S. labor enforcement agencies do not ask about the immigration status of the workers in question. The Equal Employment Opportunity Commission (EEOC), the National Labor Relations Board (NLRB) and the Department of Labor (DOL) also combat employer efforts to discover the immigration status of workers investigatory and litigation phases, to prevent employers from threatening deportation or otherwise intimidating the charging parties or witnesses.
- Temporary foreign workers brought into the United States in accordance with the Immigration and Nationality Act also acquire protection under the visa programs under which they are admitted. For instance, foreign workers performing agricultural labor or services of a temporary or seasonal nature (H-2A visa) must: be paid the higher of the federal or state minimum wage, the adverse effect wage rate, the locally prevailing wage, or the agreed-upon collective bargaining rate; receive a copy of the work contract; and a guaranteed offer to work or be paid for a total number of hours equal to at least 75% of the work period specified in the contract.
- In 2011, the U.S. Department of Homeland Security, which is responsible for enforcing immigration laws, and the Department of Labor (DOL) entered into a Memorandum of Understanding (MOU), and amended in 2016, to help the Departments work together to ensure that their respective civil enforcement activities do not conflict. The MOU recognizes the importance of enforcing labor laws to ensure proper wages and working conditions for all workers, regardless of their immigration status. It also recognizes the importance of protecting against employers or other parties who use threats of immigration enforcement as a means to retaliate against employees. In October 2021, the Secretary of Homeland Security issued a memorandum emphasizing the need for policies to ensure the Department of Homeland Security's activities serve to effectively protect the American labor market, the conditions of the American worksite, and the dignity of workers. The memorandum is available at:
https://www.dhs.gov/sites/default/files/publications/memo_from_secretary_mayorkas_on_worksite_enforcement.pdf.

- Since 2004, to assist in protecting the labor rights of migrant workers employed in the United States, DOL has established partnerships with the embassies and consulates in the United States of major countries of origin for migrant workers, including El Salvador, Guatemala, Honduras, and Mexico. Under the consular partnerships, Wage and Hour (WHD) Community Outreach and Resource Planning Specialists, and OSHA Compliance Assistance Specialists collaborate with consulates to inform and educate workers about their rights, and their employers about their responsibilities under U.S. labor laws. The EEOC, the NLRB, and the Department of Justice's Civil Rights Division have established similar partnerships based on the DOL model.
- The Department of Labor's Employment and Training Administration (ETA) requires State Workforce Agencies (SWA) to conduct outreach to migrant and seasonal farmworkers (MSFWs). Outreach staff responsibilities include, but are not limited to, explaining to farmworkers at their working, living, or gathering areas information on the Employment Service and Employment-Related Law Complaint System, other organizations serving farmworkers in the area, and a basic summary of farmworker rights, including farmworker rights with respect to the terms and conditions of employment. Outreach staff must be alert to observe the working and living conditions of MSFWs and, upon observation or upon receipt of information regarding a suspected violation of Federal or State employment-related law, document and refer information in accordance with ETA regulations. As previously noted, the regulations enforced by the Department of Labor's Civil Rights Center require SWAs to provide services and information in appropriate languages to farmworkers and others who are limited English proficient.
- Employers that use ETA's Agricultural Recruitment System (ARS) to recruit workers must assure outreach staff will have reasonable access to the workers to conduct outreach activities. All employers who use the H-2A visa program must file a corresponding ARS clearance order using ETA Form-790A, which also includes this assurance. Additionally, SWAs conduct field checks, which are unannounced appearances at agricultural worksites to which placements have been made through ARS to ensure that conditions are as stated on the clearance order and that the employer is not violating an employment-related law. Field checks apply to clearance orders that are placed in connection with H-2A applications as well as clearance orders that are not connected to H-2A applications.
- SWAs publicize availability of employment services through such means as newspaper and electronic media publicity and use contacts with public and private community agencies, employers and/or employer organizations, and MSFW groups to facilitate broad distribution of employment services information. SWAs perform these functions as the administrators of partner programs in the One-Stop System, which provides a wide range of employment and training services for U.S. workers through job training and outreach programs such as job search assistance and job referral and placement services. SWAs reach out to other partners in the AJCs to help identify organizations serving U.S. workers who might be interested in H-2A agricultural job opportunities. One group of partners includes grantees in the National Farmworker Jobs Program, a nationally directed, locally administered program of services for MSFWs that includes 52 Career

Services and Training grants and 11 housing grants across the United States and Puerto Rico. Grantees of this program work closely with other local organizations to provide a wide array of support services to counter the chronic unemployment and underemployment experienced by farmworkers who depend primarily on jobs in agriculture performed across the country.

- In May 2022, EEOC, DOL, and other federal agencies signed MOUs with the embassies of El Salvador, Guatemala, and Honduras to advance the protection of the rights of Guatemalan, Honduran, and Salvadoran workers in the United States.
- The EEOC has signed MOUs with the Mexican Embassy and Consulates in several cities to provide information about U.S. employment discrimination law and training at consulate-sponsored events.
- One of the EEOC's Strategic Enforcement Plan's six priorities is protecting vulnerable workers, including immigrant and migrant workers, and underserved communities from discrimination. The EEOC recognizes that these workers are often unaware of their rights under the equal employment laws, or reluctant or unable to exercise them. The agency further recognizes that their work status, language, financial circumstances, or lack of work experience make them particularly vulnerable to discriminatory practices or policies. Under this priority, the EEOC focuses on job segregation, harassment, trafficking, pay, retaliation, and other policies and practices against vulnerable workers.
- The U.S. Department of Education administers several programs aimed at improving access to education for migrant and seasonal farm workers and the children of such workers. All children in the U.S. are entitled to a basic public education, regardless of race, color, or national origin, among other factors. Migrant education programs help ensure that migrant children receive access to the education to which they are legally entitled. Although the specific services offered by migrant programs vary from state to state, programs are authorized to provide appropriate instructional and support services, as well as referrals to other service providers (including legal assistance providers).
- Federal agencies conduct outreach to migrant communities about their rights under U.S. laws, often in concert with civil and human rights groups that provide assistance to these communities. Agencies make materials available in person and on-line in multiple languages and provide numerous resources for language assistance to help individuals understand their rights. Under Section 188 of the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations, State Workforce Agencies (SWAs), National Farmworker Jobs Program (NFJP) grantees, and other similar entities must also provide services and information in appropriate languages to migrant workers and other individuals who are limited English proficient (LEP). DOL's Civil Rights Center (CRC) is responsible for enforcing these requirements. The same statutory and regulatory provisions protect farmworkers and others from discrimination on multiple grounds, and retaliation for exercising rights related to nondiscrimination, by the same entities.

- DOL’s regulations governing the H-2A and H-2B temporary foreign labor certification programs require employers of U.S. and foreign workers to provide notice of workers’ rights through posting of a workers’ rights poster in a conspicuous location in the workplace—in English and foreign language(s) common to a significant portion of the workers—and requires them to provide foreign and corresponding U.S. workers a written contract explaining the terms and conditions of employment in a language and manner that permits the worker to understand the nature of the employment being offered, as well as the worker’s commitment and rights under that employment. If the job opportunity is covered by MSPA, the employer must provide written disclosure of the job order at the time of recruitment.
- Recognizing that migrant agricultural workers may not be likely to file complaints with the Department’s WHD on their own, and that these workers are often subject to workplace violations, WHD conducts directed investigations in the agricultural industry to assess employer compliance absent the filing of a complaint by a worker.
- DOL ETA administers the Employment Service and Employment-Related Law Complaint System. Through this system, all farm workers, including H-2A foreign workers, have the right to file complaints alleging violations of employment-related laws as well as Employment Service regulations. In addition to filing complaints at American Job Center (AJC) locations, SWA outreach staff assist farmworkers to file complaints outside of AJCs. SWA State Monitor Advocates (SMA) also meet quarterly with WIOA sec. 167 NFJP grantees and other organizations serving farmworkers, employers, and employer organizations in the state to receive complaints and assist in referrals of alleged violations to enforcement agencies.
- Each SWA must provide outreach staff to conduct outreach to farmworkers in their service areas. Outreach staff responsibilities include, but are not limited to, explaining to farmworkers at their working, living, or gathering areas information on the Employment Service and Employment-Related Law Complaint System, other organizations serving farmworkers in the area, and a basic summary of farmworker rights, including farmworker rights with respect to the terms and conditions of employment. Outreach staff must be alert to observe the working and living conditions of MSFWs and, upon observation or upon receipt of information regarding a suspected violation of Federal or State employment-related law, document and refer information in accordance with ETA regulations.
- The Department’s H-2A and H-2B regulations protect workers from discrimination and retaliation for asserting rights specific to the H-2A and H-2B visa programs. For example, if workers sought legal assistance in relation to their terms and conditions of employment, such as legal assistance relating to employer-provided housing because an employer charged for housing that was listed as free of charge in the job order, this would be a protected act. The regulations provide protection to U.S. workers and foreign workers alike. While foreign workers are particularly vulnerable to retaliation and need protection against employer retaliatory acts, it is important to encourage all workers to come forward when there is a potential workplace violation.

- Employers that use ETA’s Agricultural Recruitment System (ARS) to recruit workers must assure outreach staff will have reasonable access to the workers to conduct outreach activities. All employers who use the H-2A visa program must file a corresponding ARS clearance order using ETA Form-790A, which also includes this assurance. Additionally, SWAs conduct field checks, which are unannounced appearances at agricultural worksites to which placements have been made through ARS to ensure that conditions are as stated on the clearance order and that the employer is not violating an employment-related law. Field checks apply to clearance orders that are placed in connection with H-2A applications as well as clearance orders that are not connected to H-2A applications.
- One of the EEOC Strategic Enforcement Plan’s six priorities is protecting vulnerable workers, including immigrant and migrant workers, and underserved communities from discrimination. The EEOC recognizes that these workers are often unaware of their rights under the equal employment laws, or reluctant or unable to exercise them. The agency further recognizes that their work status, language, financial circumstances, or lack of work experience make them particularly vulnerable to discriminatory practices or policies. Under this priority, the EEOC focuses on job segregation, harassment, trafficking, pay, retaliation and other policies and practices against vulnerable workers.
- In Fiscal Year 2021, the EEOC conducted 649 outreach events for vulnerable workers and underserved communities, reaching 71,024 participants. This included outreach to immigrant and farm worker communities, as well as communities where individuals are reluctant to come forward to complain about employment discrimination. EEOC field offices also collaborated with partner organizations to extend its reach and better serve vulnerable workers and underserved communities, which included conducting over 1,103 partnership events reaching 105,943 attendees. To enhance EEOC’s ability to identify and reach vulnerable or underserved populations, EEOC developed a data visualization tool to enable EEOC field offices to readily obtain demographic data by county.
- The EEOC has brought and won several large lawsuits against employers of vulnerable workers, including immigrant and migrant workers. Recent resolutions include:
 - EEOC v. JBS USA, LLC, d/b/a JBS Swift & Company, No. 1:10-cv-02103 (D. Colo. June 8, 2021). In this case, the EEOC alleged that the operator of a slaughterhouse and meat packing facility denied Black Somali Muslim employees religious accommodations and subjected them to harassment based on race, national origin, and religion, and disciplined and discharged Somali Muslim employees because of their national origin and religion and in retaliation for requesting religious accommodations. The 83 charging parties and other claimants were recent immigrants who were denied prayer accommodations, subjected to derogatory graffiti and offensive comments by coworkers, and refused breaks during Ramadan. The June 2021 consent decree in this case provides \$5.5 million for over 300 claimants and requires the employer to provide clean and appropriate locations to observe religious beliefs, conduct EEO trainings, and implement policies addressing discrimination and religious accommodation.

- EEOC v. Global Horizons, Inc., et al., Case No. 1:11-cv-00257-LEK-RLP (W.D. Wash. 2016). In June 2021, the EEOC recovered \$4.8 million to satisfy a 2015 default judgment entered by the federal district court against Maui Pineapple and Global Horizons, a labor contractor, after finding them liable for national origin and race discrimination. In its judgment, the court found that some of the Thai workers were subjected to physical violence such as being slapped on the head, thrown against the wall, grabbed and punched in the face. The Thai workers were also subjected to constant threats of deportation and arrests. They were forced to live in substandard housing infested with rats, scorpions and bugs. Some were provided insufficient or malfunctioning toilet facilities. The Thai workers regularly received inadequate food, and some fainted in the fields. Working conditions were so oppressive that some Thai workers felt that they were treated more like prisoners and slaves. After working in cooperation with the U.S. Department of Justice and the Treasury Department to recover \$4.8 million to satisfy part of the judgment, the EEOC is distributing the money to the 54 Thai workers who were victims of abuse while working at Maui Pineapple. The EEOC continues its efforts to collect on the rest of the \$8.1 million judgment.

Impact of *Hoffman Plastic* decision on migrant workers:

- **The United States is committed to ensuring that all persons in the United States receive the protections to which they are entitled under our Constitution and laws, including applicable international obligations.**
- U.S. federal labor and employment laws generally apply to all workers, regardless of immigration status. The National Labor Relations Board (NLRB), the Equal Employment Opportunity Commission (EEOC), and the U.S. Department of Labor (DOL) vigorously enforce labor and employment laws without regard to a worker's immigration or work authorization status. When investigating violations, these enforcement agencies do not ask about the immigration status of the workers in question.
- The NLRB, EEOC, and the DOL also combat employer efforts to discover the immigration status of workers during the investigatory or litigation phases of case processing, to prevent employers from threatening deportation or otherwise intimidating workers or witnesses.
- Undocumented workers still may pursue applicable claims regardless of *Hoffman Plastic Compounds, Inc. v. NLRB*; the definition of “employee” under the laws enforced by the NLRB, the EEOC and the DOL is not limited to citizens and foreign nationals lawfully authorized to work in the United States.
- *Hoffman Plastic* does not exclude foreign workers from coverage under federal labor and employment laws. Rather, the decision held that the NLRB was only foreclosed from awarding back pay for hours not worked to a worker who had not been legally authorized to work in the United States.

- We stress that a range of other remedies remain available, including compensatory damages; back pay for work performed; injunctive relief to stop the discriminatory practices; costs and attorney’s fees; consequential damages making employees whole for economic losses suffered as a direct and foreseeable result of an employer’s unfair labor practices; the publication of a Notice to Employees designed to reach current and former affected employees, as well as potential future hires; a Notice reading to affected employees in the presence of the employer’ supervisors and managers; an order that an employer make a payment into a remedial monetary fund in lieu of backpay; employer sponsorship of work authorization (including all associated fees) where an employer’s unfair labor practice has caused an employee’s loss of such authorization; an order requiring that an employer’s supervisors and managers undergo training on employee rights under the National Labor Relations Act (NLRA) and compliance with Board Orders; and an order, as appropriate, requiring training of an employer’s supervisors and managers in non-discriminatory immigration practices and/or the appropriate use of the E-Verify system.
- As is typically the case after a Supreme Court decision, there has been some examination and testing of the *Hoffman* decision's parameters in the lower courts. However, cases following *Hoffman* make clear that it does not preclude recovery for unpaid wages under the Fair Labor Standards Act (FLSA), the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), under the NLRA for work performed under unlawfully imposed terms (such as work performed under an unlawfully reduced pay rate), or Title VII of the Civil Rights Act of 1964.
- Courts and quasi-judicial administrative tribunals, with some outliers, have also consistently resisted attempts by employers to stretch *Hoffman* to make immigration status relevant during the discovery phase of employment-related litigation, determining that such information is either not relevant or that its probative value would be outweighed by its prejudicial effect.
- State courts that have followed *Hoffman* agree that the decision does not preclude states from awarding compensation for workplace injuries or death to undocumented workers.
- Unconditional reinstatement to the position is not possible if the worker continues not to be legally authorized to work in the United States.
- The Trafficking Victims Protection Act (TVPA) mandates that the DOL provide labor and employment services to victims of severe forms of trafficking or T visa recipients without regard to their immigration status. Victims of trafficking may be eligible for temporary immigration relief (“continued presence”) and employment authorization, as well as a U or a T visa, which also provide employment authorization.

ILO Conventions:

- **The 1998 ILO Declaration on Fundamental Principles and Rights at Work confirms that all ILO Members have an obligation, arising from the very fact of membership in the Organization, to respect, promote and realize in good faith the principles concerning the fundamental rights that are the subject of the ILO's eight core conventions. Although the United States has not ratified the majority of those conventions, the United States has demonstrated, in the context of the Follow-up to the Declaration, that American workers do indeed enjoy the fundamental principles and rights at work.**
- For many years, concerns that the United States undertaking international legal obligations by joining a treaty might compromise domestic law by bypassing normal legislative procedures and ignoring our Federal/State system of government prevented U.S. ratification of any ILO conventions other than maritime standards, which are strictly a matter of Federal jurisdiction.
- In the mid-1980s, the President's Committee on the ILO adopted ground rules that were formalized in a 1988 Declaration of the U.S. Senate, ensuring that no ILO convention will be ratified unless or until U.S. law and practice, at both the federal and state levels, are in full conformity with its provisions.
- This led to the ratification of seven conventions, including two core conventions.
- The tripartite legal review process prior to ratification is complex, thorough and often very lengthy.
- Following an extensive four-year legal review, ILO Convention No. 111 on Discrimination in Employment and Occupation was submitted to the Senate for advice and consent to ratification in 1998 but has not been acted upon.
- In April of this year, the President's Committee on the ILO, meeting in Washington, D.C. pledged to redouble its efforts toward the expeditious and successful completion of the ratification process for Convention 111, thereby demonstrating and reaffirming the U.S. commitment to and leadership in advancing equality of opportunity and treatment and eliminating discrimination in employment and occupation worldwide.
- Specific to **ILO Convention No. 189**, the United States played a lead role in the negotiation of ILO Convention No. 189 (C189) and its accompanying Recommendation No. 201 and strongly supported their adoption by the 2011 International Labor Conference (ILC).
- The United States believes that these groundbreaking instruments will promote greater awareness of the lack of protections for domestic workers, and greater recognition of their important role as contributors to the economy and could galvanize governments and society as a whole to take positive action.

- We cannot recommend C189 for U.S. ratification at this time because it appears that a number of its provisions present complex issues with respect to our existing law and practice, including in regards to our federal system of government. However, pursuant to the ILO Constitution, the Administration has forwarded both the Convention and its accompanying Recommendation to Congress and to the states for their information and any action they may deem appropriate. The Administration used that opportunity to highlight the importance and ground-breaking nature of C189.
- Some state governments, including New York, Hawaii, and California, have taken steps to provide basic labor protections to domestic workers, often in the form of a Domestic Workers’ “Bill of Rights”. These efforts have come about in part due to the effective organizing and advocacy efforts of domestic workers’ organizations, migrant rights organizations, and other civil society organizations.

Children in Agricultural Work:

- **United States Federal law governing the employment of children in agriculture, set out in the Fair Labor Standards Act of 1938, as amended, is enforced equally for all children, regardless of race.**
- Protecting children from labor that is unsafe, unhealthy or detrimental to their education and general well-being is an ongoing process in the United States. The executive and legislative branches of government share responsibility in this endeavor.
- The United States Congress enacts our laws, and the Executive Branch has the authority and responsibility to enforce them, including through issuing rules and regulations to implement them and establishing penalties for violations. In developing these rules and regulations, the government is required by law to solicit and consider the views of interested stakeholders and the U.S. public.
- The U.S. Government uses many tools to protect youth working in agriculture, including educational outreach and strict enforcement of child labor laws. Furthermore, the Department of Labor’s Wage and Hour Division (WHD) targets enforcement in low-wage industries, including agriculture, where WHD has observed historical and persistent violations, including child labor.
- The Occupational Safety and Health Administration (OSHA) has also recently undertaken a number of initiatives to reduce the number of injuries and illnesses in farming for persons of all ages.
- The Environmental Protection Agency (EPA) modified the Worker Protection Standards (WPS) in order to better protect the nation’s two million farm workers and their families from pesticide exposure. The WPS revisions, which became effective in January 2016,

set a minimum age requirement for agricultural workers and handlers to 18, unless the youth is in the immediate family of the agricultural establishment owner.

- Agricultural employers have been subject to this requirement, which protects children from occupational hazards by preventing agricultural pesticide usage by youth workers, since January of 2016.
- A minimum age requirement for certified applicators applying restricted use pesticides (RUPs) was also added to the Certification of Pesticide Applicators (CPA) regulation. RUPs are generally the most dangerous pesticides and may only be used by certified applicators and trained persons under their direct supervision. The CPA revisions, which became effective in March 2017, requires that certified applicators using RUPs be a minimum age of 18, with a limited exception allowing persons aged 16 to 18 to use agricultural RUPs under the direct supervision of an immediate family member who is a certified private applicator.
- In recent years, WHD has sought the highest possible penalties for violations of child labor laws, including in the agricultural sector. Since Fiscal Year 2009, WHD has conducted over 17,000 investigations in agriculture. WHD has also developed a strategic approach of “directed” enforcement aimed at covering as many workplaces as possible and reaching the greatest number of vulnerable workers, thereby making the best use of precious resources to combat labor violations.
- WHD enforcement activities are supplemented with numerous outreach activities and cooperative efforts aimed at ensuring that workers, advocates, employers and other stakeholders understand their rights and responsibilities. These activities are conducted in multiple languages and at multiple venues. Since 2009, WHD has conducted over 38,000 outreach events. In addition, WHD has created new community-based outreach jobs, hired investigators who speak foreign languages, and translated agency publications and plain-language compliance assistance information into multiple languages. WHD has published new educational materials specific to agriculture to help agricultural employers and workers better understand their responsibilities and rights. A video and booklet for employers provide simple and comprehensive information on the laws and requirements governing agricultural employment, covering topics including wages, housing, transportation and field sanitation. WHD also has pocket cards for agricultural workers that informs them of their rights and provides information on how to file a complaint if they believe these rights have been violated.
- OSHA’s Campaign to Prevent Heat Illness in Outdoor Workers, for example, particularly focuses on outreach to inexperienced and seasonal workers, which would include many workers under 18 years of age in agriculture.

Supplemental Response from the U.S. Department of Homeland Security

DHS Office for Civil Rights Civil Liberties (CRCL):

From CRCL, please find the requested resources linked below. At these links you will find CRCL's memos both following onsite investigations at detention facilities and other recommendation and investigation memos based on complaints received regarding other Department activities.

- 1) [CRCL Onsite Investigation Memos Collection | Homeland Security \(dhs.gov\)](#)
- 2) [CRCL Recommendation and Investigation Memos Collection | Homeland Security \(dhs.gov\)](#)

U.S. Customs and Border Protection (CBP):

From CBP, please find the requested resources linked below.

- 1) CBP Use of Force Administrative Guidelines and Procedures Handbook:
[Use of Force Policy and Administrative Guidelines and Procedures Handbook | U.S. Customs and Border Protection \(cbp.gov\)](#)
- 2) CBP Dashboard of Assault and Use of Force Statistics:
DHS U.S. Customs & Border Protection's assault and use of force statistics are published on an [online dashboard](#). The statistics can be separated by type: less-lethal, vehicle/vessel, other, and firearm. The statistical data reflect assaults on CBP personnel as well as uses of force by CBP personnel based on incidents and assaults on CBP personnel.

U.S. Immigration and Customs Enforcement (ICE):

Please find below ICE's analysis of detained noncitizen demographic information. This covers country of citizenship for fiscal year 2022 (based on the average daily population). This is provided in an alternative to information on race or ethnicity which is not recorded in Department of Homeland Security systems.

ERO-LESA Statistical Tracking Unit

For Official Use Only (FOUO)/Pre-decisional

FY2018 through FY2022YTD ICE Initial Book In data are updated through 08/14/2022 (IIDS v2.0 run date 08/15/2022; EID as of 08/14/2022).

ICE Detention data exclude ORR transfers/facilities and U.S. Marshals Service Prisoners.

ICE Initial Book Ins FY2022YTD by Country of Citizenship as of 08/14/2022

Country of Citizenship	Bookins
Total	276,698
NICARAGUA	44,584
COLOMBIA	35,581
VENEZUELA	34,280
MEXICO	27,609
CUBA	26,685
PERU	12,906
BRAZIL	10,108
ECUADOR	9,880
HONDURAS	9,752
TURKEY	9,216
GUATEMALA	8,424
INDIA	8,299
EL SALVADOR	4,571
RUSSIA	4,255
HAITI	3,653
DOMINICAN REPUBLIC	3,592
GEORGIA	2,861
UZBEKISTAN	1,965
SENEGAL	1,818
BANGLADESH	1,524
OTHER	15,135

Supplemental Response from the U.S. Environmental Protection Agency

Response to questions regarding impact of measures adopted to address disproportionate impacts caused by extractive industries; concerns about petrochemical industries, in areas of people of African descent and indigenous people, in some instances force them to relocate, for instance Cancer Alley.

Topline:

- Consistent with its obligations under the Convention, and the Biden Administration’s direction through [E.O. 13985](#) and [14008](#), the US government is committed to integrating equity and justice into all of its decisions.
- This is the first time in the history of the environmental justice movement where leadership’s commitment has been aligned with mechanisms for **transparency and accountability** and solidified by **significant resource increases**.
- The White House Environmental Justice Interagency Council was created by Executive Order 14008, issued by President Biden, to support the whole of government approach, and to address and mitigate the impacts of climate change in ways that further equity and justice.
- With the passage of the [Bipartisan Infrastructure Law \(BIL\)](#) last year, EPA’s regular budget appropriation, and the [Inflation Reduction Act \(IRA\)](#) in [August 2022](#), EPA and the US government can be even more effective in addressing the priority environmental and public health concerns of the most vulnerable and underserved communities in the United States.
- In 2021 EPA issued more grants through the EJ program than in the prior decade. Over the next few years, expect that number to increase by another order of magnitude..

Regarding Cancer Alley:

- As a follow-up to Administrator Michael Regan’s, “[Journey to Justice](#)” Tour, EPA has made commitments to residents of overburdened communities in Louisiana. On January 26, 2022 EPA announced a series of actions the agency would take in response to the citizen concerns heard, including policy changes, community-driven efforts, and other actions, reflecting the U.S. government’s commitment to deliver environmental justice within the United States.
 - Specific actions relevant to the communities in Louisiana include committing EPA to aggressively using its authority to conduct unannounced inspections of suspected non-compliant facilities, as needed to protect public health. (For more on EPA’s enforcement strategy, see <https://www.epa.gov/enforcement/waste-chemical-and-cleanup-enforcement>)
 - In **St. John the Baptist Parish**, EPA used its authority to require the Denka facility to install fence-line monitors to identify sources of emissions onsite, allowing the EPA and communities to better understand air pollution in a quick, reliable way.
 - Denka complied with EPA’s request to install and operate these monitors in January 2022.

- EPA is investing \$600,000 of the American Rescue Plan funds to purchase mobile air pollution monitoring equipment that will be deployed specifically in Mossville, St. John the Baptist Parish, and St. James Parish in Louisiana, among other communities.

Regarding Petrochemical and other Extractive Industries:

- The U.S. Environmental Protection Agency (EPA) is engaging communities with environmental justice concerns and local public health officials to gather direct input from potentially impacted communities, including those impacted by extractive activities and toxic releases.
- Permitting of new facilities or expansions of existing facilities is governed by a broad and diverse range of federal and state agency statutory and regulatory requirements, often under complex federal-state cooperative federalism frameworks.
 - These requirements and federal-state permitting relationships must necessarily be addressed on a case-by-case basis.
 - Broadly applicable Federal government policy on permitting, however, can advance environmental justice by directing agencies, to the greatest extent practicable and permissible by law, to identify and address, as appropriate, disproportionate and cumulative impacts on communities of color and low-income communities. EPA is working to develop and implement such policies
 - A number of states also have laws or policies advancing environmental justice.
 - In addition, [Title VI of the Civil Rights Act](#) prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance, including state and local government permitting programs that receive federal financial assistance.
- The U.S. government recognizes the importance of understanding the aggregation of risks from multiple environmental stressors and is increasing its focus on cumulative impacts.
 - EPA is developing programs, policies, and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities, including a comprehensive framework for considering cumulative impacts in relevant EPA decisions and operationalizing that framework in EPA's programs and activities.
 - From a [civil rights perspective](#), and within the context of a disparate impact analysis, EPA is extensively considering “cumulative impacts” by investigating whether an action or decision by a recipient of financial assistance from EPA would have “adversity/harm.” EPA is developing guidance to clarify the adverse disparate impacts analysis with respect to permitting decisions, including how to consider cumulative impacts.

Publicly Available Data:

Cumulative Impacts

[Cumulative Impacts – Recommendations for ORD Research](#)

Department of Justice (DOJ)

[DOJ - Environmental Justice](#)

[DOJ – Environmental Crime Victim Assistance](#)

Emergency Response

[EPA and Emergency Response](#)

Environmental Justice

[Office of Environmental Justice \(OEJ\)](#)

[EJ 2020 Priority Areas](#)

[EJ Action Plan – Building Up EJ in EPA’s Land Protection and Cleanup Programs](#)

[Considering EJ in Permitting EJ Action Plan – Building Up EJ in EPA’s Land Protection and Cleanup Programs](#)

[Environmental Justice in Enforcement and Compliance Assurance](#)

[EJ Legal Tools](#)

[Message by EPA Administrator Regan on Environmental Justice](#)

[Technical Guidance for Assessing EJ in Regulatory Analysis](#)

EJ Grants

[Collaborative Problem-Solving \(CPS\) Cooperative Agreement Program](#)

[EJ Small Grants Program](#)

[State Environmental Justice Cooperative Program \(SEJCA\)](#)

EJ International

[EJ & International Human Rights](#)

Petrochemical Production

[Final Rule: Mandatory Reporting of Greenhouse Gases](#)

[Petroleum Sector \(NAICS 324\)](#)

[Petroleum Refinery National Case Results](#)

Toxics Release Inventory (TRI)

[TRI Data and Tools](#)

Toxics Substances Control Act (TSCA)

[TSCA Chemical Substance Inventory](#)

Supplemental Response from the U.S. Equal Employment Opportunity Commission

Artificial Intelligence:

The Equal Employment Opportunity Commission is actively addressing the role of artificial intelligence in employment decision-making. In 2021, the Commission launched an Artificial Intelligence and Algorithmic Fairness Initiative. The initiative seeks to examine how technology is changing the way that employment decisions are made, and to address the potential for automated systems, including AI, to discriminate. Through this initiative, the Commission will issue technical assistance, identify promising practices, and hold listening sessions with key stakeholders on AI and other automated systems and their employment ramifications.

On February 25, 2022, the Commission organized a listening session focused on how the use of artificial intelligence affects individuals with disabilities who are in or seeking to enter the workplace. A video of the session is available here:

<https://www.youtube.com/watch?v=LlqZCxKB05s>. Subsequently, the agency issued two technical assistance documents, one for employers: The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees, available here: <https://www.eeoc.gov/laws/guidance/americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence>, and a second for employees and applicants: Tips for Workers: the Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence, available here: <https://www.eeoc.gov/tips-workers-americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence>. These documents identify when algorithmic decision-making tools, AI, and other automated systems may violate the Americans with Disabilities Act, the employer's legal responsibility for algorithmic decisions, tips to reduce the chances that an algorithmic decision-making tool will screen out qualified workers with disabilities, and promising practices for employers who choose to use these technologies, and for employees who are subjected to them.

Through the Initiative, the Commission continues to study the use of artificial intelligence in employment decision making on other protected bases, such as race, sex, and national origin.

Disparate Impact:

As mentioned during the United States of America's presentation, and also in the country's report, Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment that has a disparate impact on a protected group, consistent with the CERD's requirement to address "indirect discrimination." The federal government is committed to eliminating race discrimination in the workplace, particularly where the discrimination has a broad impact on an industry, profession, company, or geographic region. Under Title VII, when an employment practice that is not intentionally discriminatory still has the effect of disproportionately excluding people of color or other protected groups, it is unlawful unless the employer shows that it is job-

related for the position in question and consistent with business necessity. Recent examples of enforcement actions involving disparate impact discrimination include the following:

- In October 2021, the Chicago Meat Authority agreed to pay \$1.1 million to a class of claimants, including Black applicants who were previously rejected from employment, to settle a lawsuit filed by the Commission alleging that the company, despite being located in a geographic area with a large population of Black residents, relied on advertisements on Spanish-language radio stations and word-of-mouth recommendations for recruitment, and otherwise exhibited hiring bias in favor of Hispanic applicants. The company agreed to hire previously rejected Black applicants, apply the same hiring qualification standards regardless of race, establish and make good-faith efforts to comply with hiring goals of Black employees, and implement anti-harassment training and policies.
- In November 2019, retail chain Dollar General agreed to settle a lawsuit filed by the Commission alleging that the company's broad criminal background checks had a disparate impact on Black applicants. In addition to establishing a \$6 million settlement fund, Dollar General agreed, if it used a background check for arrest or conviction records in the following 3 years, it would hire a criminology consultant to develop new background check standards based on several factors including the time since conviction, the number of offenses, the nature and gravity of the offense, and the risk of recidivism.

With regard to legislation addressing disparate impact, the United States notes that during its presentation, it also mentioned the Fair Chance to Compete for Jobs Act of 2019, which prohibits federal agencies from requesting information about an applicant's arrest or conviction history before a conditional offer of employment has been made, with exceptions for a few positions consistent with law. This law seeks to address the difficulties that people with prior arrests or convictions have in obtaining employment, and the disproportionate impact that such background checks have on Black and Hispanic men.

Abuse of Migrant Workers:

Consistent with the CERD, federal employment discrimination laws apply to people working within the United States and its territories without regard to the citizenship or immigration status of the worker. This includes Title VII of the Civil Rights Act, which prohibits discrimination on the bases of race, color, sex (including pregnancy, sexual orientation, and gender identity), national origin, and religion. Since the early 1990s, the Equal Employment Opportunity Commission has pursued instances of rape and sexual abuse of migrant farmworkers as sexual harassment under Title VII, obtaining significant damage awards for those harmed. Some examples of enforcement efforts in this regard include the following:

- In a lawsuit filed by the Commission against Favorite Farms, Inc., a federal district court jury awarded \$850,000 in 2018 to a female farmworker who was raped by her supervisor and retaliated against when she reported it to the police and management.
- In 2016, the Commission settled a lawsuit with County Fair Farm for \$120,000 involving sexual harassment and retaliation claims by female farmworkers. The settlement also required the farm to develop sexual harassment and retaliation policies and procedures,

post notices in both English and Spanish, provide sexual harassment training to employees, terminate the alleged harassers, and submit to a period of monitoring.

- In 2016, the Commission settled a lawsuit filed against Evans Fruit for \$272,000 involving 20 female farmworkers, including a 15-year-old, alleging that the ranch manager and crew leaders assigned work to isolate them from friends and family and subject them to unwanted sexual advances.

We have applied a similar rationale to allege national origin discrimination in cases with indicia of human trafficking. Information about the Commission's efforts on behalf of workers subjected to human trafficking is available here: <https://www.eeoc.gov/eeoc-combats-human-labor-trafficking>.

The Commission often works cooperatively with non-governmental organizations to find and pursue these claims on behalf of migrant workers, who otherwise are wary of contacting a federal government agency and filing a complaint. Federal agencies including the EEOC also combat efforts by employers to conceal employment and labor law violations through threats to reveal the immigration status of migrant workers who complain. In litigation, the Commission combats employer efforts to obtain immigration status information; this information is irrelevant to liability and, unless backpay for work not performed is at issue, also is not relevant to damages.

The federal government also has worked cooperatively with its neighbors to collaborate on protecting workers from those countries while working in the United States. To this end, the Commission, the U.S. Department of Labor, and the National Labor Relations Board signed a Memorandum of Understanding with the government of Mexico in September 2021. The agreement contemplates cooperation on programs to help Mexican workers and their employers gain a better understanding of U.S. labor and employment laws. The Commission has signed similar agreements with Guatemala, El Salvador, Honduras, and Ecuador. These agreements are available here: <https://www.eeoc.gov/mou/memoranda-understanding>.

Awareness Raising and Training:

The Commission raises awareness of employment discrimination issues through public meetings, press releases of enforcement activities, commemoration events (such as the anniversary of landmark civil rights legislation), free outreach, training, and fee-based training programs. These are on-going efforts.

One particularly noteworthy effort is the EEOC and the U.S. Department of Labor's Office of Federal Contract Compliance Programs joint Hiring Initiative to Reimagine Equity (HIRE). HIRE will host convenings; examine organizational employment policies and practices; identify strategies to remove unnecessary barriers to hiring; and promote effective, job-related hiring and recruitment practices to cultivate a diverse pool of qualified workers. HIRE will explore ways to promote equity in the use of technology-based hiring systems, and develop resources to promote

the adoption of innovative and evidence-based recruiting and hiring practices that advance equity for employers. Information on HIRE, and its convenings so far, is available here: <https://www.eeoc.gov/hiring-initiative-reimagine-equity-hire>.

Public meetings are another important way for the Commission to gather information that helps shape agency policy. The Commission's next public meeting will take place in Buffalo, New York, site of a recent racially-motivated shooting, on August 22, 2022. This meeting will focus on gathering information about systemic racial discrimination in employment as the Commission prepares to update its Strategic Enforcement Plan. The Strategic Enforcement Plan helps guide the agency's actions for the next 5 years, and it is important to hear from stakeholders as the agency leadership sets new enforcement priorities for 2023 and beyond.

Education and outreach continue to play an important role in promoting racial justice and confronting systemic barriers in the workplace. The Commission has focused its outreach and education programs to reach vulnerable workers and underserved communities, including immigrant and farmworker communities, as well as other communities where individuals may be reluctant to complain about employment discrimination. In 2021, the Commission conducted 2,325 no-cost educational and outreach events, reaching 254,830 people.

The Commission also recognizes that training and education for employers is important, to ensure that they understand their federal obligations. This is particularly true for small businesses that are less likely to have legal departments and internal resources to remain abreast of legal developments. During 2021, the agency conducted 460 outreach events to small businesses, reaching 27,495 representatives. It additionally provided fee-based training through its EEOC Training Institute, reaching 19,864 individuals through 399 virtual training events.

Further, the Commission has taken steps to ensure that the next generation of workers is familiar with their rights and responsibilities as they enter the workforce. Through the Youth@Work program, the Commission provides information and training materials and conducts outreach and education events. The Commission has launched a website dedicated to this effort at <https://www.eeoc.gov/youth>.

Statistics on Representation in Government (Executive Branch):

As mentioned during the United States' presentation, Equal Employment Opportunity Commission Management Directive 715 requires federal agencies to examine their own demographics for the under-representations of protected groups, identify barriers that may be creating those under-representations, and develop strategic plans to eliminate those barriers and monitor agencies' progress in barrier removal. Agencies must report on these actions, and also submit employment and internal complaint data, which is compiled in an "Annual Report on the Federal Workforce," which is submitted to the President and Congress, and also is made public here: <https://www.eeoc.gov/federal-sector/reports>.

To summarize these extensive and detailed tables about the executive branch federal workforce to their most basic level, in 2019, of approximately 2.8 million federal workers, 58.9% identify as White, 10.6% as Hispanic or Latino, 19.9% as Black or African American, 7% as Asian, 0.6% as Native Hawaiian or Pacific Islander, 1.6% as American Indian or Alaska Native, and 2% as two or more races. This is generally more diverse than the U.S. labor force as a whole, which in 2020 was approximately 77% White, 18% Hispanic or Latino, 13% Black or African American, 6% Asian, 1% Native Hawaiian or Pacific Islander, less than 0.5% American Indian or Alaska native, and 2% two or more races.¹

Other Statistics:

Detailed statistics on the Commission’s enforcement and litigation efforts are available here: <https://www.eeoc.gov/statistics/enforcement-and-litigation-statistics>. This includes information broken down by the type of discrimination involved, and the issues being alleged in the charge. Additional statistical information focused on efforts to address systemic discrimination is available here: <https://www.eeoc.gov/systemic-enforcement-information>.

Efforts on Behalf of Women of African Descent, and in particular LGBTQ Women:

The COVID-19 pandemic has had a disproportionate impact on women. Women—particularly Black and Latina women—are overrepresented in front line jobs such as nurses, caregivers and other essential workers, which have been critical to our nation’s pandemic response and recovery. These jobs are more likely to have inflexible schedules and restrictive leave policies. As a result, many essential workers have been less likely to be able to stay at home or seek medical care when they get ill, resulting in more workplace exposures, delayed treatments, and more severe COVID-19 outcomes. To help mitigate this, the EEOC issued technical assistance to explain how a person diagnosed with COVID-19 or a post-COVID condition could be considered to have a disability under the laws the EEOC enforces. In March 2022, the EEOC also issued a technical assistance document on *The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Laws*, and also updated its *What You Should Know about COVID-19* technical assistance document to outline caregiver discrimination issues related to the pandemic—given reports that mothers who were balancing caregiving responsibilities while working remotely faced heightened risk of sex-based discrimination. These two documents are available at <https://www.eeoc.gov/laws/guidance/covid-19-pandemic-and-caregiver-discrimination-under-federal-employment>; and <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

The Commission and several state and local legislatures also have taken steps to address hair-based discrimination that limits equal employment opportunities for Black women. In 2006 enforcement guidance, EEOC stated that employment discrimination based on a person’s

¹ The Commission’s data on the federal workforce excludes information from the judicial branch of government, over which it has no oversight authority.

physical characteristics associated with race, including a person's hair, is prohibited under Title VII. For example, Title VII prohibits employers from preventing African American women from wearing their hair in a natural, unpermed "afro" style, or from applying neutral hairstyle rules more restrictively to hairstyles worn by African Americans. At the state level, at least 18 states passed laws that make it clear that employment discrimination based on hair or hairstyles commonly associated with a particular race or national origin (such as braids, locs, or afros) is prohibited race or national origin discrimination.

With regard to LGBTQI+ women, at the federal level, in June 2020, the U.S. Supreme Court agreed with the Equal Employment Opportunity Commission's longstanding position that discrimination based on sex under Title VII of the Civil Rights Act of 1964 includes a prohibition against discrimination based on sexual orientation and gender identity. *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020).

At the state level, at least 23 states and the District of Columbia prohibit discrimination in employment on the basis of sexual orientation, and 22 of those states (including the District of Columbia) also prohibit discrimination based on gender identity. Six more states prohibit discrimination based on sexual orientation and gender identity in public employment. Nine additional states are accepting complaints of sexual orientation and gender identity discrimination upon adopting the Court's rationale in *Bostock*.

Among local governments, at least 225 cities and counties also have laws or ordinances forbidding employment discrimination on the basis of gender identity in public and private employment, and at least 174 cities and counties also prohibit employment discrimination based on sexual orientation in public and private employment.

In addition to the landmark *Bostock* decision, the U.S. Supreme Court and other federal courts also have held that employers violate Title VII's prohibition against sex discrimination when they take adverse actions related to a worker's failure to comply with sex-based stereotypes. Further, employees may pursue "sex-plus" claims, arguing that a combination of protected traits caused discrimination. For example, a Black LGBTQI+ worker who has evidence that discrimination was based on a combination of her race and sex stereotyping could pursue a "sex plus" claim.

The Equal Employment Opportunity Commission maintains a landing page on sexual orientation and gender identity discrimination that provides a plain language overview of the law and links to various EEOC resources for employers and workers. That landing page is available here: <https://www.eeoc.gov/sexual-orientation-and-gender-identity-sogi-discrimination>. Data on charges of discrimination received, enforcement activities, and litigation related to women and LGBTQI+ individuals are available from the link to statistics provided above.

In addition to its enforcement efforts, the Commission also studies issues surrounding the employment rights of women and reports on progress. Some examples of recent reporting related to women in the workplace include the following:

- A Special Topic Annual Report on Women in Science, Technology, Engineering, and Medicine (STEM) within the federal government (July 2022): <https://www.eeoc.gov/special-topics-annual-report-women-stem>
- A Program Evaluation of Recruitment and Hiring Gender Disparities in Public Safety Occupations within the federal government (June 2018): <https://www.eeoc.gov/federal-sector/reports/program-evaluation-recruitment-hiring-gender-disparities-public-safety>
- EEOC Select Task Force on the Study of Harassment in the Workplace: [EEOC Select Task Force on the Study of Harassment in the Workplace | U.S. Equal Employment Opportunity Commission](#)

Supplemental Response from the U.S. Department of Justice

Definition of Racial Discrimination, including Disparate Impact

- Many of the most fundamental civil rights statutes and regulations in the United States, such as Titles VI and VII of the Civil Rights Act of 1964, as well as the Fair Housing Act (FHA), prohibit policies or practices that have an adverse disparate impact on individuals based on race, color, national origin, and other protected classes. And in 2015, in [*Texas Department of Housing and Community Affairs v. Inclusive Communities*](#), 576 U.S. 519 (2015), the U.S. Supreme Court confirmed that the FHA provides a disparate impact cause of action. The U.S. Department of Justice, other federal agencies, and the civil rights community are all working tirelessly to protect against increasing threats to the disparate impact theory in the courts and in the U.S. Congress. When the facts and the applicable civil rights laws support the use of the disparate impact theory, we are committed to using this valuable tool.
- The doctrine of intentional discrimination, also known as disparate treatment, still serves an important purpose. The Justice Department is also firmly committed to using this doctrine to address racial discrimination.
- We believe U.S. law meets our obligations under the Convention. The Administration vigorously enforces Title VI and other federal laws that prohibit recipients of federal funds from discriminating against any person on the basis of race, color, or national origin.
- At the same time, we are always looking for ways to improve our implementation of those obligations. For example, in June 2022, the Justice Department issued a [memo](#) on the implementation and administrative enforcement of Title VI and similar federal anti-discrimination laws. After a comprehensive review, the Department is implementing changes to further strengthen the enforcement of the critical nondiscrimination obligations that apply to recipients of federal financial assistance, including the use of the Department's disparate impact enforcement authority under Title VI and similar statutes. In addition, the Administration continues to support restoring a private right of action to challenge unjustified discriminatory impacts under Title VI.

Protecting the Rights of Protestors

- The right to peacefully protest is enshrined into the U.S. Constitution, and the U.S. Department of Justice is committed to protecting the rights of protestors. For example, the Department, in partnership with the National Policing Institute (NPI), is developing guidelines for law enforcement agencies on policing mass demonstrations. We have convened nine meetings (one forum hosted by the Police Executive Research Forum and eight focus groups) of law enforcement executives, community organization and leaders, academics, and local governmental officials. A report describing the challenges of the 2020–2021 mass demonstrations and providing recommendations for state, local, Tribal, and territorial law enforcement agencies on how to handle future protests will be

produced later this year. Recommendations will focus on community policing principles to uphold First Amendment rights and to ensure safety for community members and officers.

- The Department of Justice has also filed a [Statement of Interest](#) in Florida in support of protestors who filed a lawsuit challenging Florida's anti-protest law, H.B. 1. The Department continues to look for other opportunities to get involved through Statements of Interest or other forms of intervention.
- Some of the Department's consent decrees with law enforcement agencies have specifically focused on the rights of protest as well as safeguards for engagement between law enforcement and protestors in First Amendment-protected activity. For example, in April 2021, the Department notified the Portland (Oregon) Police Bureau that its response to protests in 2020 violated the use of force, training, and accountability provisions of an existing settlement agreement. In April 2022, the Department and the City of Portland negotiated amendments to the settlement agreement to address these issues. Also in 2021, the Department opened three new pattern-or-practice investigations against other police departments focusing on, among other things, those law enforcement agencies' response to First Amendment-protected protest activity.

Addressing Redlining and Promoting Fair Lending

- For American families, homeownership remains the principal means of building wealth. In part because of deprivation of investment in, and denial of access to, mortgage lending services, families of color have persistently lagged behind in homeownership rates and net worth compared to white families. The U.S. Department of Justice is committed to aggressively enforcing our nation's civil rights laws to ensure equal opportunity and economic justice for all Americans. To that end, in 2021, we launched a new initiative to investigate housing lenders across the country for potentially unlawful redlining (or refusing loans for discriminatory reasons).
- To date, the Department has reached agreements with banks in Pennsylvania, Texas, and Tennessee, that will collectively invest more than \$30 million to increase credit opportunities in affected neighborhoods.

Criminal Justice

A. Addressing Sentencing Disparities

- The United States takes seriously the importance of addressing racial and ethnic disparities at all levels in the justice system, and we are working with federal, state, and local authorities, as well as other interested parties, to do just that.
- The U.S. Department of Justice, through its many grantmaking programs, invests millions of dollars each year in federal funding for national and community projects to work with officials in criminal justice systems and to address racial and ethnic disparities. These projects help officials to identify policies and practices that have an

adverse impact on communities of color, and to develop and adopt evidence-based policy reforms to address these racial disparities. These programs also strengthen public safety and justice outcomes.

- As one example, the Department's Bureau of Justice Assistance supports the Justice Reinvestment Initiative (JRI), which helps jurisdictions nationwide identify opportunities to improve criminal justice operations and re-invest savings in evidence-based strategies that strengthen public safety and justice outcomes. As of May 2021, 36 states had participated in the JRI, and a number of states have adopted reforms focused on addressing racial and ethnic disparities in the justice system. Maryland, for example, eliminated mandatory minimum sentences for certain drug offenses and addressed the sentencing disparity between powder and crack cocaine, after data analyses identified these policies as significant drivers of racially disparate outcomes.
- We are proud of the progress we have made reducing disparities in the federal criminal justice. In particular, the First Step Act, enacted in 2018, authorized reforms of the federal prison system to promote re-entry for federal prisoners, including:
 - Developing a risk and needs assessment system to assess the recidivism risk of federal prisoners and placing them in programs to reduce that risk;
 - Changes to mandatory minimum sentences for certain drug offenses;
 - Retroactive application of the fair sentencing act of 2010 for incarcerated offenders who received longer sentences for possession of crack cocaine than they would have for powder cocaine;
 - And an expansion of courts' ability to sentence low-level, nonviolent drug offenders to less than the required mandatory minimum.

An overview of how the Act impacted federal inmates and their families can be found [here](#).

- Thanks to the First Step Act and other reforms, the federal prison population has dropped to its lowest level since 2000, declining almost 31% since 2013. This has in turn reduced racial disparities within the federal prison system, as 91% of those receiving sentence reductions under the provision applying the fair sentencing act reforms retroactively were African American.
- We also support the enactment of the Equal Act, which would altogether eliminate the remaining disparity in sentencing policy between offenses involving crack and powder cocaine, and we support applying any enacted changes retroactively to all persons serving federal sentences for crack cocaine offenses.
- We are also making some progress at the local level. From 2010 to 2020, the number of persons sentenced to serve at least one year in state and federal prison who were non-Hispanic Whites decreased by 26.8%, non-Hispanic Blacks declined by 31.5%, and Hispanics declined by 18.7%.

B. The Death Penalty

1. Moratorium on Federal Executions

- Use of the death penalty remains the subject of serious discussion and close examination in the United States. On July 1, 2021, Attorney General Merrick B. Garland issued a [memorandum imposing a moratorium](#) on all federal executions pending a multi-pronged review of certain of the Justice Department's policies and procedures in the area. In doing so, he noted that the Department's obligation to ensure fair and humane treatment of all those in the criminal justice system has "special force" in capital cases.

2. Attorney General Review of the Federal Death Penalty

- The Attorney General's July 2021 memorandum directed a multi-pronged review that will cover (1) the Addendum to the Federal Execution Protocol, adopted in 2019, which will assess, among other things, the risk of pain and suffering associated with the use of pentobarbital; (2) the Justice Department regulations on the manner of execution; and (3) a review of the Justice Manual's capital case provisions, including changes made in December 2020 and January 2021. These reviews are ongoing.

3. Legal Protections for Defendants

- The U.S. judicial system provides a system of legal protections at both the federal and state levels intended to ensure that the death penalty is not applied in a summary, arbitrary, or discriminatory manner, and that its implementation is undertaken, after judicial review, in conformity with the U.S. Constitution and U.S. international obligations.
- Defendants prosecuted for capital offenses in the United States are entitled to certain legal and procedural protections embodied in the law and United States Supreme Court jurisprudence. Death penalty statutes must guide the discretion of the trier of fact (typically a jury) and must narrow the class of offenders who may be punished by death. Additionally, a capital defendant must be provided the right to an individualized determination that the death sentence is appropriate, and the right to have a jury consider and give effect to any applicable mitigating evidence.
- Ensuring the provision of quality legal assistance for anyone facing a possible death sentence is one of the priorities for the Office for Access to Justice. The Office will engage meaningfully with stakeholders from the criminal defense community and others to better understand and address concerns about the availability and quality of the capital defense effort, and about the administration of the death penalty.
- The Byrne Justice Assistance Grant Program provides states, Tribes, and local governments with funding necessary to support indigent defense, as well as other areas. In FY 2022, \$12 million in funding went to indigent defense, including capital cases.

4. Statistics

On an annual basis, the Department's Bureau of Justice Statistics (BJS) monitors and [reports](#) on the number of prisoners under sentence of death in the United States by region, jurisdiction, age, race, gender, and several other demographic criteria.

5. Lethal Injection Protocol

As noted above, pursuant to Attorney General Garland's memorandum, the Department of Justice is conducting an assessment of the risk of pain and suffering associated with the use of execution drugs, including pentobarbital. As the Attorney General stated, the Department is committed to "treat[ing] individuals humanely and avoiding unnecessary pain and suffering" and has suspended use of the current protocol pending a further review of these considerations.

C. Addressing Collateral Consequences of Conviction

- In October 2021, Attorney General Garland first convened the Reentry Coordination Council, bringing together representatives from a wide range of federal departments, including the U.S. Department of Housing and Urban Development, the U.S. Department of Labor, the U.S. Department of Education, the U.S. Department of Health and Human Services, the U.S. Department of Veterans Affairs, and the U.S. Department of Agriculture. Since then, the Council has held several sessions focused on learning from the expertise and experience of a variety of individuals and organizations involved in several aspects of reentry and focused on mitigating against collateral consequences of convictions.
- In April 2022, U.S. Attorney General Merrick B. Garland [announced](#) the release of a report by the Reentry Coordination Council, entitled *Coordination to Reduce Barriers to Reentry: Lessons Learned from COVID-19 and Beyond*. The report summarizes the six federal agencies' interagency collaboration and offers recommendations to Congress to further reduce barriers to successful reentry for those returning from incarceration. The report focuses on barriers to housing, food security, employment, healthcare, and much more.
- In May 2022, President Biden issued an [Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety](#). Among many other directives, the Executive Order established a Federal Interagency Alternatives and Reentry Committee (Committee), to be chaired by the Assistant to the President for Domestic Policy. This Committee of over 20 federal agencies is working toward:
 - (1) safely reducing unnecessary criminal justice interactions, including by advancing alternatives to arrest and incarceration; supporting effective alternative responses to substance use disorders, mental health needs, the needs of veterans and people with disabilities, vulnerable youth, people who are victims of domestic

violence, sexual assault, or trafficking, and people experiencing homelessness or living in poverty; expanding the availability of diversion and restorative justice programs consistent with public safety; and recommending effective means of addressing minor traffic and other public order infractions to avoid unnecessarily taxing law enforcement resources;

(2) supporting rehabilitation during incarceration, such as through educational opportunities, job training, medical and mental health care, trauma-informed care, substance use disorder treatment and recovery support, and continuity of contact with children and other family members; and

(3) facilitating reentry into society of people with criminal records, including by providing support to promote success after incarceration; sealing or expunging criminal records, as appropriate; and removing barriers to securing government-issued identification, housing, employment, occupational licenses, education, health insurance and health care, public benefits, access to transportation, and the right to vote.

D. Advancing Criminal Justice Reform, and Addressing Excessive Force

- The U.S. Department of Justice has greatly increased its efforts to prevent and address misconduct by law enforcement, including the use of excessive force. For example, since 2021, the Department's Civil Rights Division has opened five investigations into state and local law enforcement agencies, all of which look at whether the agencies have engaged in a pattern or practice of unconstitutional use of force or discriminatory policing ([City of Minneapolis and the Minneapolis Police Department](#); [Louisville/Jefferson County Metro Government and the Louisville Metro Police Department](#); [City of Phoenix and the Phoenix Police Department](#); [City of Mount Vernon and the Mount Vernon Police Department](#); [State of Louisiana and the Louisiana State Police](#)).
- Our pattern-or-practice investigations reflect a unique and critically important authority vested in the Department of Justice. Through these pattern-or-practice investigations, the Department is able to review allegations that agency practices have violated constitutional or federal rights. Where the Department finds such violations, it typically enters into a court-monitored and supervised consent decree imposing effective remedies.
- The Department also brings criminal charges against individual officers in color-of-law cases in which there is evidence that the officers have willfully deprived a person of a right or privilege protected by the U.S. Constitution or the laws of the United States. These prosecutions demonstrate our commitment to protecting the rights of all individuals.
- From FY 2017 to FY 2020, the Department charged more than 240 defendants, including individual police officers, with willfully violating constitutionally protected rights (or

conspiring to do so) while acting under color of law. In that same period, the Department obtained convictions of 200 defendants, primarily law enforcement officers, including police, sheriff's deputies, and correctional officers.

- The Department used its authority to investigate and charge the officers involved in the death of George Floyd, and to investigate the pattern or practices of the police department in Minneapolis. We recently secured convictions of all four former Minneapolis police officers for federal civil rights violations in the death of George Floyd ([Derek Chauvin](#); [Thomas Lane](#); [Tou Thao](#); and [J. Alexander Kueng](#)).
- The Department also secured an [indictment](#) against an officer in Louisville, Kentucky, for using unconstitutionally excessive force during the raid on the home of Breonna Taylor. Independent from this matter, a separate team from the Justice Department's Civil Rights Division is conducting a civil investigation into whether the Louisville Metro Police Department (LMPD) is engaging in a pattern or practice of law enforcement misconduct. The Division is looking at whether the LMPD uses excessive force or improper searches.

E. Addressing Hate Crimes and White Supremacy

- The United States believes that there is an appropriate role for government in seeking to promote respect for diversity while still respecting freedom of expression and opinion.
- Political and community leaders at all levels speak out against racism and intolerance and employ tools to address intolerance. Those tools include a combination of robust legal protections against discrimination and hate crimes, proactive government outreach, education, and the vigorous defense of human rights and fundamental freedoms, including freedom of expression.
- In addition to enforcing nondiscrimination laws against certain hate speech in the workplace if it creates a hostile work environment, the U.S. Government works with state and local entities to educate our young people through anti-bullying curricula and other educational programs aimed at eliminating hate among our nation's youth.
- Addressing online harassment, stalking, and abuse, including hate speech, is a priority for the U.S. Department of Justice. The Department's Office on Violence Against Women (OVW) has invested in training and technical assistance to combat stalking, including cyberstalking and the misuse of technology by abusers. With OVW funding, the Stalking Prevention, Awareness, and Resource Center provides education and materials about the crime of stalking as well as multidisciplinary training at the local, regional, statewide, and national levels.
- In October 2021, the Department's Civil Rights Division hosted a virtual conference called "Confronting Hate: Strategies for Prevention, Accountability, and Justice." One of the panels at the conference focused on the impact of and strategies to address online

hate, with experts from academia, government, advocacy organizations, and the survivor community.

- In June 2022, President Biden [launched the White House Task Force to Address Online Harassment and Abuse](#). The Task Force will provide government leadership to address online harms, which disproportionately affect women, girls, people of color, and LGBTQI+ individuals. In consultation with survivors, advocates, educators, experts from diverse fields, and the private sector, the Task Force will develop a blueprint to improve prevention, response, and protection efforts, including a focus on the nexus between online misogyny and radicalization to violence. Recommendations will focus particularly on: increasing support for survivors; expanding research to better understand the impact and scope of the problem; enhancing prevention, including prevention focused on youth; and strengthening accountability for offenders and platforms.

F. PATTERN: The First Step Act Risk Assessment Tool

- In April 2022, the U.S. Department of Justice published the [First Step Act Annual Report](#), which detailed actions taken to mitigate against racial disparities with the risk assessment tool, PATTERN (Prisoner Assessment Tool Targeting Estimated Risk and Needs). The Department moved to the use of an improved and updated version of the tool, PATTERN 1.3. Further, the Department announced the adoption of new “cut points” (score ranges for making different recidivism risk level assignments) for PATTERN’s risk level categories under the “general tool,” in an effort to mitigate various racial and ethnic disparities associated with prior risk level categories and to enhance opportunities for eligible incarcerated people to earn time credits that accrue towards prerelease custody and supervised release, while maintaining public safety.

G. Addressing Criminalization of Homelessness and Poverty

- Legal problems related to housing and evictions can have devastating impacts on low-income families. The housing crisis is also a racial and gender justice issue because evictions disproportionately affect women and people of color. Those problems were only exacerbated by the pandemic.
- One of the core functions of the U.S. Department of Justice’s Office for Access to Justice is working to ensure economic opportunity and fairness by addressing barriers to equal access to justice, including barriers that criminalize poverty, including through fines and fees, bail, and warrants.
- Last summer, Attorney General Garland launched an effort to promote the use of court-based eviction diversion strategies and access to counsel in evictions proceedings; and issued [a call to action](#), asking the legal community to volunteer time and legal assistance to confront the ongoing housing and evictions crisis. In response to the Attorney General’s call, law students and lawyers from across the country to assist, often partnering with Legal Services Corporation grantees to take on cases. Others mobilized pop-up clinics and medical-legal partnerships to help families facing eviction to help

them keep their homes. Still others developed new digital platforms designed to ensure that housing court proceedings could be carried out fairly.

- In June 2021, Associate Attorney General Gupta sent [a letter](#) to state court chief justices and court administrators around the country, urging them to implement eviction diversion strategies and encouraging courts to build out more comprehensive programs that might include access to counsel. As a result of that letter, many state courts across the United States took significant actions in the following months.
- Further, federal criminal civil rights laws allow the prosecution of law enforcement officers who, acting under color of law, willfully violate the constitutional rights of others. These rights include the right to be free from unreasonable force during a seizure, the right to be free from sexual assault, and the right to be free from having property unreasonably seized. Homeless people, like all other people in the country, have these rights. Thus, if a law enforcement officer willfully uses force against a homeless person that is not justified by the facts and circumstances confronting the officer at the moment that force is used, that officer may be subject to prosecution.
- In August 2015, the Department of Justice filed a [Statement of Interest](#) (court filing) in *Bell v. Boise*, challenging under the Eighth Amendment to the U.S. Constitution local ordinances that criminalize homelessness where there is no sufficient shelter space available.
- In August 2021, the Department opened a pattern-or-practice investigation into the Phoenix Police Department to assess, among other things, whether the agency violates the civil rights of people experiencing homelessness.
- The Department of Justice is a member of the U.S. Interagency Council on Homelessness (USICH) and is committed to working with USICH and its member agencies to identify and promote alternatives to criminalization to ensure that persons experiencing homelessness—especially those experiencing unsheltered homelessness—are not criminalized for doing regular acts of everyday living when there is insufficient availability of shelter, housing, or services.
- In November 2016, the Justice Department filed a [Statement of Interest](#) (court filing) in *Stinnie v. Holcomb*, explaining that suspending a person’s driver’s license because they fail to pay court debt without giving them adequate notice and an opportunity to be heard violates the Fourteenth Amendment to the U.S. Constitution.
- In July 2022, the Justice Department’s Civil Rights Division and Office for Access to Justice filed a [Statement of Interest](#) in *Coleman v. Brookside, Alabama*, explaining that fines and fees imposed for the purpose of generating revenue and without conducting any ability-to-pay analysis violate the U.S. Constitution.

H. Prevention and Prosecution of Violence, Sexual Violence, and Domestic Violence Against Women, Particularly During the COVID-19 Pandemic

- The United States has a strong commitment to preventing domestic violence, dating violence, sexual assault, and stalking; assisting those who are victims; and holding accountable those who commit these crimes. The Department of Justice administers federal grant programs designed to develop the nation's capacity to reduce domestic violence, dating violence, sexual assault, and stalking by strengthening services to victims and holding offenders accountable. The Department also provides funding opportunities to prevent and prosecute violence against women and girls who are racial and ethnic minorities.
- Much more must be done to combat the appalling rates of violence against Native American and Alaska Native women in the United States. This is a priority for the Department of Justice's Office on Violence Against Women (OVW).
- OVW provides federal funding for Tribal communities to address domestic violence, dating violence, sexual assault, stalking, and sex trafficking. The 2022 reauthorization of the Violence Against Women Act expanded special Tribal criminal jurisdiction to cover non-Native perpetrators of sexual assault, child abuse, stalking, sex trafficking, and assaults on Tribal law enforcement officers on Tribal lands; and supported the development of a pilot project to enhance access to safety for survivors in Alaska Native villages.
- OVW's grant programs address and prevent violence against American Indian and Alaska Native (AI/AN) victims by enhancing victim services and holding offenders accountable. OVW awarded \$32,432,119 in grants in FY 2021 to Tribal governments under the Grants to Indian Tribal Governments Program and \$3,000,253 under the OVW COVID 19/Violence Against Women Assistance to Tribes Solicitation.
- In July 2022, Deputy Attorney General Lisa Monaco [announced](#) a new directive that stresses the Justice Department's duty to investigate and prosecute serious crimes in Indian country, including domestic violence, sexual assault and human trafficking. The directive also sets forth specific steps that U.S. Attorneys and law enforcement officers should take to ensure that their work is victim-centered and culturally and linguistically appropriate. Moreover, the directive reiterates how critical it is for the department to work closely with Tribal partners in supporting their implementation of the 2022 reauthorization of the Violence Against Women Act.
- Department of Justice grants to Tribal governments support a broad range of activities, including efforts to strengthen Tribal criminal justice systems, provide indigent criminal defense, conduct jury trials, and provide services and applicable rights to crime victims. The Department's National Institute of Justice will solicit research proposals in FY 2022 to support development of objective and independent knowledge and validated tools to reduce violence against women, including violence against elderly women and

American Indian and Alaska Native and women and girls; promote justice for victims of crime; and enhance criminal justice responses.

- On International Women’s Day in 2021, President Biden signed an [Executive Order](#) creating the White House Gender Policy Council and calling for the development of the first-ever government-wide National Action Plan to End Gender-Based Violence, as well as an update to the 2016 United States Strategy to Prevent and Respond to Gender-Based Violence Globally. These strategies will provide a roadmap to guide the Biden-Harris Administration’s whole-of-government effort to end gender-based violence—and, in so doing, create a society in which survivors are supported and all people can live free from abuse.
- President Biden signed the Violence Against Women Act Reauthorization Act of 2022 to strengthen this landmark federal law. Highlights of this legislation include:
 - The reauthorization and expansion of grant programs;
 - Expansion of special criminal jurisdiction of Tribal courts to cover non-Native perpetrators of sexual crimes assault, child abuse, stalking, sex trafficking, and assaults on Tribal law enforcement officers on Tribal lands;
 - Increase of services and support for survivors from underserved and marginalized communities—including for LGBTQI+ survivors of domestic violence, dating violence, sexual assault, and stalking;
 - Funding survivor-centered, community-based restorative practice services; and
 - Increased support for culturally-specific services and services in rural communities.
- The Justice Department’s Office on Violence Against Women has awarded over \$9 billion in grants and cooperative agreements to support a wide variety of services for victims of domestic violence. Direct victim services include crisis intervention, emergency assistance (e.g., clothing, food, medical care, and housing), advocacy services, counseling and support, transportation, transitional housing, supervised visitation and exchange services in custody matters, and referrals to community resources and agencies.
- The Violence Against Women Act Reauthorization Act of 2022 also expanded grant funding for legal services and authorized post-conviction legal assistance to survivors in matters arising out of their domestic violence, dating violence, sexual assault, stalking, or sex trafficking victimization.
- The COVID-19 pandemic has created challenges and uncertainty for all Americans, but its effects on domestic violence have been particularly acute. On May 24, 2021, the Biden administration announced the allocation of \$200 million from the American Rescue Plan to support services for survivors of domestic violence following a rise in cases during pandemic lockdowns.

Juvenile Justice

A. Juvenile Life Without Parole Sentences

- The U.S. Supreme Court has limited the application of life without parole sentences for people who committed crimes as juveniles. First, the Court prohibited the imposition of a life sentence without the possibility of parole for juveniles who committed a non-homicide crime. It next prohibited the imposition of a life sentence without the possibility of parole for a homicide crime committed by a juvenile unless the sentencing court first considers the mitigating qualities of youth before imposing that sentence. Since these decisions, 31 states and the District of Columbia have now either banned life without parole for juveniles altogether or have no one serving the sentence.

B. Ending the School-to-Prison Pipeline

- The [Office of Juvenile Justice and Delinquency Prevention](#) (OJJDP), a component of the Office of Justice Programs (OJP) within the U.S. Department of Justice, works to prevent and respond to youth delinquency and protect children through comprehensive and coordinated efforts at the federal, state, and local levels. OJJDP supports states in closing large youth detention facilities and reinvesting resources in ways that sustain more effective community-based services for justice-involved youth and their families, promote positive outcomes for youth, increase public safety, strengthen neighborhoods, and support the local economy. OJJDP supports prevention and early intervention programs that are making a difference for young people and their communities, and through research and programming works to strengthen the nation's juvenile justice system.
- Through its divisions, OJJDP sponsors research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states to support local programming. Other OJP components, including the Bureau of Justice Assistance, the National Institute of Justice, and the Office for Victims of Crime, also provide programming and research support for outreach to juveniles and their families, including for projects specifically working to disrupt the school-to-prison-pipeline.

C. Civil Rights Division Investigations

- The U.S. Department of Justice's Civil Rights Division investigates whether juveniles are at risk of unnecessary confinement in juvenile detention and commitment facilities run by, or on behalf of, state or local governments. In 2016, the Division filed a [Statement of Interest](#) (brief) on behalf of students challenging South Carolina statutes prohibiting disturbances in schools and disorderly conduct. The brief articulated the United States' position that the plaintiffs had alleged facts sufficient to state a claim that the statutes were arbitrarily and discriminately enforced against Black students.
- In 2018, the Civil Rights Division [concluded an agreement](#) with Shelby County (Tennessee) aimed at ensuring that children facing delinquency charges are afforded constitutionally-required due process protections, such as access to counsel, the right to be free from self-incrimination, and the right to timely probable cause

determinations. The Division successfully enforced agreement provisions requiring the establishment of the juvenile defender office for children charged with delinquent and criminal offenses.

- In 2019, the Civil Rights Division settled with the City of Meridian, Mississippi Police Department (MPD) based on the finding that the MPD had engaged in a pattern or practice of unconstitutional conduct by arresting students without probable cause that an unlawful offense had been committed. That same year, the Division also settled with the St. Louis (Missouri) Family Court to remedy the court's pattern of failing to provide children constitutionally-required due process and failing to administer juvenile justice in a non-discriminatory manner.
- With regard to state and local facilities, the Civil Rights Division enforces federal safeguards against the abuse of seclusion at the state and local levels.
 - For example, on February 5, 2020, the Division [concluded](#) that the South Carolina Department of Juvenile Justice violated the Fourteenth Amendment in failing to protect children from physical abuse by staff and other children and by subjecting children to prolonged solitary confinement at South Carolina's long-term juvenile commitment facility. On April 14, 2022, the parties [agreed](#) to changes that protect children from harm by staff and other children and the use of prolonged isolation as punishment.

Labor in Prisons

- In the United States, prison officials may not compel inmates to perform physical labor which is beyond their strength, endangers their lives or health, or causes undue pain. Federal Bureau of Prisons inmates who are medically able, and not otherwise engaged in programming are assigned a work program related to institution operations, such as facility maintenance, food service, hospital orderly, etc. and are paid for these work assignments.

Guns and Violence

- The Biden Administration supports and continues to take numerous steps to reduce and prevent gun violence, to include enacting legislation and taking both executive and enforcement actions.
- In June 2022, the president signed the Bipartisan Safer Communities Act, which enhances certain restrictions and penalties on firearms purchases; promotes evidence-based best practices for school safety; authorizes grants to expand access to mental health services; and appropriates emergency funding for mental health resources and school safety measures.
- We will continue to push for other measures that require congressional action, but we have also taken a number of executive actions to improve background checks and keep

the most dangerous firearms out of the wrong hands, such as a rule to ensure that licensed firearms dealers are selling secure gun storage or safety devices, a best practices guide for licensed dealers to help keep communities safe, and one to help trace “ghost guns”—unserialized, privately-made firearms that are often produced from easy-to-complete parts kits or 3D printers—when involved in crime.

- In order to address gun and other violent crime in communities across the United States, in May 2021, Deputy Attorney General Lisa Monaco issued a comprehensive strategy for reducing violent crime. The guiding principles include fostering trust and legitimacy in the communities being served; investing in community-based prevention and intervention; and being strategic in our enforcement priorities, focusing our resources on the most significant drivers of violent crime. A fact sheet on the strategy can be found [here](#).
- The Violent Crime Reduction strategy is being implemented across the United States by every U.S. Attorney’s Office, with programs such as [Project Safe Neighborhoods](#), and makes available no-cost resources, such as evidence-based practices, hands-on training, and technical assistance. Additional information on that program can be found [here](#).

Gun/Violent Crime Statistics

- The FBI’s Crime Data Explorer (CDE) provides available data on crime in the United States. The site can be accessed [here](#).
- Additional statistics on gun violence, including its impact on minority communities, are reported by the Centers for Disease Control and Prevention (CDC) and can be found [here](#).

Reproductive Rights and Justice

- As the Attorney General has [said](#), the Supreme Court’s decision in *Dobbs, State Health Officer of the Mississippi Department of Health, et al. v. Jackson Women’s Health Organization et al.* “deals a devastating blow to reproductive freedom in the United States” and “will be greatly disproportionate in its effect – with the greatest burdens felt by people of color and those of limited financial means.”
- In July 2022, the Department of Justice [announced](#) the establishment of the Reproductive Rights Task Force, led by Associate Attorney General Vanita Gupta, formalizing the Department’s ongoing work to protect reproductive freedom under federal law. Among other responsibilities, the Task Force will monitor and evaluate all state and local legislation, regulations, and enforcement actions that threaten to:
 - Infringe on federal protections relating to the provision or pursuit of reproductive care;
 - Impair women’s ability to seek reproductive care in states where it is legal;

- Impair individuals’ ability to inform and counsel each other about the reproductive care that is available in other states;
 - Ban medication abortion based on disagreement with the U.S. Food and Drug Administration’s expert judgment about its safety and efficacy; or
 - Impose criminal or civil liability on federal employees who provide reproductive health services in a manner authorized by federal law.
- The Task Force consists of senior officials from across a dozen Departmental components who meet daily and have already taken a number of actions to respond to *Dobbs*. As noted, the Task Force is vigilantly monitoring the changing legal landscape and evaluating potential legal responses to infringements on federal protections.
 - The Task Force is also meeting with a broad array of stakeholder groups—including representatives of offices of state attorneys general, and members of litigating, reproductive justice, and provider groups—on our collective efforts to protect reproductive care. And pursuant to President Biden’s [*Executive Order on Protecting Access to Reproductive Healthcare Services*](#), the Department and the White House Counsel’s Office convened pro bono counsel, bar associations, law professors, and public interest groups to identify gaps in legal representation and catalyze coordination and action.
 - In August, the Department also filed a [lawsuit against the State of Idaho](#) to hold invalid the State of Idaho’s criminal prohibition on providing abortions, as applied to women who are suffering medical emergencies.
 - The Department also launched a [webpage](#) to provide a centralized online resource of the Department’s work to protect access to comprehensive health services.

Addressing Environmental Pollution and Advancing Environmental Justice

- The U.S. Department of Justice has undertaken a number of historic and groundbreaking efforts to address environmental justice. In May 2022, the Attorney General [announced](#) the creation of the Department’s first-ever Office of Environmental Justice in our Environment and Natural Resources Division (ENRD). We also have rolled out our first-ever Department-wide comprehensive [environmental justice enforcement strategy](#), which will bring together resources from across the Department, including from the Civil Rights Division, ENRD, U.S. Attorneys’ Offices, the Civil Division, and elsewhere, to use all of the tools at our disposal to achieve environmental justice.
- In November 2021, the Department [announced](#) it had opened an environmental justice investigation into the wastewater disposal and infectious disease and outbreaks programs of the Alabama Department of Public Health and the Lowndes County (Alabama) Health Department. The investigation is examining whether the Alabama Department of Public Health and the Lowndes County Health Department operate their onsite wastewater disposal program and infectious diseases and outbreaks program in a manner that discriminates against Black residents of Lowndes County in violation of Title VI of the

Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin. The investigation is also examining whether the health departments' policies and practices have caused Black residents of Lowndes County to have diminished access to adequate sanitation systems and to disproportionately and unjustifiably bear the risk of adverse health effects associated with inadequate wastewater treatment, such as hookworm infections.

- On July 22, 2022, the Department [announced](#) that it opened an environmental justice investigation into the City of Houston's operations, policies, and practices related to illegal dumping. The investigation will examine whether the City's enforcement and solid waste management operations, policies, and practices in response to illegal dumping have discriminated against Black and Latino residents in violation of Title VI of the Civil Rights Act of 1964.

Equitable Participation and Representation of Persons Belonging to Ethnic Minorities at All Levels of Government, including in the Judiciary

- The Biden-Harris Administration has made securing effective and equitable participation and representation of persons belonging to ethnic minorities and Indigenous Peoples in federal government leadership positions a priority. The Administration has appointed a record number of women and people of color to serve in the Cabinet, and women of color have been appointed to represent the United States as United States Ambassador to the United Nations and the United States Trade Representative as well as lead the White House's Council of Economic Advisers.
- The President appointed the first Black woman—Justice Ketanji Brown Jackson—to serve on the U.S. Supreme Court and has nominated more Black women to the federal courts of appeals than any president in U.S. history.
- In the federal judiciary, of the 796 active judges, 234 are racial or ethnic minorities. Of these 234, 102 are women. [A report](#) from a civil society organization indicates that across the state high courts, 18 percent of the state justices are Black, Latino, Asian American, Native American, or multiracial. At the high end of representation, 43 percent of California's and Maryland's high court members are women of color, 40 percent of Hawaii's and New Mexico's high courts members are women of color, and 38 percent of Washington's high court members are women of color.
- The President established the first White House Gender Policy Council to advance gender equity across the federal government and released the first-ever [National Strategy on Gender Equity and Equality](#) to support the full participation of all people—including women and girls—in the United States and around the world. The President has also issued an [executive order](#) to promote diversity, equity, inclusion, and accessibility across the federal government—which is the nation's largest employer—including by prioritizing efforts to close gender and racial wage gaps, address workplace safety and harassment, including in our national security workforce, and advance equity for LGBTQI+ public servants.

