



One Voice, One Vote.

A D V O C A T I N G
F O R C H A N G E



A Report prepared for
the NAACP Southeast Region

*(Alabama, Florida, Georgia, Mississippi,
North Carolina, South Carolina, and Tennessee)*

For Its

56th Annual Civil Rights
Advocacy Training Institute
Jackson, MS

March 2008



One Voice, One Vote.

*A Resource for the Southeast Region of the NAACP to Advocate for
Policy Reforms and Positions to Improve African American Communities
in the American South*

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Contributions

For more than ninety-nine years, the National Association for the Advancement of Colored People (NAACP) built and grew on the collective courage of thousands of people. People of all races, nationalities and faiths united on one premise - that all men and women are created equal. The mission of the NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination. More than half of the Association's membership is derived from the seven southeast region states. The region is comprised of the following states: Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee.

This compendium of papers seeks to frame a policy agenda that benefits African Americans in these states, and nationwide. This work and the broader racial justice agenda of the Southeast Region of the NAACP are spearheaded by the visionary leadership of the state conference presidents. Their vision, commitment and character are unparalleled. We would like to acknowledge and recognize each of them for their contributions, not only to this paper, but to the ongoing struggle for racial equity. Special thanks are extended to:

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Introduction



Dear Colleagues,

As we approach the centennial for National Association for Advancement of Colored People (NAACP) in 2009, the Southeast Region of the NAACP, known as Region V, comprised of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee; continues to play a vital role in advocating for fair treatment of all citizens. The strength of the Association lies with its many volunteers actively engaged in a network of units throughout the country who join as one voice in the fight for justice and equality.

During this 56th Annual Civil Rights Advocacy Training Institute, delegates from across the region will convene and discuss important policy issues in preparation for the 2008 Federal Elections. This year's conference has enlisted experts to research and analyze the state of our region in the areas of Education, Economic Empowerment, Health, Criminal Justice, and Juvenile Justice as we plan to tackle these issues in our local communities. The goal of this report is to equip and invigorate delegates towards organizing communities for impact on policy at the federal level.

Region V, the largest region within the Association, was a pivotal battleground during the Civil Rights movement. Today, we are in a stronger position than ever before to assess the needs of the region and to make informed recommendations towards real and sustained change. Contained in this report you will find a series of policy papers that together give voice to the needs of the southeast region and perhaps the country. The issues within cut across the experiences of

individuals in the region, but particularly impact those in our community who have been historically marginalized and under-resourced. It is with the needs of this membership base in mind, that the NAACP moves forward a public policy research and advocacy agenda that pursues democracy and equality for all.

This report incorporates recommendations and priorities identified by the NAACP through a consultative process with research and advocacy partners committed to social justice. The NAACP Southeast Region involved the input of a diverse set of scholars, advocates, community leaders and other invested individuals, who together assessed strategic opportunities and challenges in the identified areas.

We wrote this publication to spur action and investment in the region – with an eye towards specific federal recommendations -- in the areas of health disparities, education, criminal justice, juvenile justice, and predatory lending.

This document will amplify the following points:

- *Health Disparities*
- *Education*
- *Criminal Justice*
- *Juvenile Justice*
- *Predatory Lending*

Health Disparities

- Poor outcomes in education and economics are closely tied to poor outcomes in health. Like the disparities in education, disparities in health persist from the beginning of life onward. This report finds that racial disparities and access to healthcare persists, where minorities are less likely to be insured and more likely to receive substandard care than non-minorities even when access-related factors, such as patients' insurance status and income, are controlled. Particular areas of rising concern are 1) HIV/AIDS: half of the estimated 1.3 million Americans living with HIV are Black, 2) Obesity: according to the Centers for Disease Control and Prevention (CDC), 77 percent of Black women and 62 percent of Black men are overweight - which helps explain why we lead in many statistics for obesity-related conditions, like diabetes, heart disease, and cancer, 3) Mental Health: minorities are less likely to receive needed mental health services, often receive a poorer quality of mental health care treatment, and are underrepresented in mental health research, 4) respiratory Diseases: African Americans have similar rates of cigarette smoking as Whites (22% vs. 24% respectively) and lower overall exposure to tobacco smoke, but are more likely to develop and die from lung cancer. Black men are at least 50 percent more likely to develop lung cancer and 36 percent more likely to die from the disease than White men.

Education

- In 2004, Black students were roughly 16% of the public school population, with only 53% of all Black students graduating from high school with a regular diploma, compared to 76% for whites. Nearly 50% of Black students in America attend what are known as "dropout factories." On average, African American 12th grade students read at approximately the same level as white 8th graders. Studies have shown that high school dropouts earn less money and experience a poorer quality of life than their graduating peers. They are also more likely to become embroiled in the criminal justice system, have children while they are very young, and elatedly, have less access to high quality healthcare. Un-

derstanding the connection between graduation rates as a measure of school performance, the NAACP finds that current state-reported data is not reliable and cannot be compared across states and districts. Better data systems and measures must be put into place, as well as new aggressive measures for increasing graduation rates that will serve to raise expectations for students and schools and hold schools more easily accountable.

Criminal Justice

- It is undisputed that African Americans are disproportionately affected by the criminal justice system, and many studies have found that African Americans are unjustly and unfairly penalized within this system. This paper will analyze the criminal justice system in three ways: how people enter the system, what happens while they are inside of the system and what happens when they leave. We will argue that certain policies and practices at the federal, state and local level maintain a system which prioritizes profits over the rights and human dignity of individuals who come into the system. These policies, including 'War on Drugs' initiatives, play on community fears by promising to address public safety issues, but often fail to make much of a difference. In this analysis, we will make specific policy recommendations to reduce incarceration rates, end racial profiling practices, eliminate sentencing disparities and support full enfranchisement of persons with felony convictions.
- In addition to the mechanics of the system itself, an additional area of concern is prosecutorial conduct. It is widely believed that many prosecutors have used the powers of their office to advance political careers, prosecuting individuals for the purpose of seeming to be tough on crime, rather than on seeking to pursue truth and justice. These prosecutors face no retroactive action in these instances. Recent research shows that many who are serving time for crimes they didn't commit have actually been caught up in the Bermuda triangle of re-election politics, administrative error and systemic barriers to due process which together, have colluded to keep those

least resourced and represented, behind bars. The NAACP seeks legislation similar to current anti-lynching laws that would require federal authorities to investigate and pursue charges against those who rashly and illegally abuse the powers of their office for political purposes, and who knowingly cut short the full course of due process that every American should have access to.

Juvenile Justice

- Despite a growing body of evidence indicating that youth are adversely affected by incarceration in any type of secure facility, the United States continues to place youth in detention, secure confinement, jails, and prisons. The issues at stake in this report include the South's over-reliance on incarceration and the adverse affects of incarceration on children, families and communities; the disproportionate minority contact (the affect on the African-American community); increasing "adulthoodification"--charging children as adults and the science that argues against this practice; school related referrals to the juvenile justice system and the ways schools can stem the tide of youth in the juvenile justice. The overarching goal of future policies regarding youth should be to focus on effective prevention and intervention programs to reduce the number of youth involved in the juvenile justice system. By engaging youth in productive activities such as education, employment and evidence-based practices, states can reduce the number of youth that are sent to correctional facilities, while promoting public safety. To achieve this goal, the NAACP calls on policymakers to implement policies that shift the responsibility of rehabilitation and enforcing accountability away from the juvenile justice and correctional systems and toward evidence-based, community-sponsored alternatives.

Predatory Lending

- It is now estimated that 2.2 million sub-prime home loans (defined as 3 percentage points higher than the prevailing rate for long-term Treasury bonds) have already failed or will end in foreclosure – the highest foreclosure rate since the Depression – with a total equity loss of \$164 billion. Moreover, neighboring homes to foreclosed properties will see a decline in value of \$200 billion. A US Conference of Mayors Report estimates that the foreclosure crisis will reduce home values by an additional \$519 billion in 2008, bringing the total forecast of lost equity for the nation's homeowners to \$1.2 trillion. Eventually this will lead to a decrease in tax revenue for the state and a loss of funding for projects like public transportation and libraries. A decrease in public funding will lead to further decline in property values and continue a dangerous trend.
- It is now widely documented that nearly seventy percent of all sub-prime loans were made to African-Americans borrowers (and 20 percent to Latinos). About half of these sub-prime borrowers were eligible for prime loans but were steered toward sub-prime rates instead. For many of the victims, the defaults come on the heels of medical emergencies, deaths or job loss. The NAACP believes that the lack of enforcement of civil rights laws and of fair lending laws, has created this environment. Even Martin Gruenberg, vice chairman of the Federal Deposit Insurance Corporation (FDIC), said at the Rainbow PUSH Coalition's Wall Street Economic Summit in January, "Only one-sixth of this differential (of who received sub-prime rates) could be accounted for by the ability of the borrower." Known as 'affordability products,' sub-prime mortgages generated big commissions up front and were designed to require refinancing later on – which included yet another round of luscious fees for lenders.

Civil Rights leaders have called on Mayors, State Attorney Generals, and the US Attorney General to sue lenders for predatory practices and to recover lost revenues stemming from a real estate market undermined by sub-prime mortgages designed to fail. Baltimore is suing, Cleveland and Illinois – led by Illinois Attorney General Madigan – are all pursuing these kinds of lawsuits. The NAACP points to the need for federal intervention on the level of restructuring in the Great Depression with the Reconstruction Finance Corporation; and in the 1990's with the Reconstruction Trust Corporation rescuing failing savings and loans. And even as both journalists and economists have been slow to admit that lack of civil rights enforcement plays a major role in the current financial collapse, the NAACP believes the sub-prime mortgage crisis in particular, needs to be seen as part of the continuing struggle for racial equality.

In closing, failing to address the problems presented by this report will affect millions of people and several generations -- but directing attention and resources to these issues can be a powerful means to achieve equity, improved public health and social justice.

We only need look to the historical record to understand the context of where communities of color find themselves today – and yet, we also look to the future -- even to the 2008 Federal election cycle to raise our voices to policy makers for justice and change.

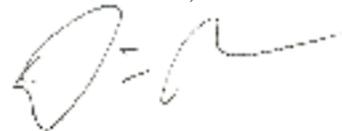
The chorus of voices the NAACP marshals is constituency based, with grassroots leaders across the region, working together to weave the fabric of a sustainable quality of life in our communities. We are seeking real remedies that can improve the quality of life for all, and particularly for African American communities in the South.

We hope that this report will serve not only as a compass of partnership for those leading change in the region, but also as a

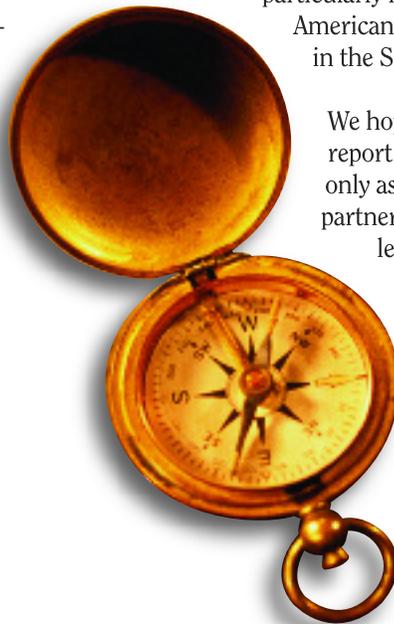
springboard for further debate about the impacts and opportunities of some of the most pressing issues of our time.

On behalf of the leadership of the Southeast Region, thank you for your attention to this important report. Please do not hesitate to contact us if you would like to discuss this report or the ideas contained in it.

Peace and Power,



Derrick Johnson, State President
Mississippi State Conference NAACP





1

Protecting Voting Rights in the 21st Century

Jenigh Garrett
NAACP Legal Defense and Educational Fund
(LDF)

Executive Summary and Overview

This paper describes federal voting rights laws designed to increase voter registration and root out discrimination in voting.

Specifically, this report discusses:

- *Section 2 of the Voting Rights Act: a law protecting against discriminatory voting practices nationwide;*
- *Section 5 of the Voting Rights Act: a law that prevents covered jurisdictions from discriminating in voting; and*
- *The National Voter Registration Act: a federal law established to encourage political participation and prevent discriminatory voter removal practices.*

The appendix provides talking points regarding modern voting rights issues.

1. The Voting Rights Act

America has a long and troubled history of denying the right to vote to African-American citizens. Indeed, full access to the ballot box was only obtained for African Americans, nearly a century after passage of the 15th Amendment, through the Voting Rights Act of 1965—considered the greatest achievement of the Civil Rights Movement.

The Voting Rights Act was in large part a response to a grim day in American history, known as “Bloody Sunday,” when peaceful demonstrators risked their lives to call attention to the widespread disfranchisement of African Americans. These demonstrators were violently attacked in Selma, Alabama. Congress passed the Voting Rights Act just five months after this nationally televised event highlighted the brutality African Americans faced while attempting to exercise the right to register and vote. Enacted on August 6, 1965 to enforce the protections provided by the 15th Amendment, the Voting Rights Act arms individuals with the power to seek redress in court for violations of their voting rights, and empowers the Department of Justice to enforce minority citizens’ right to vote.

The Voting Rights Act generally, and Section 5 specifically, revolutionized local and state legislatures across the country, as well as in Congress, by opening the political process to minority voters and providing an opportunity for African Americans to elect representatives of their choice. For example, when the Voting Rights Act was first enacted there were 3 African American members of Congress. Today, as a result, in part, of the protections afforded by

Sections 2 and 5, African American membership of Congress has increased to 42 members in the House of Representatives.

Will the Voting Rights of African Americans Expire?

No. The right to vote for African Americans is protected by the United States Constitution and does not expire. However, certain provisions, enacted to protect African American voting rights, were set to expire in 2007. Congress renewed the expiring provisions of the Voting Rights Act for another 25 years in 2006.

What Type of Voting Rights Act Provisions Are Permanent?

Many of the Act’s provisions are permanent including the Section 2 provision which addresses practices and procedures that result in vote dilution or vote denial.

What Is Section 2 of the Voting Rights Act and How Does It Work?

Section 2 of the Voting Rights Act is a nationwide prohibition against voting practices and procedures that discriminate against language and racial minority groups. Section 2 provides that “[n]o voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” This provision of the Voting Rights Act provides a mechanism for challenging discriminatory practices or procedures that have the effect of diminishing minority voters’ ability to equally exercise their vote and/or elect candidates of choice.

Proof of discriminatory intent, although helpful, is

not necessary to mount a challenge under Section 2 of the Act.

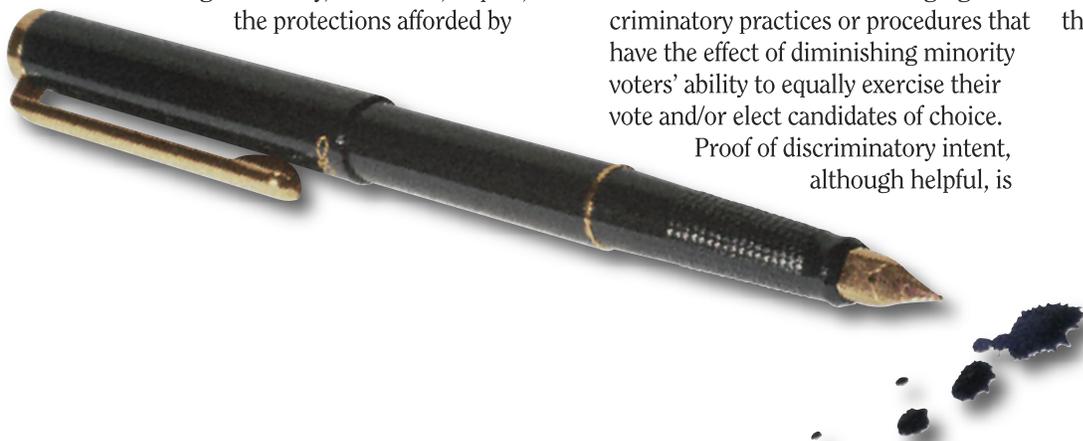
What Voting Rights Act Provisions Are Temporary?

Section 5 (the preclearance provision), Section 203 (the minority language assistance provision), and Section 9 (the federal observer provision) are temporary provisions of the Voting Rights Act.

What Is Section 5 of the Voting Rights Act and How Does It Work?

Section 5 requires states with the most egregious histories of racial discrimination in voting to seek approval (or “preclearance”) from the Federal Government before implementing any voting change. Section 5 applies to all or part of 16 states, most of which are in the Deep South. The burden of proof is on these “covered jurisdictions” to prove that their proposed voting changes will not worsen the position of minority voters. Section 5 applies to all changes that impact voting, including changes in polling place locations to the redrawing of Congressional districts.

Section 5’s effectiveness lies in the fact that it has prevented jurisdictions from implementing voting changes that would otherwise worsen the position of minority voters. In addition, Section 5 has helped deter covered jurisdictions from adopting discriminatory changes in voting. Thus, many voting laws that would have discriminated against minority voters were never implemented because of the protections afforded by Section 5.





During the 2006 reauthorization process, Congress developed a legislative record that was replete with evidence of ongoing voting discrimination. Numerous witnesses offered testimony to Congress regarding their observations and experiences in the covered jurisdictions. These witnesses, including litigators, practitioners, advocates, scholars and private citizens, presented extensive evidence of the ongoing problems in jurisdictions covered by Section 5 and renewed the Section 5 preclearance provision for another 25 years.

Why Not Apply Section 5 Nationwide?

Section 5 of the Voting Rights Act was designed by Congress to specifically prevent states and counties with notable histories of discrimination from continuing to discriminate. Section 5 could be subject to Constitutional challenge if Congress sought to apply the provision nationwide, because the Supreme Court has ruled in recent years that laws which place unique burdens on the States must target a systemic problem and offer a remedy proportional to the problem. Without evidence that every state has committed the type of egregious and discriminatory voting rights violations for which Congress passed Section 5 in 1965, expanding Section 5 nationwide might make the provision susceptible to constitutional attack. In 2006 Congress found that the evidence of continued discrimination in Section 5 covered jurisdictions persisted and reauthorized Section 5 for another 25 years.

What Jurisdictions Are Covered Under Section 5?

Section 5 covers nine states in their entirety:

- Alabama
- Alaska
- Arizona
- Georgia
- Louisiana
- Mississippi
- South Carolina
- Texas
- Virginia

Section 5 also covers parts of seven other states:

- California (4 counties)
- Florida (5 counties)
- Michigan (2 townships)
- New Hampshire (10 towns)
- New York (3 counties)
- North Carolina* (40 counties)
- South Dakota (2 counties)

** (Please see Appendix C for a List of Covered Counties in North Carolina)*

Who Submits Voting Changes?

There is a broad range of officials who enact or administer voting changes that are subject to Section 5 review, including:

- Legislative bodies (state legislatures, state boards of election, county commissions, boards of aldermen, city or town councils, school boards, water districts, etc..)
- Executive officials (governors and mayors, etc.)
- Other officials (secretaries of state, county clerks, registrars).

How Long Is the Section 5 Review Process?

Section 5 requires that the Department of Justice complete its review and issue a final preclearance determination within 60 days of receipt of the submission. However, if a jurisdiction fails to provide information necessary to make a preclearance determination, the Department of Justice may request more information from the jurisdiction about the voting change.

The 60-day time period does not begin until a jurisdiction submits all information necessary for the Department of Justice to determine that the jurisdiction has met its burden.

How Can Citizens Participate In the Section 5 Process?

Any individual or group may send information concerning a change affecting voting in a covered jurisdiction to the Attorney General, including private citizens. Information from private citizens may help improve the Justice Department's review and assessment of the impact that a particular voting change has on the minority community. The following are a number of steps that individuals or groups can take in order to play a more active role in the Section 5 process:

First, monitor the various voting changes that are submitted to the U.S. Department of Justice for review. You can receive notices electronically or by mail. Interested persons can send an email to: section5.notice@usdoj.gov requesting that they be added to the distribution list for Notices of Section 5 Submission Activity. In addition, you can contact Department of Justice directly at 800-253-3931 and ask to be placed on their mailing list.

Second, if you identify a voting change that appears to be problematic, request a copy of the submission from the submitting official in the local jurisdiction or submit a Freedom of Information Act (FOIA) request to the Department of Justice to obtain a copy of the file.



Third, collect as much information as possible about the process preceding the adoption of the particular voting change.

Fourth, if you determine that a particular voting change may worsen the position of minority voters or determine that a voting change was adopted with a discriminatory purpose, prepare a Comment Letter outlining your concerns for the Department of Justice and include the information you collected about the process leading to the voting change. Comment Letters concerning changes can be sent at any time.

However, given the 60-day review period, it is important to share your views regarding potentially problematic voting changes as soon as possible. Remember, the Department of Justice will not disclose the identity of persons submitting Comment Letters to the extent permitted by the Freedom of Information Act, if requested.

The NAACP Legal Defense and Educational Fund frequently works with citizens and local organizations in covered jurisdictions to prepare Comment Letters outlining concerns regarding pending voting changes.

Why Should Citizens Participate In the Preclearance Process?

A strong Comment Letter urging the Attorney General to object to a voting change can help highlight problems or deficiencies with the submission and lend some insight into the factors the Department of Justice considers during its review under Section 5. The additional information provided by citizens in the affected community may prompt the Justice Department to seek more information about the change or object to the change.

Have There Been Any Legal Challenges To Section 5?

Yes. Northwest Austin Municipal Utility District Number One v. Gonzales, is a case filed by a small utility district in Austin, Texas just days after Congress overwhelmingly voted to reauthorize the federal oversight provisions of the Voting Rights Act in the summer of 2006. Section 5 of the Voting Rights Act covers the entire state of Texas as a result of its well-documented history of voting discrimination. As a covered jurisdiction, all proposed voting changes in the State must be submitted for preclearance to

the Department of Justice or a federal court before the changes can take effect. The utility district seeks to end this federal oversight designed to block and deter discriminatory voting changes under the Act's "bail-out" provision. In addition, the utility district also challenges the constitutionality of the Section 5 "preclearance" provision of the Voting Rights Act.

The NAACP Legal Defense and Educational Fund, Inc. (LDF) intervened on behalf of Black voters who live in the utility district and is currently defending the constitutionality of the Act's Section 5 preclearance provision. A three-judge panel heard oral argument in the case on September 17, 2007 before the D.C. District Court. A ruling from the court is expected in the near future.

In addition to Section 5, what are the other temporary provisions of the Voting Rights Act?

Section 203 requires certain states and counties with significant numbers of limited English proficient voters to provide voting assistance in languages other than English. Section 203 offers assistance to four language minority groups: American Indians, Asian Americans, Alaskan Natives, and Latinos. Congress has found that these four language minority groups consistently face discrimination on the basis of race, ethnicity or national origin.

Section 9 permits the Attorney General to send federal observers to monitor elections when reports have been received about potential problems that may inhibit minority voter access to the polls on Election Day.

II. *The National Voter Registration Act*

In 1993, Congress found evidence that discriminatory voter registration procedures and laws disproportionately harm voter participation by various groups, including racial minorities. These procedures occurred when voters attempted to register and even after voters were lawfully placed on the registration rolls. As a result Congress enacted the National Voter Registration Act of 1993 (the “NVRA”).

What Does the NVRA Require?

The NVRA requires that facilities which issue driver’s license applications (including renewals) simultaneously offer a voter registration application that the applicant can sign. The driver’s license facility is then required to transmit the voter registration application to the voter registrar in a timely manner. Many states include the voter registration application and the driver’s license application on the same form. However, the voter registration application is only effective if the voter signs that portion of the form. Because the NVRA includes these require-

ments for driver’s license facilities, the law is often called the “Motor Voter” law.

Congress, however, recognized that many voters would need additional opportunities to vote. As a result, the NVRA also provides that voters can register by submitting a federal voter registration application that they mail in to the local voter registrar.

The NVRA also requires that states designate public assistance or disability program offices as registration agencies. Public assistance programs include facilities that issue Food Stamps, Medicaid, Aid to Families with Dependent Children, and the Women, Infant, and Children program. Designated public assistance offices must distribute mail voter registration forms, assist voters in completing the voter registrations forms, accept the completed registration applications, and transmit them to the voter registrar in their jurisdiction in a timely manner.

In addition to these mandatory provisions, states can open up registration

procedures even further and provide registration opportunities at schools, libraries, or any other location voters frequent.

Does the NVRA Provide Any Additional Protection?

Yes. The anti-purge provisions of the NVRA work to make voter registration permanent. Unfortunately, before the 1993 enactment of the NVRA some jurisdictions executed blanket programs to remove certain categories of eligible voters. These practices disproportionately harmed many voting groups, particularly minority voters. To that end, the NVRA prevents jurisdictions from removing (or purging) voters from registration lists in a summary fashion.

Thus, before a jurisdiction can remove qualified voters from the registration rolls, the voter must confirm in writing that he has moved outside the jurisdiction. The only other way a voter can be removed from the registration rolls is if he receives a notice in the form required by the NVRA asking that he confirm his registration, does not respond to that notice, and does not appear to vote in two federal election cycles following the date of the notice.

III. *Despite Strong Voting Rights Laws America Continues to Struggle With the Promise of Democracy*

When it comes to voting in America, a great deal of America’s unfortunate history has been based on the idea that democracy is selective and limited. This history is grounded in the belief that voting is a privilege, something to be earned and available to a selected few who demonstrate worthiness. Traditional tests of worthiness were literacy tests, poll taxes, property ownership requirements, and overcoming threats from Sheriff’s,

Deputies, and other official actors at the Registrar’s door. These individuals feel that the right to vote is only available to those who can overcome.

Others believe that voting is the core right and central building block of democratic expression. For those that believe that voting is a right, structural and ad hoc impediments to the ballot box are intolerable.

At bottom, the choice between whether voting is a right or a privilege is a choice between following the high promises of the Constitution or the low practices of many powerful local officials. The choice is clear: voting is a fundamental right.

What Does Modern Discrimination Look Like?

Modern voters, and in many cases disproportionately minority voters, are being denied their right to vote at various stages of the voting process including: (1) prior to registration; (2) at or after the time of registration; and (3) at the polls on Election Day. This occurs when official actors classify and suppress voters.

Specifically, those that adhere to the privilege of voting philosophy manipulate certain classes of voters because they want to retain political power. This manipulation can come in the form of suppressing the votes of those who support an adversarial candidate instead of simply motivating supporters to come out to the polls. Since the political process relies on classifying identifiable groups and predicting who and how they will vote, Black or Latino voters, limited English proficient voters, poor voters, or voters in a particular part of town are targeted by a patchwork of voting rules and procedures that provide opportunities to exclude these voters from the voting booth and dilute their ability to elect a candidate of choice.

For instance, restrictive photo identification laws block voters who fail to obtain government issued photo identification. Tellingly, many poor, elderly, and minority voters, who vote at the polling place on Election Day, will find this obstacle insurmountable. Meanwhile, absentee voters, who are usually more affluent, are exempt from restrictive identification requirements.

Another example of modern discrimination is the practice of denying registration to eligible voters or purging eligible voters from registration rolls based on a faulty name and date of birth match in another database. Sometimes the database is from another state agency but in some instances States request voter reg-

istration information from other States throughout the country and attempt to purge any voter who shares the name and date of birth of any other registered voter. These practices, which often target or have the greatest effect on minority communities, are the subject of modern discrimination lawsuits.

Conclusion:

The right to vote is the heart and soul of democracy. The quality of our schools, access to affordable housing, employment opportunities, and quality health-care all depend on your vote and who represents your interests.

While barriers to the voting booth are not as blatant as they were before the enactment of the Voting Rights Act in 1965, sophisticated obstacles continue to prevent eligible voters from casting a ballot that counts. These modern barriers do not provide graphic images of brutal discrimination, but they continue to deny eligible voters the right to vote.

To combat persistent discrimination in voting, LDF is partnering with state and local organizations to launch the PREPARED TO VOTE Campaign, voter awareness and readiness campaign inspired by the Freedom School Model from the Civil Rights Movement. The PTV Campaign seeks—through community-based workshops, the dissemination of concise, user-friendly materials and website features—to empower communities of color by providing essential information prior to Election Day. The Campaign aims to ensure that voters are

prepared to overcome obstacles to participation such as voter ID requirements, voter purges, faulty voter rolls, poorly trained elections officials, felon disenfranchisement statutes and a host of other potential barriers.

Through PREPARED TO VOTE, LDF and its local partners will build upon lessons LDF learned as a founding member of the national Election Protection Program and experiences during its post-Katrina voter protection work in the Gulf Coast. Taken together, these experiences revealed many issues related to providing critical voting information to the minority community and underscored the limitations of Election Day and, in many cases, post-election litigation. With courts reticent to extend voting hours or overturn election results, LDF identified a need for education and legal assistance before Election Day and refocused its energies and expertise to empower minority voters to act before problems arise.

An essential component of the PREPARED TO VOTE Campaign is the development of state-specific, user-

friendly but comprehensive materials that provide information about relevant voting laws. The materials will equip and empower LDF attorneys and local partners to respond to and resolve voters' problems. The PREPARED TO VOTE materials will be available at Voter Preparedness Centers through Election Day, and will be widely disseminated through each selected state by our local partners.

LDF is partnering with local organizations in the following states represented at the Southern Regional Conference: North Carolina, South Carolina, Alabama, and Mississippi to bring the Prepared to Vote Campaign to communities of color. Other states attending the regional conference will be able to access general information about federal voting rights laws through our PREPARED TO VOTE materials.



Setting the Context – A More Perfect Nation:

Seeing Race and Building Prosperity



By Maya Wiley,
Director
Center for Social Inclusion

The impoverished state of Black America has been sustained through redlining, racial steering, local zoning laws, and a lack of Black wealth that was established and perpetuated through slavery, Jim Crow, institutional employment discrimination, among all else. In particular, Southern states are strapped with Constitutions that date back to the openly racist era allowing the United States to maintain a legal system of Jim Crow segregation for nearly a century. While laws have changed over the years, white prejudice, power and privilege has not changed. In order for America to fully realize the

intention of The Constitution for all of its citizens, we must, first, understand historically how and why these deep structures of racial inequality came into being. And, we must advocate for constitutional reform to safeguard racial equity.

Discrimination in health, education, employment and housing severely restricts opportunities for black communities. Problems in the “inner” city have roots in structural racism and economic injustice. Without attacking these core problems, community revitalization efforts will be ineffective. It is increasingly difficult to bring race-based job discrimination, black land-

lost, “separate and unequal” school funding, and inadequate health care cases to the courts as the southern region is overwhelmed with judges appointed by conservative administrations who hold up racist ideas. We need “just” judges on the federal level who respect the law; who will do what it right. We are in emergency response mode and must put pressure on elected officials to seek liberty and justice for all.

**– Edward Vaughn,
State President,
Alabama State Conference NAACP**

1. The State of Opportunity in the US:

As we mobilize to take advantage of the 2008 election cycle to lift up how Black people are systematically oppressed in the criminal justice, education, healthcare and economic systems, it is important to set these issues in a historical and political context. The disparate outcomes among people of color are as a result of centuries of institutionalized racism that are still clearly manifest in this country's current institutions and structures. In order to most effectively apply and mobilize around a policy agenda, it is necessary to contextualize opportunity, the history and contemporary relevance of structural racism, the implications of strategic policy development, policy solutions and the intersection of race and policy.

We stand on the brink of historic times. A Black man and a White woman are viable candidates for the US Presidency. Given this fact, many argue that race itself is no longer relevant. What does Barack Obama's or Hillary Clinton's bids for the presidency tell us about how the country thinks about race or gender? Not much, yet. The real question is not the race or gender of who we will elect, but what kinds of policies the American people are willing to support to further racial and gender equity, improve public education, build safe housing we all can afford, ensure an economy that supports our well-being and builds a national health care system that ensures all people, regardless of wealth, enjoy longer, healthier lives? It would be a grave mistake to assume that policies will follow an historic election, unless we work to understand the importance of policies and how they impact us all. We must be willing to look at race and also its relationship to poverty, sex discrimination, immigration and more.

First, let us look at where we are. The gap between the nation's richest and everyone else mirrors inequity just before the Great Depression. Between 1997 and 2001, the top 10% of US earners received 49% of the growth in real aggregate wages. The top 1% of US earners received 34% of the non-wage income. Second, the cost of living, particularly housing and healthcare, continues to rise, while wages lag behind and corporate profits soar. Two million households face foreclosure on their homes thanks to the current mortgage crisis. And

nearly 47 million Americans, about sixteen percent of the population had no health insurance.

The number of uninsured Americans has been on the rise, increasing by almost seven million people since 2000. Finally, we incarcerate more people today than ever before, and most of

those people are Black and Latino. Since 1972 the U.S. prison population has increased five hundred percent. Blacks are only about 12% of the national population, but are almost half of those in prison. When convicted of the same drug felony, blacks are about 50 percent more likely to be sentenced to prison than whites.

How did the US become a leader in wealth inequity and what does race have to do with it? The answer to these two questions is inseparable. The federal government started cutting programs that invested in people. Then it started telling the states to take care of federal responsibilities, often without sufficient resources for the social and infrastructural needs states have. And states, when they had budget surpluses, did not invest in people and public infrastructure (transit, schools, etc.). And none of this was race neutral.

Many of our policy debates were driven by symbolic racism. The undeserving "welfare queen" President Ronald Reagan used to erode support for welfare programs was a Black woman. He even launched his Presidential campaign in Philadelphia, Mississippi, where local police murdered civil rights activists Goodman, Chaney and Schwerner, announcing his commitment to "states rights" – coded language for his opposition to federal efforts to produce racial equality. The symbolism of race has been used by those who want to cripple government, without using the words, undermining policies and programs that benefited all racial groups.

Budget cuts for safety net or public investment programs have been part of a larger attack on federal responsibility for a social safety net. Public willingness to accept the notion of a small, limited federal government because a larger, more responsive one somehow reduces our "individual" responsibility for self care and protection, developed in the historical context of slavery. Slaveholding states' primary tool to protect slavery and white supremacy was "States rights" – undermining the federal government's ability to impose universal civil rights and civil liberties. The infamous Republican "Southern Strategy" to use racism to win the ideological fight for corporate prerog-



atives and limited social investments in our people and our planet helped exclude Blacks from the New Deal, defeat President Harry Truman's attempt to pass universal health care reform, attack welfare policies and support privatization. This creates a "set-up." Black people and other people of color can be barred from meaningful opportunities and then blamed for their poverty, incarceration and single-parent hood.

We need to invest in and build our public and social infrastructure because years of race discrimination prevented us from investing in it. As a result, opportunities like affordable housing and good paying jobs are shrinking for everyone. Two-thirds experienced downward mobility in the 1980s and 1990s.

But communities of color are more vulnerable thanks to a history of policies that either excluded them from public benefits and resources or intentional isolated them. Take climate change, or global warming of the planet, produced by our dependence on fossil fuels. Our carbon emissions are warming the planet in ways that are creating fires, tornados,

flooding, drought and hurricanes. Racial inequity has not produced fossil fuel dependence. But the unstable weather it is producing is devastating communities of color around the world and in the US. It is producing high levels of immigration and displacement of people from around the globe, increasingly referred to as "environmental refugees." These refugees are largely African and Asian. And within the United States, as we have seen with Hurricanes Katrina, Rita, Wilma and others, communities of color are less resilient.

If we understand what our most vulnerable communities need, we can build prosperity for everyone. The home mortgage crisis, for example, might have been prevented if we ensured that communities of color had access to credit. The sub-prime mortgage market is huge today thanks, in part, to redlining Black communities – banks and insurance companies drew red lines on maps around Black communities and told their underwriters not to make loans there. This spurred predatory lending practices and the growth of the sub prime lending spree. Some of the same banks then bun-

dled and sold these mortgages as investment instruments on Wall Street. This is not to argue that all of the world's woes are the direct result of racial inequity. Racial inequity creates one of the critical conditions that allow bad policies and practices.

We value equality strongly in this country, but when we see mass poverty, incarceration and environmental degradation in communities of color, indeed when we still see large poor communities of color, then we have not lived up to our national values. But we must understand it differently than the traditional "anti-discrimination" way of thinking. We have to look to Black community well-being to understand how our systems are operating, who they hurt or help and how. Our inequality is not inevitable. Policies and institutions produced it and perpetuate it. This should give us great hope. It means policies and how our institutions behave can create equality and prosperity. This approach does not look for a racist decision-maker or bad intentioned people. This approach looks at what we have built and how it operates – structural racism.

2. Structural Racism Historically and It's Continuing Relevance Today:

Structural racism requires that we understand the history of our important institutions and their interaction with one another. We cannot understand where we are and where we need to go without some sense of how we got here. Many of our most important significant national strides that create more opportunities for everyone, required Black struggle for racial inequity. And, likewise, many of our current problems stem from our refusal or failure to fully address racial equity.

Let us begin with our history of education in the US. Compulsory public education did not exist in the slaveholding South and most other states in the union. Only private schools existed and

only the children of the wealthy could attend school as a result. So Whites were often denied an education along with Black slaves. But racism created a crippled system, particularly in the South that served Blacks almost not at all and served Whites inadequately. When northern philanthropists like the Rosenwalds sent money down South to help educate newly freed slave children, Whites who received no public education, were angry. The rich powerbrokers had to create a public education system to appease Whites, but lacking any real commitment to it and intent on preserving racial segregation, the hallmark to this system was local funding. In Mississippi, for example, antebellum legislation allowed counties to use local funds to provide

"common" schools, but did not require them or create any universal standards. Localities decided whether to open a school defined the school district; selected a curriculum; determined who could teach and the length of the academic year. Each township required a majority vote before taxes could be levied for education. Basically each school became a school district and Mississippi had 3952 school districts. It remained highly fragmented until 1953 when the state created a special commission to reorganize the 3952 school districts into 151 based on principles of racial segregation. The current number of districts is now 152, barely altered from pre Brown v. Board of Education. Today, the US is the only industrialized nation in the world that funds its schools locally. It creates inequity and weakens the base of support for the schools.

As Blacks and other people of color were shunted into inadequate public schools, which were grossly under funded and overcrowded, we were excluded from eli-

gibility for important public programs that helped create the middle class. The middle class as we know it today has only been with us since the 1950s, the 1930s' New Deal its mother and the 1940's Fair Deal, its father.

The Social Security Act of 1935, the first significant piece of New Deal legislation, gave workers retirement, disability and unemployment insurance benefits for the first time. It was



a tremendous investment in people's ability to care for themselves. Yet it excluded "agricultural workers" and "domestics" because they were largely Black. Eighty percent of the national Black population, still largely living in the South, was denied eligibility for social security benefits. Southern legislators refused to support the New Deal coalition unless Blacks were excluded from its benefits.

The next blow came in the form of the National Housing Act of 1934, which created the Federal Housing Administration (FHA). The FHA subsidized mortgages and insured private mortgages. Federally subsidized mortgage loans often required new owners to refuse to sell to other racial groups. By the 1950s, the FHA and the Veterans Administration (VA) were insuring half the mortgages in the United States, but only in segregated neighborhoods. The FHA's underwriting manual classified people of color as nuisances to be avoided along with "stables" and "pig pens." The FHA urged developers, bankers, and local government to use zoning ordinances and physical barriers to protect racial segregation.

These policies created the modern American suburb, increasing racial segregation, weakening the tax base of cities, the

environment and political and social cohesiveness. In 1950, 60% of the population in a metropolitan area lived in the old central cities. By 1990, about 66% lived outside the central city in 168 census-defined metropolitan areas. Moreover, 152 new metropolitan areas sprang up during four decades of "new" urban growth.

This also meant rural areas were either urbanizing or losing population and jobs.

Even before New Deal suburbanization, the South was becoming more urban. Southern states and towns began competing for industry through tax exemptions and free land for new mills and their company villages.

By 1930, two million people were employed in Southern mills – mostly White people, because Blacks were discriminated against. Between 1920 and 1930 the total urban population of the South increased by 25%. Between 1940 and 1950 the US farm population dropped by almost five and a half million people.

But the social security, higher education and homeownership policies of the New Deal and post-World War II era did not support Black communities to join this newly minted middle class. Because public schools, thanks to racism and elitism, were locally funded, suburbanization meant even less money for urban and many rural schools. Some of the most significant victories of the civil rights movement were undermined by the relationship between suburbanization and locally funded schools. The Supreme Court in *Milliken v. Bradley* refused to require the suburbs to open their schools to inter-district integration. The Supreme Court was not concerned that by protecting localism and permitting White flight to the suburbs, it was in effect overturning *Brown v. Board of Education*.

After the civil rights movement victories, we began to reduce taxes on the wealthy that helped produce New Deal and Fair Deal programs to grow the middle class. As Paul Krugman points out in his new book, *Conscience of a Liberal*, President Roosevelt, to fund New Deal programs, raised the top income tax bracket to 65%

and by the early 1970's it was 92%. Today it is 35%. Not surprisingly, maximum government benefits for low-income family of four declined (in constant dollars) from \$910 in 1970 to \$450 in 1996. At about the same time, we began changing sentencing laws and incarcerating large numbers of mostly Black and Latino people. The chance that a Black male will be incarcerated in the US is 28.5%, but only 2.5% for White man. In ten states, Latino men are thrown in jail or prison at 5 to 9 times the rate of White men. Blacks with a high school education or less are at the highest risk of imprisonment. A black male dropout, born in 1965-1969, had a nearly 60 percent chance of serving time in prison in the late 1990s [Pettit, 2004 #1668, 161]. Not only does incarceration devastate families, it has become an economic system whereby rural communities, desperate for jobs, support prison construction. Inmates, largely from poor communities and often having had poor education and job prospects, become cheap labor to help support financially the prison system. So significant is prison labor that federal corrections officers recently went on strike to prevent cut-backs in prison industry, in part, because it will impact the budgets of the prisons. Inmates are only paid \$1.00 per hour for their labor. When released, prison records in hand, many cannot find employment because of their records, creating a vicious cycle of poverty and re-incarceration.

Prisons mean less money for education, housing and other social programs. The State of Louisiana spent nearly half a million dollars the previous year incarcerating some of the people who lived in the Florida Housing Development in the city's Ninth Ward. And over the course of just a couple years, the State spent millions of dollars just transport residents of "the Florida" back and forth between prison and home. Criminal justice experts call this a "million dollar block" because of the costs of incarcerating its residents. People cut off from opportunities are most at risk of imprisonment. Police District 5, where the Florida Homes are located, accounted for 16% percent of the City's roughly half million people, but 26% percent of those incarcerated.

3. Implications for Development of policy strategies on housing, health care, education and criminal justice:

We got here through locally funded, segregated public education, excluding Blacks, Latinos and other people of color from the benefits of the policies and programs that built the middle class, adopting sentencing laws to increase the Black and Latino prison population to staggering proportions, and then cutting the very taxes that had produced the middle class, when intentional discrimination was no longer legal. So it should be no surprise that the number of Black families at the bottom of the economic ladder has increased since the civil rights movement of the 1950s and '60's. From 1964-

1973, 24% of Black families were concentrated among the bottom 10% of the national income distribution. From 1981-1990 39% of Black families were and continued to be into 2000. And the Black middle class has shrunk. From 1964-1973 Black families earning between 26 and 75% of the national income distribution decreased from 40 to 35% and stayed there in 1991-2000 period. From 1964-1973, 2% of Black families had incomes putting them among the top 10% of the national distribution of income, increasing only to 3% between 1991-2000.



These policies have real impact today on real people in the South. In Columbia, South Carolina, over a third (37.6%) of Black residents are paying more than they can afford in rent (more than 30% of their income). And homeownership, long recognized as the road to greater wealth, does not always produce prosperity in communities of color. Despite very high homeownership rates in some parts of Richland County, SC (72% in predominantly Black Lower Richland County), Columbia's low-income Black communities have low home values, due in part to weak tax bases in Black neighborhoods. One reason for depressed home values is lack of important public infrastructure like water and sewer lines, that would help promote home values. But it is also the case that they have significantly less access to quality education and decent paying jobs.

The counties of Mississippi's delta region have always been majority African American, but between 1990 and 2000, the African American population in the delta has grown 7.3% -- significantly more than the white population in the Delta (2.9%). This may mean that Whites are more mobile and can follow the jobs. Goods production jobs (farm, agricultural services, mining, manufacturing and construction) have declined in the delta region by 5.4% since 1990. Service production jobs (transportation, public utilities, wholesale and retail trade, finance, insurance, real estate, government and government enterprises) have increased 4.5% since 1990. This means lower paying jobs. In 1999, service production paid between \$15,000 and \$21,000, while goods production paid between \$25,000 to \$31,000. Manufacturing jobs are the highest paying.

continued...

4. *How to Talk About Race and Policy:*

Race also is used as a wedge issue to erode White people's support for important social policies that can build opportunity for everyone. Therefore, we must learn how to raise race effectively for the policy debate. We can build public will for racial justice if we rethink our strategy development to build support over the long-term. To do this, we need strategies to reframe the public conversation on race. Framing is a comprehensive strategy that includes developing policy vehicles, alliances and strategies for moving the conversation. We must develop messages, but that is only one piece of an effective communications strategy.

Messengers are also critically important for carrying new frames to their constituencies. Used strategically, framing must be integrated with building capacity for us to work together across racial groups for collective action.

The NAACP and other community based advocacy and social service organizations are important community infrastructure to support a new conversation. We also need relationships and alliances with Latino, White and other communities. We must also sustain those who need to carry new frames so that they eventually become adopted by the broader public. On this last point, we need leaders from a range of different communities to understand new frames on our linked fates and why it is critical to solve the problems of our most vulnerable to produce prosperity for everyone. Framing is a long-term strategy, although it has implications for

and should inform short-term campaigns.

In the short term, to help us build alliances and begin to open up the conversation on racial equity, we have to recognize the four dominant race frames that can influence public opinion on policy issues that affect Black people and challenge them. They are: 1) Blacks are doing as well as Whites (racial disparities do not exist); 2) Blacks are not doing as well because of their culture or bad choices; 3) Some one has to be on the bottom (disparities are natural and inevitable); and 4) Blacks are not doing as well as Whites, but equal opportunity policies are unfair to Whites. In research conducted by the Center for Social Inclusion and the Kirwan Institute, we have found that attacking all four frames is necessary and can open up many people to a conversation on racial justice.

5. *How to Think About Policy Solutions*

The economy, housing, healthcare, education and criminal justice systems all impact one another. That means that we have to understand how one impacts the others. We need all of them to work for us. That does not suggest that we must fix all at once or all work on the same strategies. It does mean that we have to recognize that our work on one problem should help solve another. This might change our policy strategies on housing or education. If we take that example, here is a possible structural housing policy demand that would also have educational benefits for our children. The

federal government, through the US Department of Housing and Urban Development, has a Low Income Tax Credit (LIHTC) program. It provides tax incentives for the construction of affordable housing. LIHTC developers built over 800,000 low income units in the 1990's. This is an important program, but more than half of that housing was built in poor neighborhoods with few opportunities for residents.

The Kirwan Institute for the Study of Race and Ethnicity, the Center for Social Inclusion and other racial justice organizations are fighting for policies to locate LIHTC housing near job centers and where schools are good can create more employment and education opportunities for people of color. In fact, the Kirwan Institute also suggests the possibility of requiring that LIHTC units be built where data collected under the federal No Child

Left Behind statute suggests that the schools are performing well. By giving low-income people of color choices about where to live, we create opportunities for them increase their access to decent jobs and schools.

We also have to fight for access to affordable housing for people with felony records and think about incentives to help them get jobs. Pushing government agencies to create incentives for hiring formerly incarcerated people is one way. Government contracts are sought after. By creating programs to link government contracts to job opportunities for those with felony records could provide needed employment opportunities for people. These are only a few policy ideas that begin the process of giving people choices and linking them to opportunities.

Conclusion:

Paramount to our struggle for civil rights is an informed analysis around the implications and impacts of structural racism. While a strategic policy agenda advocating for opportunity, access and justice for African American communities in the

American South is imperative; it is also important that we have a collective understanding of the oppressive structures that our advocacy seeks to counter. And so we collectively fight for both new policies and a new conversation; new ap-

proaches to education, new jobs, new objectives for our criminal and juvenile justice systems, new venues for economic opportunity; a new region, a new country and a newly invigorated commitment to racial justice.



*Pushed Back:
The Devastating
Effects of the*

Subprime Foreclosure Crisis in the Southeast

and the Impact on African Americans.

By Nikitra Bailey, The Center for Responsible Lending,
and Ed Sivak, The Mississippi Economic Policy Center

“ You can see economic empowerment: better jobs lead to better communities which lead to better schools that result in safer streets. There is an individual responsibility we must take for our economic destiny. We must teach our children how to save, invest, manage and create employment. As an institution, we have a role in pressing for social justice. We must demand economic equity. Our future has been largely decided by what our zip code is. Unless something different happens at

the top in terms of policies on how mortgage and lending practices are carried out, it's not looking good for Black America. As a nation, we are challenged to change as the consequence of current policy over the next five to ten years will be increased homelessness.

Sub-prime lending is the latest version of the latest song and dance exploiting people of color. 55% of blacks versus 17% of whites received sub-prime loans even if they qualified for lower rates. Further, banks are bailing

out people who already have the resources to catch up, another example of our economy working against people of color. We are not just talking about the poor either. We are talking about middle class people who have worked hard to achieve the American dream only to have their dream turn into a nightmare overnight.

**- Edward Dubose
President
Georgia State Conference NAACP**

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Overview



As news about the economy continues to take a downturn, the nation's foreclosure crisis has taken center stage. In neighborhoods across the country, Americans are losing their homes to foreclosure. Reckless lenders using lax underwriting standards have pushed America to the brink of recession, triggering the greatest loss of homeownership since the Great Depression. Millions of Americans will lose their homes or face a drop in their home value. One of the primary reasons for the surge in foreclosures is the proliferation of subprime loans.

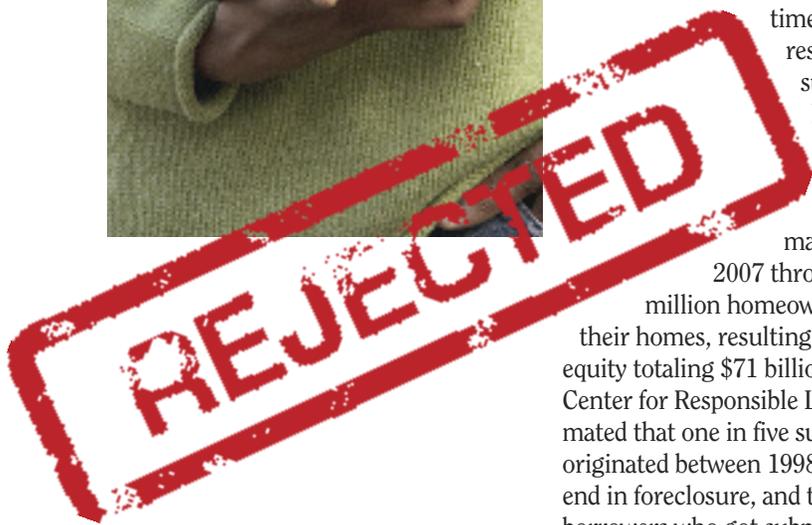
Even before the current crisis, subprime loans were nearly 10 times more likely to result in foreclosures than prime loans.¹ The Congressional Joint Economic Committee estimates that, from 2007 through 2009, two million homeowners will lose their homes, resulting in a loss of home equity totaling \$71 billion. In fact, the Center for Responsible Lending estimated that one in five subprime loans originated between 1998 and 2006 will end in foreclosure, and that 2.2 million borrowers who got subprime loans between during this period have lost or will lose their homes to foreclosure.² The lost in home equity as a result of these foreclosures will cost consumers as much as \$164 billion.³

One key characteristic of the subprime market is that the majority of these loans have been for refinancing mortgages—not loans used for purchasing homes. Subprime mortgages made between 1998 and 2006 did not produce any net increase in the rate of homeownership, but rather a net loss of nearly one million homes.⁴ Moreover, African-Americans were disproportionately targeted for these abusive loans, and today are at risk of losing homes at greater rates. Failed loans in the subprime market are now poised to bring about the greatest drain

of wealth the African-American community has ever experienced. In January, United for a Fair Economy projected that the subprime mortgage crisis will drain \$213 billion in wealth from communities of color.⁵

Given the link between subprime lending, foreclosures and lost wealth, the southeast is especially vulnerable. Nearly 1/3 of the nation's African-American population lives in the seven southeastern states profiled in this report.⁶ A significant body of research shows that subprime loans and their risky features were disproportionately made to African-American borrowers and in communities with higher concentrations of African-American residents.⁷ Previous gains in homeownership made in African-American communities are now at risk.⁸ In 2004, African-American homeownership peaked nationally at 49.1 percent, but by the end of 2006 it dropped 1.2 percentage points to 47.9%.⁹ While two out of ten white home mortgage borrowers living in the southeast received a subprime mortgage, African-American mortgage borrowers living in the southeast received a subprime mortgage 59% of the time.¹⁰

Because homeownership is so important to the fundamental economic security of all Americans, the damage stemming from subprime foreclosures has serious implications. This paper specifically explores the effect of subprime lending and foreclosures on the southeastern states with a particular emphasis on the impact of foreclosures on people and communities of color. It concludes with a series of policy recommendations to strengthen the country's systems to get and keep people in their homes for years to come.



Background

A. CHARACTERISTICS OF PREDATORY LOANS

Subprime lending is a type of mortgage lending intended to serve borrowers who do not qualify for prime loans because of credit problems or a limited credit history. Subprime loans commonly result in foreclosures with frequencies almost 10 times higher than prime loans.¹¹ While not all subprime lending is predatory, predatory lending is concentrated in the subprime market. Predatory lending is a set of abusive practices that strip wealth or income from borrowers. Predatory loans typically are much more expensive than justified by the risk associated with the loan. Characteristics of predatory loans may include, but are not limited to, excessive or hidden fees, charges for unnecessary products, high interest rates, terms designed to trap borrowers in debt, and refinances that do not provide any net benefit to the borrower.

Some of the most common predatory lending practices include:

- **Steering**- the practice of encouraging borrowers to accept higher-cost subprime loans even when they qualify for a more affordable prime loan. Vulnerable borrowers may be subjected to aggressive sales tactics and sometimes outright fraud.
- **Prepayment Penalties**- a fee charged by a lender when a borrower pays off a mortgage before all payments are due, often to refinance the loan at a more affordable rate. Prepayment penalties vary in size and how long they remain in effect. Some of the most pernicious are effective for three to five years and charge six months interest. While prepayment penalties are rare in the prime market, up to 80% of subprime mortgages include the penalties. These penalties trap borrowers in the higher priced loans, and act as an “exit tax” on borrowers who try to get out of them.

- **Yield Spread Premiums**- a payment a mortgage broker receives from a lender for delivering a loan with an interest rate higher than the minimum rate the lender would accept for that particular loan. Yield spread premiums provide incentives for mortgage brokers to steer borrowers into higher-cost loans.

- **Dangerous Loan Products** - at the same time the industry lowered its standards for qualifying borrowers, it also aggressively marketed riskier types of adjustable-rate mortgages (ARMs). The most well known of these products is the hybrid ARM, often known as a “2/28” or “2/27.” Another risky product is the payment option adjustable-rate mortgage (POARM), which allows people to make monthly payments that do not cover principal and interest. With a POARM, the homeowner can actually end up owing more on the home over time instead of less.

Predatory lending in communities of color emerged after the enactment of the Community Reinvestment Act of 1977. The Community Reinvestment Act (“CRA”) was enacted to abolish redlining, which is the arbitrary denial of real estate loan applications in certain geographical areas, without considering individual applicants qualifications.¹² Yet many mainstream banks subject to the CRA continued to avoid African-American neighborhoods, leaving a void into which high-cost, predatory lenders stepped. Thus, African-Americans went from being locked out of access to mortgage credit to being bombarded with abusive mortgage credit terms.

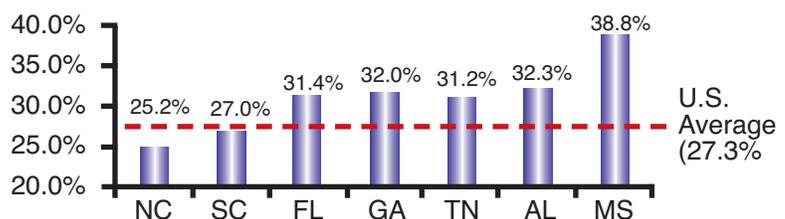
According to the Center for Responsible Lending, African-Americans are more likely to receive higher-rate home purchase and refinance loans than similarly-situated white borrowers, particularly for loans with prepayment penalties.¹³ These disparities exist even after controlling for borrowers traits, credit scores, home equity, and other risk factors.¹⁴ Furthermore, the identity of the lender has more to do with loan pricing disparities than does the traits of the borrower.¹⁵ According to a recent article in The Wall Street Journal, between 55 to 61 percent of all subprime borrowers since 2000 could have qualified for prime loans.¹⁶

While in recent years there has been an increase in access to higher-cost mortgages for borrowers of color, the terms of credit have been detrimental to the borrowers. The problem shifted from “redlining” to “reverse redlining;” from denial of credit, to targeting for higher-priced, risky credit. As the result of the harmful terms, predatory lending has grown rampant in the subprime market to the point where it is almost synonymous with subprime lending.

B. SUBPRIME LENDING IN THE SOUTHEAST – A SNAPSHOT

Across the country, the prevalence of subprime lending grew substantially over the last several years. In 1997, just 1.9 % of mortgage loans used for home purchase were originated by subprime lenders compared to 14.2% in 2004.¹⁷ The spread of subprime lending was especially noteworthy in the Southeast given that most of the states in the region experienced subprime lending rates above the national average (Chart 1).

Chart 1
In Most Southeastern States Rate of Subprime Loans Higher than National Average (2005)



Source: Dataplace, generated with 2005 Home Mortgage Disclosure Act data, www.dataplace.org

In all states except for North Carolina and South Carolina the rate of subprime lending was higher than the national average. North Carolina likely experienced a lower rate of subprime lending due to strong mortgage lending protection laws for consumers. In Mississippi, a state with weak consumer protections for mortgage borrowers, the rate was 11.5 percentage points higher than the national average.

Lending by Income

Subprime lending across the region also occurred more frequently with very low- and low-income borrowers than in other parts of the country.¹⁸ Whereas the U.S. average rate of subprime lending to very low- and low-income borrowers was 37.1%, five of the seven southeastern states had rates that exceeded the U.S. rate (Chart 2).

In the southeast, low-income borrowers were also more likely to receive subprime loans than upper income borrowers. The rate of subprime lending to very low- and low-income borrowers was 39.7% com-

pared to a subprime lending rate of 23.9% for the region's upper income earners. For a full list of subprime lending rates across income categories and southeastern states see Appendix A.

Lending by Race

In every state in the Southeast region, subprime loans occurred at significantly higher rates to African-American borrowers than to white borrowers. While 21.6% of mortgage originations to white borrowers were subprime, 58.7% of African American borrowers received a subprime mortgage in 2005. All of the states in the Southeast experienced a gap in subprime mortgage originations between white and African-American borrowers of at least .35 percentage points (Chart 3).

The largest gap occurred in South Carolina where African-American borrowers received subprime loans at a rate that was 40 percentage points higher than the rate for white borrowers. A full listing of subprime lending rates by race and state can be found in Appendix B.

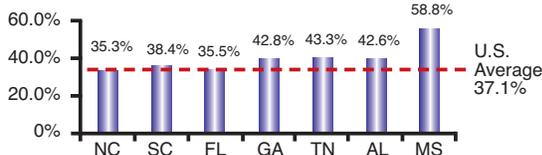
C. SPILLOVER EFFECT OF SUBPRIME FORECLOSURE CRISIS

The Center for Responsible Lending projects that the negative spillover effect of the subprime foreclosure crisis will extend beyond individual families losing their homes to surrounding neighbors and the wider community. It estimates the following:

- **40.6 million neighboring homes will experience devaluation because of subprime foreclosures that take place nearby.**
- **The total decline in house values and tax base from nearby foreclosures will be \$202 billion.**
- **Homeowners living near foreclosed properties will see their property values decrease \$5,000 on average.**

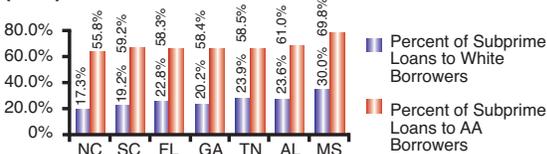
In the southeast, the Center for Responsible Lending projects nearly six million homes will be lost or will lose value due to foreclosures.¹⁹ Map 1 illustrates the regional impact of foreclosures by state.

Chart 2
Subprime Loan Rate for Very Low- and Low- Income Borrowers, Southeast States (2005)



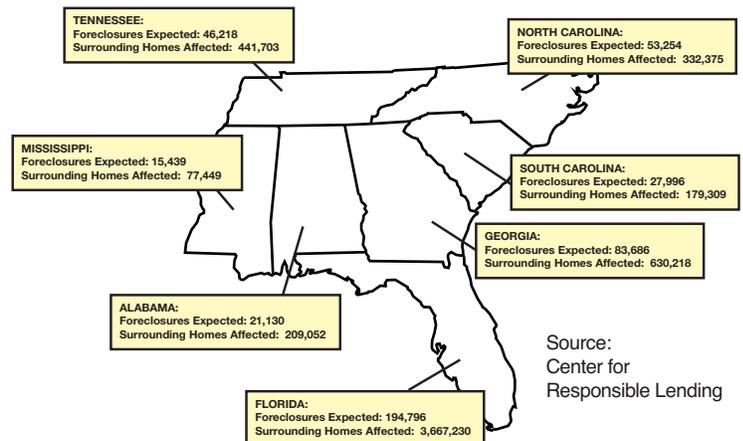
Source: Dataplace, generated with 2005 Home Mortgage Disclosure Act data, www.dataplace.org

Chart 3
Rate of Subprime Lending for African American Borrowers is Significantly Higher than Rate for Whites (2005)



Source: Dataplace, generated with 2005 Home Mortgage Disclosure Act data, www.dataplace.org

Map 1
Projected Foreclosure Impacts by State - Southeast Region



Source: Center for Responsible Lending

**Table 1
Economic Effects of Foreclosures in Southeastern States**

	Decrease in Home Value	Average Decrease in Home Value Related to Foreclosure
Alabama	\$ 406,000,000	\$ 1,940
Florida	\$ 35,900,000,000	\$ 9,777
Georgia	\$ 1,800,000,000	\$ 2,884
Mississippi	\$ 144,000,000	\$ 1,860
North Carolina	\$ 861,000,000	\$ 2,592
South Carolina	\$ 477,000,000	\$ 2,660
Tennessee	\$ 967,000,000	\$ 2,190

With nearly six million homes affected directly or indirectly by foreclosures, the states and homeowners in the southeast region also stand to lose billions of dollars. Table 1 shows the economic losses projected in each state.

In Florida, the state with the highest rates of home value appreciation in recent years, homeowners and communities stand to lose over \$35 billion. Homeowners in other states will lose, on average, between two and three thousand dollars apiece.²⁰

Federal Policy Solutions to the Subprime Foreclosure Crisis

Current federal law provides insufficient protection against abusive practices that led to the subprime mortgage foreclosure crisis.²¹ Efforts to address the crisis must include solutions that both reduce foreclosures on existing loans and address the deficiencies of the subprime lending market in the future. By seeking meaningful solutions to the subprime crisis, lawmakers will help the national economy recover and create safeguards against this kind of catastrophe in the future. The following recommendations are critical to moving forward.

A. Permit Judges to Fix Distressed Home Loans.

A strong solution to the current mortgage crisis is a small change to the bankruptcy code that would allow courts to make limited modifications to a mortgage loan when the borrower is facing foreclosure, ensuring that struggling borrowers stay in their home and the lender continues to receive a payment stream. This proposal, the “Emergency Home Ownership and Mortgage Equity Protection Act” H.R. 3609, has passed the House Judiciary Committee in a bipartisan compromise struck by Chairman Conyers and Representative Chabot.

The following facts make the proposal sound policy:

- 1) It is cost effective. Because the compromise legislation is limited to loans already in existence, it will have no detrimental impact on the cost or availability of credit going forward. Moreover, implementing this law would not require any funding from tax dollars.
- 2) It leaves the 2005 Bankruptcy Code intact. The proposal to allow court-supervised modifications for borrowers facing foreclosure does not implicate the 2005 Bankruptcy Code changes, but rather relates to an older provision of the law.

3) The proposal addresses existing inequities. Right now, investors and speculators may receive loan modifications in bankruptcy proceedings for the debt they owe on their yachts, vacation homes and investor properties. Yet current law bars middle-class homeowners from receiving a loan modification on mortgage loans.

4) It would prevent more foreclosures. Permitting bankruptcy judges to modify loans on primary residences could prevent as many as 600,000 foreclosures.²² In reality, this remedy will accomplish its objective even without requiring most of these families to actually file for bankruptcy. Changing the Code will provide a template for modification and will give servicers the precedent and protection they need from lawsuits by tranches of investors who might otherwise object.

Making this small fix to the bankruptcy code will be a win-win for homeowners, lenders, neighbors, taxpayers and the economy as a whole. Homeowners can stay in their homes. Lenders will be guaranteed the fair market value of their house, which is more than they would receive at foreclosure sale, and without the lengthy delays and added expenses associated with foreclosure. Finally, loans can be modified quickly and effectively.

Parallel efforts are pending in the Senate as of this writing to allow court-supervised loan modifications. The “Save our Homes Act” S. 2136 and Title IV of the “Foreclosure Prevention Act” S. 2636 would go farther than the “Emergency Home Ownership and Mortgage Equity Protection Act”. Without costing taxpayers, the bills would save American families not facing foreclosure \$72.5 billion in wealth by avoiding 600,000 foreclosures.²³ Additionally, a recent assessment of the likely impact of the proposals, if enacted, concludes that allowing modification would have “no or little effect overall on mortgage interest rates.”²⁴

B. Establish Standards for Sustainable Mortgage Origination

Any solution to the foreclosure crisis also requires that we prevent such abuses from happening again, especially since so many people will need to refinance their current mortgages. In the fall, the House passed the “Mortgage Reform and Anti-Predatory Lending Act of 2007” H.R. 3915 which includes some needed protections. But, while that legislation is a good start, it needs to be strengthened. A bill has been introduced in the Senate, the “Home Ownership Preservation and Protection Act of 2007” S. 2452, which would also address some of the key abuses going forward.

To be effective at preventing a recurrence of today’s crisis, federal legislation should include the following:

- Require sensible underwriting to ensure that the borrower has the ability to repay a loan according to its terms, and take into account the “payment shock” associated with adjustable rate or non-fully amortizing loans.
- Eliminate prepayment penalties for subprime loans.
- Remove incentives for brokers and lenders to overcharge borrowers, and steer them into riskier, and more costly loans.
- Assure adequate accountability for all those who participate in these loans, and assure that the homeowners’ rights are enforceable, and available as defenses to foreclosure.
- Protect the right of states to enact strong laws for their own citizens, such as the one currently in effect in North Carolina. The federal law should be “a floor, not a ceiling,” and should not preempt stronger state laws.

As Chart 2 illustrates, North Carolina homeowners are facing a smaller foreclosure crisis than other southeastern states. One contributing factor is the strong state laws that protect consumers from abusive lending. By strengthening underwriting systems, the country will not only protect its homeowners, it will also restore the world’s confidence in our markets.

C. Require loan servicers to engage in an automatic and systematic loan modification strategy.

With so many loans already in foreclosure or at risk of going into foreclosure, a systemic loan modification strategy is needed to support the greatest number of at-risk homeowners in the shortest amount of time. This would include two approaches. First, automatic loan modifications should occur for borrowers facing rate resets on adjustable rate mortgages. The modifications would include changing adjustable rate products to fixed rate products and / or principal reductions to the present market value. Following the automatic loan modifications, case by case assistance would be available to anyone not affected by the automatic loan modification to conduct an options analysis on a borrower’s long term ability to repay the mortgage. For those in need of assistance, provisions could be made through repayment plans, modifications or other strategies to bring the loan current.²⁵

Conclusion

The southeast region has been significantly affected by the foreclosure crisis – especially in African American communities. Repairs to the home mortgage market should take into account the gains that African-Americans have made in getting access to credit, but now it is time to ensure that

such access is based on sustainable loans that actually help families build wealth, rather than those that are designed to fail. Homeownership has long been the primary asset owned by African-American families. By enacting strong foreclo-

sure prevention policies and protections from predatory lending, the effects of the foreclosure wave can be muted and a foundation laid for building wealth in the southeast – especially in communities of color.



Footnotes to Subprime Foreclosure Crisis

- ¹ Apgar, William C. and Mark Duda, *Collateral Damage: The Municipal Impact of Today's Mortgage Foreclosure Boom*, Homeownership Preservation Foundation, May 11, 2005, p 8.
- ² Ellen Schloemer, Wei Li, et. al., *Losing Ground: Foreclosures in the Suprime Market and Their Cost to Homeowners*, p.11 (December 2006), available at <http://www.responsiblelending.org/pdfs/CRL-foreclosure-rprt-1-8.pdf>.
- ³ See Schloemer, p.11.
- ⁴ *Subprime Lending: A Net Drain on Homeownership*, CRL Issue Paper No. 14 (March 27, 2007), available at <http://www.responsiblelending.org/pdfs/Net-Drain-in-Home-Ownership.pdf>.
- ⁵ Amaad Rivera, et., al., *Foreclosed: State of Dream 2008*, United for a fair Economy (January 15, 2008), available at http://www.faireconomy.org/files/pdf/StateOfDream_01_16_08_Web.pdf.
- ⁶ U.S. Census Bureau 2006 American Community Survey. Mississippi Economic Policy Center calculations.
- ⁷ See for example: Bunce, Harold, Debbie Gruenstein, Christopher E. Herbert and Randall M. Scheessele "Subprime Foreclosures: The Smoking Gun of Predatory Lending?" <http://www.huduser.org/publications/pdf/brd/12Bunce.pdf> and Schloemer, Ellen, Wei Li, Keith Ernst, and Kathleen Keest "Losing Ground: Foreclosures in the Subprime Market and Their Cost to Homeowners" Center for Responsible Lending, December 2006.
- ⁸ Fishbein, Allen and Harold Bruce "Subprime Market Growth and Predatory Lending" <http://www.huduser.org/Publications/pdf/brd/13Fishbein.pdf>
- ⁹ Homeownership Rates By Race and Ethnicity of Householder: 1994 to 2006, U.S. Census Bureau, <http://www.census.gov/hhes/www/housing/hvs/annual06/ann06t20.html>.
- ¹⁰ Dataplace. generated with 2005 Home Mortgage Disclosure Act data, www.dataplace.org. Mississippi Economic Policy Center Calculations.
- ¹¹ Apgar, William C. and Mark Duda, *Collateral Damage: The Municipal Impact of Today's Mortgage Foreclosure Boom*, Homeownership Preservation Foundation, May 11, 2005, p 8. OR could say, "See note 1."
- ¹² 12 U.S.C. 2901 (1977).
- ¹³ Debbie Gruenstein Bocian, Keith S. Ernst, and Wei Li, *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages*, Center for Responsible Lending, May 31, 2006, at 3, available at http://www.responsiblelending.org/pdfs/rr011-Unfair_Lending-0506.pdf.
- ¹⁴ Id.
- ¹⁵ Id.
- ¹⁶ Rick Brooks and Ruth Simon, "Subprime Debacle Traps Even Credit-Worthy: As Housing Boomed Industry Pushed Loans to a Broader Market", *Wall Street Journal*, Dec. 3, 2007, at A1.
- ¹⁷ Remarks by Governor Edward M. Gramlich At the Financial Services Roundtable Annual Housing Policy Meeting, Chicago, Illinois May 21, 2004.
- ¹⁸ Very low-income is defined as below 50% of the Area Median Income. Low-income is defined as 50%-80% of Area Median Income. Middle-income is defined as 80% - 120% of AMI and Upper-income is defined as greater than 120% of Area Median Income.
- ¹⁹ The figures cited in Map 1 and Exhibit 1 were calculated by CRL using original projections of subprime foreclosures and spillover impact updated to reflect newer estimates of subprime defaults as reported by Merrill Lynch (The Market Economist, December 14, 2007) and Moody's Economy.com (<http://judiciary.house.gov/media/pdfs/Zandi080129.pdf>). Additionally, foreclosure estimates calculated using outstanding subprime loans reported by the MBA in its 3Q 2007 National Delinquency Survey; latter is also the source for the subprime foreclosure starts. Spillover results do not include areas outside of metropolitan statistical areas.
- ²⁰ Loss estimates were not calculated for communities that are not part of Metropolitan Statistical Areas (MSAs), and therefore are underestimated for states with large rural populations.
- ²¹ Legislative and regulatory responses to changes in the nature of the problems in the subprime market at the federal level have been slow to non-existent, while states have shown more nimbleness. Several states have enacted so-called "mini-HOEPAs" since 1999 to close the loopholes in the 1994 federal law (the "Homeownership and Equity Protection Act"). As the industry's underwriting got more reckless, and the products sold shifted to the riskier adjustable-rate mortgages, states again moved more rapidly to address the new model of abusive lending and reckless lending as Ohio, Minnesota, North Carolina, Maine, Illinois, and Colorado have enacted laws taking aim at these practices since May, 2006.
- ²² HR 3609 Compromise Bill Permits Court-Supervised Modification, Would Save 600,000 Homes, CRL Issue Paper (January 18, 2008), available at <http://www.responsiblelending.org/pdfs/hr-3609-support-brief.pdf>.
- ²³ Foreclosure Prevention Act of 2008 (S 2636) Compromise Bill Permits Court-Supervised Modifications, Would Save 600,000 Homes, CRL Issue Brief (February 27, 2008).
- ²⁴ Adam J. Levitin and Joshua Goodman, *The Effect of Bankruptcy Strip-Down on Mortgage Interest Rates*, p. 41 (Georgetown Univ. L. Cntr, Business, Economics and Regulatory Policy Working Paper Series Working Paper No. 1087816, February 6, 2008).
- ²⁵ "Foreclosure Prevention and Intervention: The Importance of Loss Mitigation Strategies in Keeping Families in Their Homes" written Testimony of Tara Twomey of Counsel National Consumer Law Center Before the United States House of Representatives subcommittee on Housing and Community Opportunity, November 30, 2007.



Juvenile Justice Reform:

Unlocking the Future of Our Communities

Sheila Bedi, Justice Policy Institute
Amanda Petteruti, Justice Policy Institute
Nastassia Walsh, Justice Policy Institute

“Why is there no outrage about our children? Why aren't parents screaming for help for their own children? Nobody is alarmed. We must address juvenile justice as it impacts the quality of life for all of us. This is everybody's problem. We must advocate for a common sense approach to implementing the “zero tolerance” policy. Large numbers of students are being pushed off an academic track and into the juvenile jus-

tice system because of the harsh penalties imposed by these “zero tolerance” approaches to school discipline. Throughout Florida, the over-use of suspensions, expulsions, and arrests has turned many schools into feeders for the juvenile and criminal justice systems.

Students who engage in truly criminal behavior such as serious violence or the sale or possession of illicit drugs should be subjected to criminal

charges - as they were even before zero tolerance became the watchword. However, students should not be deprived of an education and a future by being derailed into the juvenile justice system for minor acts. The criminalization of our children must be stopped.”

**- Adora Nweze
State President,
Florida State Conference NAACP**



Statement of Issue:

Keeping children behind bars destroys young lives and communities. Frequently held far away from their families, most incarcerated youth must navigate a complex legal process with little help or guidance. Few facilities provide children with the educational, medical and mental health services that they need. And far too many institutions abuse our children in unconscionable and unconstitutional ways. Families, communities and advocates throughout the South are all too familiar with the horrific conditions in the United States' juvenile prisons. In Mississippi, incarcerated teenage girls were shackled and sexually assaulted while committed to a "training school." In Florida, a young man lost his life because of brutal conditions at a juvenile boot camp. Georgia youth who were held in an adult prison were repeatedly subjected to sexual assaults. In Alabama a nine-year old child with unmet special education needs was taken away from school in handcuffs and spent months behind bars for allegedly threatening a teacher with a plastic utensil. While our children suffer physical and mental harm, our entire community feels the adverse affects of our over-reliance on juvenile incarceration.

Researchers have found that that incarceration, particularly for youth, increases the chances that a young person might be involved in future delinquent behavior. Studies on Arkansas' incarcerated youth found that the experience of incarceration is the most significant factor in increasing the likelihood of recidivism.

[i] The Centers for Disease Control found that youth committed to an adult facility are 34 percent more likely to commit another offense than youth committed to a juvenile facility.[ii]

Clearly, incarcerating children is a failed public policy. Yet the United States continues to place youth in detention, secure confinement, jails, and prisons. The Southern States[iii] alone account for 17 percent of the youth in the U.S. who are either detained or committed to a juvenile facility.[iv] Youth of color comprise the largest portion of the population of youth in secure confinement, although they make up less than a third of the U.S. population. Adding to these numbers is the growing number of youth tried and convicted in adult courts and sub-

sequently placed in adult jails or prisons.

Most children in prison suffer, but children placed in adult facilities are housed in a system that was never designed to meet their needs and are even more vulnerable to abuse. Since the 1990s, when states began passing legislation to try and sentence youth in adult courts, the number of youth in adult prisons and jails has grown. The number of youth held in jails grew 208 percent between 1990 and 2004.[v] Thirty percent of all youth in adult prisons were incarcerated in seven Southern states.[vi] Youth held in adult facilities are at an increased risk of suicide and frequently suffer more abuse at the hands of guards and other inmates. Unsurprisingly, youth living in these conditions with mental illness frequently find their conditions exacerbated.[vii]

Many states continue to confine youth in prisons and secure facilities, sometimes for the entirety of their lives. In 2005, there were 2,225 people held in prison for life without parole (LWOP) for crimes they committed as children, and that number appears to be increasing.[viii] The percent of youth who committed homicide and who were also sentenced to life without parole increased from less than 1 percent in 1980 to more than 10 percent in 1999.[ix] Florida has one of the highest numbers of youth serving LWOP sentences in the region with 273 youth sentenced to spend the rest of their lives in adult prisons. The Equal Justice Initiative recently found that 73 of the people held in prisons for life were youth who committed the offense when they were 13 or 14 years of age.[x] Of the 19 states that currently have 13- and 14-year olds serving life sentences without parole, a third are southern states.

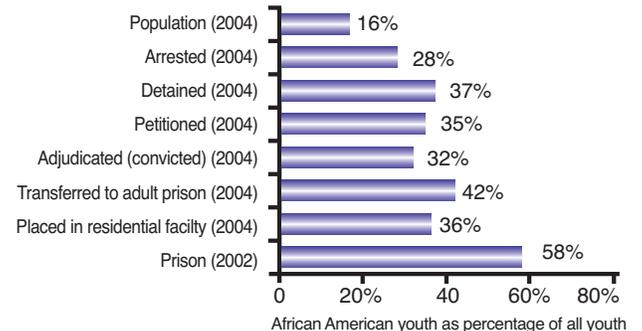
Youth of color are disproportionately represented in both juvenile justice and adult systems. Although youth of color make up less than a third of the general population under age 17, they comprise two-thirds of the youth involved in the juve-

nile justice system.[xi] Evidence suggests that youth of color are no more likely than white youth to participate in delinquent behaviors, however, youth of color, particularly African American youth, are far more likely to be sent to a juvenile or adult correctional facility.[xii] Although African American youth make up just 16 percent of the youth population in the United States, they make up 36 percent of youth placed in a residential facility and 58 percent of youth in adult prisons.

The solutions that are most effective for rehabilitating youth, promoting public safety, and saving the most taxpayer dollars are community and family-based, and grounded in scientific evidence. Evidence-based practices, such as Functional Family Therapy and Multi-Systemic Therapy, which bring therapists and nurse-practitioners into the home to get to the root of delinquent behaviors, have been shown to reduce the chances that a young person might commit an offense. These community-based alternatives stand in stark contrast to juvenile incarceration, which fails to provide young people with any meaningful benefit.[xiii]

Thankfully, the public is beginning to understand that locking up our children is not the answer. In a recent national poll, participants overwhelmingly agreed that treatment, counseling, education, and community engagement and support are more effective means of rehabilitation than confinement in a juvenile or adult facility.[xiv]

African American youth are disproportionately represented through every stage in the juvenile justice system



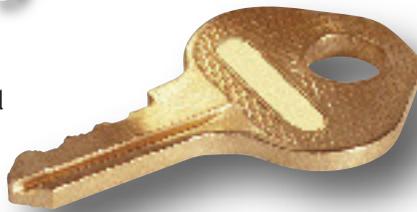
Sources: Population: C. Puzzanchera, T. Finnegan, and W. Kang, "Easy Access to Juvenile Populations," 2006. www.ojjdp.ncjrs.gov/ojstatbb/ezapop/; Detained, Petitioned, Adjudicated, Transferred, Placed: A. Stahl, T. Finnegan, and W. Kang, "Easy Access to Juvenile Court Statistics: 1985-2004," 2007. <http://ojjdp.ncjrs.gov/ojstatbb/ezajcs/>; Arrest, Prison: National Council on Crime and Delinquency, And justice for some. (Washington, DC: National Council on Crime and Delinquency, 2007).

Statement of Policy

Research has shown that placing youth in correctional facilities fails to improve public safety, wastes taxpayer dollars, and unfairly targets youth of color. Juvenile justice reform efforts should focus on effective prevention and intervention programs to reduce the number of youth involved in the juvenile justice system and on diverting money from juvenile prisons to education, employment and evidence-based programs in local communities. This will allow states to reduce the number of youth held in correctional facilities, while simultaneously reducing crime. To achieve this goal, policymakers should implement policies that shift the responsibility of rehabilitation and enforcing accountability away from juvenile prisons and detention centers and toward evidence-based, community-sponsored alternatives.

Invest in education and employment opportunities for youth. Education can be a key factor in whether a person participates in delinquent behaviors. The more education a person has attained, the less likely that he or she will participate in unlawful activities. Given this reality, it is no surprise that the states that spend the most on higher education have lower crime rates than states that spend less.[xv] The same is true for states that focus funding on employment. Lower unemployment rates have been associated with lower crime rates across the country and over time. Policymakers should put more resources into funding education and employment for youth, especially for communities that face public safety challenges.

Implement evidence-based practices. The good news is that we know what works to reduce the chances that a youth will be involved in unlawful behavior. Policymakers should only fund and implement those programs that are proven to help youth make positive life decisions. Though national recidivism rates are difficult to obtain, juvenile recidivism rates within states are often reported at 50 percent or higher for individuals who remain in



detention.[xvi] Youth who return to the community and participate in community-based programs, often with their families or in therapeutic foster homes, have lower recidivism rates than those placed in confinement. Successful programs include Functional Family Therapy, Multi-Systemic Therapy, Multi-dimensional Treatment Foster Care, among others. Each of these initiatives has not only proven to positively impact public safety and improve the life outcomes of participants, but each program has been shown to save taxpayer dollars.[xvii]

Eliminate youth transfer to adult courts. Adult correctional facilities are harsher, and youth are far more likely to experience severe mental health problems and abuse than they would in the juvenile system. For this reason, policymakers should increase the age at which a young person can be transferred to the adult system to 18, ban the placement of youth in adult correctional facilities, and allow only judges to decide whether a young person should be tried in an adult court.[xviii]

Improve conditions in juvenile facilities. Although it is clear that confinement is not the most effective means of improving life outcomes for youth and improving public safety, conditions in juvenile facilities must be improved. Missouri has drastically decreased the number and size of facilities for committed youth. Youth in these facilities receive more specialized and individualized attention. Thus far, the initiative has shown promising results, reducing the chances that youth will commit future offenses, and doing so at a fraction of the cost of a traditional secure facility for youth.[xix]

Cut off the school to prison pipeline. In a number of ways, many schools flood juvenile justice systems with children that don't belong in prison. Some schools use punitive and racially disparate disciplinary practices that have the effect of pushing youth, particularly youth of color, out of school. Youth who drop out of school have a significantly higher chance of being arrested.[xx] Other schools rely on the juvenile justice system as a substitute for effective school discipline policy and file charges on youth for relatively minor infractions.[xxi] States can address these issues by requiring that local education and juvenile justice stakeholders handle certain types of disciplinary infractions at the school-level and by incorporating evidence-based practices into school discipline policies. These evidenced-based practices reduce a schools' reliance on suspensions and expulsions and provide teachers with effective tools for classroom management.[xxii]

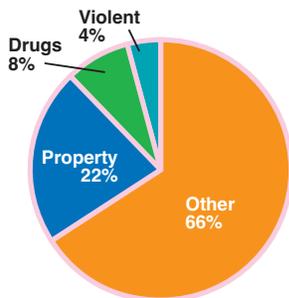
Reduce disproportionate minority contact. Despite evidence that white youth and youth of color engage in certain behaviors, such as drug use, petty theft and gun possession, at similar rates, youth of color, particularly African American youth, are far more likely to be incarcerated for those offenses.[xxiii] Promising results are emerging in counties that have adopted the recommendations of the Annie E. Casey and the MacArthur Foundations for reducing disproportionate minority confinement. By carefully collecting and analyzing data, these counties have been able to determine the point at which youth of color are more likely to be funneled into secure confinement than white youth.[xxiv] Other recommendations for reducing disproportionate minority confinement include implementing an objective risk assessment instrument (RAI), increasing the availability of treatment for communities of color, improving and appropriately funding indigent defense systems, and providing cultural competence training for officials in the juvenile justice system.[xxv]

Statement of Context

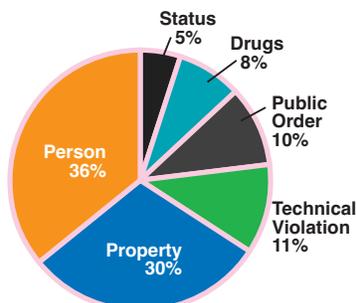
Despite common perceptions, most youth in the juvenile justice system have not committed violent crimes and most do not pose a serious threat to public safety. The majority of youth that are arrested in the United States have been arrested for nonviolent offenses.

Three-quarters of the youth in juvenile detention are there for nonviolent offenses, including offenses that would not be considered a crime if committed by adults, such as running away or truancy. In some cases, youth are held in detention because a judge feels that the home environment is unsafe for the child. In North Carolina, in 39 percent of youth disposition cases at the juvenile court, parents were either unwilling or unable to supervise their child.[xxvi]

96% of youth arrests were for nonviolent offenses in the USA in 2003



In 2003, the majority of youth committed to juvenile correctional facilities in the US were there for nonviolent offenses

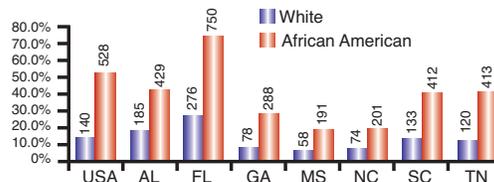


Sources: FBI Uniform Crime Report, "Crime in the United States, 2006," 2007. www.fbi.gov/ucr/ucr.htm; Melissa Sickmund, T.J. Sladky and Wei Kang, "Census of Juveniles in Residential Placement Databook," 2005. www.ojdp.ncjrs.org/ojstatbb/cjrp/

African Americans are overrepresented in the juvenile justice system, both nationally and in the South. Nationally, African American youth were more than three times as likely as white youth to be committed to a juvenile facility in 2003.[xxvii] Georgia imprisons African

American youth at nearly four times the rate of white youth, which is similar to the national ratio. For every 100,000 African American youth in Georgia, 288 were committed to juvenile facilities, compared to just 78 per 100,000 white youth.

Nationally, and in the South, African Americans were committed to juvenile facilities at higher rates than whites



Source: Howard N. Snyder and Melissa Sickmund. Juvenile Offenders and Victims: 2006 National Report (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, March 2006).

African American youth make up a disproportionate number of youth in adult correctional facilities. In Mississippi, African American youth make up 87 percent of youth in adult prisons, despite being only 46 percent of the general youth population.[xxviii] In North Carolina, African American youth make up 76 percent of youth in adult prisons but only 29 percent of youth in the population.

As of October 2005, at least 2,225 people were serving life sentences without the possibility of parole (LWOP) for crimes committed as children.[xxix]

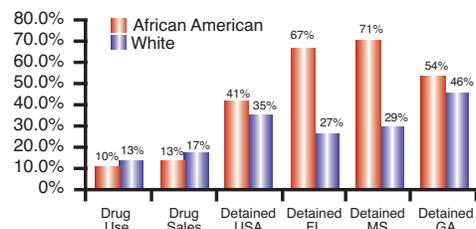
- Florida has one of the highest numbers of youth serving LWOP sentences with 273 youth sentenced to spend the rest of their lives in adult prisons.
- In Alabama, there are 15 youth serving LWOP sentences, and in Georgia, there are 8 youth serving this sentence. In both of these states, African American youth are sentenced to LWOP at a rate that is over five times higher than white youth.
- In North Carolina, where 44 youth are serving sentences of LWOP, African American youth are 14.6 times more likely than white youth to receive this sentence.

African American youth in the South and nationwide are disproportionately detained for drug offenses, despite similar use patterns.

In 2003, there were 26,269 youth under age 18 detained in juvenile facilities in the

United States.[xxx] Forty percent of these youth were African American and 35 percent were white. According to the Monitoring the Future survey conducted by the National Institute on Drug Abuse (NIDA), African American youth have slightly lower rates of illicit drug use (10 percent) than white youth (13 percent).[xxxi] Similarly, research finds that racial patterns of drug sales tend to correspond to racial patterns of drug use, and that African Americans are no more likely to be involved in drug delivery than whites. The results of the National Longitudinal Survey of Youth showed that 13 percent of African American youth reported selling drugs, compared with 17 percent of white youth.[xxxii]

Chart 3
Rate of Subprime Lending for African American Borrowers is Significantly Higher than Rate for Whites (2005)

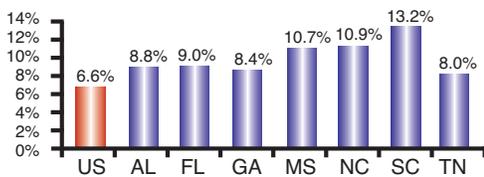


Note: Detained youth include those held awaiting a court hearing, adjudication, disposition or placement elsewhere. Source: Melissa Sickmund, T.J. Sladky and Wei Kang, "Census of Juveniles in Residential Placement Databook," 2005. www.ojdp.ncjrs.org/ojstatbb/cjrp/

Southern states suspend a higher percentage of their students than the national average. South Carolina, for example, suspends twice the percentage of students than the rest of the country. School suspension can lead to delinquent behavior, as the student has less structured time in the classroom and more time to associate with delinquent peers.[xxxiii] In this way, suspension rates are highly correlated with juvenile incarceration. Suspensions and expulsions also disconnect students from school, undermining their ability to learn, graduate, and subsequently find employment.[xxxiv] Lower educational attainment, employment, and wages have been found to be associated with future incarceration as an adult.[xxxv]

More students are suspended in Southern schools than the national average

Percent of students suspended from public elementary and secondary schools, 2002



Source: U.S. Department of Education, Office for Civil Rights, OCR Elementary and Secondary School Survey: 2002. Table 149: Number and percentage of students suspended from public elementary and secondary schools, by sex, race/ethnicity, and state: 2002. (This table was prepared May 2006.)

Nationally, most youth suspended from public schools are African American, but in the South this disparity is even greater. In South Carolina, one out of every five African American youth in public schools was suspended in 2002.[xxxv]

Percentage of youth suspended in public schools in 2002

	WHITE	BLACK
UNITED STATES	4.9%	13.9%
Alabama	5.6%	14.8%
Florida	6.8%	16.7%
Georgia	5.2%	13.5%
Mississippi	6.5%	14.6%
North Carolina	7.3%	19.7%
South Carolina	8.1%	20.3%
Tennessee	5.3%	16.2%

Zero tolerance policies funnel children into the juvenile justice system. In Fiscal Year 2006-2007, 16 percent of all referrals to the Florida Department of Juvenile Justice were school-related referrals, and two-thirds of these referrals were for misdemeanors, the most common being disorderly conduct and fighting.[xxxviii]

Many youth involved in the juvenile justice system have unmet mental health and/or substance abuse needs

In North Carolina, 42 percent of youth referred to the juvenile justice system showed evidence of substance abuse that required further assessment or treatment.[xxxix] A study commissioned by the State of Mississippi found that up to 85 percent of youth in training school or juvenile detention live with some form of mental illness.[xl]

In Tennessee, more than half of all youth in juvenile facilities experienced life with mental illness.[xli] One out of every seven youth (15 percent) was on some type of psychiatric medication while detained in the facility. Two out of every five (42 percent) were known to have substance abuse problems, and almost a third (30 percent) of all youth in juvenile facilities had co-occurring mental health and substance abuse problems.

In Florida, 63 percent of youth under the jurisdiction of the Department of Juvenile Justice (DJJ) exhibit symptoms of mental illness, and 68 percent have substance abuse problems.[xlii]

“[Florida’s] infrastructure for mental health for the poor is insufficient, leaving children and their families with little resources,” said Dr. Shairi Turner, Chief Medical Director, Florida Department of Juvenile Justice. “These children act out and end up being referred to the Department of Juvenile Justice, where their behavior is criminalized.”[xliii]



Clay County, Georgia has developed an innovative approach to reducing the number of school-based referrals to the juvenile court

Clay County, Georgia grappled with the problem of increasing youth referrals to the juvenile court from school police and developed an innovative approach to reducing the incarceration of public school students. Juvenile justice and education stakeholders entered into a collaborative agreement that identified when court intervention was appropriate and when the school should be responsible for disciplinary matters. This agreement was incredibly effective—it reduced school based referrals to the juvenile justice system by 52 percent, keeping more children in the schoolhouse and out of the jailhouse. The agreement helped halt the cycle of incarceration for many public school children.

The Clay County agreement sets forth a common-sense approach to school discipline that was endorsed by the

school district, local law enforcement, state and local agencies responsible for delinquent youth, and local mental health providers. The agreement is “intended to establish uniformity in the handling of a student who has committed [a delinquent act on school grounds] while simultaneously ensuring that each case is addressed on a case by case basis.” The agreement governs only relatively minor offenses, including fighting, disorderly conduct, and disruptive behavior. The stakeholders developed a series of “graduated sanctions, disciplinary methods, and/or educational programming before a complaint is filed with the juvenile court.” The agreement rejects a one-size-fits-all approach to discipline and court referral policy. Instead, it establishes a coordinated process that allows decisions to be made based on “the many factors unique to the child including, but not limited to, the child’s background, present circumstances, disciplinary records, academic record, general demeanor and disposition towards others, mental health status and other factors.”

Studies have shown that states that spend more money on education have lower crime rates than states that spend less.[xliv] The Justice Policy Institute reported in a recent study that states that spent a higher percentage of their budget on education had lower violent crime rates than states that spent a smaller percentage. Providing more funding for education, while encouraging educational opportunities for youth, can lead to increased high school graduation rates, higher college enrollment rates and lower rates of unemployment, all of which are associated with lower crime rates and safer communities.

Most states in the Southern region spend a smaller percentage of their budgets on education than the national average

Percentage of youth suspended in public schools in 2002

FY 06	Corrections	Elementary & Secondary Ed.	Higher Education
UNITED STATES	3.4%	21.4%	10.4%
ALABAMA	1.5%	13.4%	10.3%
FLORIDA	4.3%	20.0%	8.1%
GEORGIA	3.1%	25.1%	6.3%
MISSISSIPPI	2.0%	19.9%	14.9%
NORTH CAROLINA	3.4%	23.3%	14.5%
SOUTH CAROLINA	3.0%	19.3%	20.4%
TENNESSEE	2.8%	17.0%	13.1%

Source: National Association of State Budget Officers, “FY2006 State Expenditure Report,” December 2007. www.nasbo.org

“Clearly, the most effective way to prevent juvenile delinquency has indisputably been to assist children and their families early on.”

Walter McNeil, Secretary, Florida Department of Juvenile Justice[xlv]

Conclusions and Recommendations:

We cannot afford to throw away any of our children. That's why juvenile justice reform is some of the most important work that a community can undertake. Throughout the South, the current system reflects poor policymaking informed by bias and fear instead of facts and research. Dismantling the current system to build on the strengths of families and children will help ensure a better future for all of us.

Recommendations for Federal Officials

RE-AUTHORIZE THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT.

Pursuant to the Juvenile Justice and Delinquency Prevention Act (JJJPA), the federal government plays an important role in juvenile justice. This year, JJJPA is up for reauthorization—so federal officials have an important opportunity to strengthen the law. Congress must take advantage of this opportunity and pass the JJJPA now to ensure better outcomes for our children.

The JJJPA reauthorization should accomplish the following^[xlvi]:

1) Maximize federal funding for the juvenile crime prevention programs.

Title V of the JJJPA creates a grant program that funds collaborative, comprehensive community-based funding delinquency prevention efforts. Congress should substantially increase funding for this program so states can develop community-based alternatives to incarceration that will reduce juvenile crime, and better serve our children and communities.

2) Prohibit the incarceration of children for non-criminal offenses.

The JJJPA already prohibits the incarceration of children for status offenses—offenses like truancy, curfew violations and running away. But a loophole allows states to incarcerate status offenders in some situations. Congress should close this loophole ensure that these children don't end up behind bars.

3) Ensure that children are NEVER housed with adult offenders.

The JJJPA prohibits the placement of children in adult jails except in limited circumstances and in those circumstances, jails must keep adult and juvenile prisoners separated by "sight and sound." But these protections don't apply to children facing adult charges. Many children who are tried as adults languish in jails for months or even years before their trials. Children in adult jails are frequently denied educational, mental health and medical services and are at great risk of physical and sexual abuse. Congress should ensure that our children are treated as children and are only housed in juvenile facilities that can provide adequate protection and meet their needs.

4) Reduce racial disparities.

The JJJPA requires that states "address" disproportionate minority contact, but the current law doesn't force the state to take real action to remedy racial disparities. Congress should provide states with a clear mandate to reduce DMC and require outcome driven oversight of state-based DMC reduction efforts.

5) Protect the safety and well-being of our incarcerated children.

Despite what we know about brutal conditions in our juvenile prisons, the JJJPA provides no protection to our incarcerated children. Congress should remedy this oversight by providing incentives to states that implement best practices inside facilities and by closely monitoring states' use of harmful practices like restraint and isolation.

PASS THE YOUTH PROMISE ACT

The Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support and Education Act (Youth PROMISE Act), H.R. 3846, (sponsored by Representative Bobby Scott, (D-VA 3d)) is critically important bill that focuses innovative crime-fighting resources in the communities that need them most and helps ensure that our young people receive the supports they need to grow into productive, accountable adults.

The most effective juvenile crime prevention measures invest in communities through evidenced-based practices—methods of crime prevention that are not only proven to keep our communities safe, but that also reduce the number of youth who end up behind bars. The Youth Promise Act is based on these principles. Under the Act, communities would work collaboratively to select the evidenced-based programs that meet the needs of their at-risk youth. Because the Youth Promise Act mandates that communities use evidenced-based programs, once the Act is implemented, juvenile crime will decrease. Congress should ensure that this bill becomes law.

Footnotes to Juvenile Justice Reform

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*African American Communities
in the Deep South:*

Breeding Grounds for the Growth of America's Criminal "In"Justice System



By: Nsombi Lambright, Executive Director, ACLU Mississippi
Jag Davies, Policy Researcher, ACLU Drug Law Reform Project
Aron Cobbs, Legal Assistant, ACLU, Racial Justice Program
Jody Kent, Public Policy Coordinator, ACLU National Prison Project
Jackie Walker, HIV/AIDS/Hepatitis Information Coordinator
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“ We have a schizophrenic justice system that is not blind but sees race, color and class so that we continue to get a different kind of justice which is destroying the fabric of our community. When you have money and power you can break the criminal justice system. If not, you are criminalized beyond measure. We cannot stop challenging the system that has torn our communities apart by pursuing a conviction at all cost rather than truth and righteousness.

Prosecutorial misconduct jeopardizes our humanity and mortally wounds the trust people should have in the criminal justice system to act in fair and just ways. Far too often, rogue prosecutors misuse the system, and engage in injustice within what is supposed to be a just system. We have seen in this region a critical mass of these occurrences. Far too often instead of being blind to nothing but the truth, some of those who run our judicial systems see nothing but winning at all cost, nothing but wealth, privilege, and race.

With an upsurge in racism/hate crimes, criminalization of young black males, insensitivity to the poor, educational genocide, and the moral/economic cost of a war, we must stand together now like never before. As people of faith and justice, we understand the process towards Justice requires us to keep fighting for our humanity and the heart and soul of who we ought to be if we want a just society.”

**– Rev. Dr. William Barber
State President
North Carolina State Conference
NAACP**

I. Statement of Issue

The incarceration rate in the United States has skyrocketed over the last three decades. While the rate of imprisonment remained steady at about 100 per 100,000 citizens for the first seven decades of the twentieth century, as of 2006 it had multiplied seven and a half times, to 750 per 100,000 far and away the highest in the entire world. The U.S. prison population is now over 2.3 million, the largest in world history, with more African-Americans in prison now than were enslaved in 1820.

The African American community is severely over represented within these equations. A Sentencing Project study found that nearly half of the inmates in the nation's prisons were African American, compared to their 13 percent share of the population, by the early twenty-first century. From 1985 to 2000, there was a 267 percent growth in the number of black women in federal and state prisons.

Statistics comparing the incarceration rate and education rate of African American men to White men are startling. While 32 percent of white men, born between the years of 1965 to 1969, received a bachelor's degree, only 13% of African American men received the same degree. At the same time, 22 percent of African American men from that same population were incarcerated, compared to only 3% of White men.

Although there has been much debate over the reasons for the significant racial disparity in the growth of the prison population, one thing is very clear: in the last three decades, public policy on sentencing, access to legal counsel and law enforcement procedures has created an easy pathway from communities to jails that has sparked a culture of "social defense versus social investment". Tough on crime initiatives are the rule of the day.

These policies impact the American South in a particularly disturbing way because of the already "resource poor" conditions. The South takes credit for the poorest educational systems, the most regressive income tax infrastructures, poorest health care availability, limited employment opportunities, and the list goes on and on.

This position paper will discuss several key areas that demonstrate why significant racial disparities exist in the American South by focusing on how people enter the criminal justice system, what happens while they are within the system and what happens when they leave.

While this paper does not attempt to present all factors that contribute to these disparities, the key issues that will be discussed are The War on Drugs, racial profiling, sentencing disparities, inadequate health care for inmates with HIV AIDS, the Prison Litigation Reform Act, the Second Chance Act of 2007 and felon disfranchisement.

II. Racial Profiling and the War on Drugs

The U.S. holds as many drug offenders behind its bars as does Western Europe for all crimes combined. But the numbers show that our nation's drug laws are not enforced equally amongst the races. Although, according to government statistics, African-Americans comprise only 14% of regular drug users, they represent 37% of those arrested for drug offenses and 56% of persons in state prison for drug offenses. Additionally, among persons convicted of drug felonies in state courts (where the

defendants receive prison sentences.

Since almost half of all Americans have admitted to using an illegal drug, law enforcement officers have vast, standardless discretion to decide how, where, and when to enforce drug offenses. The private, often victim-

police to profile highway travelers for potential drug couriers. This profile is based on associating people of color with crime, creating a phenomenon known as "driving while black or brown."

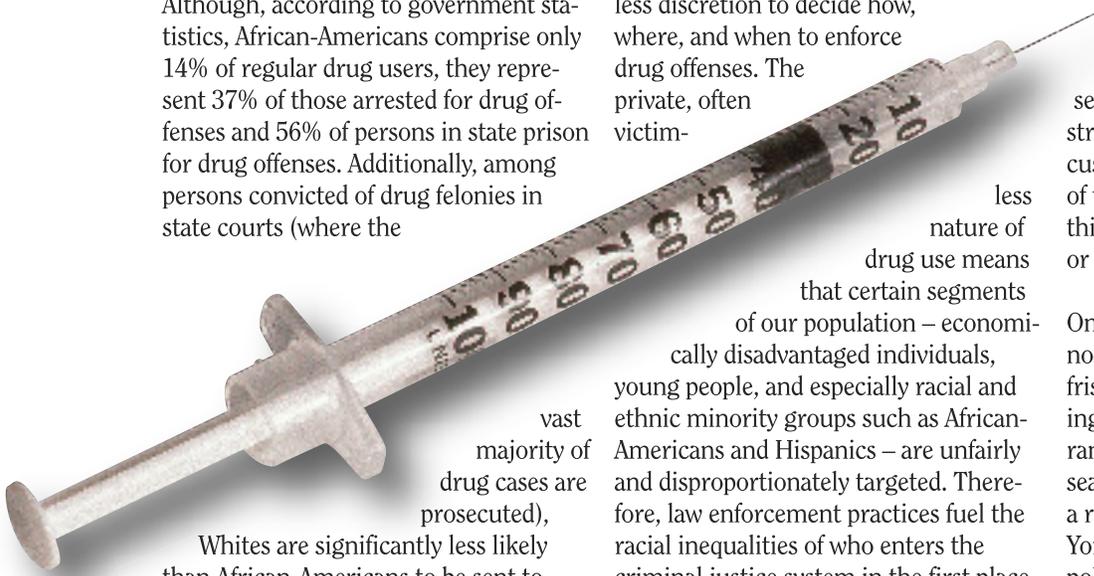
But racial profiling is not just limited to our highways. In 1998, 51,000 people were selected for body searches ranging from hand frisks to strip-searches by immigration officials at customs checkpoints. Ninety-six percent of those searches yielded nothing; two-thirds of the people selected were black or Latino.

On the streets of our cities, young minorities are routinely stopped for Terry frisks, named after a Supreme Court ruling stating that police do not need a warrant or even probable cause to stop and search individuals as long as there exists a reasonable cause for suspicion. In New York City, between 1998 and 1999, the police recorded 45,000 such stops, 35,000 of which yielded nothing. Two-thirds of the people selected were black and Latino.

less nature of drug use means that certain segments of our population – economically disadvantaged individuals, young people, and especially racial and ethnic minority groups such as African-Americans and Hispanics – are unfairly and disproportionately targeted. Therefore, law enforcement practices fuel the racial inequalities of who enters the criminal justice system in the first place.

Over the years, the Drug Enforcement Administration (DEA) has helped train

vast majority of drug cases are prosecuted), Whites are significantly less likely than African-Americans to be sent to prison. Thirty-three percent of convicted white defendants receive a prison sentence, while 51% of African-American de-





A very clear incentive exists for police departments to engage in racial profiling. Civil asset forfeiture laws allow police to seize and sell property without proving its guilt and keep a portion of the assets for themselves. In fact, police departments are now dependent on forfeiture revenues in order to match funds for federal grants and for regular operational costs, including the salaries of the very police officers that are responsible for the seizures. By targeting minority communities whose voices and political power are marginalized, law enforcement agencies can exploit the power of forfeiture without many Americans ever learning of the practice.

In addition to these practices, overzealous local prosecutors, uncorroborated confidential informant testimony and judges with minimal discretion in the sentencing process exacerbate the situation. In 1999, in the rural town of Tulia, Texas, 12% of the adult male African-American population was arrested on drug charges based solely on the word of a lying undercover officer. These individuals were later found innocent and pardoned by the Governor of Texas. In 2000, in another small Texas town, Hearne, 15% of its young black males were arrested in a drug sweep. Again, after a confidential informant was found to be lying, many were later proved innocent. More recently, a controversy has been raging in Mansfield, Ohio, where 15 of 26 African-Americans arrested on false drug charges have been released to date after an informant was found to be lying.

Dorothy Gaines, a 42 year old widow with three children, from Mobile, AL, entered the national spotlight in 2000 when the President granted her clemency from a 19 year prison sentence imposed upon her conviction for conspiracy to deliver crack cocaine. Dorothy's journey to that moment began with a relationship with a partner that was addicted to crack cocaine. With her encouragement, he entered treatment, remaining in a program for almost 8 months. Unfortunately, once he left treatment, Dorothy's boyfriend relapsed and continued using crack. When federal agents raided Dorothy's home, where she lived with her partner, officers found no drugs or weapons on the premises. Yet both were arrested and charged with conspiracy to deliver cocaine based on her boyfriend's alleged involvement in a large scare drug operation as a driver. Charges against Dorothy were initially dismissed, but several defendants made a deal with the prosecutor to reduce their own sentences by providing information to assist in the prosecution of others. They alleged that Dorothy had delivered small packages of cocaine to local street sellers. On the basis of their testimony Dorothy was charged and convicted of conspiracy to distribute the total quantity of drugs involved in the drug operation and served six years in prison until granted clemency. (16)

The Crack versus Powder Cocaine Sentencing Disparity

In the 1980's, President Reagan's intensified "war on drugs," combined with media hysteria about an unsubstantiated crack epidemic amongst blacks, prompted Congress to pass draconian mandatory minimum sentencing laws against crack cocaine. Penalties against powder cocaine—the same drug but typically associated with white users—remained relatively light. Possession of 500 grams of powder cocaine results in a 5-year prison term, while possession of just 5 grams of crack cocaine results in the same 5-year prison term. Even though most crack users and dealers are white, this "crack equals black" formula distorted prosecutions. By 2001, over 80% of federal crack defendants were black (17).

The U.S. Sentencing Commission recently made a slight revision to the crack sentencing guidelines—which may allow a few thousand crack offender to receive slight reductions in their sentence—but more comprehensive reform is desperately needed to address both the root causes and the immediate causes of our prison system's shameful racial disparity.

Prosecutorial Misconduct

In addition to abusive War on Drugs policies, another troubling issue facing African Americans with limited legal resources is prosecutorial misconduct. Over the last decade, over 200 individuals have been exonerated from capital convictions, due largely in part to the work of The Innocence Project. In these cases, critical DNA evidence was either ignored or not collected by prosecuting attorneys or public defenders. In many cases, court records have proven that prosecuting attorneys knew that if DNA evidence was allowed to be presented at trial, it could impact the outcome of the case and fought to suppress that information. In the case of Cedric Willis, the first Innocence Project exoneree in the state of Mississippi, DNA evidence was not admitted into his trial because the DNA was connected to a rape that happened during the same time as the burglary and murder that he was convicted of, yet the District Attorney decided to drop the rape charge to avoid entering the DNA evidence that would've cleared him. Willis spent twelve years in Mississippi's Parchman Penitentiary before he was cleared of all charges.

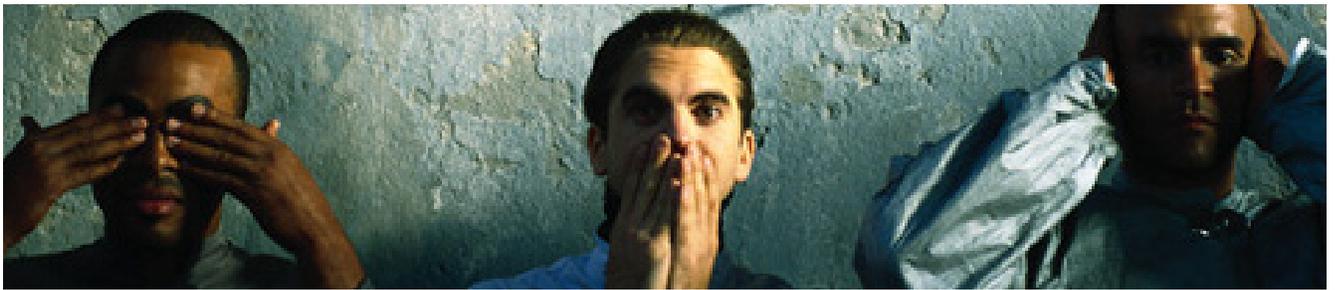
Recommendations

After more than forty years, we have more than enough evidence of the financial and human costs of punitive drug policies to take concrete steps toward ending the drug war. It's time to shift from a criminal justice approach to drug use to a health-based approach, where people are given the help that they need to rehabilitate themselves and where there are simply less drug-related activities that are punishable by prison. Communities of color have lost the most in the "war on drugs," and they have the most to gain by advocating for a new approach to drugs that is fair and effective at keeping people safe and healthy.

As this 2008 election cycle on the state and federal level is upon us, we have the opportunity to lift up these issues as ones that are unacceptable in their disproportionate impact in African American communities. Therefore, here are just a few concrete policy issues and recommendations to advocate for in order to begin moving in the right direction:

- Re-allocate resources from criminal justice budgets to publicly available drug treatment programs
- Repeal the 100:1 crack versus powder cocaine sentencing disparity
- Repeal the financial aid elimination penalty for drug offenders in the Higher Education Act
- Reduce and/or remove excessive prison sentences for non-violent drug offenders and replace them with community service or drug treatment programs
- Replace fear-based drug education and prevention programs like D.A.R.E. with honest, science-based drug education for young people
- Require law enforcement agencies to track and report the racial make-up of their arrestees and the people they stop on the highway
- Pass federal and state legislation to put in place strict regulations and safeguards to abuses within the informant system

III. The Prison Boom In The South



Prison Industrial Complex: a complicated system situated at the intersection of governmental and private interests that uses prisons as a solution to social, political and economic problems.
www.criticalresistance.org

Most of the world's for profit adult prisons are found in the American South. The state of Mississippi incarcerates the most individuals per capita, second only to Texas. What happens to individuals when they're incarcerated? Over the last few decades, educational and job training programs have significantly declined, while most states outsource inmate health care to private companies whose bottom line profits depend on limited spending on health care services and medicine for sick inmates.

In addition, because of the limited access to education and job training programs, state's routinely deny access to these programs to sick inmates. The Alabama Department of Corrections (ADOC) has a long-standing policy of performing mandatory HIV testing on all prisoners upon entry, physically segregating all who test positive for HIV from the general prison population, and had categori-

cally barred HIV-positive prisoners from most prison programs and activities. Regardless of any other factors that would normally affect a prisoner's security classification, all HIV-positive prisoners are housed in HIV segregation units. The HIV-positive women are housed in a single dormitory at Julia Tutwiler Prison for Women in Wetumpka. The HIV-positive men are housed in two dormitories at Limestone Correctional Facility in Harvest, Alabama. Alabama is one of only two states that segregate HIV-positive prisoners.

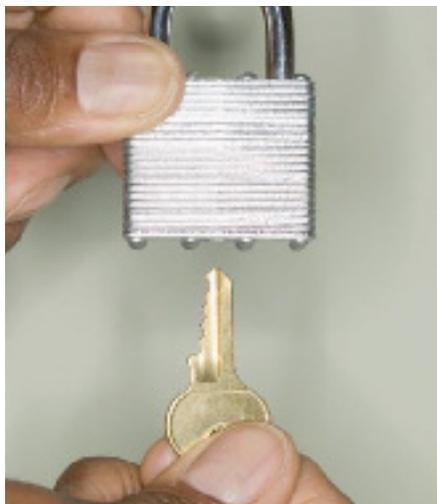
Until recently, the ADOC barred HIV-positive prisoners from prison jobs, family visiting rooms, dining halls, sports and recreational programs, community corrections programs, faith-based programs, and religious services available to other prisoners. On October 24, 2007, the ADOC agreed to integrate HIV-positive prisoners into several programs and activities. Prior to advocacy by the ACLU National Prison Project and the ACLU of Alabama Prior HIV-positive prisoners experienced problems in some of the following areas: segregation of religious services, segregation of family visits, exclusion from prison jobs, discrimination in substance abuse programs.

Needed Fixes to the Prison Litigation Reform Act (PLRA)

The PLRA was passed in 1996, as part of an appropriations bill, to reduce frivolous litigation by prisoners. Since then, it has become apparent that the PLRA has had numerous unintended consequences that have barred meritorious claims from reaching the federal courts. As a result, prisoners who have constitutional claims are frequently denied appropriate remedies simply because they are behind bars, and prison abuses are extremely difficult to bring into public view. Some consequences include a "three strikes" provision, intended to prevent prisoners from filing more than three frivolous cases in a lifetime and a requirement that inmates pay the full filing fee for claims (\$350 in district courts and \$450 in appellate courts). On November 8, 2007, Representative Bobby Scott (D-VA) hosted a hearing on the PLRA, for which the Coalition to Stop Abuse and Violence Everywhere (SAVE) submitted the testimony below. Just prior to the hearing, Representative Bobby Scott introduced the Prison Abuse Remedies Act (H.R. 4109) to fix the unintended consequences of the PLRA.

III. Exiting the Criminal Justice System.

Felon Re-Enfranchisement and the Second Chance Act as Key Components to Effective Community Re-entry



Overview: Felony disenfranchisement is the set of policies and practices that bars citizens with felony convictions—and some with misdemeanor convictions—from the ballot box. In the United States, over 5.3 million Americans, or one in 41 adults, cannot vote due to a felony conviction. Felony disenfranchisement laws vary from state to state, but 48 states bar incarcerated individuals from casting a ballot; only Maine and Vermont allow people in prison to vote. Two states ban people with any felony conviction from voting for life; another eight states permanently disenfranchise individuals with certain felony convictions. Despite the popularity of felony disenfranchisement laws, the national trend over the last decade has been toward lowering barriers for the disenfranchised. Since 1997, 17 states have made progressive changes to their felony disenfranchisement laws, enfranchising over 700,000 formerly incarcerated individuals.

The vast majority of disenfranchised individuals are not incarcerated. Nearly four million disenfranchised Americans have been released from prison and live in our communities. (2.1 million have fully completed their sentences yet remain disenfranchised). These individuals pay taxes, work, and are involved with issues in their communities, but are nevertheless denied a political voice.

Racial Impact: Felony disenfranchisement disproportionately impacts communities of color. Nearly 1.5 million—or one in seven—African-American men are disenfranchised due to felony convictions, seven times the national disenfranchisement rate of one in 40 adults. Alabama, Florida, Georgia and Mississippi all have African-American disenfranchisement rates above the national average, as below. If incarceration rates hold steady, three in ten of the next generation of black men can expect to be disenfranchised at some point in their lives. In states with the harshest disenfranchisement policies—such as Florida, where one in four black men is permanently disenfranchised—these rates will be even more drastic.

Southeast Regions: Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee have some of the harshest disenfranchisement policies in the country, as follows:

Alabama: Of the total voting age population in Alabama, approximately 7.4% is disenfranchised. Among the African-American voting age population, approximately 15.3% is disenfranchised; more than twice the state rate. Felons on probation, in prison or on parole cannot vote. Felons convicted of crimes of “moral turpitude” (e.g., treason, murder, rape, sexual abuse) remain disenfranchised even when their sentences are complete. In August 2006, an Alabama judge ordered the legislature to clearly define the phrase “moral turpitude,” because there has been much confusion over its definition. In the interim, individuals convicted of “moral turpitude” must apply for a discretionary pardon from the Board of pardons and Paroles. Individuals convicted of all other disenfranchising felonies may apply for a Certificate of Eligibility to Register to Vote (CERV) from the Board of Pardons and Paroles, which must be granted if applicants are eligible. Convictions for doing business without a license, violation of liquor laws, driving under the in-

fluence, simple assault, facilitating prisoner escape, and drug possession are NOT disenfranchising felonies and, thus, do NOT require a CERV or a discretionary pardon from the Board of Pardons and Paroles.

Florida: Of the total voting age population in Florida, approximately 9.0% is disenfranchised. Among the African-American voting age population, 18.8% is disenfranchised; more than twice the state rate. Felons on probation, in prison, or on parole cannot vote. Individuals with certain felony convictions are permanently barred from voting unless they have applied for and been granted a certificate of restoration from the Florida Board of Executive Clemency, comprised of the Governor and three cabinet members. In 2007, Florida revised its executive clemency rules to provide for the automatic restoration of rights to persons convicted of most non-violent offenses who complete their full sentence, including probation or parole, have no pending charges and pay restitution. Persons convicted of other crimes, including violent offenses, still face a possible lifetime ban.

Georgia: Of the total voting age population in Georgia, approximately 4.4% is disenfranchised. Among the African-American voting age population, 9.6% is disenfranchised; more than twice the state rate. All individuals with felony convictions are barred from voting until full completion of their sentences, including incarceration, probation and parole. Once an individual has completed his or her sentence, the right to vote is automatically restored.

Mississippi: Of the total voting age population in Mississippi, approximately 6.9% is disenfranchised. Among the African-American voting age population, approximately 13.2% is disenfranchised, practically twice the state rate. Felons on probation, in prison, or on parole cannot vote if they have been convicted of the 10 disenfranchising crimes listed in the state's constitution. These include murder, rape, bribery, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, or bigamy. All persons in the above mentioned categories remain disenfranchised permanently after the completion of sentence. They may

seek to regain their voting rights by applying for a pardon, seeking the restoration of civil rights from the governor, or obtaining an affirmative vote from two thirds of the state legislature. In 2006, the Mississippi Attorney General issued an opinion adding 11 additional disfranchising crimes. This action is currently being litigated on grounds that it was unlawful.

North Carolina: Of the total voting age population in North Carolina, approximately 1.2% is disfranchised. Among the African-American voting age population, approximately 3.3% is disfranchised, nearly 3 times the state rate. All individuals with felony convictions are barred from voting until full completion of their sentence, including incarceration, probation and parole. Once an individual has completed his or her sentence, the right to vote is automatically restored.

South Carolina: Of the total voting age population in South Carolina, approximately 1.6% is disfranchised. Among the African-American voting age population, approximately 3.7% is disfranchised; more than twice the state rate. All individuals with felony convictions are barred from voting until full completion of their sentence, including incarceration, probation and parole. Once an individual has completed his or her sentence, the right to vote is automatically restored.

Tennessee: Of the total voting age population in Tennessee, approximately 2.1% is disfranchised. Among the African-American voting age population, approximately 6.4% is disfranchised; more than 3 times the state rate. Felons on probation, in prison or on parole cannot vote. In 2006, the Tennessee legislature amended the country's most complex restoration system by simplifying the procedure. All persons convicted of a felony (except murder, rape, treason, and voter fraud) are eligible to have their rights restored upon completion of sentence, and may apply for a "Certificate of Restoration" from the Board of Probation and Parole. All applicants must also satisfy any court-ordered restitution or child support obligations.

Recommendations

For the reasons that follow, we recommend automatic re-enfranchisement of people with felony convictions upon release from incarceration. Restoration would not require an application or waiting period, and individuals whose rights have been restored would not be required to present proof of restoration when registering to vote. In addition, we recommend that: 1) people facing felony charges be notified before conviction and upon release from incarceration of the revocation and reinstatement of their voting rights; 2) the department of corrections act as a voter registration agency

and facilitate voter registration of individuals in their custody upon release from incarceration; 3) attorneys, judges, election officials, corrections officials, members of the public and impacted individuals be educated about voting rights for people with felony convictions.

H.R. 1593: Second Chance Act of 2007

The Second Chance Act of 2007 reauthorizes the grant program for reentry of formerly incarcerated individuals into the community in the Omnibus Crime Control and Safe Streets Act of 1968. The law, which passed the House in November of 2007, expands provisions for adult and juvenile offender state and local reentry demonstration projects to provide expanded services to offenders and their families for reentry into society. (18) It expands the provision of substance abuse treatment, technology career training and other mentoring and transitional services.

The bill also addresses the development of best practices for ensuring the safety and support of children of incarcerated parents and awards grants to study parole and post-supervision revocation data and community safety issues.

This bill has a broad impact on many of the issues identified in this paper and should be supported.

V. Conclusion:

Issues such as the targeting of poor communities of color for increased law enforcement, the denial of access to effective legal representation of indigent defendants, the racial disparities in sentencing practices, the lack of adequate medical treatment, access to educational services and job trainings and the lack of effective re-entry programs have created an undeniable crippling effect on communities of color in the South.

These issues impact other social issues such as the quality of public education

and the economic disfranchisement of poor communities of color in ways that have created a social monster that is steadily destroying small fibers of hope, one at a time. Communities and policy makers can contain this beast by viewing these policies and practices in a non-isolated way that connects one layer to the next to repair the damaged fabrics of communities.

We must view the War on Drugs as not only a public safety issue, but as an issue that impacts the quality of education that our children receive because of the distribution of resources. We must view the booming growth of prisons as an eco-

nomic issue in our communities because of the over incarceration of African American men who could be contributing to the sustainability of our communities. Finally, we must view the denial of voting rights to persons with felony convictions as a dilution to the power of the African American vote because of the disproportionate impact on the African American voting age population.

Communities must develop clear policy agendas that are accepted by policy makers that promote the growth and sustainability of the next generation of leadership in this country.

Health Matters:

Eliminating Disparities Experienced by African-Americans



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“In the mid sixties, at a strategic planning meeting convened by the Rev. Dr. Martin Luther King regarding the historic Selma to Montgomery March, the chair of the health committee said that “health disparities are the civil rights issues of the 21st century”. Fast forward forty years and that reality is becoming more and more evident every day; and, it’s getting worse. Putting aside the issue of costs, which puts many people out of the system, there have been several reports that indicate the biggest problem facing African Americans as it pertains to health is race.

Whether having the best insurance or not covered at all, African Americans receive a second-class or sub-standard form of health care in America. When

you add that to the inadequate educational system, the criminal injustice system and all of the other injustices that we face-- with health care being the largest industry in this country-- why do we think the health industry would be exempt from the iniquities and injustices?

The whole health care system is wrong right now in America—it is only designed for the rich. We spend more money per year on health care than other major industrialized nations and we have the best technology but it only goes to those in a certain class. We do not provide quality services to all people, particularly African Americans.

When you take a closer look at the numbers, African Americans are dying from the misunderstanding of their ill-

nesses and from common ailments that are more often prevented and treated among whites. Be it cancer, stroke, heart disease—all these conditions don’t have the high death rates and the complications among whites as they do in African Americans. Some forty-four years after the Civil Rights Bill passed; our white counterparts still outlive us six to eight years. So, Dr. King is still right when he said “of all the forms of inequality, injustice in health care is the most shocking and inhumane”.

**- Dr. Lonnie Randolph,
President
South Carolina State Conference
NAACP**

While the overall health of Americans has improved over the last two decades, there continues to be striking disparities in the burden of illness and death experienced by African Americans, particularly those living in the Southeast region (Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee). There is compelling evidence that African Americans suffer from increasing differences in the incidence, prevalence, mortality, and burden of diseases and other adverse health conditions—what we have defined as health disparities. These health disparities include shorter overall life expectancy, higher rates of cardiovascular (heart) disease, cancer, infant mortality, birth defects, asthma, diabetes, stroke, sexually transmitted diseases, oral diseases and disorders, and mental disorders, among others. Contributing factors include reduced access to health care, increased risk of disease and disability due to occupation or exposure, and increased risk of illness due to underlying biological, socioeconomic, ethnic, or familial factors; cultural values, and education. The challenge for the Nation is to do our best to identify, better understand, diagnose, treat, and even prevent these disparities.

By 2050, an estimated 61 million black persons will reside in the United States, amounting to approximately 15% of the total U.S. population.[1] However, for African Americans, health disparities can mean earlier deaths, decreased quality of life, loss of economic opportunities, and perceptions of injustice.[2] For society, these disparities translate into less than optimal productivity, higher health-care costs, and social inequity. A strengthened commitment to research that seeks to better understand health disparities and to develop new diagnostic, treatment, and prevention strategies to overcome them is a sound investment for the health and well-being of African Americans and our nation. In this paper we present a synopsis of the data regarding African American health disparities and recommended policy strategies to eliminate them.

Historical mistrust of the medical system in the African-American community

The African American's history with the U.S. medical system has unfortunately resulted in a suspicious relationship. During slavery in America, scientific racism and faulty medical theories created an atmosphere in which African Americans were seen sub-human. Physicians in this era claimed that African Americans had physiological and anatomical features (small brains; thick skin; high tolerance for heat, sun and pain) that made them well-suited to be both slaves and medical research subjects, thus priming African Americans to develop a lasting sense of cultural mistrust of the medical system.[3]

Unfortunately, such abuses of the black body continued into the Reconstruction and Jim Crow Periods, culminating in the infamous mistreatment of the Tuskegee syphilis study participants. Maltreatment persisted into the late 20th-century with unethical genetic testing /sickle cell screenings in the 1970s, even more recently, African American women constitute 85% of the women who were forced to undergo a Norplant implantation (to be sterilized) for abusing their children and recent testing of Black boys who have been singled out for very dangerous experiments, such as a fenfluramine experiment to study their inclination towards violence.[4]

A number of contemporary factors also contribute to the medical mistrust constructed by improper race definitions and historical abuses. First, African Americans must cope with a current shortage of black physicians and health-care providers. Second, African Americans have historically resided in what are labeled as medically under-served areas, and for a number of socioeconomic and demographic reasons, still receive inferior care. Third, the changing doctor-patient relationship mediated largely by managed care, coupled with non-mainstream cultural medical practices, may exacerbate mistrust and poor health.

The Rural Factor

The southeastern region contains a rural demographic that often gets ignored. Overall, among the 40 plus million uninsured in the United States, nearly one in five live in rural communities.[5] Rural concerns have become central to national and state health policy, yet our understanding of the wide variation in both health insurance coverage and access to health care services across rural communities is remarkably limited. Much of what is known about health insurance coverage comes from national surveys that only allow us to describe the experience of the rural population in total — 52 million Americans. However, people living in rural communities are widely diverse, not just in their geographic differences, but in their social, economic, and health status as well.

It is imperative that we better understand the root causes of the health insurance disparities faced by rural residents. Because rural residents tend to have lower incomes and are less healthy, the Medicaid program plays an even larger role as the insurance safety net in rural America than it does in urban America.[6] More Americans today, than ever before, manage health problems without the financial security of health insurance. As policy makers debate health financing reforms in the current economic environment, it will be important to bear in mind the factors that make rural African Americans particularly at risk of losing health coverage and in turn, more likely to be in need of publicly funded programs.



While African Americans comprise only seventeen percent of the rural population they are more economically disadvantaged than African Americans in urban areas.

- African Americans in rural counties are three times as likely to live in poverty compared to whites in rural America and their chances of being employed are only half as great.[7]
- Rural African Americans face the greatest economic disadvantage. The median household income for rural black households is about 40% less than that of rural white households, and 60% less than the median income for suburban white households.[8]

Developing African American Health Policies

In the last several years, studies have begun to acknowledge the effects of racial segregation on medical treatment. Researchers have shown that blacks are more likely than whites to seek care at hospitals with higher surgical mortality rates, receive maternity services at hospitals with higher risk-adjusted neonatal mortality rates, and receive primary care from physicians who are less well trained than those who mainly treat white patients.[9] We must dig deeper. As a nation, we must uncover new knowledge that will lead to better health for every

one and just as importantly support research to understand the epidemiology of diseases, to distinguish their causes, and to develop innovative diagnostics, treatments, and preventive strategies to eliminate health disparities. The approach is multi-faceted and includes:

- (1) Increasing Access to Quality Care
- (2) Improving Health Promotion/Disease Prevention and Chronic Disease Management Initiatives
- (3) Recruiting and Training Culturally Competent Medical Professionals to Work in Underserved Communities and Research Diseases and Practices that are Disproportionately Affecting Them

1. Increasing Access to Quality Care

A number of forces — federal and state budget deficits, severe stresses on the safety net, and rising numbers of people losing private health coverage — have been pushing responsibility for improving access to health care for vulnerable populations onto local communities, while at the same time impinging on communities' capacity to meet the growing needs. One-third (33%) of African Americans were uninsured at some point during 2006, compared with 20 percent

of working-age whites.[10] For the southeastern region, five of the seven states had a higher than national average of people without health insurance from 2004-2006

Low rates of employer-sponsored coverage partly explain the high uninsured rate among African Americans relative to whites. Only 53 percent of working-age African Americans has health insurance coverage through their own employer or that of a family member, well below the average for white working-age adults.[11] African Americans are significantly more likely than whites to visit the emergency room for non-urgent care and to experience serious problems with medical bills and medical debt.[12]

Along with expanded insurance coverage, policies promoting continuity in patients' relationships with health care providers also are needed to reduce disparities in access.

States and the federal government can directly support local efforts, as well as reduce the burden on under-served African American communities by expanding public and private coverage on a state-wide basis. Along with expanded insurance coverage, policies promoting continuity in patients' relationships with health care providers also are needed to reduce disparities in access.

Filling in Health Service Gaps

There are many steps the federal government and states can take to promote and facilitate community-based health care reforms. They include federal funding for state and local health planning efforts, incentives to bring health care providers to underserved areas, financial support for community health centers, and other activities.[13]

It is imperative that support is given to community-based medical providers that have been developing innovative ways to meet the growing challenges they face. Further, organizations that successfully fill in health service gaps, link people to coverage and care, and develop new community relationships and skills must be given the resources to scale-up their efforts. In African American communities, these local efforts also serve as "learning laboratories;" and the more successful strategies provide models for larger-scale state or federal reforms. [14]

Table 1
Number and Percentage of people without Health Insurance Coverage.

By State, Using 3-Year Average: 2004-2006
(Numbers in thousands. People as of March of the following year)

3-Year Average 2004-2006	Number	Percentage
UNITED STATES	45,102	15.3
ALABAMA	636	14.1
FLORIDA	3,609	20.3
GEORGIA	1,594	17.6
MISSISSIPPI	520	18.1
NORTH CAROLINA	1,383	16.0
SOUTH CAROLINA	667	16.0
TENNESSEE	791	13.4

Source: U.S. Census Bureau, Current Population Survey, 2005 to 2007 Annual Social and Economic Supplements.

Policy Implications for Rural African Americans

As a number of African Americans in the southeastern region live in rural communities, the following points should be considered in structuring policies designed to expand health insurance coverage:

- A strategy that may be effective in reducing the uninsured rate among residents of rural communities in close proximity to urban areas may not meet the needs of those in more remote areas, where more workers earn low wages and work for small employers, and more families are poor.
- Efforts to increase enrollment in private health insurance, either through employer or individual plans, would require generous subsidies—either to small employers or individuals—in order to reach rural residents. Given

limited monthly disposable incomes, personal tax credits would need to be made available to low-income families before vs. after health insurance is purchased.

- Because Medicaid coverage is currently a larger source of coverage for rural residents compared to urban residents, expanding on this base could be a particularly effective way to increase coverage among the rural uninsured.
- In the current economic environment, it is important to bear in mind that rural residents may suffer the most when Medicaid and S-CHIP programs are diminished by states' budget constraints.
- Whether public programs are expanded or tax credits are used to expand private employer-based or individual insurance, substantial assis-

tance with the costs of premiums will be needed to keep the option affordable for low-income families. Benefits, co-payments, deductibles, and other cost-sharing requirements of any expansion strategy will be equally critical to improving access to health services for low-income people.

- Strategies to expand coverage need to be designed to help those who have been uninsured for long periods vs. those with only temporary gaps without insurance. Rural residents living in counties not adjacent to an urban area are most likely to be uninsured for long periods of time. These strategies would be in contrast with past federal reforms, such as COBRA or HIPAA, which were designed to provide transitional insurance coverage.[15]

2. Improving Health Promotion / Disease Prevention and Chronic Disease Management Initiatives

Across income levels, African Americans are significantly more likely than either whites or Hispanics to report a chronic condition or a disability, even when rates are adjusted for age differences.[16]

Among low-income adults, African Americans are the most affected by chronic disease and other health problems.[17] Further, by race and geographic region, the percentage of African Americans and

Southerners reporting their own health as either fair or poor is higher than the national percentage and that of whites (Table 2).

To advance understanding of the development and progression of diseases that contribute to health disparities, a variety of approaches must be pursued, including studies of epidemiology and risk fac-

tors among diverse populations; the effects of environment and socioeconomic status on disease and health outcomes; differences in the initiation and progression of disease and disability; and the role of genetic variation in the causes and course of disease and disability.[18]

A comprehensive national effort to prevent disease, promote health, and deliver appropriate care to African-Americans—all of which are necessary to achieving the goal of reducing, and even eliminating, these disparities—cannot, however, be accomplished by research alone. Federal, State and local governments each have their roles to play, as do private sector healthcare providers and payers, as well as patients and their families. In order to make substantial inroads in the reduction of health disparities, the nation must, for example, monitor the health status of African-Americans; use the information gained from research to change the delivery of services; and ensure the distribution of these services across all segments of our population.

Table 2
Respondent-assessed health status: Percent of persons with fair or poor health—United States selected years 1991–2004

[Data are based on household interviews of a sample of the civilian noninstitutionalized population]

	Percent of persons with fair or poor health							
	1991	1995	1997	2000	2001	2002	2003	2004
United States	10.4	10.6	9.2	9.0	9.2	9.3	9.2	9.3
Race								
White	9.6	9.7	8.3	8.2	8.2	8.5	8.5	8.6
African American	16.8	17.2	15.8	14.6	15.4	14.1	14.7	14.6
Geographic region								
Northeast	8.3	9.1	8.0	7.6	7.4	8.1	8.2	7.6
Midwest	9.1	9.7	8.1	8.0	8.8	8.3	8.3	8.2
South	13.1	12.3	10.8	10.7	10.8	10.9	10.7	11.2
West	9.7	10.1	8.8	8.8	8.5	8.7	8.4	8.9

Source: Centers for Disease Control and Prevention, National Center for Health Statistics, National Health Interview Survey, family core questionnaire.2006

Health Disparities Experienced by African Americans

Statistics present only a small part of the story of African American health. However, disease and death statistics give us a chance to consider differences that exist between races and areas of possible change. The following statistics are only a starting point for working to improve overall African American health. Some of the most serious diseases and causes of death for African Americans are: infant mortality, heart disease, cancer, stroke, diabetes, and AIDS.

The following table shows that ten leading causes of death for African Americans and whites are similar, although they occur at different rates within each population.

Maternal and Child Health

African American children are four times more likely to live in poverty than white children.[19] These disadvantaged children experience a disproportionate array of health problems, including high rates of low birth weight, contagious diseases, and obesity, exposure to hazardous substances, and childhood injury and death. They are also at greater risk for developmental and learning delays, as well as social, emotional, and behavioral problems.[20]

Maternal Mortality and Morbidity

Maternal mortality rates in the U.S. have decreased dramatically since the 1950s. However, as compared to whites, the mortality rate remains four times higher among African American mothers. These deaths, which have a profound effect on

the family, are often preventable.

For example, African American women develop uterine fibroids up to two to three times more frequently than white women.[21] Such fibroids are also often overlooked as a source of lost productivity and significant health care costs.

Low Birth weight

There exists perplexing disparities in birth weight and infant survival. Across the U.S., particularly in the southeastern region, rates of low birth weight and of preterm delivery have been higher among African American women than among whites for many years (Table 3). African American babies are twice as likely to be low birth weight as well as twice as likely to die in the first year as compared to white babies.[22] Despite considerable research over the last 20 years, the reasons for these differences remain obscure. However puzzling, the numbers reveal that there exists a real vulnerability of African American women to preterm labor and delivery.

Table 3
Low-birthweight live births, by race of mother and state:
USA, average annual 1996–1998, 1999–2001, and 2002–2004

Data are based on birth certificates. Percent of live births weighing less than 2,500 grams.

	All races			White			African American		
	96–98	99–01	02–04	96–98	99–01	02–04	96–98	99–01	02–04
United States	7.49	7.62	7.94	6.46	6.67	7.05	13.13	13.14	13.56
Alabama	9.26	9.56	10.09	7.33	7.58	8.18	13.34	13.87	14.63
Florida	7.98	8.10	8.49	6.77	6.92	7.29	12.30	12.42	13.02
Georgia	8.62	8.72	9.08	6.58	6.85	7.29	12.83	12.82	13.42
Mississippi	10.03	10.55	11.40	7.34	7.72	8.50	13.31	14.03	15.31
North Carolina	8.80	8.87	9.00	7.08	7.39	7.64	13.82	13.72	14.16
South Carolina	9.30	9.69	10.08	6.99	7.30	7.77	13.60	14.29	15.01
Tennessee	8.89	9.21	9.23	7.46	7.96	8.08	14.07	14.12	14.37

Source: Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics System, Birth File.

Table 4
Infant mortality rates, by race of mother and state:
USA, average annual 1989–1991, 1998–2000, and 2001–2003

Data are based on linked birth and death certificates for infants. Infant deaths per 1,000 live births.

	All races			White			African American		
	96–98	99–01	02–04	96–98	99–01	02–04	96–98	99–01	02–04
United States	9.0	7.0	6.9	7.3	5.8	5.7	17.2	13.9	13.6
Alabama	11.4	9.8	9.0	8.6	7.1	6.7	16.8	15.4	14.1
Florida	9.4	7.2	7.4	7.2	5.8	5.9	16.2	12.6	13.3
Georgia	11.9	8.3	8.7	8.4	5.9	6.3	17.9	13.5	13.5
Mississippi	11.5	10.3	10.5	7.9	6.6	7.1	15.2	14.7	14.7
North Carolina	10.7	9.0	8.3	8.0	6.7	6.2	16.9	15.7	15.1
South Carolina	11.8	9.5	8.9	8.4	6.3	6.1	17.2	15.5	14.5
Tennessee	10.2	8.4	9.1	7.8	6.4	7.1	18.2	15.6	16.9

Source: Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics System, Linked Birth/Infant Death Data Set.

Infant Mortality

Infant mortality is an important measure of a nation's health and a worldwide indicator of health status.[23] Despite a 16 percent overall decline in the rate of infant mortality in the U.S. over the last decade, the infant mortality rate remains twice as high among African Americans as compared to whites, even when controlling for socioeconomic factors (Table 4).

Ten Leading Causes of Death (Both Sexes, All Ages)

AFRICAN AMERICANS	WHITES
1. Heart disease	1. Heart disease
2. Cancer	2. Cancer
3. Cerebrovascular Disease or Stroke	3. Cerebrovascular Disease or Stroke
4. Diabetes	4. Chronic Lower respiratory disease
5. Unintentional accidents	5. Unintentional accidents
6. Homicide	6. Diabetes
7. HIV/AIDS	7. Influenza and Pneumonia
8. Respiratory Disease (COPD)	8. Alzheimer's Disease
9. Nephritis, Nephrotic syndrome and nephrosis	9. Nephritis, Nephrotic syndrome, and nephrosis
10. Septicemia (blood poisoning)	10. Suicide

Source: CDC, National Vital Statistics Report, Vol. 53, Nov.17, March, 2005

Chronic Disease Disparities

Chronic diseases are not prevented by vaccines or generally cured by medication, nor do they just disappear.[24] To a large degree, the major chronic disease killers—heart disease, cancer, stroke, chronic obstructive pulmonary disease (copd), and diabetes—are an extension of what people do, or not do, as they go about the business of daily living. Health-damaging behaviors—in particular tobacco use, lack of physical activity, and poor nutrition—are major contributors to heart disease and cancer, our nation’s leading killers. A single behavior—tobacco use—is responsible for over 80% of deaths each year from chronic obstructive pulmonary disease, the nation’s fourth leading cause of death. Clearly, promoting healthy behavior choices, through education and through community policies and practices, is essential to reducing the burden of chronic diseases.

In addition, we have the tools in hand to detect certain chronic diseases in their early stages, when treatment is most effective. Regular screening can detect cancers of the breast, cervix, colon, and rectum and is also critical for preventing the debilitating complications of diabetes, including blindness, kidney disease, and lower-extremity amputations. Screening and appropriate follow-up for high blood pressure and elevated cholesterol can save the lives of those at risk for cardiovascular disease. Access to high-quality and affordable prevention measures for all Americans is essential if we are to save lives and reduce medical care costs.

Asthma - Asthma, which is one of the major causes of illness and disability, increased in prevalence by 72 percent from 1982 to 1994 among young people under age 18.[25] Despite the fact that asthma is only slightly more prevalent in African American children than in white children, African American children experience more severe disability and more frequent hospitalization. African Americans go into the hospital more than whites because of asthma and are more likely to die from asthma than white people.[26]

Cancer - Cancer is the second most common cause of mortality in the U.S. In the year 2000, about 1.2 million cases are expected to be diagnosed, with 552,200 Americans dying from the disease. [27]African Americans have both a higher overall incidence and death rate than any other racial or ethnic group. African American women have higher cervical cancer death rates than the overall U.S. population. African American men suffer disproportionately from prostate cancer, with some of the highest incidence and mortality rates reported in the world. Among African Americans, the highest death rates tend to cluster in the southeastern United States, with mortality in parts of this region approaching three times the national death rate for whites.[28]

Cardiovascular (Heart) Disease - Despite impressive progress in reducing cardiovascular mortality over the past several decades, there still exists a disproportionate burden of death and disability from cardiovascular disease in African Americans. For example, the prevalence of coronary heart disease has increased steadily since the early 1970s, with coronary heart disease mortality 40 percent higher for African Americans than whites. Similarly, fewer African Americans survive severe cardiomyopathy as compared to whites—a difference which is attributed to both biological and socioeconomic factors.[29]

End Stage Renal Disease - A major public health problem in the U.S. is end-stage renal disease. There are striking racial and ethnic differences in the incidence and prevalence of this disease. In 1997, the incidence rates were 218 per million population in whites, as compared to 873 in African Americans.[30]



HIV and AIDS - Of all racial and ethnic groups in the United States, HIV and AIDS have hit African Americans the hardest.[31] The reasons are not directly related to race or ethnicity, but rather to some of the barriers faced by many African Americans. These barriers can include poverty (being poor), sexually transmitted diseases, and stigma (negative attitudes, beliefs, and actions directed at people living with HIV/AIDS or directed at people who do things that might put them at risk for HIV).

African-Americans represent about nearly half of new AIDS cases reported to CDC. HIV infection is the fifth leading cause of death for people who are 25-44 years old in the United States,[32] and is the leading cause of death for African-American men ages 35-44.[33] Overall estimates are that 850,000 to 950,000 U.S. residents are living with HIV infection, one-quarter of who are unaware of their infection. [34]African American women are over 21 times as likely to die from HIV/AIDS as white women. [35] Most of these women got HIV from having sex with a man. Because we know the behaviors and circumstances that are driving the epidemic, it is no surprise that the southern region is being hit the hardest (Table 5).

Table 5
AIDS cases, by year of diagnosis and Region of Residence:
United States, 1999–2004

Data are based on reporting by state and outlying U.S. area health departments.

Year of Diagnosis:	Estimated Number of Cases						
	All Years	1999	2000	2001	2002	2003	2004
All persons	944,306	39,551	39,513	39,206	40,267	41,831	42,514
Region of residence							
Northeast	289,792	11,419	12,105	11,212	10,395	11,149	11,158
Midwest	93,701	3,926	3,968	3,949	4,303	4,495	4,498
South	343,449	16,307	15,841	16,598	17,751	18,612	19,792
West	187,730	6,663	6,443	6,258	6,745	6,474	6,083

Source: Centers for Disease Control and Prevention, National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention—Surveillance and Epidemiology, AIDS Surveillance; CDC HIV/AIDS Surveillance Report, 2004 (vol. 16). Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention. 2005

Mental Health - In African American youth aged 15-19; suicide rates have increased 105 percent since 1980—a rate of increase that far exceeds the increase in rates for white youth. While whites are nearly twice as likely as African Americans to commit suicide, suicide rates among young black men are as high as those of young white men. Moreover, from 1980 - 1995, the suicide rate among African Americans ages 10 to 14 increased 233%, compared to 120% of comparable whites.[36]

African Americans are over-represented in high-need populations that are particularly at risk for mental illnesses: People who are homeless-African Americans make up about 40% of the homeless population. People who are incarcerated-Nearly half of all prisoners in State and Federal jurisdictions and almost 40% of juveniles in legal custody are African Americans. Children in foster care and the child welfare system-African American children and youth constitute about 45% of children in public foster care and more than half of all children waiting to be adopted. People exposed to violence-African Americans of all ages are more likely to be victims of serious violent crime than are whites. One study reported that over 25% of African American youth exposed to violence met diagnostic criteria for post-traumatic stress disorder (PTSD). Among Vietnam War veterans, 21% of black veterans, compared to 14% of white veterans, suffer from PTSD, apparently because of the greater exposure of blacks to war-zone trauma.[37]

Overweight and Obesity - African Americans have the highest rates of being overweight or obese compared to other groups in the U.S. About four out of five African American women are overweight or obese. Being overweight or obese increases your risk for heart disease, type 2 diabetes, high blood pressure, stroke, breathing problems, arthritis, gallbladder disease, sleep apnea (breathing problems while sleeping), osteoarthritis, and some cancers.[38]

Sexually Transmitted Diseases - The rate of gonorrhea remains 31 times greater among African Americans than whites. This disparity is particularly significant in light of recent studies that indicate that sexually transmitted diseases such as

chlamydia, gonorrhea, trichomoniasis, genital herpes, syphilis, and chancroid increase the risk of HIV transmission by at least three- to five-fold.[39]

Stroke - Stroke is the third leading cause of death in the U.S., killing approximately 150,000 Americans every year. The incidence of stroke is disproportionately high in African Americans, where the mortality rate is nearly 80 percent higher than in whites.[40]

Type 2 Diabetes - Diabetes affects nearly 16 million Americans and leads to more than 300,000 deaths annually. It is also the leading cause of end stage kidney disease, peripheral neuropathy, adult blindness, and amputation. More than 90 percent of those affected have type 2 diabetes. The prevalence of diabetes in African Americans is nearly 70 percent higher than in whites. [41]

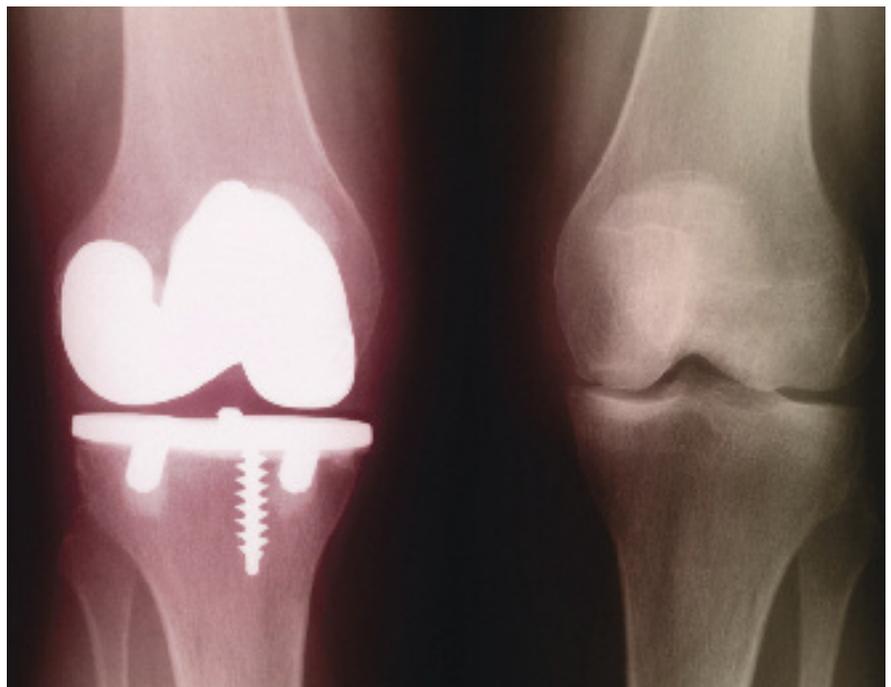
Vision Disorders - Primary open-angle glaucoma is an insidious progressive neuropathy that, if left untreated, leads to irreversible blindness.[42] It is estimated that as many as 3 million Americans have the disease and as many as 120,000 are blind.[43] Glaucoma is the number one cause of blindness in African Americans. Rates of blindness due to primary open-angle glaucoma in African Americans are nearly six times higher than the rates for whites, reflecting not only an increased rate of disease, but also more severe disease.[44]

Health Literacy Impacts Health Promotion and Disease Prevention

One might think that "health literacy," defined by the Institute of Medicine as the ability to read, understand, and act on health information, is something we could take for granted in this technologically advanced society. On the contrary, health illiteracy—or, more discreetly stated, low health literacy—is widespread.[45] Patients with low health literacy are at greater risk of misunderstanding treatment recommendations, having problems in accurately taking prescription medications, and experiencing lower health status and poorer health outcomes. Although low health literacy can affect all populations, it is a particular problem among African Americans, especially older adults or people with limited education. Yet limited research has been conducted on the scope of the "health literacy practices" employed by front line providers and on how they are meeting the needs of their patient populations.

Policy recommendations are grouped into three distinct categories:

- Prepare clinicians for health literacy practices through their professional training, both formal and informal
- Improve quality of care in primary care settings
- Advance the research agenda



3. Recruiting and Training Culturally Competent Medical Professionals to Work in Underserved Communities and Research Diseases and Practices that are Disproportionately Affecting Them

One of the most pressing needs of the African-American patient is for culturally-sensitive care delivery. Despite major American medical and public health advancements afforded by new technologies, research, and critical changes in civil rights legislation, disturbing health disparities continue to plague African-Americans of all ages, and at every level of healthcare delivery. Patients and practitioners must prepare themselves for high-quality, sensitive health care by adopting patient-empowerment skills, learning to be more culturally-sensitive, and by allowing development of health policies and agendas to improve African-American health status.



While significant efforts have been made to increase minority representation in the medical profession, very little information about minority medical school graduates and minority physicians has been available to evaluate progress towards this goal. The most current data states there are 44,900 black physicians and surgeons.[46] Further, considering the burden of mental disease, African Americans account for only 2% of psychiatrists, 2% of psychologists, and 4% of social workers in the United States. [47] Table 6 illustrates the need for physicians all over the southeastern region as the number is lower than the national number.

Developing a Research Agenda on Health Disparities

Although observations and anecdotes can provide us with clues about health disparities, it is only through rigorous population and epidemiologic research that the health care community can discern where disparities exist, define the scope of the problem, and then identify and evaluate new approaches to reduce, and even eliminate, them. To advance understanding of the development and progression of diseases that contribute to

health disparities, a variety of approaches must be pursued, including studies of epidemiology and risk factors among diverse populations; the effects of environment and socioeconomic status on disease and health outcomes; differences in the initiation and progression of disease and disability; and the role of genetic variation in the causes and course of disease and disability.

We must strengthen and expand research on the epidemiology and risk factors related to a variety of diseases and conditions that disproportionately affect African Americans, including infant mortality, stroke, cardiovascular disease, hepatitis C, cancer, drug abuse and addiction, sexually transmitted diseases, oral diseases and disorders, and glaucoma, among others. Research efforts must also be directed to the role of the environment and socioeconomic status in health disparities. Efforts should also include increased studies on biologic variations in the etiology and treatment of diseases, such as diabetes,

Table 6
Active physicians and doctors of medicine in patient care, by geographic division and state: USA, selected years 1975–2004

Data are based on reporting by physicians.

	<i>Estimated Number of Cases</i>							
	1975	1985	1995	2004	1975	1985	1995	2004
United States	15.3	20.7	24.2	26.3	13.5	18.0	21.3	23.2
Alabama	9.2	14.2	18.4	21.1	8.6	13.1	17.0	19.5
Florida	15.2	20.2	22.9	25.1	13.4	17.8	20.3	22.2
Georgia	11.5	16.2	19.7	22.0	10.6	14.7	18.0	20.0
Mississippi	8.4	11.8	13.9	18.4	8.0	11.1	13.0	16.8
North Carolina	11.7	16.9	21.1	24.5	10.6	15.0	19.4	22.6
South Carolina	10.0	14.7	18.9	22.6	9.3	13.6	17.6	21.0
Tennessee	12.4	17.7	22.5	25.4	11.3	16.2	20.8	23.4

Source: American Medical Association (AMA). Distribution of physicians in the United States

hypertension, alcoholism, and lupus, which particularly engulf African Americans. Efforts to develop new or improved approaches for detecting or diagnosing the onset or progression of diseases and disabilities that contribute to health disparities will also be beneficial in reducing disparities. New or improved approaches for preventing or delaying the onset or progression of diseases and disabilities in minority populations should be explored as they relate to diseases such as diabetes, obesity, dental caries, asthma, and HIV vaccine development, among others. Finally, new or improved treatments should be directed at mental illness, cancer survivorship, end of life/palliative care, diet and hypertension, and alternative medicine.

In terms of building the cadre of African American medical researchers and scientists, research infrastructure objectives should include increased efforts to support research training and career development such as support for doctoral dissertation research and travel awards, Minority Access to Research Careers (MARC) awards, clinical research training, the Minority Undergraduate Biomedical Education Program, and the Minority Medical School Research Program, among others. Infrastructure initiatives should also include institutional support for extramural and intramural resources such as strengthening science curricula, enhancing capacity of African American and underserved institutions to participate in communications and net

working technologies, training African American clinical trial investigators, recruiting African Americans into clinical trials, and expanding Institutional Development Awards, and increasing African American representation in peer review.

Further investments in developing additional culturally competent health professions over the longer term is an investments that promises substantial gains in reducing the incidence, prevalence, severity, and social and economic burdens of diseases and disabilities that affect African Americans.

Conclusion:

It is an imperative that the nation makes a concerted effort to reduce health disparities. To this end, the NAACP has a unique and central role in this endeavor. By advocating for the support of medical research to seek new knowledge about disease and disability—new knowledge that has and can continue to lead to innovative diagnostics, treatments, and preventive strategies to reduce, and even eliminate, health disparities. Policies regarding living wages and health care obviously have huge intersections with

race, ethnicity and gender, and disproportionate affects on these populations due to historical discrimination and structural racism.

States and the federal government can directly support local efforts, as well as reduce the burden on under-served African American communities by expanding public and private coverage on a state-wide basis. Along with expanded insurance coverage, policies promoting continuity in patients' relationships with

health care providers also are needed to reduce disparities in access.

The medical research community working with, and informed by, the public, patients, health care providers, policymakers, and others has and must continue to develop new knowledge that leads to improvements in the prevention, diagnosis, and treatment of diseases and disabilities that contribute to health disparities.

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7

*Fixing No Child Left Behind:
Strengthening
Graduation Rates for
African American
Students*

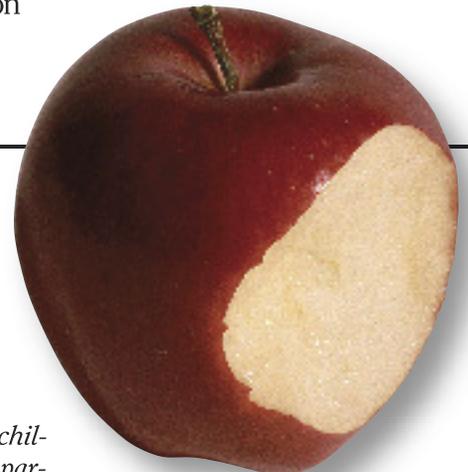
Michael T.S. Wotorson
Director, Campaign for High School Equity
Director of Community Partnerships
Alliance for Excellent Education

“
I came up at a time when school was an extension of family and the community...we need to redevelop that. Education must be stressed at home, from the pulpit and in other community settings. Parents must demand educational excellence for their children whether they have a special needs child or a child who is Rhodes Scholar material. Equally important, teachers and parents cannot function as adversaries but partners in education.

As a system we are continuing to fail because we are not giving the best teachers to the students that need them the most. With no parental support, the system is not held accountable and the quality of education our children are receiving goes unaddressed. No Child Left Behind

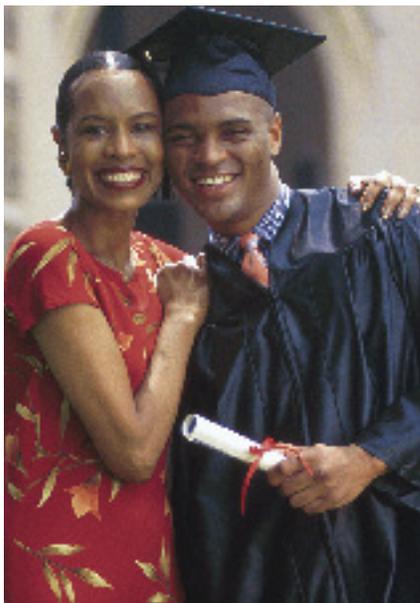
forced us to look at graduation rates but does not equip school systems to address the issues that the data brings to light. Our federal money should be directed towards the creation and implementation of specialized improvement plans that marshal resources to support children, develop teachers and involve parents. With a proven link between the education and juvenile justice systems, drop-out prevention efforts must be planned, systemic and institutionalized. Our bottom line is an educational system where no one fails.

– **Gloria Sweet-Love**
President
Tennessee State Conference NAACP



The Elementary and Secondary Education Act (now called No Child Left Behind) has been a valiant attempt to help focus the attention of the nation on the unacceptable achievement gap separating White and minority children in public education. For the past forty-two years, this historic piece of legislation has sought to provide critical assistance to America's poor and minority school children by ensuring that these young people have unfettered access to a high quality education. In fact, when the Elementary and Secondary Education Act was passed in 1965, it was the first time the federal government made a significant foray into state decision making processes around school curriculum and operations. Steeping in to this states arena became a bit easier following the passage of the 1964 Civil Rights Act and Lyndon B. Johnson's quick and successful campaign to pass ESEA. Still, despite the wonderful intentions under girding ESEA, American public education has seen very difficult days.

NCLB has done very little to increase the rate at which African American, Hispanic, American Indian, and Southeast Asian immigrant children are graduating from high school fully prepared for college, work, and life. Moreover, NCLB has not done enough to ensure that states and districts report accurate and fully disaggregated information regarding their high school graduation rates – particularly for students of color. Historically, national graduation rates went largely and essentially unchallenged. Few in the educational research, policy, or practice world questioned the ways that schools, districts, and states gathered graduation data and reported on it. In 2001 and 2003, reports were published by Jay Greene of the Manhattan Institute for Policy Research and Christopher Swanson of the Urban Institute that uncovered a deeply disturbing truth – one third of students do not graduation from high school on time with a regular diploma. Greene and Swanson did not rely on the questionable data and methodologies that served as the basis for the official reports but rather developed their own methodologies, which seemed sound and that resonated with the majority of the education policy community. As states increasingly reported incorrect graduation data often using flawed methodolo-



gies, independent researchers began to document significant gaps between state reported rates and the more accurate estimates of the numbers of students graduating on time with regular diplomas that have been calculated through their research. This has all underscored the need for strong graduation rate accountability to become an important and enforced cornerstone of No Child Left Behind.

As a result, low-performing high schools across this nation continue to flourish as “dropout factories” where nearly half of all the enrolled students never graduate. In fact, nationwide there are approximately 2,000 of these schools and they account for the vast majority of the students of color who drop out of high school each year. NCLB must include a mechanism to fully address and resolve this problem.

High School Graduation: The Key to Our Collective Future

In today's increasingly competitive global economy graduating from high school is more critical than ever to securing a good job and a promising future. One third of American students —about 1.2 million each year—leave high school without a diploma. Graduation rates for poor and minority students are even lower with 53 percent of African-American students and 58 percent of Hispanic students graduating from high school, compared with 76 percent of white students, according to Editorial Projects in Education. Over the last several years, in-

dependent researchers have documented significant gaps between graduation rates reported by states and the more accurate estimates of the numbers of students graduating on time with regular diplomas that have been calculated through their research. In some states, the gap has been as high as thirty percent.

Graduation rates are perhaps one of the most important indicators of how well our nation's schools are successfully completing their essential job of educating young people. As technological advances race forward today, graduating from high school is increasingly becoming a critical step towards securing a promising future. Across the nation however, graduation rates for students of color continue to lag far behind those of White students. The failure to graduate every child from high school prepared for the 21st century has serious consequences not only for individual students, but for the rest of American society as well. Despite the obvious importance of this issue, low graduation rates of America's youth have been obscured for far too long by inaccurate data, misleading calculations and reporting, and flawed accountability systems.

Graduation rates are not only important indicators of school performance; they can also facilitate the purposeful targeting of needed resources and interventions to low-performing schools. Graduation rates are also a cornerstone of high school accountability and holding schools, districts, and states responsible for increasing graduation rates helps discourage schools from “pushing out” students who might not score highly on achievement tests.

So if we are ever going to gain a clear picture of whether our nation is meeting its economic and moral imperative, particularly around civil rights and related to educating young people, we are going to have to ensure that high school graduation rates, as well as other relevant indicators, are calculated and reported accurately and consistently across states. Efforts to meet that important objective have been, and will continue to be, significantly disadvantaged by the inability to accurately track and report on student academic achievement and attainment.

An Accountability Perspective

So No Child Left Behind has certainly focused attention on high school graduation rates nationally. In doing so, NCLB has illuminated the fact that while approximately 70% of American high school students graduate from high school on time with a regular diploma, only about 50% of students of color are completing high school on time with a regular diploma. Although NCLB's definition and requirements related to graduation rates may seem fairly rigorous, there is a lack of clarity, leadership, and enforcement around the calculation, usage, and reporting of this data and that has harmed students of color greatly.

Strong graduation rate accountability ensures that as a community, we understand exactly which of our students are graduating no time from high school, which ones are not, and why. If we have a clearer sense of who is graduating or not, we ultimately are in a better position to develop corrective measures that enable a school or district to better serve those students most at risk of dropping out.

If accountability systems around graduation rates are not designed properly, these systems provide "perverse incentives" for schools that affect the graduation prospects of students of color. In short, a badly designed accountability system quite directly leads to unexpected or unwanted consequences. For community leaders, advocates, and civil rights organizations, it is imperative that states, districts, and schools are pressured to develop appropriate graduation rate accountability systems therefore.

Consider how students are categorized by states as they move through and out of the K-12 system. As a student progresses through the system, an exit code is applied to that student and that code determines whether that student is counted in the graduation rate. Given that states and local policies largely develop and drive how these coding practices are employed, states and districts can take advantage of wide latitude in how students are coded and how graduation rates are ultimately reported.

Again, if we are going to develop a true picture of how students of color are progressing to graduation or not, a consistent and valid accountability system must be in place. One specific measure states and districts can employ is to design accountability systems so that schools are responsible for raising test scores AND for raising graduation rates.

From a federal policy perspective therefore, there are a number of ways in which NCLB hurts students of color around graduation rates. (1) First, NCLB does not set a basic graduation goal to which schools and districts must aspire. While the law sets a goal for academic proficiency, there is no similar bar set for high school graduation. (2) Secondly, states and schools are not being required to set meaningful benchmarks toward graduation rate goals. (3) NCLB has allowed many states to utilize waivers on the requirement that graduation rates are disaggregated and reported by subgroup.

American High Schools and African American Students

In 2004, Black students were roughly 16% of the public school population (NCES 2006). At the same time, only 53% of all Black students graduated from high school on time (within four years) with a regular diploma, compared to 76% for whites (EPE 2007). Today, nearly 50% of Black students in America attend "dropout factories," schools where high school graduation is not the norm compared to only 11% for White students (Balfanz and Ledgers 2004). In fact, the nations' nearly 2,000 dropout factories produce 81% of American Indian high school dropouts, 73% of African American high school dropouts, and 66% of Hispanic high school dropouts. When we consider that by the year 2050, African Americans, Hispanics, and Asians will make up 50% of the U.S. population, we realize that we cannot afford to allow

this problem to go unaddressed any longer. Our high schools must be re-designed so that more children graduate fully prepared for college, work, and to shoulder the mantle of leadership. Of course, the solution to our problem does not begin when students enter the 12th grade. In many instances, critical educational deficiencies have already taken root in children long before they enter even the ninth grade. On average, African American 12th grade students read at approximately the same level as white 8th graders according to 2002 data from the U.S. Department of Education. The National Assessment of Educational Progress goes on to report that 89 percent of African-American eighth graders read below grade level, compared to 63 percent of white eighth graders (U.S. Department of Education, NAEP 2005). Finally, twelfth grade reading scores for African American males tend to be significantly lower than those for men and women of every other racial and ethnic group according to 2005 U.S. Department of Education data. Therefore, it should be no surprise therefore that in 2003, only 55 percent of black students graduated from high school on time with a regular diploma, compared to 78 percent of whites (Greene and Winters 2006). Additionally, fewer Black students are leaving high school prepared for post-secondary work. In 2002 for example, 23 percent of all black students who started public high school left it prepared for college, compared to 40 percent of whites (Greene and Winters 2005).

Dropping Out and Fading Away

On average, high school dropouts earn less money and experience a poorer quality of life than their peers who graduate from high school. They are also more likely to become embroiled in the criminal justice system, have children while they are very young, and will have less access to high quality healthcare. Recent research conclusively demonstrates that high stakes assessments in many states tend to lead to students being pushed out of school in order for schools to be able to report "measurable improvement" on their school performance ratings (Coppola, McNeil, et al. 2008).





Graduation rates are an important measure of school performance. Considering that the central and most basic function of high schools is to educate children, graduation should intuitively be viewed as an important yardstick for measuring school performance. Additionally, graduation rates should be an important component of accountability under NCLB. For example, although it is five years passed the enactment of NCLB, states are still using a variety of flawed methodologies for calculating graduation rates and in some cases; they are using different methods for different subgroups. This means state-reported data is not reliable and cannot be compared across states and districts. When independent researchers looked at graduation rates, they found significant gaps between state reported rates and what was uncovered by research. Additionally, it is critically important for federal education policy to set an aggressive and attainable growth rate for increasing graduation because this allows us to raise expectations for students and schools and to hold schools accountable for meeting those goals.

This kind of strict accountability will force schools and districts to reverse dropout trends as they devise ways of increasing their graduation rates. This approach will also allow communities to evaluate schools based on how much the school has attained.

Recommendations for State and Federal Policy

The major provisions of NCLB largely central to fixing achievement gaps and better serving African American and other children of color have been ineffectual. Principally, NCLB does nothing to improve dropout rates or graduation rates for students of color. To change this, advocates, educators, policymakers, and citizens should insist on the following as a framework for real education reform:

1. Schools and districts should consistently and accurately calculate graduation rates to ensure transparency and comparability.
2. Policymakers should ensure that graduation rates are aggressively set, are attainable, and are required to grow at set rates as part of AYP
3. Graduation rates should be considered on equal footing with test scores for AYP determinations
4. Graduation rates should be disaggregated by subgroup for accountability and reporting purposes so that ALL students benefit from school improvement efforts.

Graduation rates are a cornerstone of high school accountability. Calculating graduation rates should be done in a manner that maintains transparency, accuracy and consistency across states. Unacceptably low graduation rates, particularly among poor and minority children, have been obscured for far too long by inaccurate data, misleading calculations and reporting, and flawed accountability systems at the local, state, and federal levels.

Graduation rates must be clear, accurate, and comparable across schools, districts, and states. NCLB has attempted to ensure that schools are held accountable for student outcomes. Reliable graduation rate information must be used to identify low performing high schools, inform decision-making and improve policy and practice that strengthens student outcomes.

Required graduation rate increases should be aggressive but attainable to schools. Moreover, knowing how many students are actually graduating is a critical indicator of how good a high school really is. Graduation rates are fundamental to understanding exactly how our high schools are performing their basic mission – graduating students who are prepared for college, work, and life. This nation needs an educated and well-prepared workforce to take advantage of technological innovation and strengthen the national economy. To that end, schools must be held accountable for preparing increasing numbers of students to take their place in national civic, cultural, economic, and political life.

Graduation rates should be disaggregated for accountability and reporting purposes to ensure that all students benefit from school improvement efforts and activities. By continuing to ignore subgroup graduation rate accountability, citizens, policymakers, and advocates have no real way of knowing whether or not students of color and low income students are actually graduating from high school and at what rates this may or may not be occurring.

Conclusion

NCLB is far from being a perfect law. Yet, NCLB provides a useful framework for critical attention to be paid to the progress (or lack thereof) our students are making under the current system. Perhaps the greatest injustice that can be visited upon African Americans is to keep our children in mental and consequently,

political bondage. NCLB gives us a way of uncovering important shortcomings and prescribing appropriate corrective action – removing the virtual shackles, so that our children do not continue to suffer. Reauthorizing NCLB will ensure that a framework remains in place upon which civil rights advocates, educators, and citi-

zens from all walks of life can build so that children are truly provided the best of opportunities to accomplish what they will. The NAACP is a critically important leader in the fight to ensure that no child becomes invisible to federal policy.

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