

Chapter 25

I. PATHOLOGIZING AFRICAN AMERICAN FAMILIES

This chapter details policy proposals to address harms set forth in Chapter 8, Pathologizing African American Families.

- Reduce and Seek to Eliminate Racial Disparities in the Removal of African American Children from Their Homes and Families
- Reduce the Placement of African American Children in Foster Care and Increase Kinship Placements for African American Children
- Establish and Fund Early Intervention Programs that Address Intimate Partner Violence (IPV) Within the African American Community
- Eliminate Interest on Past-Due Child Support and Eliminate Back Child Support Debt
- Eliminate or Reduce Charges for Phone Calls Between County Jail Inmates and Their Families
- Address Disproportionate Homelessness Among African American Californians
- Address Disparities and Discrimination Associated with Substance Use Recovery Services
- End the Under-Protection of African American Women and Girls

A. Reduce and Seek to Eliminate Racial Disparities in the Removal of African American Children from Their Homes and Families

The rate of removal of African American children from their homes is staggering. In 2018, African American children were 21.8 percent of the children in foster care in California, the largest percentage by race, despite constituting only 6.5 percent of the overall population of children.¹ One report indicated that, in 2021, California investigated one-half of all Black children.² In 2022, California's Legislative Analyst's Office issued a report indicating that the proportion of Black youth in foster care is four times larger than the proportion of Black youth in California overall.³ Given the disparities, it is likely that racial bias impacts African American families at all stages of the process, including during the reporting of abuse or neglect, the investigation of the allegation, the substantiation of the allegation, the decision to remove the child from the home, and ultimately where to place a child once the child is removed.⁴ As

¹ [Children in Foster Care, by Race/Ethnicity - Kidsdata.org](#) (as of Nov. 29, 2022).

² Lurie, [Child Protective Services Investigates Half of All Black Children in California](#), Mother Jones (April 26, 2021) (as of Nov. 29, 2022).

³ See Legislative Analyst's Office, [Initial Analysis and Key Questions: Racial Disproportionalities and Disparities in California's Child Welfare System](#) (March 9, 2022) p. 2

⁴ Children's Bureau: [Child Welfare Practice to Address Racial Disproportionality and Disparity](#) (2021) p. 6 (as of Nov. 29, 2022).

detailed in Chapter 8, Pathologizing Black Families, one 1996 study indicated that the “disproportionality of Black children being taken from their parents and placed in foster care ‘does not derive from inherent differences in the rates at which they are abused or neglected,’ but rather reflects the ‘differential attention’ received by Black children ‘along the child welfare service pathway.’”⁵ Vague or nebulous definitions of mistreatment or abuse, which are inherently subjective, may allow racial bias to intrude into a lone social worker’s decision-making process about whether to initiate an investigation or remove a child.⁶ Recent research has shown that with respect to drug-positive newborns, African American mothers were more likely to have their infants removed than white mothers even though the overall characteristics or conditions of the infants were similar.⁷

The following recommendations provide a multi-prong approach to eliminate racial disparities for African American families by implementing procedures in the child welfare system to eliminate the influence racial bias may have on decision-making at every stage.

The Task Force recommends that the Legislature require “blind” removal meetings where a committee of social workers, who are unaware of the race of the child and their family, make the decision regarding whether a claim of child abuse is substantiated and whether the initial detention of a child from their home is warranted.⁸ This recommendation does not include predictive risk modeling tools some agencies have used to augment their decision-making process around initial detentions and removals. Many stakeholders have expressed concerns that predictive risk modeling tools “may infringe on civil rights and civil liberties, and exacerbate racial disproportionality and disparities in child welfare.”⁹

The Task Force also recommends that the Legislature enact legislation to prohibit child welfare agencies from detaining a child on the basis of a nebulous claim of neglect where the investigation was initiated based on a report that is rooted in a parent’s poverty or lack of resources.¹⁰ This recommended legislation would establish that, before a child welfare agency can detain a child based on general neglect, the agency must demonstrate that it has engaged in “active efforts.” “Active efforts” means the agency has taken proactive steps, which may include

⁵ Chapter 8 at p. 281.

⁶ Children’s Bureau: *Child Welfare Practice to Address Racial Disproportionality and Disparity* (2021) at p. 6.

⁷ [Child Welfare Practice to Address Racial Disproportionality and Disparity](#), *supra*, at p. 6.

⁸ [Child Welfare Practice to Address Racial Disproportionality and Disparity](#), *supra*, at p. 16.

⁹ See [ACLU Public Records Act Request Regarding Use of Predictive Risk Modeling in California Child Welfare System and expressing concerns about the constitutionality of predictive risk modeling tools.](#) (Jan. 5, 2021).)

¹⁰ See Legislative Analyst’s Office, [Initial Analysis and Key Questions: Racial Disproportionalities and Disparities in California’s Child Welfare System](#) (March 9, 2022) p. 5 (noting that most cited reason for removals is neglect, not physical or sexual abuse). Welfare and Institutions Code section 300, subdivision (b) (2) states that a child shall not be found to be a person described by section 300, subdivision (b) (1) based on a parent’s poverty alone. But children can be detained from their parents based on an allegation of neglect before a court determines whether the child comes within the definition of section 300, subdivision (b). The Task Force’s recommendation applies to this initial detention stage of the proceedings where a child can be detained from their parents before a finding under section 300, subdivision (b) (1) is even made.

financial assistance and support services, to help parents ameliorate or eliminate the conditions that caused the agency to investigate the family.¹¹

To address concerns that incongruent cultural standards are often applied to justify the removal of African American children from their families, the Task Force recommends that the Legislature amend Welfare and Institutions Code section 361 to require the testimony of an independent qualified expert on the prevailing cultural practices and standards of the African American community, including child rearing practices, before a child can be removed from their home. A child could be removed only where the qualified expert testifies that continued custody in the home is likely to result in serious emotional or physical damage to the child.¹²

Substance abuse or addiction issues are often a driver for the removal of children from their parents. Existing legislation does not disqualify a noncustodial parent from being considered for placement where the parent is in a substance abuse treatment facility so long as that facility allows minor children to remain with their children during treatment.¹³

Because existing law acknowledges that substance abuse issues, without more, do not require separating a child from their parent,¹⁴ the Task Force recommends that the Legislature mandate that, in cases where the sole issue is a parent's substance abuse, child welfare agencies place the family on family maintenance services¹⁵ and use active efforts to place the custodial parent and child in a residential treatment program that allows minors to remain with their parents during treatment before the agency can file a petition to detain the child. Where outpatient treatment has a likelihood of success, the Task Force recommends legislation requiring agencies to provide family maintenance services along with outpatient treatment before filing a petition to detain a child.

The Task Force further recommends that the Legislature enact legislation requiring child welfare agencies to place a child with the noncustodial parent in cases where removal from the custodial parent was necessary — even if the noncustodial parent is in an inpatient substance abuse treatment facility — if the facility allows dependent children to stay with their parents and placing the child with the noncustodial parent would not be detrimental to the child.¹⁶

B. Reduce the Placement of African American Children in Foster Care and Increase Kinship Placements for African American Children

¹¹ “Active efforts” means affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with their family. (Welf. & Inst. Code, § 224.1 (West)). It is a term borrowed from California’s version of the Indian Child Welfare Act (ICWA).

¹² See e.g., Welf. & Inst. Code, § 361, subd. (c)(6).

¹³ See Welf. & Inst. Code, § 361.2, subd. (a).

¹⁴ A child can only be removed if the parent’s substance abuse issue places the child at substantial risk of harm. (See *In re Alexis E.* (2009) 171 Cal. App. 4th 438, 453 (“[W]e have no quarrel with Father’s assertion that his use of medical marijuana, without more, cannot support a jurisdiction finding that such use brings the minors within the jurisdiction of the dependency court, not any more than his use of the medications prescribed for him by his psychiatrist brings the children within the jurisdiction of the court.”).)

¹⁵ Family maintenance services are time-limited services provided to children who are at risk for abuse and neglect in their homes. Welf. & Inst. Code, § 16506; see e.g., Contra Costa County Employment and Human Services [Family Maintenance Services](#) (as of Nov. 29, 2022).

¹⁶ Compare Welfare and Institutions Code section 361.2, which states that placement cannot be denied solely because parent is enrolled in a substance abuse treatment facility. But the provision does not require placement where the facility allows minor children to stay with their parents.

As detailed in Chapter 8, Pathologizing African American Families, beginning with slavery and continuing through today, extended kinship networks have been necessary for survival for African American mothers and families.¹⁷ Kinship placements also play a key role in the child welfare system for African American children removed from their parents.

When a child has been removed from both parents, existing law¹⁸ allows a court to place a child in a variety of placements, including a kinship placement, which refers to the approved home of a relative or nonrelative extended family member. Under existing law, placement with a relative is the preferred placement.¹⁹ For the vast majority of children, kinship placements are less traumatic, lead to better outcomes, play a pivotal role in ensuring children’s safety, increase placement stability, better assure success in school, and maintain family and community connections.²⁰

Despite research showing that children placed with relatives have better outcomes — and the statutory preference to place children with relatives — a disproportionate number of African American children continue to be placed in foster care with strangers or in congregate care settings instead.²¹ Being Black is a predictive factor of a child’s placement in a congregate care setting.²² The Legislature passed Continuum of Care Reform legislation in 2015,²³ a collection of reforms aimed at ensuring that children removed from their parents are placed in home-based family placements with committed and nurturing caregivers.²⁴ Under Continuum of Care Reform, congregate settings would be used only as short-term residential therapeutic settings.²⁵

Even after the passage of Continuum of Care Reform legislation, disparities in foster care placement for African American children persist.²⁶ One explanation for the disproportionate placement of African American children in foster care or congregate settings is racial bias. Existing law allows a social worker to consider a relative’s “good moral character” when assessing a relative for placement.²⁷ But whether a relative has good moral character is a subjective consideration that could be impacted by racial bias.

¹⁷ Chapter 8, Pathologizing African American Families, *supra*, at p. 272.

¹⁸ Welf. & Inst. Code, § 361.2, subd. (e).

¹⁹ Welf. & Inst. Code, § 361.3, subd. (a).

²⁰ Los Angeles County Blue Ribbon Commission on Child Protection: Final Report (2014) at p. 22

²¹ Congregate care placements are widely understood to be less suited to a child’s healthy development and tend to lead to poorer outcomes as compared to family-based placements like kinship and foster home placements. (Casey Family Programs [What Are the Outcomes for Youth Placed in Group and Institutional Settings?](#), June 29, 2022 (as of Nov. 29, 2022).)

²² See Palmer et al., [Correlates of Entry Into Congregate Care Among a Cohort of California Foster Youth](#) (March 2020) vol. 110 Children and Youth Services Rev. (as of Nov. 29, 2022).

²⁶ Legislative Analyst’s Office, [Initial Analysis and Key Questions: Racial Disproportionalities and Disparities in California’s Child Welfare System](#) (March 9, 2022) pp. 2-3.

²⁶ Legislative Analyst’s Office, [Initial Analysis and Key Questions: Racial Disproportionalities and Disparities in California’s Child Welfare System](#) (March 9, 2022) pp. 2-3.

²⁶ Legislative Analyst’s Office, [Initial Analysis and Key Questions: Racial Disproportionalities and Disparities in California’s Child Welfare System](#) (March 9, 2022) pp. 2-3.

²⁶ Legislative Analyst’s Office, [Initial Analysis and Key Questions: Racial Disproportionalities and Disparities in California’s Child Welfare System](#) (March 9, 2022) pp. 2-3.

²⁷ Welf. & Inst. Code, § 361.3, subd. (a)(5)

Even when a child is placed in kinship care, however, disparities in resources persist. Children in kinship care and their caregivers are among the most underserved in the welfare system.²⁸ If a child does not qualify for Aid to Families with Dependent Children (AFDC) benefits under Title IV-E of the Social Security Act at the time of removal, under California's regulations, a child placed with a relative will receive less cash assistance than if the same child was placed with a non-relative foster care family.²⁹ Thirty-nine percent of kinship households live below the federal poverty line while only 13 percent of non-relative foster care households do.³⁰ The financial hardships relatives face can influence whether a relative with modest economic means decides to be considered for placement.³¹ Further, a relative's lack of resources can also factor into a social worker's decision to exclude that relative from consideration for placement.³²

The Task Force recommends that the Legislature enact legislation requiring the Department of Social Services to provide the same level of foster care cash assistance benefits to children placed in kinship placements that it provides for children placed in foster-home placements.³³ Equalizing foster care cash assistance benefits based on the child, instead of on the child's placement, makes it financially feasible for minors to be placed with relatives who otherwise lack the financial means to take in a child. And placing a child with relatives provides the benefits of familial connection and continuity of community without additional costs to the county or the state, as there is one less child placed in a foster home.

In the alternative, the Task Force recommends that the Legislature enact legislation eliminating or waiving the consideration of a child's eligibility for federal AFDC aid under Title IV-E from its determination of the amount of foster care cash assistance a child placed with relatives will receive, and instead require the Department of Social Services to pay the same level of cash assistance to a child placed in a kinship placement as the child would have received if placed with a non-relative foster family.³⁴

The Task Force also recommends that the Legislature amend Welfare and Institutions Code section 309, subsection (d) to authorize financial payments to relatives to purchase whatever is required to provide a home and the necessities of life for the child for as long as the child remains with the relative. Beyond section 309, existing social welfare programs, such as

²⁸ Los Angeles Blue Ribbon Commission on Child Protection, [The Road to Safety for Our Children: Final Report of the Los Angeles Blue Ribbon Commission on Child Protection](#) (2014) at p. 22 (as of Nov. 29, 2022).

²⁹ Specifically, a child placed in kinship care families would receive only CalWorks cash benefits while a non-relative foster care family would receive cash benefits based on state AFDC benefits for the child. (Alliance for Children's Rights, [Continuum of Care Reform](#)); see California Department of Social Services [Payments](#) page

³⁰ Alliance for Children's Rights, [Continuum of Care Reform](#)

³¹ *Id.* at pp. 22-23.

³² See Welf. & Inst. Code, § 361.3, subd. (a)(7). A social worker may not solely exclude a relative from consideration based on a lack of resources, however. (Welf. & Inst. Code, § 309, subd. (d)(3).)

³³ Title IV-E provides fund to states to pay for the costs associated with placing children, who are eligible for public assistance, in an *approved* or licensed foster care setting that meets the statutory safety requirements. (See U.S. Department of Health and Human Resources, Title IV-E Foster Care Eligibility Review Guide (2012) p. 4 (as of Nov. 29, 2022).) Under California's Continuum of Care Reform legislation, both relatives and foster care families are approved for placement using the Resource Family Approval process. (Department of Social Services [Continuum Of Care Reform Resource Family Approval Child And Family Teams](#) (2018).)

³⁴ Title IV-E agencies are subject to periodic reviews to validate the accuracy of the agency's claim for reimbursement based on the placement of children in approved or licensed foster family homes and child care institutions. 45 C.F.R. 1356.71(d)(iv); 42 U.S.C § 472

CalWorks and CalFresh, or a special fund established by the Legislature, can be used to provide additional support. The Task Force further recommends that the Legislature include a requirement that the agency actively assist relatives in applying for and obtaining benefits under existing social welfare programs.

To address potential racial bias in the assessments of relatives for placement, the Task Force recommends that the Legislature amend Welfare and Institutions Code 361.3 to eliminate “good moral character” from the list of criteria a social worker may consider in deciding whether to place a child with a relative.

Another barrier to relative placements is a criminal background check, which is required for anyone being considered for placement. Under existing law, the child welfare agency has discretion to grant an exemption from disqualification to a relative who has a criminal record.³⁵ The Task Force recommends that the Legislature enact legislation to prohibit an agency from using a relative’s prior *nonviolent* conviction to disqualify a relative from being considered for placement. Prohibiting agencies from disqualifying relatives with convictions for *nonviolent offenses* from being considered for placement acknowledges that the criminal justice system in California has disproportionately targeted and convicted African Americans.³⁶ And because most convictions stem from guilty pleas,³⁷ which may have been accepted solely to avoid trial and a potentially higher sentence, a nonviolent conviction should not disqualify a relative for placement.

The Task Force further recommends that the Legislature enact legislation permitting a relative with a prior conviction for a violent offense to be considered for kinship placement where: 1) the conviction is not for a reportable offense under Penal Code section 290 or similar provision; 2) the relative has been free from incarceration and supervision for at least 10 years; 3) the prior conviction for a violent offense is more than 10 years old; and 4) the relative has demonstrated by clear and convincing evidence³⁸ that they are not likely to reoffend.

The Task Force also recommends that the Legislature enact legislation permitting relatives with a substantiated instance of prior child abuse or neglect to be considered for placement if the substantiated instance occurred at least 10 years before the relative’s current placement application and the relative has demonstrated by clear and convincing evidence that they are not likely to reoffend.

C. Establish and Fund Early Intervention Programs that Address Intimate Partner Violence (IPV) Within the African American Community

African American victims of IPV face unique and historically-rooted challenges in seeking and obtaining services related to safety, prevention, and treatment. For example, African American victims of IPV may harbor a justifiable distrust of law enforcement and social service providers, which in turn limits the protection and support that victims receive. Many women refrain from

³⁵ Health & Saf. Code, § 1522, subd. (g)

³⁶ See generally, Chapter 11, An Unjust Legal System, *supra*.

³⁷ Lyon, [Whether State or Federal, Most Convictions Are Overwhelmingly Based on Guilty Pleas](#), Human Rights Defense Center, Criminal Legal News (Oct. 2019) (as of Nov. 29, 2022).

³⁸ “Clear and convincing” evidence requires a finding of high probability that the facts asserted are true. (*In re Angelia P.* (1981) 28 Cal.3d 908, 919.)

seeking assistance out of fear of losing their children to a discriminatory child welfare system.³⁹ And even when assistance is sought, many of the service providers fail to provide the kind of culturally competent, trauma-informed services that are most effective. Moreover, because African American women face disproportionately higher rates of IPV, these challenges result in the neediest populations receiving the least amount of support.⁴⁰

The Task Force recommends that the Legislature fund community-based organizations (CBOs) and treatment programs that provide IPV services to treat victims, perpetrators, and minor children within the family who may have been exposed to IPV. The legislation would include adequate funding for CBOs and treatment centers to expand services to improve outreach to victims and perpetrators of IPV, and provide appropriate services tailored to address the needs of the family based on the severity and duration of the IPV.

The CBOs and treatment programs would provide a range of services that would include: partnering with hospitals, clinics, and mental health centers to provide IPV self-assessment tools and referral information for IPV victims where providers may encounter victims of IPV; providing direct cash assistance to IPV victims to allow victims to separate from the perpetrator; and assisting victims in applying for benefits and accessing job training. CalWorks can be used to provide temporary direct cash assistance for IPV victims.⁴¹ Because exposure to IPV causes trauma to children, the Task Force recommends that the Legislature require the CBOs and treatment programs to provide services or a referral and payment for appropriate services for minor children who have been exposed to IPV.

The legislation would also fund IPV prevention and early intervention treatment programs, including graduated treatment options for victims and IPV perpetrators based on the severity and duration of IPV. One study indicated that conjoint couples' treatment was more effective in reducing recidivism over a six-month period than individual couples treatment.⁴² Where the victim is fully supportive of conjoint treatment, where the violence has been mild-to-moderate, and where both parties want to remain together, the victim and perpetrator can be referred to a multi-couple conjoint treatment program for IPV.⁴³

³⁹ Joyce, [She Said Her Husband Hit Her. She Lost Custody of Their Kids: How Reporting Domestic Violence Works Against Women in Family Court](#) (2020) The Marshall Project (as of Nov. 29, 2022).

⁴⁰ DuMonthier et al., [The Status of Black Women in the United States](#) (2017) Institute for Women's Policy Research & The National Domestic Worker's Alliance (as of Nov. 29, 2022).

⁴¹ The federal Family Violence Prevention Act prohibits direct cash assistance. (42 U.S.C. §10408, subsection (d)).

⁴² Heru, [Intimate Partner Violence: Treating Abuser and Abused](#) Vol. 13 *Advances in Psychiatric Treatment* (2007) 376, 379 (citing Stith et al., [Treating Marital Violence within Intact Couple Relationships: Outcomes of Multi-Couple Versus Individual Couple Therapy](#) *J. Marital Fam. Ther.* (2004) 305-318.) The reauthorized Violence Against Women Act that was signed into law in 2022, authorizes pilot programs on restorative justice practices if certain parameters are met. Those parameters include the requirement that the victim initiate the process and that the perpetrator voluntarily engage in the process. (Text of S. 3623 [The Violence Against Women Act Reauthorization Act of 2022](#), title IV of Public Law 103-322, section 109.) (as of Nov. 29, 2022).

⁴³ Stith et al., [Treating Marital Violence within Intact Couple Relationships: Outcomes of Multi-Couple Versus Individual Couple Therapy](#) (2004) *J. Marital Fam. Ther.* 305-318 (manuscript at pp. 23-25) (as of Nov. 29, 2022).

D. Eliminate Interest on Past-Due Child Support and Eliminate Back Child Support Debt

As discussed throughout Chapter 8, Pathologizing of African American Families, discriminatory federal and laws have torn African American families apart.⁴⁴ One effect of these longstanding harms is the disproportionate amount of African Americans who are burdened with child support debt. Although African Americans are less than seven percent of California's population, they represent 18 percent of the parents who owe child support debt.⁴⁵ Under current law, California charges 10 percent interest on back child support, which is more than 3.5 times greater than the national average.⁴⁶ The 10 percent interest rate quickly increases the amount of the child support debt owed.⁴⁷ As a result of the debt owed for back child support and interest, a disproportionate number of African American parents are saddled with crushing debt that hinders their ability to attend school or job training, maintain housing,⁴⁸ and find employment if their professional licenses and/or driver's licenses have been suspended because of failure to pay child support debt.⁴⁹

A study commissioned by the California Department of Child Support Services in 2003 estimated that 27 percent of California's child support arrears was unpaid interest.⁵⁰ The same study showed that child support debtors had lower incomes than the typical California worker.⁵¹ The study indicated that even if debtors paid 50 percent of their net income towards their child support debt (back support and interest), only about 25 percent of the debt owed for child support arrears and interest would be collected over the next 10 years.⁵² In 2020, the Governor vetoed AB 1092,⁵³ which would have prospectively terminated interest on child support arrears owed to the state.⁵⁴

The Task Force recommends that the Legislature enact legislation to terminate all interest accrued on back child support, requiring only the payment of the principal owed. At a minimum,

⁴⁴ See generally Chapter 8, Pathologizing of African American Families, *supra*.

⁴⁵ San Francisco Office of the Treasurer Financial Justice Project [The Payback Problem: How Taking Parents' Child Support Payments to Pay Back the Cost of Public Assistance Harms California Low-Income Children & Families A Call For Reform to Put Families First](#) (2017) p. 13 (as of Nov. 29, 2022).

⁴⁶ See Cal. Civ. Pro. § 685.010; see also [Interest on Child Support Arrears \(ncsl.org\)](#). The term child support debt or arrears includes the principal back child support owed plus the 10 percent interest the state charges.

⁴⁷ Hahn et al, [Relief from Government-Owed Child Support Debt and Its Effects on Parents and Children Evaluation of the San Francisco Child Support Debt Relief Pilot](#) (2019) Urban Institute Research Report at p. VIII (as of Nov. 29, 2022).

⁴⁸ Cimini, [California Keeps Millions in Child Support While Parents Drown in Debt](#) Cal Matters (2021) (as of Nov. 29, 2022).

⁴⁹ Hahn et al, [Relief from Government-Owed Child Support Debt](#), *supra*, at p. VIII.

⁵⁰ Sorensen et al., Executive Summary, [Examining Child Support Arrears in California: The Collectability Study](#) (2003) Urban Institute p. 18 (as of Nov. 29, 2022).

⁵¹ *Id.* at Report 2, p. 14.

⁵² *Id.* at Report 3, pp. 11-13.

⁵³ [Assem. Bill No. 1092](#) (2019-2020 Reg. Sess.).

⁵⁴ Cimini, [California Keeps Millions in Child Support While Parents Drown in Debt](#), *supra*.

the proposal recommends that the Legislature eliminate the prospective accrual of interest on child-support debt for low-income parents.

The Task Force further recommends that the Legislature amend Family Code section 17560, the “offers in compromise”⁵⁵ provision, to allow for offers in compromise and forgiveness of child support debt based solely on a parent’s financial circumstances and ability to pay. The Task Force recommends that the Legislature amend section 17560 to eliminate the requirements that the amount of the compromise equal or exceed the amount the state would be reimbursed under federal programs like Temporary Assistance to Needy Families.⁵⁶

E. Eliminate or Reduce Charges for Phone Calls Between County Jail Inmates and Their Families

Under current law, county sheriffs may charge inmates per-minute fees and associated charges for telephone calls.⁵⁷ Although the profits from these fees ostensibly go toward services and resources for inmates, the funds are often mismanaged and/or misdirected.⁵⁸ Moreover, the financial burden falls disproportionately on low-income African American families during what can be the most challenging and destabilizing time of life — when a loved one is incarcerated. Ultimately, the fees force families to choose between not communicating with incarcerated family or spending scarce resources to do so.⁵⁹ Moreover, studies have shown that consistent family contact for incarcerated individuals improves reentry outcomes and reduces recidivism.⁶⁰

In recognition of these dynamics, Senate Bill 1008 (2021-2022 Reg. Sess.) made all calls from state prisoners and juvenile detainees free. And many local governments have made county jail calls free.⁶¹ In furtherance of this movement, the Task Force recommends that the Legislature preclude county jails from profiting from their incarcerated persons by mandating that all calls from incarcerated individuals, state and county, be free. The Legislature should similarly limit

⁵⁵ The California Compromise of Arrears Program is a debt reduction program for parents with past-due child support payments owed to the state that is authorized under Family Code Section 17560. If a parent qualifies for the program, they pay a smaller amount to satisfy the full debt owed to the state.

⁵⁶ Family Code section 17560, subdivision (f)(1) provides that the compromise amount must equal or exceed “what the state can expect to collect for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code in the absence of the compromise, based on the obligor's ability to pay.”

⁵⁷ California Public Utilities Commission, [CPUC Caps Phone Rates for Those Incarcerated](#) (Aug. 19, 2021) (as of Jan. 20, 2023) (setting interim rate cap).

⁵⁸ Lau & Stuhldreher, [Justice is Calling](#) (Feb. 18, 2021) The Financial Justice Project, San Francisco at p. 4 (as of Jan. 20, 2023).

⁵⁹ deVuono-powell et al., [Who Pays? The True Cost of Incarceration on Families](#) (Sept. 2015) Ella Baker Center for Human Rights at p.29 (as of April 5, 2023) (explaining that the costs of phone calls and visitation can cause families to go into debt or lose contact with loved ones).

⁶⁰ Wang, [Research Roundup: The Positive Impacts of Family Contact for Incarcerated People and Their Families](#) (Dec. 2021) Prison Policy Initiative (as of April 5, 2023).

⁶¹ Office of the Mayor, City and County of San Francisco, [San Francisco Announces All Phone Calls from County Jails are Now Free](#) (Aug. 2020) Press Release (as of April 5, 2023); Davis, [New San Diego County Policy Makes Jail Phone Calls Free, but Shorter](#), The San Diego Union-Tribune (May 5, 2021) (as of April 5, 2023).

the price markups of commissary items — items sold to incarcerated individuals by stores within jails or prisons — another instance of jails profiting from the most vulnerable Californians.

F. Address Disproportionate Homelessness Among African American Californians

African American Californians make up a disproportionate share of the state’s unhoused population. While Black individuals make up only 5.5 percent of the state’s population, they comprised over 25 percent of unhoused households that contacted homeless service providers in the 2020-2021 fiscal year.⁶² A recent report on Black homelessness in Los Angeles concluded that “[t]he impact of institutional and structural racism in education, criminal justice, housing, employment, health care, and access to opportunities cannot be denied: homelessness is a by-product of racism in America.”⁶³ The same study concluded that “[t]he interconnectedness of incarceration and homelessness creates a revolving door that only serves to make the plight of homelessness more challenging and complex.”⁶⁴ To address the complex web of issues associated with disproportionate homelessness among African Americans, the Task Force makes the following recommendations.

1. Streamline and Incentivize Development of Permanent Supportive Housing and Extremely Low Income Housing

As discussed in Chapter 5, Housing Segregation, discriminatory state and local urban renewal, highway construction, and gentrification policies have destroyed African American communities and produced, among other effects, disproportionate homelessness among African American Californians.⁶⁵ Permanent supportive housing and extremely low-income housing are critical components of addressing the homelessness crisis.⁶⁶ Permanent supportive housing provides housing to those with substantial physical or behavioral disabilities, and provides on-site treatment and services. Extremely low-income households are those whose incomes are at or below the poverty guideline, or 30 percent of their area median income.⁶⁷ Unfortunately, the cost and delays associated with permanent supportive housing developments have severely impacted their feasibility in many communities.⁶⁸ The Task Force accordingly recommends that the Legislature: provide subsidies to developers and property managers of permanent supportive housing and extremely low-income housing; establish state-funded and state-operated permanent supportive housing and/or extremely low-income housing (akin to those proposed in Assembly

⁶² Davalos and Kimberlin, [Who is Experiencing Homelessness in California?](#) (Feb. 2022) California Budget & Policy Center (as of Jan. 24, 2023) (hereinafter “Homelessness in California”).

⁶³ Bernard et al., [Report and Recommendations of the Ad Hoc Committee on Black People Experiencing Homelessness](#) (Dec. 2018) Los Angeles Homeless Services Authority (as of Jan. 24, 2023) (hereinafter “Ad Hoc Committee Report”).

⁶⁴ *Ibid.*

⁶⁵ See Chapter 5, Housing Segregation, *supra*, at pp. 190-191.

⁶⁶ Resnikoff, [Housing Abundance as a Condition for Ending Homelessness](#) (Dec. 2022) California YIMBY (as of Jan. 10, 2023) (hereinafter “Housing Abundance”).

⁶⁷ [Extremely Low-Income Housing Needs](#), California Department of Housing and Community Development (as of Jan. 10, 2023).

⁶⁸ See, e.g., Streeter, [Homelessness in California: Causes and Policy Considerations](#) (May 2022) Stanford Institute for Economic Policy Research (as of Jan. 10, 2022).

Bill 2053 (2021-2022 Reg. Sess.)); and create exemptions for extremely low-income and permanent supportive housing developments from applicable zoning and permitting regulations.⁶⁹

2. Mandate Anti-bias and Other Trainings for Staff of Homeless Services Providers

A recent report by the California Policy Lab found that implicit anti-Black bias and prejudice exist among the case managers, property managers, and landlords that ostensibly should be supporting unhoused individuals.⁷⁰ The Task Force thus recommends the Legislature mandate implicit-bias training for designated homeless-services providers and/or fund statewide studies of racism within homeless services systems. Other training topics should include cultural competency; trauma-informed care; institutional racism; and the needs of diverse unhoused populations, particularly Descendant and African American individuals.

3. Fund Permanent Supportive Housing Diversion Programs for Individuals Incarcerated in County Jails

Permanent supportive housing reduces homelessness among those with substantial physical disabilities or mental health issues.⁷¹ A pilot program in Los Angeles County, Just in Reach Pay for Success, created a diversion program for county jail inmates with histories of homelessness and physical or behavioral disabilities.⁷² The program placed qualifying individuals into permanent supportive housing units and provided wrap-around services.⁷³ A study of the program found that its cost was fully offset by decreased use of shelters, inpatient hospitalization, and incarceration.⁷⁴ In light of the program's success and cost-effectiveness, the Task Force recommends that the Legislature allocate funding for similar programs throughout the state.

4. Fund a Study and Analysis of County Jail Efforts to Secure Housing for Incarcerated Individuals upon Release

Studies have shown that formerly incarcerated individuals are almost 10 times more likely to be homeless than the general public, and that “formerly incarcerated Black men have much higher rates of unsheltered homelessness than white or Hispanic men.”⁷⁵ Senate Bill 903 (2021-2022 Reg. Sess.) requires a rigorous study and analysis of the Department of Corrections and Rehabilitation's efforts to assist those individuals recently released from incarceration with any

⁶⁹ See Housing Abundance, *supra*, at p.52.

⁷⁰ See Milburn et al., [Inequity in the Permanent Supportive Housing System in Los Angeles](#) (Oct. 2021) California Policy Lab pp. 24, 32 (recommending and stressing importance of 24-hour staffing) (as of Jan. 23, 2023).

⁷¹ See, e.g., [Permanent Supportive Housing in Washington, DC: Lessons from the John and Jill Kerr Conway Residence](#) (Dec. 2015) National Coalition for the Homeless (as of Jan. 24, 2023).

⁷² Hunter et al., [Just in Reach Pay for Success Impact Evaluation and Cost Analysis of a Permanent Supportive Housing Program](#) (2022) RAND Corporation (as of Jan. 24, 2023).

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ Couloute, [Nowhere to Go: Homelessness Among Formerly Incarcerated People](#) (Aug. 2018) Prison Policy Initiative (as of Jan. 10, 2023).

housing needs. The Task Force recommends that the Legislature mandate a similar study with respect to individuals recently released from county jails.

5. Develop and Launch Racial Equity Initiative and Targeted Funding Measures

In light of the disproportionate numbers of African American unhoused individuals, the Task Force recommends that the Legislature mandate a racial equity analysis of California's housing and homelessness programming. The analysis would be geared towards: ensuring equitable contracting; increasing African American participation and employment in such programs, with special consideration for Descendants; promoting racial diversity at all relevant agencies and offices; ensuring that management is appropriately trained in cultural competency; and creating opportunities for people with lived experiences with homelessness to participate in reform efforts.

Relatedly, the Task Force recommends that the Legislature allocate sufficient funding to address the root causes of African American Californians experiencing homelessness and, through grants to qualified, culturally-congruent services providers (particularly African American-founded organizations that serve African American communities, with special consideration for Descendants), support the delivery of comprehensive services needed to reduce and eliminate this disparity and more generally improve access to affordable housing, employment, mental and physical health services, youth development, public benefits, education, and civic engagement. Funding priorities should include, but not be limited to, emergency rental assistance, eviction counseling, and rapid-rehousing plans.⁷⁶ Funding and training should also be provided to faith institutions and nontraditional sites (e.g., beauty/barbershops, community colleges, neighborhood markets) that interact with unhoused populations to enable these entities to provide services and/or resources. The funding would be prioritized for organizations that use a community-based, participatory approach to services, and that rely on or employ individuals with lived experience with homelessness. Finally, funding should also be prioritized for efforts to prevent loss of homeownership (particularly among African American seniors), including education around financial literacy and investment, education to protect against scams, and access to resources to prevent foreclosure.

6. Increase Compensation for Homeless Services Providers

Front-line workers staff the myriad programs and services that support the unhoused community. Unfortunately, wages for these workers are frequently extremely low.⁷⁷ Unsurprisingly, “[l]ow wages relative to the cost of housing have contributed to chronic understaffing and extremely high turnover among homeless service providers in California.”⁷⁸ The end result is a substantial

⁷⁶ Rapid-rehousing programs focus on securing housing for those who recently lost their homes. The programs typically involve connecting individuals with available housing; providing short financial assistance for rent and moving costs; and connecting the individuals to employment and other services. *See* Levin et al., [California's Homelessness Crisis - And Possible Solutions - Explained](#), Cal Matters (Dec. 31, 2019) (as of Jan. 23, 2023).

⁷⁷ Housing Abundance, *supra*, at p. 17.

⁷⁸ *Ibid.*

negative impact on the quality of homeless services. Accordingly, the Task Force recommends that the Legislature include compensation requirements or wage floors/baselines in its grants to service providers.⁷⁹ The funding or statutory scheme should include resources and requirements for 24-hour skilled staffing at shelters and permanent supportive housing; ongoing training for case managers on trauma-informed practices; and peer-advocate programs that pair residents with individuals with lived experiences being unhoused.⁸⁰

7. Strengthen Housing Eligibility and Tenant Protections

To address the housing crisis in the African American community, the Task Force recommends that the Legislature pass legislation as needed, and call for federal action as appropriate, to ensure more robust protections within the private market as well as within public housing and voucher programs. These protections should advance a number of reforms, including: (1) a fully funded framework for the investigation of and enforcement against discriminatory practices in housing and employment; (2) removing barriers to eligibility and expanding access to public housing; (3) protections to preserve and enhance the rights of tenants living in public housing; (4) protections against Section 8 and other housing subsidy discrimination; (5) expansion of source of income discrimination protections; (6) expansion of just cause eviction requirements to all residential rental housing; (7) prohibition of criminal background checks in tenant screening; (8) broader rent control measures; (9) right to counsel and financial assistance for eviction proceedings; and (10) stronger protections against landlord retaliation.⁸¹

8. Enact Protections to Ensure that CARE Courts Do Not Disproportionately Impact the Descendant and African American Community

CARE⁸² Courts were established through the recently passed Senate Bill 1338 (2021-2022 Reg. Sess.). The legislation authorizes a new civil court proceeding to encourage and ultimately compel those suffering from severe mental illness to engage in a treatment and housing program.⁸³ Proceedings may be initiated by family, behavioral health professionals, medical providers, various designees of community health organizations, or first responders including firefighters and peace officers.⁸⁴ If the court determines that the individual meets the CARE criteria but refuses to engage voluntarily in services, the court orders development of a CARE plan.⁸⁵ If the individual does not abide by the CARE plan, the court can initiate conservatorship proceedings.⁸⁶

⁷⁹ *Ibid.*

⁸⁰ See Milburn et al., [Inequity in the Permanent Supportive Housing System in Los Angeles](#) (Oct. 2021) California Policy Lab pp. 32-33 (recommending and stressing importance of 24-hour staffing) (as of Jan. 23, 2023).

⁸¹ These proposals are modeled after Recommendation 8 and 58 from the Ad Hoc Committee Report, *supra*.

⁸² “CARE” stands for Community, Assistance, Recovery, and Empowerment.

⁸³ See SB 1338 (Umberg, 2021-2022).

⁸⁴ See Cal. Welfare & Institutions Code § 5974.

⁸⁵ Community Assistance, Recovery, and Empowerment (CARE) Act, California Health and Human Services Agency (as of April 7, 2023).

⁸⁶ *Ibid.*

Although the Legislature was nearly unanimous in passing the CARE Act, advocates and analysts have raised a host of concerns.⁸⁷ For example, many have argued that there are insufficient resources—such as housing, mental health workers, and treatment programs—to implement the legislation.⁸⁸ Of particular concern to the Task Force is the likelihood that CARE courts will disproportionately impact the African American community. Indeed, as discussed in Chapter 12, Mental and Physical Harm and Neglect, and Chapter 11, An Unjust Legal System, this community is consistently over-policed, misdiagnosed, and subject to higher rates of homelessness. CARE courts will therefore disproportionately enmesh African Americans in a new web of compelled court proceedings.⁸⁹ For these and other reasons, organizations such as the ACLU,⁹⁰ Human Rights Watch,⁹¹ and Disability Rights Advocates⁹² opposed the legislation.

The CARE Act includes various data collection and reporting requirements (including demographic and health equity data),⁹³ as well as certain training mandates, including training for key participants in elimination of bias.⁹⁴ However, in order to fully guard against the potentially harmful impact of CARE courts on the African American and Descendant communities, the Task Force recommends that the Legislature require relevant agencies to collect and report data on the source of the referral, to ensure, for example, that over-policing is not contributing to an over-representation of African Americans. Moreover, all existing data collection and reporting requirements should be expanded to include Descendant status.

To address the documented persistence of misdiagnosis of African Americans, the Task Force recommends that the Legislature require training and technical assistance for relevant behavioral health agencies in the misdiagnosis of African American individuals for psychotic and other mental disorders. Finally, the CARE Act currently requires petitioners to show that compelled treatment “would be the least restrictive alternative necessary to ensure the person’s recovery and stability.”⁹⁵ But this requirement is likely insufficient to ensure that unhoused individuals are not automatically shunted into CARE courts. Accordingly, the Task Force recommends that the Legislature require that any referral to CARE court specify all prior, voluntary efforts to secure housing and treatment for the referred individual, and that such efforts be pre-requisites to CARE court acceptance. This final recommendation would ensure that unhoused and mentally ill individuals are afforded comprehensive, community-based supports prior to being compelled to participate in the CARE process.

⁸⁷ Tobias & Wiener, [California lawmakers approved CARE Court. What comes next?](#) (Sept. 2022) CalMatters (as of April 7, 2023).

⁸⁸ *Ibid.*

⁸⁹ See, e.g., Garrow & Rogers, [Why We Vehemently Oppose the Governor’s “Care Court” Proposal — And So Should You](#) (June 2022) ACLU California Action (as of April 7, 2023).

⁹⁰ *Ibid.*

⁹¹ Ensign & Ralphing, [Human Rights Watch Urges a No Vote on CARE Court \(SB 1338\)](#) (Aug. 2022) Human Rights Watch (as of April 7, 2023).

⁹² [Disability Rights Advocates file petition challenging the constitutional validity of the CARE Act](#) (Jan. 2023) Disability Rights California (as of April 7, 2023).

⁹³ Cal. Welfare & Institutions Code § 5985.

⁹⁴ See, e.g., Cal. Welfare & Institutions Code § 5983.

⁹⁵ Cal. Welfare & Institutions Code § 5972(e).

G. Address Disparities and Discrimination Associated with Substance Use Recovery Services

Substance use disorder and addiction are prevalent across all ethnicities, but certain substance issues, such as with opioids and amphetamines, are most common among the African American population.⁹⁶ Inequities also exist in the treatment and recovery fields. For example, death rates from synthetic opioid use increased nationwide by 818 percent between 2014 and 2017 among African Americans, more than for any other racial group during the same period.⁹⁷ Moreover, “significant gaps exist within the provision of equitable services and treatment outcomes for those in the Black community.”⁹⁸ These gaps include a disproportionately small number of Black professionals in the addiction treatment workforce, as well as disparate treatment outcomes for Black clients.⁹⁹ Finally, economic barriers lead Black clients to use treatment services less than white clients, and they also have lower treatment retention rates compared to white clients.¹⁰⁰

The disparities also exist at the level of prescription medication used to treat addiction: African American patients are 77 percent less likely to be prescribed buprenorphine, and are more likely to receive methadone as an alternative treatment for opioid addiction.¹⁰¹ While both drugs are effective, buprenorphine treatment is much easier to maintain. Methadone is more highly regulated, and patients receiving methadone (unlike those receiving buprenorphine) must travel to a clinic each day to receive treatment, causing more significant recovery burdens.¹⁰² Methadone treatment is also generally more stigmatized than buprenorphine, and methadone programs require random drug testing and counseling that are not similarly mandated for buprenorphine.¹⁰³

Finally, addiction and treatment disparities must be understood within the broader context of urban planning, land use, and zoning. Indeed, “nuisance properties,” including alcohol, tobacco, and marijuana shops, are disproportionately located in low-income communities of color,¹⁰⁴ which in turn can lead to higher rates of substance use and abuse.¹⁰⁵ In light of these systemic

⁹⁶ Valentine & Brassil, [Substance Use in California: Prevalence and Treatment](#) (Jan. 2022) California Healthcare Foundation, pp. 12, 13, 17, 19 (as of Feb. 8, 2022).

⁹⁷ Gateway Foundation, [Substance Use in the African American Community](#) (undated) (as of Feb. 7, 2023).

⁹⁸ National Association for Addiction Professionals, [NAADAC Position Statement on Critical Issues in the Black Community: The Complexities of SUD Treatment](#) (Feb. 2022) (as of Feb. 7, 2023) (hereafter “NAADAC Position Statement”).

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

¹⁰¹ [African Americans Often Face Challenges Accessing Substance Use Treatment](#) (interview with Dr. Scott Nolen, Open Society Institute) The Pew Charitable Trusts (Mar. 26, 2020) (as of Feb. 7, 2023).

¹⁰² *Ibid.*

¹⁰³ U.S. Dep’t of Health and Human Services, Office of Behavioral Health Equity, [The Opioid Crisis and the Black/African American Population: An Urgent Issue](#) (Apr. 2020) at pp. 8-9 (as of Feb. 7, 2020) (hereafter “The Opioid Crisis”).

¹⁰⁴ Subica et al., The geography of crime and violence surrounding tobacco shops, medical marijuana dispensaries, and off-sale alcohol outlets in a large, urban low income community of color (2018) 108 *Preventative Medicine* 8; Lee et al., [What explains the concentration of off-premise alcohol outlets in Black neighborhoods?](#) (2020) *SSM – Population Health* 12 (as of Feb. 22, 2023).

¹⁰⁵ *Id.* at pp. 1-2.

issues, the Task Force recommends a number of measures to reduce disparities in treatment and recovery.

1. Increase Funding Streams to Community-based Treatment and Prevention Organizations, Including Those Linked to the Criminal Justice System

Community-based organizations play a central role in both preventing and treating substance use disorders.¹⁰⁶ The Task Force thus recommends increased funding for community-based organizations that provide substance use treatment and related services, with particular focus on those organizations run and staffed by African American professionals and that serve the African American community, with special consideration for Descendants. A primary funding source could be the Health Equity and Racial Justice Fund within the California Department of Public Health’s Office of Health Equity.¹⁰⁷ (A separate proposal in Chapter 29, Policies Addressing Mental and Physical Harm and Neglect, recommends funding the Health Equity and Racial Justice Fund.)

Funding would be prioritized for organizations taking a holistic approach to recovery that addresses root causes of substance use, such as housing instability, unemployment, and criminal justice involvement. Funding should also be prioritized for community-based organizations that address community-wide issues related to addiction — such as land-use and zoning factors (e.g., density of liquor stores, cannabis dispensaries, and smoke shops).¹⁰⁸ Finally, since substance use is frequently associated with recent incarceration,¹⁰⁹ funding should be allocated for service providers, stationed near county jails and state prisons, that can provide treatment assistance immediately upon release. The use of evidence-based practices would not be a bar to funding nor would it be prioritized. In addition, jails and prisons should increase community-based organizations’ access to incarcerated individuals so they can provide treatment to those in custody. This access may be more limited in the county jails, and therefore require greater attention by the Legislature and state entities enforcing legislation that permits community-based organizations to have such access.

2. Promote Educational and Employment Opportunities in Substance Use Treatment Fields

¹⁰⁶ U.S. Dep’t of Health and Human Services, Office of Behavioral Health Equity, [The Opioid Crisis and the Black/African American Population: An Urgent Issue](#) (April 2020) at p. 10 (as of Feb. 7, 2020) at pp. 11-12 (hereafter “The Opioid Crisis”)

¹⁰⁷ [We Are All Public Health](#) (as of Jan. 20, 2023) The California Health Equity and Racial Justice Fund; [Health Equity & Racial Justice Advocates Outraged at Lack of Funding for Communities to Address Disparities](#) (Jun. 28, 2022) Public Health Institute (as of Jan. 20, 2023).

¹⁰⁸ See, e.g., Subica et al., The geography of crime and violence surrounding tobacco shops, medical marijuana dispensaries, and off-sale alcohol outlets in a large, urban low income community of color (2018) 108 Preventative Medicine 8-16 (finding that liquor stores and tobacco shops are associated with increased crime and violence in low income communities).

¹⁰⁹ Bronson et al., [Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009](#) (revised Aug. 10, 2020) U.S. Department of Justice, Officer of Justice Programs, Bureau of Justice Statistics at p. 1 (as of Feb. 8, 2023).

The lack of cultural competency or cultural humility¹¹⁰ in healthcare and substance use treatment likely contributes to racial disparities in treatment outcomes.¹¹¹ Thus, as the National Association for Addiction Professionals has urged, “[i]t is imperative that we recommit our efforts to the recruitment and training of Black individuals to build a powerfully diverse substance use and mental healthcare workforce.”¹¹² A separate set of proposals set forth in Chapter 29, Policies Addressing Mental and Physical Harm and Neglect, calls for expansion of the UC-PRIME-LEAD-ABC program (and the funding of equivalents for other fields) to increase the number of African American physicians, psychologists, and counselors.¹¹³ To the extent not already covered by those proposals, the Task Force also recommends similar funding and program expansion for substance use treatment professionals.

3. Mandate Statewide Data Collection and Analysis of California Drug Courts

Drug courts, in which defendants charged with drug crimes are directed to treatment rather than incarceration or other punishment, can be a powerful tool in combatting both addiction and recidivism.¹¹⁴ But participation in California’s drug courts has plummeted in recent years, potentially due, in part, to the passage of laws that removed state funding for drug courts, such as Assembly Bill 109.¹¹⁵ To address this pressing issue, policymakers and stakeholders need comprehensive statewide data, which is currently unavailable.¹¹⁶ Accordingly, the Task Force recommends that the Legislature mandate data collection and publication of key metrics from every drug court and other diversion court throughout the state, including data that would expose disparities, if any, in the offer of diversion, enrollment, and completion. These data could then be leveraged to craft policies to improve the reach and efficacy of these programs.

4. Expand Access to Naloxone, Buprenorphine, and Other Critical Substance Use Medications and Assess the Scope and Genesis of Any Treatment Disparities

Naloxone, commonly known as “Narcan,” is the only FDA-approved medication to reverse opioid-related overdoses.¹¹⁷ The United States Surgeon General and the United States Department of Health and Human Services have both encouraged the widespread use and

¹¹⁰ Tervalon & Murray-Garcia, J. (1998). Cultural humility versus cultural competence: A critical distinction in defining physician training outcomes in multicultural education. *Journal of Health Care for the Poor and Underserved*, 9(2), 117-125.

¹¹¹ Grooms and Ortega, [Racial Disparities in Accessing Treatment for Substance Use Highlights Work to Be Done](#) (April 29, 2022) University of Southern California, Schaeffer Center for Health Policy and Economics (as of Feb. 7, 2023).

¹¹² NAADAC Position Statement, *supra*, fn. XX.

¹¹³ See Chapter 29, Policies Addressing Mental and Physical Harm and Neglect, *infra*.

¹¹⁴ Krebs et al., [Assessing the Long-Term Impact of Drug Court Participation on Recidivism with Generalized Estimating Equations](#) (July 2, 2007) 91 *Drug & Alcohol Dependence* 57 (as of Feb. 8, 2023).

¹¹⁵ Duara, [Carrots but no stick: Participation in California Drug Courts has Plummeted](#) (July 7, 2022) *Cal Matters* (as of Feb. 8, 2023).

¹¹⁶ *Ibid.*

¹¹⁷ U.S. Dept. of Health and Human Services, Office of Behavioral Health Equity, [The Opioid Crisis and the Black/African American Population: An Urgent Issue](#) (April 2020) at p. 10 (as of Feb. 7, 2020) (hereafter “The Opioid Crisis”).

availability of naloxone to prevent overdose deaths.¹¹⁸ In California, the Naloxone Distribution Project, within the Department of Health Care Services, distributes free naloxone to qualifying organizations and entities.¹¹⁹ The Task Force recommends that the Legislature make naloxone more readily available to save lives, particularly because of the disproportionate rate at which African Americans in California die from opioid overdoses. Under this proposal, funding for the Naloxone Distribution Project would be increased as necessary and all public schools within California would be required to keep naloxone on school premises. In addition, all jails, prisons, and juvenile facilities should also have naloxone readily available on all floors, modules, or segments, as occurs in Los Angeles County jails.¹²⁰

Additionally, as discussed above, buprenorphine is an effective and convenient treatment for opioid addiction, but is under-prescribed in the African American population.¹²¹ Thus, “a two-tiered treatment system exists where buprenorphine is accessed by Whites, high-income, and privately insured, while methadone is accessed by people of color, low-income, and publicly insured.”¹²² Accordingly, the Task Force recommends that the Legislature fund a study of this problem within California — including potential disparities associated with other medications — and to identify potential solutions to remedy African American patients’ unequal access to buprenorphine and other addiction treatments. Specific focus should be placed on Medi-Cal reimbursement rates to ensure they provide sufficient incentive to healthcare providers to remedy unequal access.¹²³

H. End the Under-Protection of African American Women and Girls

While suffering the harms of over-policing, African American communities also endure the harm of being under-protected. African American women and girls, in particular, face heightened risk of harm, and yet crimes against them do not draw the attention given to white women.¹²⁴ In 2022, for example, 36 percent (97,924) of the 271,493 women who were reported missing in the United States were Black, though they were less than 15 percent of the population.¹²⁵ At least

¹¹⁸ *Ibid.*

¹¹⁹ California Department of Health Care Services, [Naloxone Distribution Project](#) (Dec. 29, 2022) (as of Feb. 7, 2023).

¹²⁰ Los Angeles County Sherriff’s Department, [Sheriff’s Naloxone Custody Pilot Project Saves Inmates from Overdose](#) (May 27, 2021) (as of March 17, 2023).

¹²¹ The Opioid Crisis, *supra*, pp. 8-10.

¹²² *Id.* at p. 9.

¹²³ *See id.* at pp. 8-9.

¹²⁴ Some describe the phenomenon of racial disparities in attention to crimes against women as “missing white woman syndrome.” While the phrase has primarily been addressed to differential media coverage, some also use the term in reference to law enforcement. See, e.g., Pearce, *Gabby Petito and one way to break media’s ‘missing white woman syndrome’*, LA Times (Oct. 4, 2021), <https://www.latimes.com/entertainment-arts/story/2021-10-04/gabby-petito-and-breaking-the-white-missing-women-syndrome> (as of Apr. 10, 2023); Purnel, *The ‘Missing White Woman Syndrome’ still plagues America*, The Guardian (Sept. 29, 2021), <https://www.theguardian.com/commentisfree/2021/sep/29/the-missing-white-woman-syndrome-still-plagues-america> (as of Apr. 10, 2023).

¹²⁵ National Crime Information Center, *2022 NCIC Missing Person and Unidentified Person Statistics* (Feb. 2, 2023), <https://www.fbi.gov/file-repository/2022-ncic-missing-person-and-unidentified-person->

four Black women per day were murdered in 2020, when Black women were 40 percent of the female homicides in the United States that year.¹²⁶ More than 20 percent of Black women experience rape in their lifetime, a higher share than women overall, and 45 percent experience physical violence, sexual violence, or stalking from their intimate partner.¹²⁷ African American transgender women face an especially heightened risk of violence—violence that has been described as a “pandemic within a pandemic.”¹²⁸ Black women and girls also face an increased risk of being trafficked—40 percent of sex trafficking victims in a 2-year study were identified as Black women.¹²⁹ And more than half of “juvenile prostitution” arrests (which are arrests of children who have been trafficked) are of Black children.¹³⁰

Despite substantial anecdotal evidence of police under-investigating crimes against African American women and girls with the same level of resources dedicated to other victims, little effort has been made to document the racial gap in protection.¹³¹ Pathologizing myths and stereotypes about African American women and girls, coupled with less willingness to believe these women and girls, may explain the gap.¹³²

[statistics.pdf/view](#) (as of Apr. 10, 2023); U.S. Census Bureau, *Quick Facts*, <https://www.census.gov/quickfacts/fact/table/US/SEX255221#SEX255221> (as of Apr. 10, 2023).

¹²⁶ Romaine, *Four Black girls or women were killed every day last year in America*, The Hill (Oct. 7, 2021), <https://thehill.com/changing-america/respect/equality/575770-four-black-girls-or-women-were-killed-every-day-last-year/> (as of Apr. 10, 2023).

¹²⁷ See, e.g., Institute for Women’s Policy Research, *Violence Against Black Women – Many Types, Far-reaching Effects* (July 13, 2017), <https://iwpr.org/iwpr-issues/race-ethnicity-gender-and-economy/violence-against-black-women-many-types-far-reaching-effects/> (as of Apr. 1, 2023). National Domestic Violence Hotline, *Abuse in the Black Community*, <https://www.thehotline.org/resources/abuse-in-the-black-community/> (as of Apr. 10, 2023).

¹²⁸ See, e.g., Schoenbaum, *Report says at least 32 transgender people were killed in the U.S. in 2022*, PBS/AP (Nov. 16, 2022), <https://www.pbs.org/newshour/nation/report-says-at-least-32-transgender-people-were-killed-in-the-u-s-in-2022> (as of Apr. 10, 2023); Forestiere, *America’s War on Black Trans Women*, Harvard Civil Rights-Civil Liberties Law Review, <https://harvardcrcl.org/americas-war-on-black-trans-women/> (as of Apr. 10, 2023).

¹²⁹ Samantha Davey, Congressional Black Caucus Foundation, *Snapshot on the State of Black Women and Girls: Sex Trafficking in the U.S.* (May 2020) p. 4, <https://www.cbcbfinc.org/wp-content/uploads/2020/05/SexTraffickingReport3.pdf> (as of Apr. 10, 2023).

¹³⁰ Samantha Davey, Congressional Black Caucus Foundation, *Snapshot on the State of Black Women and Girls: Sex Trafficking in the U.S.* (May 2020) p. 4, <https://www.cbcbfinc.org/wp-content/uploads/2020/05/SexTraffickingReport3.pdf> (as of Apr. 10, 2023).

¹³¹ Cf. Kelly, *Crisis of missing Black women and girls deserves more public attention*, Chicago Sun Times (Mar. 10, 2022), <https://chicago.suntimes.com/2022/3/10/22969776/missing-black-women-girls-abuse-sex-trafficking-house-subcommittee-representative-robin-kelly-op-ed> (as of Apr. 10, 2023).

¹³² Avalos, *The Under-policing of Crimes Against Black Women* (July 31, 2022) pp. 5-6, <https://deliverypdf.ssrn.com/delivery.php?ID=769100067111076030010091021007092101005063061035027036094123122100090080095071006078024006023047020040034101068106110087003103008086008054041104124065080122002066030068062031022109007088001100012013023066112080031010127028007095116010012090095109111112&EXT=pdf&INDEX=TRUE> (last checked Apr. 10, 2023); Afnan, *An Abolitionist Vision: Reclaiming Public Safety from a Culture of Violence*, 28 Va. J. Soc. Pol’y & L. 1 (Spring 2021), p. 15; Samantha Davey, Congressional Black Caucus Foundation, *Snapshot on the State of Black Women and Girls: Sex Trafficking in the U.S.* (May 2020) pp. 3, 11, <https://www.cbcbfinc.org/wp-content/uploads/2020/05/SexTraffickingReport3.pdf> (as of Apr. 10, 2023); Sood, *Biases Behind Sexual Assault: A Thirteenth Amendment Solution to Under-Enforcement of the Rape of Black Women*, 18 U. Md. L.J. Race, Religion, Gender & Class 405 (Fall 2018) pp. 406-407; Jacobs, *The Violent State: Black Women’s Invisible Struggle Against Police Violence*, 24 Wm. & Mary J. Women & L. 39 (Fall 2017).

To generate data on this subject and bring about more equitable levels of protection, the Task Force recommends that the Legislature pass legislation, with adequate funding, to require local law enforcement agencies to document resources devoted to crime investigation, disaggregated by race, gender, income, and reported harms, report this data to the Department of Justice, and make the data available to the public. The Task Force further recommends that the Legislature examine means of ensuring more just and equitable treatment of African American crime victims, including women and girls in particular, and to take further steps needed to reduce harms, investigate as needed, and provide appropriate, respectful, comprehensive, culturally congruent services to victims. This study should include identification and assessment of policies and programs that have been shown to be effective in reducing risks and improving outcomes for African American women and girls.¹³³

¹³³ Concerns about the treatment of African American women and girls have also arisen at the federal level. Bipartisan legislation known as the Protect Black Women and Girls Act was introduced in 2021 in response to such concerns. The version of the bill that was introduced would have created an inter-agency task force “to examine the conditions and experiences of Black women and girls, to identify and assess the efficacy of policies and programs of Federal, State, and local governments designed to improve outcomes for Black women and girls, and to make recommendations to improve such policies and programs as necessary.” H.R.6268—117th Congress (2021-2022), <https://www.congress.gov/bill/117th-congress/house-bill/6268/text?s=1&r=4> (as of Apr. 10, 2023). The bill also would have directed the United States Commission on Civil Rights to conduct a comprehensive study and collect data specific to Black women and girls across a range of topic areas. *Id.*