

**Race, Covid-19, and Housing in the United States**  
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**Executive Summary**

Although the Covid-19 pandemic is disrupting life for everyone across the United States, it has been exceptionally disruptive for Black, Indigenous, and Latinx communities. For example:

- Black people are more than twice as likely to die from Covid-19 as White people.<sup>2</sup>
- Indigenous people account for more than 56 percent of Covid deaths in New Mexico (home to part of the Navajo Nation), although indigenous people are only 8.8 percent of the state's population.<sup>3</sup>
- Latinx people between the ages of 40 and 59 have been infected at a rate *five times greater* than White people in the same age group, nationwide.<sup>4</sup>

Covid-19 has been a profoundly unequal experience for minority groups in the United States. When a community is being infected and dying at disproportionately high rates—not due to any fault of its own, rather because of the circumstances in which it finds itself—it becomes our duty to examine those circumstances and the systems that created them.

There are many reasons for the disparate racial impact of Covid-19. For example, people of color are more likely to: (1) have “essential” jobs in crowded workplaces; (2) rely on crowded public transportation; and (3) suffer from preexisting health conditions.<sup>5</sup> Another important factor is that a much higher proportion of minority group members have to live in overcrowded and/or substandard housing.

This memorandum will focus on the interaction of race, housing, and Covid-19. It will:

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<sup>2</sup> AMERICAN PUBLIC MEDIA RESEARCH LAB, THE COLOR OF CORONAVIRUS: COVID-19 DEATHS BY RACE AND ETHNICITY IN THE U.S. (2020), posted at: <https://www.apmresearchlab.org/covid/deaths-by-race>.

<sup>3</sup> *Id.*

<sup>4</sup> Richard A. Oppel Jr., et al., *The Fullest Look Yet at the Racial Inequity of Coronavirus*, N.Y. TIMES (July 5, 2020), [https://www.nytimes.com/interactive/2020/07/05/us/coronavirus-latinos-african-americans-cdc-data.html?action=click&module=Top%20Stories&pgtype=Homepage&utm\\_source=NLIHC+All+Subscribers&utm\\_campaign=3243309e04-DHRC-7.8.2020&utm\\_medium=email&utm\\_term=0\\_e090383b5e-3243309e04-293283349&ct=t\(DHRC-7.8.2020-update\)](https://www.nytimes.com/interactive/2020/07/05/us/coronavirus-latinos-african-americans-cdc-data.html?action=click&module=Top%20Stories&pgtype=Homepage&utm_source=NLIHC+All+Subscribers&utm_campaign=3243309e04-DHRC-7.8.2020&utm_medium=email&utm_term=0_e090383b5e-3243309e04-293283349&ct=t(DHRC-7.8.2020-update))

<sup>5</sup> *Id.*

- I. Summarize the currently available data on Covid’s disparate racial impact;
- II. Show that those data likely understate the disparate impact of Covid substantially—because many states are inadequately reporting demographic data for Covid-related cases and deaths, especially regarding minority groups; and
- III. Discuss the role of housing problems of minority groups in Covid-19’s disparate impacts, especially substandard and overcrowded housing, with emphasis on their impact on the Black community.

The memorandum concludes that substandard and overcrowded housing contribute substantially to the disparate impact of Covid-19 on minority groups. For example, Black American households with children are much more likely to live in substandard or overcrowded housing, compared to Whites with children.

Black Americans have suffered an unparalleled history of oppression in American society and law generally—including an egregious history of being denied housing opportunities given to Whites. Establishing the opportunity for all Black Americans—and Americans of all ethnicities—to access safe, healthful housing that they can afford, including stable tenure, is a crucial step toward social justice, as well as “bending the curve” of Covid infections and deaths downward.

### **I. Black, Indigenous, and Latinx People Are Far More Likely than Whites to Contract and Die from Covid-19 in the United States.**

Where data regarding positive cases, deaths, and race has been reported adequately, the numbers reveal that Covid-19 is disproportionately affecting Black, Indigenous, and Latinx communities throughout the United States (U.S.). (The inadequacies in data reporting are explored below, in part II of this memorandum.)

#### **A. Covid-19 is killing more Black Americans than any other group, at a rate vastly disproportionate to their population share.**

Black people comprise 13 percent of the United States’ population but 25 percent of its Covid deaths so far (close to 30,000 deaths)—where race is known.<sup>6</sup> For every 100,000 Black Americans, approximately 68 have died from Covid. By comparison, among other American population groups, 43 Indigenous people, 31 Latinx Americans, 28 Asian Americans, and 27 White Americans have died of Covid, per 100,000 population (based on the available data).<sup>7</sup>

Thus, Black people are dying at a rate approximately twice their population share.<sup>8</sup> This disproportionate effect extends to predominantly Black counties.<sup>9</sup> Those counties constitute 22

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<sup>6</sup> THE ATLANTIC, THE COVID RACIAL DATA TRACKER (2020), posted at: <https://covidtracking.com/race>.

<sup>7</sup> *Id.* White (non-Latinx) Americans constitute about 60% of the United States population, and Latinx Americans constitute about 18.5%. U.S. Census Bureau, QuickFacts—United States, *People*, posted at <https://www.census.gov/quickfacts/fact/table/US/RHI725219>. (Those data are derived from the American Community Survey Population Estimates, as of July 1, 2019).

<sup>8</sup> *Id.*

percent of total U.S. counties, but 52 percent of Covid cases and 58 percent of Covid deaths have occurred there (according to the Foundation for AIDS Research, which focuses on health disparities impacting marginalized communities).<sup>10</sup>

Statewide data also shows the stark, disparate impact on Black people. For example:

- In Missouri, Black Americans account for 11 percent of the population but 39 percent of deaths.<sup>11</sup>
- In South Carolina, Black Americans account for 27 percent of the population but 54 percent of deaths.<sup>12</sup>
- In Louisiana, Black Americans account for 32 percent of the population but 55 percent of deaths.<sup>13</sup>

Blacks are many times more likely to die of Covid than Whites, in numerous states.

- In Kansas, Black residents are seven times more likely to die than White residents.<sup>14</sup>
- In Missouri and Wisconsin, Black residents are five times more likely to die than White residents.<sup>15</sup>
- In Arkansas, Illinois, Michigan, New York and South Carolina, Black Americans are 3 to 4 times more likely to die from the virus than their White counterparts.<sup>16</sup>

Also, in the District of Columbia, Black Americans have a mortality rate six times higher than that of White residents. Blacks constitute 44 percent of the District's population, but 76 percent of Covid deaths there.<sup>17</sup>

Covid's disparate impact on Black Americans therefore is not region-specific, nor is it confined to metropolitan areas. It is a national problem that calls for national policy solutions.

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<sup>9</sup> THE FOUNDATION FOR AIDS RESEARCH, COVID-19 RACIAL DISPARITIES IN U.S. COUNTIES (2020), posted at: <https://www.amfar.org/amfAR-Study-Shows-Disproportionate-Impact-of-COVID-19-on-Black-Americans/>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> AMERICAN PUBLIC MEDIA RESEARCH LAB, *supra* note 2.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

## **B. Covid-19 is disproportionately killing Indigenous people.**

If the Navajo Nation were a state, it would rank third in the country in confirmed cases per 100,000 in population, behind only New York and New Jersey.<sup>18</sup> The Navajo Nation's health authority has reported 1,197 positive Covid cases and 44 deaths.<sup>19</sup> (Overall, as of June, a reported 774 Indigenous Americans had died from Covid-19.)<sup>20</sup>

Data from states that contain major portions of Navajo Nation demonstrate how hard the virus has hit this community:

- In New Mexico, Indigenous Americans constitute less than 8.8% of the total population but 56% of deaths, and their mortality rate is eight times as high as the White mortality rate.<sup>21</sup>
- In Arizona, Indigenous Americans constitute less than 3.9% of the population, but 20.7% of deaths, and their mortality rate is more than five times the rate for all other groups.<sup>22</sup>

Even worse, these shocking numbers are a certain under-count, because, as explained below, many states label Indigenous Americans as “other.” Thus, they are not fully accounted for in data on death and infection rates.

## **C. The Latinx community is being infected at a rate far above their population share.**

The nationally aggregated data for Covid infections and deaths understate the disparity for the Latinx community, because the virus is far more prevalent among older Americans, who are disproportionately White. However, when examining figures for infections and death rates among people within the same age group, the disparity becomes extreme.

- According to the Center for Disease Control (CDC), Latinx people between the ages of 40 and 59 have been infected at a rate *five times greater* than White people in the same age group.<sup>23</sup>
- More than 25 percent of Latinx people who have died were younger than 60, compared with just 6 percent of Whites who have died.<sup>24</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> Rebecca Nagle, *Native Americans Being Left Out of U.S. Coronavirus Data and Labelled as “Other,”* THE GUARDIAN (Apr. 24, 2020), <https://www.theguardian.com/us-news/2020/apr/24/us-native-americans-left-out-coronavirus-data>.

<sup>20</sup> *Id.*

<sup>21</sup> AMERICAN PUBLIC MEDIA RESEARCH LAB, *supra* note 2.

<sup>22</sup> *Id.*

<sup>23</sup> Richard A. Opiel Jr. et al., *supra* note 4.

<sup>24</sup> *Id.*

In certain Covid-19 hotspots, the disparities are even more jarring. For example, in New York, Latinx people are approximately 19 percent of the population but have accounted for over 26 percent of deaths.<sup>25</sup> In Fairfax County, Virginia, just outside of Washington, D.C., four times as many Latinx residents had tested positive for the virus, as of May 31, compared to Whites, although three times as many Whites live there.<sup>26</sup>

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Thus, the very limited data that has been reported clearly show an alarming trend for Black, Indigenous, and Latinx people—effects that are much more devastating than even the severe effects on other American demographic groups. Further, the limited data almost certainly understate the true disparities in Covid-related illnesses and deaths afflicting Black, Indigenous, and Latinx people.

Next, we will summarize the deficiencies in Covid data reporting as to those minority groups (Part II). Then, we will discuss how the disproportionate housing problems those groups face contribute substantially to their Covid exposure and death rates—and how the virus’ disparate racial impact is the result of centuries of discriminatory policymaking (Part III).

## **II. The Full Extent of Covid-19’s Disparate Racial Impact Remains Unknown, Because State Governments Are Not Adequately Reporting Cases and Deaths by Race and Ethnicity.**

Across the country, individual states are failing to adequately breakdown coronavirus data by race and ethnicity. Where some states have no race data at all, others have incomplete or misleading data. According to The Atlantic’s COVID tracker, sixteen states and U.S. territories<sup>27</sup> are failing to report the race or ethnicity of people who have been diagnosed with, or have died from, the virus.<sup>28</sup> Some states have been releasing information on the race and ethnicity of who is diagnosed, but still failing to report on deaths. As of May 29, ten states omitted race in their reporting of coronavirus deaths.<sup>29</sup>

Even states that are reporting race data are doing so at extremely low rates. For example, Massachusetts and Pennsylvania—which combined have over 100,000 cases and close to 7,000 deaths—do not have information on race and ethnicity in 50 to 70 percent of their cases because

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<sup>25</sup> AMERICAN PUBLIC MEDIA RESEARCH LAB, *supra* note 2.

<sup>26</sup> AMERICAN PUBLIC MEDIA RESEARCH LAB, *supra* note 2; Richard A. Oppel Jr. et al., *supra* note 4.

<sup>27</sup> Hawaii, Louisiana, Maine, Montana, Nebraska, New Mexico, New York, North Dakota, Pennsylvania, Puerto Rico, South Dakota, Utah, Virgin Islands, West Virginia, Wyoming, and Guam.

<sup>28</sup> THE COVID RACIAL DATA TRACKER, *supra* note 6.

<sup>29</sup> Hawaii, Maine, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Utah, West Virginia, and Wyoming.

of incomplete reporting from healthcare providers.<sup>30</sup> Texas, the second most populous state in the country, only reports race for 22 percent of cases and 24 percent of deaths.<sup>31</sup>

**A. Despite the national spotlight, there is still incomplete data on the infection and death rates of Black Americans.**

This incomplete data suggests that the comorbidity between race and the virus is even more profound than we currently understand. Georgia has race and ethnicity data for less than 70 percent of cases statewide.<sup>32</sup> Black Americans make up about 32 percent of the state’s population, according to U.S. Census Bureau data, but constitute nearly half of the state’s coronavirus cases for which the patient’s race is known.<sup>33</sup>

Similarly, Black people make up only 11 percent of Pennsylvania’s population, but one-third of the state’s cases and 20 percent of deaths—based on the very incomplete reporting in the state, mentioned above. Black people are 10 percent of the population in Virginia, but account for *nearly half* of the state’s reported cases.<sup>34</sup> Virginia has reported only 65 percent of cases.<sup>35</sup> Without complete data, it is impossible to know the severity of coronavirus’s disparate racial impact on Black communities.

**B. Reporting on Latinx communities is inconsistent, which makes nationwide data on those communities inadequate.**

In addition to the problems of unreported data, many states are reporting with such varying guidelines and breakdowns that it any intelligible discernment of the national numbers is impossible. For example:

- California reports racial and ethnic breakdowns under the following categories: Latino, White, Asian, African American/Black, multi-race, American Indian or Alaska Native, Native Hawaiian and other Pacific Islander, and “other,”<sup>36</sup> whereas—
- Louisiana separates race and ethnicity, breaking down race under the following categories: American Indian/Alaska Native, Asian, Black, Native Hawaiian/Pacific

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<sup>30</sup> Soo Rin Kim & Matthew Vann, *Many States Are Reporting Race Data for Only Some COVID-19 Cases and Deaths*, FIVETHIRTYEIGHT (May 7, 2020), <https://fivethirtyeight.com/features/many-states-are-reporting-race-data-for-only-some-covid-19-cases-and-deaths/>

<sup>31</sup> THE COVID RACIAL DATA TRACKER, *supra* note 6.

<sup>32</sup> Soo Rin Kim & Matthew Vann, *supra* note 30.

<sup>33</sup> THE COVID RACIAL DATA TRACKER, *supra* note 6.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Soo Rin Kim & Matthew Vann, *supra* note 30.

Islander, White, and “other.”<sup>37</sup> The categories the state uses for ethnicity are Hispanic/Latino and non-Hispanic/Latino.<sup>38</sup>

Thus, there is no adequate way to compare the data in California and Louisiana regarding Covid’s impact on their Hispanic and Latinx communities, or to aggregate data nationwide regarding those communities.

**C. Indigenous people often are not tracked separately in demographic reporting on the virus.**

As of May, most states did not report Covid data for Indigenous Americans in a separate category—instead including them in a catch-all “other” category.<sup>39</sup> A number of states with the highest Indigenous populations take that approach.<sup>40</sup>

The result has been highly unreliable (or nonexistent) data.<sup>41</sup> The importance of having adequate Covid demographic data specific to Indigenous people is illustrated by the fact (mentioned above) that the Navajo Nation’s rate of confirmed cases reportedly is higher than all but two states (New York and New Jersey).<sup>42</sup>

**D. A better reporting method is necessary and possible.**

Improving the reporting of coronavirus demographic data is critical to addressing its disparate racial impact. Brigham Health in Massachusetts developed a data infrastructure to understand the disparate impacts of Covid-19.<sup>43</sup> Their reporting method, which breaks all patient information into subgroups including race and ethnicity and calculates the rate at which the virus is affecting different groups, is a good example of the type of reporting that is needed.<sup>44</sup>

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Rebecca Nagle, *supra* note 19. Even in many states that have adequate Covid reporting for Black and Latinx communities, Indigenous people are labeled as “other,”

<sup>40</sup> *Id.* (“Half of all American Indian and Alaskan Natives live in just 10 states, according to the US Census Bureau. As of 21 April, all 10 had published some racial demographic data, but four – Texas, Florida, New York and Michigan – had not included a breakdown for Native Americans.”)

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Karthik Sivashanker et al., *A Data-Driven Approach to Addressing Racial Disparities in Health Care Outcomes*, HARVARD BUSINESS REV. (Jul 21, 2020), <https://hbr.org/2020/07/a-data-driven-approach-to-addressing-racial-disparities-in-health-care-outcomes>

<sup>44</sup> *Id.*

### III. Substandard and Overcrowded Housing Contribute Substantially to the Disparate Impact of Covid-19 on Minority Groups.

Substandard and overcrowded housing are important contributors to the disparate impact of the coronavirus on minority groups within the United States.<sup>45</sup> The federal Healthy Homes Work Group has found that people of color, and poor and low-income people (who are disproportionately minority group members), are among the groups most likely to live in substandard (inadequate) housing.<sup>46</sup>

For example, Black households with children were almost three times more likely to live in inadequate housing (7.1%) than White households (2.6%), as of 2011.<sup>47</sup> Latinx households were almost twice as likely to live in inadequate housing (5.0%), compared to White households, as of that time.<sup>48</sup>

Black, Latinx and Indigenous children (and their families) also are much more likely than Whites to live in overcrowded housing.<sup>49</sup> As of 2018, the percentage of children living in overcrowded conditions was estimated to be 14 percent.<sup>50</sup> The evidence indicates that rates of overcrowding are much higher for children in poor or near-poor families.<sup>51</sup>

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<sup>45</sup> Other factors include representation in crowded workplaces and on crowded public transportation, access to healthcare, and preexisting health conditions. See Eugene Scott, *4 Reasons Coronavirus Is Hitting Black Communities So Hard*, THE WASHINGTON POST (Apr. 10, 2020), <https://www.washingtonpost.com/politics/2020/04/10/4-reasons-coronavirus-is-hitting-black-communities-so-hard/>

<sup>46</sup> HUD, *Advancing Healthy Housing: A Strategy for Action. Report from the Federal Healthy Homes Work Group* (2013).

<sup>47</sup> U.S. Department of Housing and Urban Development (HUD), *Evidence Matters: Housing's and Neighborhoods' Role in Shaping Children's Future*, pp. 3-4 and Figure 1 (Fall 2014) (“HUD 2014”), posted at: [http://www.huduser.org/portal/periodicals/em/EM\\_Newsletter\\_fall\\_2014.pdf](http://www.huduser.org/portal/periodicals/em/EM_Newsletter_fall_2014.pdf) (summarizing U.S. Census Bureau, 2011 American Housing Survey data). Households with children and less than \$40,000 in annual income were more than twice as likely (13.4%) to live in inadequate housing, compared with such families with annual incomes between \$40,000-\$80,000 (5.6%). *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> Definitions of overcrowding vary, but “more than one person per room” is commonly used. *HUD 2014*, p. 7).

<sup>50</sup> The Annie E. Casey Foundation, Kids Count Data Center, <https://datacenter.kidscount.org/data/tables/67-children-living-in-crowded-housing#detailed/1/any/false/37,868,16/any/368,369>.

<sup>51</sup>For example, an estimated 10.8 % of U.S. children lived in overcrowded homes in 2005. Those rates were much higher for poor (21.2%) and near-poor (17.9%) children. *HUD 2014*, p. 7. See, e.g., C. Scott Holupka and Sandra J. Newman. *The housing and neighborhood conditions of America's children: patterns and trends over four decades*, Housing Policy Debate 21:2, 215–45 (2011) (overcrowding defined as average of more than two persons per room); The Annie E. Casey Foundation, *Children Living in Crowded Housing* (2014).

In fact, affordable housing may help eliminate other underlying factors. People who have preexisting health conditions are more at-risk for contracting and experiencing complications from the virus, and many preexisting conditions can be linked to substandard and overcrowded housing.<sup>52</sup>

Below, we will focus on the situation of Black Americans, whose Covid infection and death rates are extraordinarily high, and whose history of oppression in housing opportunities—as well as in American society and law generally—is unparalleled.

**A. Black Americans are much more likely to live in substandard or overcrowded housing, largely because of centuries of economic oppression and deprivation of housing opportunities.**

Across the United States, Black families earn lower incomes, have much lower rates of home ownership, and much less wealth than their white counterparts. According to the Brookings Institute, the median net worth of a White family at \$171,000 is nearly *ten times greater* than that of a Black family at \$17,600.<sup>53</sup>

Even over the course of an individual lifetime, the racial wealth gap is visible. While young adults (18–34 years old) of either race have little wealth, the gap grows quickly with age, accumulating to \$302,500 in median White wealth compared to \$46,890 in median Black wealth, for Americans aged 65 to 74.<sup>54</sup> This weighs heavily on housing security: only 44% of Black Americans own their homes compared to 74% of White Americans.<sup>55</sup>

This profound Black-white racial wealth gap is even visible in individual cities. For example, Minneapolis, Minnesota has one of the starkest wealth and income gaps in the country.<sup>56</sup> The median income for Black families there was \$36,000 in 2018 —only 44 percent as much as White families (\$83,000).<sup>57</sup> Homeownership for Black people in Minneapolis is only one-third that of Whites (approximately 25 percent, versus more than 75 percent for Whites).<sup>58</sup>

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<sup>52</sup> Emily A. Benfer & Lindsay F. Wiley, *Health Justice Strategies To Combat Covid-19: Protecting Vulnerable Communities During a Pandemic*, HEALTH AFFAIRS (Mar. 19, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200319.757883/full/>

<sup>53</sup> Kristin McIntosh et al., *Examining the Black-White Wealth Gap*, THE BROOKINGS INSTITUTE (Feb. 27, 2020), <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>

<sup>54</sup> *Id.*

<sup>55</sup> Eric Morath, *Coronavirus Obliterated Best African-American Job Market on Record*, WALL STREET JOURNAL (Jun. 9, 2020, 10:59 AM).

<sup>56</sup> Christopher Ingraham, *Racial Inequality in Minneapolis Is among Worst in the Nation*, THE WASHINGTON POST (May 30, 2020), <https://www.washingtonpost.com/business/2020/05/30/minneapolis-racial-inequality/>

<sup>57</sup> *Id.* (citing U.S. Census Bureau data).

<sup>58</sup> *Id.*

The roots of these wealth, income, and homeownership gaps are a direct result of racism, and racist policies, which have been a scourge on the Black community throughout American history.<sup>59</sup> Among the many examples since the turn of the 20<sup>th</sup> Century are:

- The violent massacre decimating Tulsa’s Greenwood District in 1921 (a population of 10,000 that thrived as the epicenter of African American business and culture, commonly referred to as “Black Wall Street”);<sup>60</sup>
- Discriminatory state and local policies, including the Jim Crow Era “Black Codes,” which strictly limited opportunity for Blacks in many southern states,<sup>61</sup> and racially and economically exclusionary zoning practices;<sup>62</sup>
- Discriminatory federal policies (often written into remedial, social legislation in order to secure enough votes for passage from southern Democrats of Congress),<sup>63</sup> such as—
  - The GI bill (which provided benefits for Whites only);<sup>64</sup>
  - The Fair Labor Standards Act’s exemption of domestic agricultural and service occupations;<sup>65</sup> and
  - FHA and VA home financing rules preventing mortgage lending to Black Americans.<sup>66</sup>

In light of this history and the resulting wealth gap, it should come as no surprise that the pandemic has impacted Black communities economically more than any other. The Black unemployment rate skyrocketed to 16.8%, as of May, 2020.<sup>67</sup> Even when Black unemployment was lower, that community’s economic situation was more fragile than that of the White population, due to the lower levels of job security and wealth.<sup>68</sup> Thus, Black Americans are in an especially vulnerable position, particularly since their recovery from economic recessions is typically slower than those of other groups.<sup>69</sup>

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<sup>59</sup> Kristin McIntosh *et al.*, *supra* note 53.

<sup>60</sup> *Id.*

<sup>61</sup> *See generally, e.g.*, Richard Rothstein, *The Color of Law*, pp. 38-43 (2017).

<sup>62</sup> Rothstein, *The Color of Law*, pp. 43-57.

<sup>63</sup> “The Franklin Roosevelt and Harry Truman administrations could not enact progressive economic programs without the support of southern Democrats who were committed to white supremacy.” Richard Rothstein, *The Color of Law*, p. 227 (2017).

<sup>64</sup> Rothstein, *The Color of Law*, p.. 167.

<sup>65</sup> Kristin McIntosh *et al.*, *supra* note 53; Rothstein, p. 4.

<sup>66</sup> Kristin McIntosh *et al.*, *supra* note 53; Rothstein, *The Color of Law*, pp. 50, 64-67, 70-72.

<sup>67</sup> Eric Morath, *supra* note 55.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

**B. Pre-existing medical conditions are more prevalent in low-income neighborhoods with substandard housing, which makes Black Americans more at-risk to complications from Covid-19.**

Covid-19 has hit the Black community harder than other groups, both in terms of health and economics, largely because of the longstanding inequities involving access to healthcare and disproportionate representation in less secure, low-wage jobs.<sup>70</sup> This is particularly troubling because Americans with low incomes are more likely to have inadequate housing and face underlying health risks as a result.

The lower a person's socioeconomic status, the more limited their resources and ability to access essential goods and services, and the greater their chance of suffering from chronic diseases.<sup>71</sup> Conditions such as heart disease,<sup>72</sup> lung disease,<sup>73</sup> and diabetes<sup>74</sup> are all more prevalent in lower income communities. Thus, Covid-19, which is more dangerous for people with these preexisting conditions, poses a greater risk to lower income communities.

Housing quality refers to the physical conditions of a person's home as well as the quality of the social and physical environment in which the home is located.<sup>75</sup> Individuals and families on the lower end of the socioeconomic spectrum have less control over their environment and often have no alternative to living in substandard housing.<sup>76</sup> For example, many lack the disposable income, flexible work schedules, and ability to do paid work from home.<sup>77</sup>

Low-income people are more likely to live in homes that have poor air quality, mold, asbestos, lead, pest infestations, and inadequate space to separate the sick from the well.<sup>78</sup> According to the Center for Disease Control, these indoor pollutants can cause "a variety of

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<sup>70</sup> *Id.*

<sup>71</sup> Emily A. Benfer & Lindsay F. Wiley, *supra* note 52.

<sup>72</sup> *Age-adjusted percentages of selected circulatory diseases among adults aged 18 and over, by selected characteristics: United States, 2018*, CDC  
[https://ftp.cdc.gov/pub/Health\\_Statistics/NCHS/NHIS/SHS/2018\\_SHS\\_Table\\_A-1.pdf](https://ftp.cdc.gov/pub/Health_Statistics/NCHS/NHIS/SHS/2018_SHS_Table_A-1.pdf)

<sup>73</sup> *Age-adjusted percentages of selected respiratory diseases among adults aged 18 and over, by selected characteristics: United States, 2018*, CDC  
[https://ftp.cdc.gov/pub/Health\\_Statistics/NCHS/NHIS/SHS/2018\\_SHS\\_Table\\_A-2.pdf](https://ftp.cdc.gov/pub/Health_Statistics/NCHS/NHIS/SHS/2018_SHS_Table_A-2.pdf)

<sup>74</sup> *Diabetes prevalence and glycemic control among adults aged 20 and over, by sex, age, and race and Hispanic origin: United States, selected years 1988-1994 through 2013-2016*, CDC  
<https://www.cdc.gov/nchs/data/abus/2018/014.pdf>

<sup>75</sup> *Quality of Housing*, OFFICE OF DISEASE PREVENTION AND HEALTH PROMOTION, (last visited Jun. 4, 2020), <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing#2>

<sup>76</sup> Emily A. Benfer & Lindsay F. Wiley, *supra* note 52.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

adverse human health effects” including asthma, chronic respiratory diseases, and lung damage.<sup>79</sup>

Additionally, low-income people are more likely to live in houses that are under-insulated, more costly to heat, and/or lack air conditioning when necessary, resulting in homes that are too hot or too cold. Those conditions are linked to adverse health outcomes.<sup>80</sup>

It should come as no surprise then, that a respiratory virus preying on those with preexisting conditions is disproportionately affecting people living in substandard homes with indoor pollutants. The over-representation of Black Americans in substandard housing helps to explain Covid-19’s disparate impact on Black communities.

**C. Overcrowded housing contributes to Covid-19’s disparate impact on Black communities.**

In addition to substandard housing, overcrowded housing is contributing to Covid-19’s disproportionate effect on Black communities. Research shows that residents in overcrowded homes are more at risk for infectious diseases like Covid-19.<sup>81</sup>

For example, the University of Massachusetts Donahue Institute has found a clear correlation between vulnerability to coronavirus and living in overcrowded housing, which it defines as more residents than rooms.<sup>82</sup> In these high density housing areas, once one person living there gets sick, it is almost a guarantee that the virus spreads to the rest of the household, because there is no place to self-quarantine. The city of Brockton, Massachusetts, has the highest number of coronavirus cases in the state, and Brockton’s high-rise apartments are predominantly occupied by people of color.<sup>83</sup>

Also, areas of New York City with higher rates of Covid-19 have higher population shares of Black and Latinx people, according to New York University’s Furman Center.<sup>84</sup> There is also a strong correlation between areas with higher rates of the virus and areas where more

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<sup>79</sup> John Bower, *Indoor Air Pollutants and Toxic Materials*, in HEALTHY HOUSING REFERENCE MANUAL (Center for Disease Control ed., 2009).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> UNIVERSITY OF MASSACHUSETTS DONAHUE INSTITUTE, LINKING COVID-19 CASES WITH RACE, HOUSING AND SOCIOECONOMIC STATUS IN MASSACHUSETTS SPOTLIGHTS INEQUALITIES (2020).

<sup>83</sup> Ben Burke, *Hot Spot Is an Ongoing Series about the Factors Experts Think Are Driving Coronavirus Infections in Massachusetts’ Hardest-hit Communities*, THE ENTERPRISE (May 18, 2020), <https://www.enterpriseneews.com/news/20200518/hot-spot-umass-group-finds-overcrowded-housing-links-brockton-to-other-coronavirus-hubs>

<sup>84</sup> NYU FURMAN CENTER, COVID-19 CASES IN NEW YORK CITY, A NEIGHBORHOOD-LEVEL ANALYSIS (Apr. 10, 2020), posted at: <https://furmancenter.org/thestoop/entry/covid-19-cases-in-new-york-city-a-neighborhood-level-analysis>

people reside in crowded units.<sup>85</sup> Neighborhoods with the highest rates of Covid-19 are over 50 percent Black and Latinx, 60 percent renters, and almost one-fifth live in overcrowded housing.<sup>86</sup>

This trend is not specific to the Northeast. In Los Angeles, a city with some of the worst overcrowding, public health officials and researchers are concerned that housing density has and will continue to play a role in accelerating the spread of the disease.<sup>87</sup>

Los Angeles County consists of five of the top ten most crowded zip codes in the U.S., many of which are found in lower-income, majority-minority neighborhoods.<sup>88</sup> Two of those L.A. zip codes are have more than 85 percent Black and Latinx residents (Historic South Central and Pico-Union).<sup>89</sup> Health officials acknowledge that the key measures they are suggesting to prevent the spread of the virus within households—such as social distancing, self-isolating, and self-quarantining—are impossible for people living in overcrowded units.<sup>90</sup>

Thus, overcrowded housing plays a key role in the spread of Covid-19. Black Americans' over-representation in overcrowded units helps to explain Covid-19's disproportionate impact on the Black community.

**D. To help remedy the disparate impact of Covid on Black Americans, the United States must swiftly reverse the effects of centuries of oppression—including the long history of discriminatory housing laws**

Because Black Americans are more likely to have underlying health conditions from inadequate housing and are more susceptible to the spread of the virus because of overcrowding, they are more at-risk for contracting Covid-19 and experiencing complications from the virus.<sup>91</sup> As explained above, access to a healthy and safe living situation would help to mitigate the existence of many preexisting health conditions attributed to substandard housing and would allow for the practice of safe social distancing and quarantining.<sup>92</sup>

Covid-19's disparate racial impact is a symptom of a pre-existing condition in the United States: centuries of racist policymaking that guaranteed that Black-white income, wealth, and homeownership gaps would persist. Combatting this pre-existing condition requires

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<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> Ben Poston et al., *LA's Most Crowded Neighborhoods Fear Outbreaks: 'If one of us gets it, we are all going to get it,'* L.A. TIMES (Apr. 22, 2020), <https://www.latimes.com/california/story/2020-04-22/how-does-overcrowded-housing-affect-the-spread-of-coronavirus>

<sup>88</sup> *Id.*

<sup>89</sup> L.A. TIMES, MAPPING L.A. NEIGHBORHOODS (2020), posted at: <http://maps.latimes.com/neighborhoods/neighborhood/historic-south-central/>

<sup>90</sup> *Id.*

<sup>91</sup> Emily A. Benfer & Lindsay F. Wiley, *supra* note 52.

<sup>92</sup> *Id.*

implementing policies designed to reverse its racist effects as soon as possible. Ensuring the opportunity for all Black Americans to access safe, healthful, affordable housing with stable tenure is a crucial step in that direction.

## **Conclusions**

Black, Indigenous, and Latinx Americans are far more likely than Whites to contract and die from Covid-19, and the virus is killing a much greater proportion of Black Americans than any other racial or ethnic group. The full extent of Covid-19's disparate racial impact is not known, and it probably has been understated substantially, because state governments are not adequately reporting cases and deaths by race and ethnicity.

However, it is clear that substandard and overcrowded housing contribute substantially to the disparate impact of Covid-19 on minority groups. As to Black Americans, their households with children are much more likely to live in substandard or overcrowded housing, compared to Whites with children.

The situation of Black Americans cries out for a full and swift remedy, given their unparalleled history of suffering oppression in American society and law generally, and regarding housing opportunities in particular. Ensuring the opportunity for all Black Americans—and Americans of all ethnicities—to access safe, healthful housing that they can afford, and with stable tenure, is a crucial step in that direction.