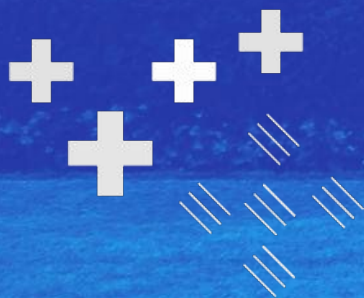


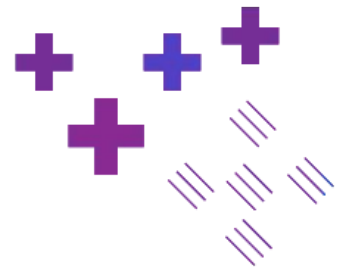
Civil and Human

Rights Progress Report:

The Biden-Harris Administration and the 117th Congress

February 2022





“Civil and Human Rights Progress Report: The Biden-Harris Administration and the 117th Congress” is a project of The Leadership Conference on Civil and Human Rights, the nation’s oldest and largest civil and human rights coalition of more than 230 national organizations.

The Leadership Conference coalition was founded in 1950 as the federal lobbying arm of the civil rights movement. We continue that legacy today through our 11 task forces,¹ which drive the coalition’s priorities and play a vital role in debates on Capitol Hill about actions affecting civil and human rights.

Our task forces are composed of coalition members who have expertise in different issue areas — including the census, education, employment, fair courts, fair housing and lending, hate crimes, health care, immigration, justice reform, media and telecommunications, and voting rights — and are co-chaired by coalition leaders who are charged with coordinating strategy and messaging to advance our highest ideals of justice and fairness.

In November 2020, together with our 11 task forces, we identified and developed a comprehensive list of priority executive and legislative initiatives for the incoming administration and Congress. “Civil and Human Rights Progress Report: The Biden-Harris Administration and the 117th Congress” assesses how far the administration and the 117th Congress have come — and how far they still have to go — in fulfilling our coalition’s priorities.

We are deeply grateful to the members of our task forces and to the extraordinary staff of The Leadership Conference for their work on the development of this report and for their persistent advocacy on behalf of the coalition’s executive and legislative priorities. This report continues that advocacy by urging the Biden-Harris administration and members of Congress to take action on critically important civil and human rights issues.

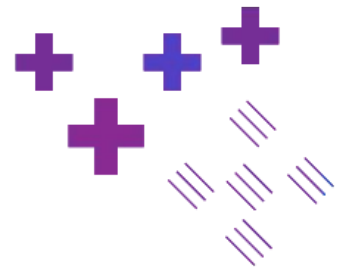
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Executive Summary



The Biden-Harris administration and the 117th Congress² entered office after four years of a contentious and polarizing presidency and a host of unprecedented challenges not seen in modern times. A pandemic continued to ravage communities nationwide, claiming the lives of thousands of people each day, with a situation made worse by an administration that refused to cooperate with the president-elect in containing it. The public health crisis was also an economic crisis — one that exacerbated existing inequalities and was particularly devastating for marginalized communities. And the murder of George Floyd and state-sanctioned violence against Black people had exposed just how deeply systemic racism and inequality permeate the institutions that shape American life.

These intersecting public health, economic, and racial injustice crises all demanded immediate solutions. The hollowing out of the federal workforce, the stacking of federal courts with hostile judges, and the rolling back of core civil rights³ during the prior administration meant that the new administration and Congress were already operating at a deficit. President Joe Biden and Vice President Kamala Harris were sworn into office two weeks after an armed insurrection at the U.S. Capitol, at a time when it seemed so much was broken in the United States — in our governance, our laws and policies, and our politics.

And yet, the seeds were planted for positive change, giving the civil and human rights coalition hope that our priorities would also rise to the top of policymakers' agendas. A new president was taking office, one who had vowed to make racial justice and equity a central focus of his work. For the first time, a Black and South Asian woman held the vice presidency. A new majority took shape in the Senate, due to the historic election of Georgia's first Black and Jewish senators. And the House of Representatives, for its part, had already passed an ambitious civil and human rights agenda in the 116th Congress. But, while we urged the new administration and Congress to repair the devastation wrought and chart a new course, putting these pieces together to make concrete progress would prove to be challenging.

On November 24, 2020, the civil rights community laid out a roadmap for a new era under the Biden-Harris administration and the 117th Congress called "The Leadership Conference on Civil and Human Rights Transition Priorities."⁴ Together with our 11 task forces, we identified and developed a comprehensive list of priority executive and legislative initiatives that represent a path forward for our country in advancing social and economic justice. Our task forces are composed of coalition members who have expertise with the census, education, employment, fair courts, fair housing and lending, hate crimes, health care, immigration, justice reform, media/ telecommunications, and voting rights.



As we enter the second year of the Biden-Harris administration, we are proud to see historic gains on many fronts, with still much more left to be done.

This document serves to acknowledge, celebrate, and memorialize important leaps forward in ensuring an America that is as good as its ideals while also urging the administration to address its significant unfinished business. It is not a full audit of all actions this administration or Congress has taken to advance civil and human rights, but rather an accounting of our priorities as requested in November of 2020. Since then, the administration and Congress have made advances on items that we had not asked for and are not reflected here. For example, on his first day in office, President Biden issued the Executive Order “On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.” This was a momentous step that recognized the broad capabilities of the federal government to advance equity in our nation. We applaud actions like those and, where possible, identify them in the narrative of each section of this report.

- On the **census**, the administration appointed a strong leader to direct the Census Bureau and rescinded harmful policies from the previous administration. There remains much work to be done in auditing the 2020 Census operation.
- On **education**, the administration made gains by providing targeted funding to marginalized students and nominating a supremely qualified candidate to lead the Department of Education’s Office for Civil Rights, but it must act quickly to cancel student debt and adequately fund the Office for Civil Rights to protect students of all backgrounds.

- On **employment**, the administration and Congress acted quickly to stem the tide of economic damage in the face of COVID-19 with the American Rescue Plan and set a strong example by mandating a \$15/hour minimum wage for all federal contractors. The administration must extend these COVID-19 labor protections and use its full rulemaking arsenal to reduce sex and gender discrimination in the workforce.
- On **fair courts**, the administration and Senate have made massive progress in naming people to the federal judiciary who reflect the country’s rich diversity. The Senate and administration must work together to continue confirming a diverse slate of judicial nominees, including the next Supreme Court nominee, who the administration has said will be the nation’s first Black woman nominated to the Court.
- On **fair housing and lending**, the administration appointed strong leaders to the Department of Housing and Urban Development (HUD), and the Consumer Financial Protection Bureau and the Federal Housing Finance Agency reversed some of the most harmful Trump-era decisions, including those that weakened the Fair Housing Act. To take a firm stance against discrimination in housing and financial services, the administration should restore the 2015 HUD rule on affirmatively furthering fair housing.
- On **hate crimes**, the administration made gains by signing into law the COVID-19 Hate Crimes Act but must act quickly to ensure that responses to hate violence and acts that meet the definition of domestic terrorism do not inadvertently target the very communities most vulnerable to hate.

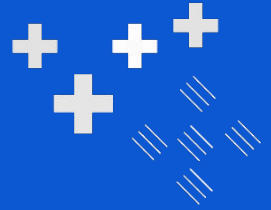
- On **health care**, the administration provided relief to those most affected by the pandemic — including frontline workers, many of whom are people of color — and oversaw a successful rollout of safe, effective, and free vaccinations. The administration should work with Congress to pass legislation that makes health care more equitable.
- On **immigration**, the administration made important progress on day one by repealing the Muslim, African, and immigration bans, but continues to perpetuate many harmful policies, including some limited border wall construction and fortification, family detention, and inhumane conditions at the border and in immigrant detention centers.
- On **justice reform**, the administration eased Department of Justice restrictions regarding early release of individuals from prison under the CARES Act and accelerated the implementation of key parts of the First Step Act. Nonetheless, the administration failed to deliver sorely needed transformative change in the criminal-legal system.
- On **media and technology**, the administration made long-term gains in closing the “digital divide” by implementing the Affordable Connectivity Program, but it has failed to address how AI and other data-driven technologies exacerbate racial, economic, and other social inequities and has moved too slowly to fill vacancies at key regulatory agencies, which has hampered further progress.

- On **voting rights**, the administration has appointed strong Justice Department officials who have proactively defended the Voting Rights Act (VRA). Unfortunately, bills that renew and strengthen the VRA, including the John Lewis Voting Rights Advancement Act, have no clear path forward in the Senate.

The sheer breadth of this document is a testament to the commitment of the Biden-Harris administration and the 117th Congress to advance civil and human rights in their first year. Yet we remain disappointed by a lack of urgency on reforming the criminal-legal system, dismantling inhumane immigration policies and practices, and ensuring that civil rights are front and center in the nation’s technology and AI policies. We hope the administration will prioritize these issues in 2022 and beyond.

Finally, as our nation begins to confront the systemic racism perpetuated by our criminal-legal system and the countless ways long-standing inequalities for people of color have been amplified by the pandemic, consideration of racial justice legislation like H.R. 40, the Commission to Study and Develop Reparation Proposals for African Americans Act, and the far-reaching impact it will have on forging a more just and equitable society, continues to be critical.

The Leadership Conference and our coalition will continue to work with this administration and Congress in all arenas to advance civil and human rights for all.



CENSUS

The Biden-Harris administration entered office with a Census Bureau in deep disarray, reeling from a difficult and controversial 2020 Census and scarred by unprecedented political interference and attacks on its basic ability to function as a reliable source of data on all people in America. In response, we urged the administration to immediately make significant changes to personnel and policies to ensure that the bureau can produce usable data that reflect all of the population of the United States, especially those communities often missed in the census.

On several fronts, the Biden-Harris administration has made historic progress. It nominated and the Senate confirmed Gina Raimondo — a former governor of Rhode Island with a deep understanding of the importance of the census — as secretary of commerce. It also nominated and the Senate confirmed one of the nation's leading statisticians, Robert Santos, to become the first person of color confirmed by the Senate to lead the Census Bureau. Furthermore, the administration quickly rescinded several memoranda from the previous administration that sought to politicize the census and to scare and exclude immigrants from the count.

While much progress has been made, additional work remains to be done, particularly in reviving the process by the Office of Management and Budget to revise and update the standards on the collection of race and ethnicity data to allow the use of a combined question, and the addition of a Middle Eastern or North African (MENA) category, which was abandoned during the Trump administration. It is critical that this be addressed well in advance of the 2030 Census.

Status of Civil and Human Rights Priorities for the Census

Accomplished

- Rescind July 11, 2019, Executive Order on “Collecting Information about Citizenship Status in Connection with the Decennial Census.”
 - *President Biden issued an executive order on January 20, 2021, “Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census,” that revoked Executive Order 13880 of July 11, 2019 (“Collecting Information About Citizenship Status in Connection With the Decennial Census”). Additionally, the Department of Justice issued a letter to the Census Bureau noting that the data provided through the ACS on citizen voting-age population was sufficient for their needs. As a result of this letter, the Census Bureau finally announced that it was ceasing all work on the CVAP block-level dataset.*
 - Rescind July 21, 2020, Presidential Memorandum on “Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census.”
 - *President Biden issued an executive order on January 20, 2021, “Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census,” that revoked the Presidential Memorandum of July 21, 2020 (“Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census”).*
 - Nominate a new commerce secretary who is committed to ensuring the accuracy and reliability of census data and the integrity and scientific independence of the Census Bureau.
- *The administration nominated Gina Raimondo with the support of the civil rights coalition. She was confirmed by the Senate on March 2, 2021.*
- Nominate a new Census Bureau director who is committed to ensuring the accuracy and reliability of census data and the integrity and scientific independence of the Census Bureau.
- *The administration nominated Robert Santos with the support of the civil rights coalition. He was confirmed by the Senate on November 4, 2021.*
- Eliminate all new political appointee positions created under the previous administration at the Census Bureau, including, but not limited to, the positions of deputy director for policy, senior advisor to the deputy director for policy, deputy director for data, and counselor to the bureau's director.

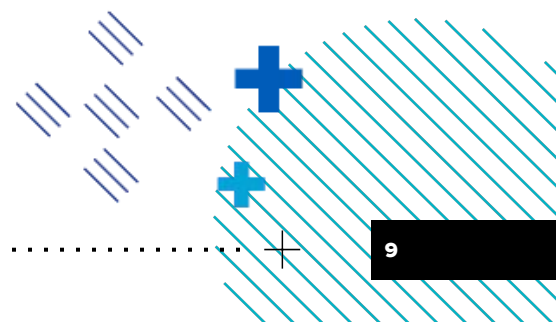
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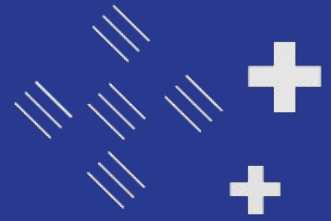
Awaiting Action

- Direct the Census Bureau to provide the administration and Congress any methodology changes or deviations from version 4.0, dated December 2018, of its Operational Plan, including how households were enumerated during the nonresponse follow-up operation and when each enumeration was deemed completed.
- Encourage and support congressional oversight to review the entire 2020 Census operation, with a particular focus on the bureau's response to the global coronavirus pandemic, as well as the administration's interference in census operations, in order to make policy and legislative recommendations overall.

No Longer Relevant

- Enact one-time postponements of statutory deadlines for delivery of apportionment and redistricting data codified in 13 USC § 141.
 - *This request is now outdated due to the delayed delivery of apportionment data on April 26, 2021 and the delayed delivery of redistricting data on August 12, 2021.⁵*
- Direct the Census Bureau to provide the administration and Congress the following information on census 2020 data:
 - Which, if any, types of census responses and records have been omitted from any apportionment counts delivered to Congress in advance of Inauguration Day, and in what numbers, by state; and
 - Any weaknesses, potential inaccuracies, or concerns about significant errors the bureau might have overlooked due to any truncated data processing and quality assurance activities.
 - *This request is now outdated due to (i) the rescission of the July 21, 2020 Presidential Memorandum on "Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census;" and (ii) the Census Bureau prioritizing data processing and quality assurance activities over meeting statutory deadlines.*





EDUCATION

The Biden-Harris administration inherited a Department of Education that rolled back basic civil rights, compounding already profound disparities in funding; resources; adequate teaching; and learning outcomes facing low-income students, students of color, Native students, students with disabilities, English learners, LGBTQ students, sexual assault survivors, and other marginalized students.

The nomination of Catherine Lhamon, the most qualified candidate in the history of the Department of Education to lead its Office for Civil Rights, made clear that this administration would pursue a new path that advances equity and protects students from discrimination. In its first year, the administration has provided significant targeted funding to support the educational success of marginalized students, helped enact legislation to support students reeling from the compounded disparities brought about by the pandemic, and made clear that understanding and enforcing civil rights is a true priority by protecting and enhancing the Civil Rights Data Collection.

However, this progress has been uneven. While this administration has paused payments on federal student loans, it has made no progress and no commitment to cancel the crushing student debt facing millions of Americans. Furthermore, the Biden-Harris administration continues to only make partial progress on the need to adequately resource the Office for Civil Rights and to provide safe, healthy, and inclusive school climates for all students. Additional resources are urgently needed to meet the federal government's obligations to students. As recent threats of violence targeting Historically Black Colleges and Universities (HBCUs) have shown, investments and focus are still urgently needed to secure equal educational opportunity for all students.

Status of Civil and Human Rights Priorities for Education

Accomplished

- Enhance the Civil Rights Data Collection so that it is an accurate and timely tool for tracking potential civil rights violations by increasing the frequency to an annual data collection, rejecting the proposal to eliminate data categories in the 2020-21 data collection, and expanding the collection to ensure advocates are able to respond to discrimination and inequity in their communities.
- Provide significant targeted federal funds to support the educational success of low-income students, students of color, Native students, students with disabilities, English learners, and other marginalized students.
- Enact legislation to provide additional support for the educational opportunity students need during and following the COVID-19 public health crisis, with a focus on those students who were denied an equitable education before the current crisis began.
- Nominate and confirm a secretary of education with a demonstrated record of support for marginalized communities and civil rights laws — someone who will make civil rights and equity the center of any work they do.
- Nominate and confirm an assistant secretary for civil rights who is familiar with the operation of the Office for Civil Rights (OCR); who is dedicated to the enforcement, data collection, and policymaking work of the agency; and who understands their role to protect marginalized people from discrimination.

Partially Accomplished

- Enact comprehensive COVID-19 relief legislation that minimizes learning loss, ensures educational opportunity, and protects student loan borrowers.
 - *In March 2021, President Biden signed the American Rescue Plan into law, which included \$122 billion for the ARP Elementary and Secondary School Emergency Relief (ARP ESSER) Fund. As of December 2021, all ARP ESSER funds have been distributed to all 50 states, the District of Columbia, and Puerto Rico.⁷*
- Double the size of OCR in order to rebuild and expand the office's ability to meet its policymaking, enforcement, and data collection responsibilities; rescind and replace OCR's case processing manual; strengthen and reissue guidance documents such as those clarifying schools' obligations to ensure disciplinary policies and practices are nondiscriminatory, those supporting the constitutional use of race in achieving diversity in K12 schools and higher education, and other topics critical to equal educational opportunity. Provide complementary materials similar to the Rethink Discipline package, including those that emphasize the need to create anti-racist schools and encourage school districts to embrace police-free schools.
 - *The Office for Civil Rights received a small increase in the president's budget request, although far short of the funds needed. OCR has begun work on critical guidance, although they have yet to publish new or reinstated guidance.*

→ Undergo rulemaking under Title IX of the Education Amendments of 1972 through the Department of Education and other agencies to ensure that complainants and respondents have equitable rights and procedural protections in school grievance procedures and policies; ensure that religious exemptions are narrowly construed so that federal funding is not used to subsidize discrimination based on sex (including sexual orientation, gender identity, or expectant/parenting status); and align Title IX with the Supreme Court’s decision in *Bostock v. Clayton County* to explicitly prohibit discrimination based on sexual orientation and gender identity.

➤ *Based on the Biden-Harris administration's Unified Agenda of Regulatory and Deregulatory Actions, the Department of Education plans to propose to amend its regulations implementing Title IX of the Education Amendments of 1972 in April 2022.*⁸

→ Enact legislation to expand access to early childhood education, including Head Start, especially for children who are low-income or from migrant families.

➤ *The House passed the Build Back Better Act, which contained provisions that expand access to preschool and high-quality child care.*⁹

→ Appoint an assistant secretary for the Office of Special Education and Rehabilitative Services (OSERS) who is committed to the full inclusion of children with disabilities in schools and who understands the intersectional way people with disabilities experience marginalization.



➤ *In November 2021, President Biden nominated Glenna Gallo for assistant secretary for special education and rehabilitative services.*¹⁰ *The Senate has not acted on this nomination.*

→ Investigate the ways in which federal support for police in schools contributes to the marginalization of students of color, girls, LGBTQ students, students with disabilities, immigrant students, and other marginalized students and undermines the learning environment for all students.

➤ *In November 2021, the U.S. Government Accountability Office released a report titled, “K-12 Education: Students’ Experiences with Bullying, Hate Speech, Hate Crimes, and Victimization in Schools,” which includes data on school resource officers.*¹¹

→ Provide sufficient funds for the Office for Civil Rights to protect students from discrimination.

➤ *The Office for Civil Rights received a small increase in the president’s budget request, although far short of the funds needed.*¹²

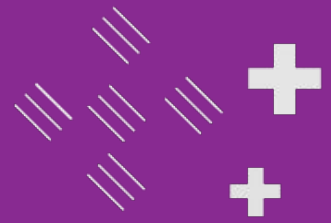
Awaiting Action

- Enact legislation to provide safe, healthy, and inclusive school climates, including by ending federal funding for school-based law enforcement; banning the use of seclusion, restraint, and corporal punishment; and incentivizing broad reform that decreases exclusionary discipline.¹³
 - *A suite of legislation has been introduced, which all make important improvements to schools to keep children safe and support their educational success, including S. 2125/H.R. 4011, the Counseling Not Criminalization in Schools Act; S. 1858/H.R. 3474, the Keeping All Students Safe Act; S. 2029/H.R. 3836, the Protecting our Students in Schools Act; S. 2410/H.R. 4402, the Safe Schools Improvement Act of 2021; and H.R. 2248, the Ending PUSHOUT Act of 2021. These bills have not yet advanced in the legislative process.*
- Address the student debt crisis by broadly cancelling federal and private student loans.
 - *Although the Department of Education has made necessary and overdue improvements to existing cancellation options, it has not yet exercised its statutory authority to cancel debt broadly.*
- Elevate the Office of English Language Acquisition with a leader who is experienced in the special learning needs of English learners, who appreciates the value children experience when learning multiple languages simultaneously, and who is committed to the full inclusion of English learners and their families in schools.
- Investigate the information and support provided to schools and districts regarding their obligations to provide for equal

educational opportunity for students of color, students with disabilities, and English learners in the context of long-term school closures.

- Investigate the distribution of federal funding to support educational opportunity during the COVID-19 public health crisis, especially regarding the targeting of funding to marginalized communities and funding for private schools.
- Investigate the inappropriate intervention of the Departments of Education and Justice to limit or discourage the constitutional use of race in college admissions to achieve diversity, and the inadequate actions by the Department of Education to identify and eliminate race-based barriers to college access.
- Investigate the application of school discipline during remote learning, especially the denial of educational access for students generally and disparities that particularly marginalize Black students, students with disabilities, and other students who have historically been excluded from educational opportunity.





EMPLOYMENT

The Biden-Harris administration and the 117th Congress came into office facing catastrophic economic and employment crises. The pandemic made many jobs dangerous and compounded the already deep disparities in unemployment rates and wages that have persisted for generations.

The administration's urgent and visionary focus on broad-based relief in its enactment and deployment of comprehensive COVID-19 relief legislation has been vital for the survival of countless people in America. Furthermore, the executive order demanding a \$15 minimum wage for federal contractors and the prioritization of strong leadership at the Department of Labor, the Equal Employment Opportunity Commission (EEOC), and the National Labor Relations Board (NLRB) have supported a more empowered workforce that is demanding safer and more inclusive workplaces across America.

But the federal government has only scratched the surface of what it can do to protect and empower workers and address structural racial disparities in employment. The administration must improve and make permanent the measures it took to protect workers from COVID-19 and closely monitor the Occupational Safety and Health Administration's (OSHA) enforcement of pre-existing protections. Furthermore, even though there are myriad steps the administration could take almost immediately to reduce sex and gender discrimination in the workforce, the administration has failed to act. These steps include clarifying that nondiscrimination protections based on sex include sexual orientation and gender identity, reinstating EEO-1 pay data collection, and releasing the EEOC workplace harassment guidance — which has been pending at OMB since 2017 — and immediately fill open positions within OSHA to ensure robust enforcement.

Status of Civil and Human Rights Priorities on Employment

Accomplished

- Rescind Executive Order 13950, “Combating Race and Sex Stereotyping.”
 - *This harmful executive order, among other provisions, targeted diversity, equity, and inclusion efforts at federal contractors and subcontractors.*
- Enact comprehensive COVID-19 relief legislation that rejects any measure that would allow employers to escape accountability for making decisions that sacrifice their employees’ health and well-being in the name of “reopening” the economy, or that would deprive working people of their legal rights when employers disregard policies that prevent people from contracting the virus.¹⁴
 - *The American Rescue Plan Act provided critical relief to people throughout the United States and did not include these types of damaging provisions.*
- Issue an executive order raising the minimum wage for federal contract workers to \$15 per hour as of the next contracts the government signs with contractors; as of October 1, 2021, and every year thereafter, ensure the minimum wage for federal contract workers is indexed to wage growth and increased accordingly.
 - *On November 24, 2021, the Department of Labor, pursuant to Executive Order 14026, raised the minimum wage for federal contract workers to \$15 per hour, beginning January 30, 2022, eliminated the subminimum wage for federal contractors*

**“The administration
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with disabilities, and phased out the tipped minimum wage for federal contract employees. The rule also indexes the federal contractor minimum wage in future years to inflation.

- Ensure that all agency appointees at the Department of Labor represent the diversity of our nation’s workforce, are promptly named, and are fully committed to ensuring and expanding workers’ rights under the law.
 - *Appointees of note include Julie Su, deputy secretary of labor; Seema Nanda, solicitor of labor; and Jose Javier Rodriguez, assistant secretary of labor for the Employment and Training Administration.*
- Rescind or suspend action on proposed rules or guidance under development or not yet finalized that undermine civil rights and workplace protections.
 - *Interpretive Regulation on Joint Employer Status under the FLSA has been rescinded.*
 - *Interpretive Regulation on Independent Contractor Status under the FLSA has been withdrawn.*

- *Tip regulations under the FLSA have been finalized, replacing damaging proposed regulations with ones that protect tipped workers against abuse.*
- ➔ Ensure that any vacancies arising among NLRB board members and EEOC commissioners are promptly filled with appointees with experience representing the interests of working people.
- *Appointees of note include Jocelyn Samuels, EEOC commissioner; Gwynne Wilcox, NLRB member; and David Prouty, NLRB member. Also noteworthy was Charlotte Burrows' elevation to EEOC Chair.*

Partially Accomplished

- ➔ Issue an immediate emergency temporary standard (ETS) to protect all workers from exposure to COVID-19 in the workplace, take all necessary steps to create a permanent, comprehensive infectious disease standard.
- *OSHA issued a COVID-19 ETS for health care workers on June 21, 2021. OSHA, however, withdrew the non-recordkeeping portion of the ETS on December 27, 2021, after it failed to issue a permanent standard.¹⁵*
- *OSHA issued an ETS on COVID-19 vaccination and testing on November 5, 2021. The vaccination and testing ETS applies to private employers with 100 or more employees and some state and local government employees. Several lawsuits were filed challenging the ETS, which delayed enforcement.¹⁶ After an unfavorable ruling by the Supreme Court, OSHA withdrew the rule.*
- *President Biden issued a series of executive orders related to the federal workforce and federal contractors, including Executive Order 13991, "Protecting the Federal*



- *Workforce and Requiring Mask Wearing" (January 22, 2021); Executive Order 14042, "Ensuring Adequate COVID Safety Protocols for Federal Contractors" (September 9, 2021); and Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees" (September 9, 2021). Many of these policies are also the subject of ongoing litigation.*
- ➔ Reauthorize Federal Pandemic Unemployment Compensation (FPUC) at \$600 per week and extend Pandemic Emergency Unemployment Compensation (PEUC), Pandemic Unemployment Compensation (PUC), and Pandemic Unemployment Assistance (PUA). Tie FPUC, PEUC, PUC, and PUA to conditions in the labor market to ensure that relief is available as long as economic conditions warrant.
- *FPUC, PEUC, PUC, and PUA benefits were reauthorized only until September 2021. FPUC was authorized at \$300 per week.¹⁷*

- Extend emergency paid sick days — at 100 percent of wages for any qualifying reason — and emergency paid family and medical leave. Eliminate exemptions that allow employers to deny millions of working people (including health care providers, emergency responders, employees at large corporations, and certain federal employees) access to these benefits and extend the longer-term paid leave protections to include personal medical leave and family caregiving leave as included in the shorter-term paid sick days protections.
 - *The ARPA extended tax credits to employers who provided paid leave but did not require employers to provide leave. The tax credits were also only available to businesses with fewer than 500 workers. On the positive side, ARPA expanded paid leave to include longer-term medical and caregiving leave for COVID-19-related reasons, and federal employees gained paid leave benefits (previously they only had paid sick days and not extended COVID-19-related leave). Emergency benefits ended in September. Permanent paid family leave of up to four weeks was included in the House-passed Build Back Better Act, which has not moved in the Senate.*
- Pass legislation to strengthen and ensure anti-discrimination protections for all working people, including the Paycheck Fairness Act, Protecting Older Workers Against Discrimination Act (POWADA), Pregnant Workers Fairness Act, and Equality Act.
 - *The Paycheck Fairness Act was introduced in both chambers and passed the House.*
 - *POWADA was introduced in both chambers and passed the House.*
 - *The Pregnant Workers Fairness Act was introduced in both chambers and passed the House. The Senate Health, Education, Labor and Pensions Committee reported it favorably to the floor in August 2021 by a vote of 19-2.*
- *The Equality Act was introduced in both chambers and passed the House.*
- Consider legislation to strengthen protections against workplace harassment.
 - *Both the EMPOWER Act and the BE HEARD in the Workplace Act were introduced in the House and Senate.*
- Pass legislation to support the health, safety, and economic security of working people, including the Protecting the Right to Organize (PRO) Act, Public Service Freedom to Negotiate Act, Healthy Families Act, FAMILY Act, Raise the Wage Act, and Forced Arbitration Injustice Repeal Act.
 - *The PRO Act was introduced in both chambers and passed the House.*
 - *The Public Service Freedom to Negotiate Act was introduced in the House.*
 - *The Healthy Families Act was introduced in both chambers.*
 - *The FAMILY Act was introduced in both chambers.*
 - *The Raise the Wage Act was introduced in both chambers and passed the House as part of the House's initial version of the American Rescue Plan Act, but the Senate parliamentarian advised that it was not compatible with the Senate's budget reconciliation rules. An amendment to overrule this advice failed in the Senate.*
 - *The FAIR Act was introduced in both chambers and the House Judiciary Committee reported it favorably to the floor.*

→ Conduct robust, frequent oversight over the EEOC conciliation and mediation pilots: how the pilots were developed, which stakeholders were consulted, and the impact of the pilots on EEOC staff, resources, and ability to conduct investigations into systemic discrimination.

➤ *Chair Burrows ended these pilots early.¹⁸*

→ Conduct robust, frequent oversight over the development and implementation of all regulations, directives, guidance, or other policies to give religious exemptions to federal grantees and contractors, including Office of Federal Contract Compliance Programs (OFCCP) guidance or regulations permitting employers to claim exemptions in federal contracts.

➤ *OFCCP rescinded the religious exemption rule.¹⁹ The Leadership Conference supported this rescission.²⁰*

→ Strengthen civil rights enforcement by providing adequate resources, including necessary staffing, to ensure robust enforcement action against all forms of unlawful discrimination.

➤ *The Department of Labor — through the OFCCP, the Wage and Hour Division, and other agencies — and the EEOC have reprioritized the enforcement of laws and regulations that protect working people. However, Congress must act to ensure that these agencies have the funding they need to carry out President Biden's equity and civil rights enforcement agenda.*

➤ *The administration named a general counsel for the NLRB who is working tirelessly to enforce fair labor laws, but it has not yet nominated a permanent general counsel for the EEOC.*

→ Issue a directive to the Department of Justice and other relevant agencies clarifying that non-discrimination protections based on sex include sexual orientation and gender identity.

➤ *President Biden issued Executive Order 13988, "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation," on his first day in office. Further action is needed by federal agencies to fully implement the order's directive to fully review, update, and enforce these protections.*

Awaiting Action

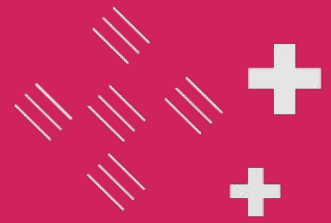
→ Enforcement agencies should conduct proactive oversight and enforcement to ensure the equitable use of new technologies reliant on artificial intelligence and algorithms.

→ Conduct frequent oversight over OSHA investigation and resolution of COVID-19-related complaints, including complaints of retaliation, and any on-site enforcement of safety standards.

→ Reinstate the EEO-1 pay data collection and take action to make transparent federal contractors' pay gaps by race and gender.

→ Release the EEOC workplace harassment guidance, pending at OMB since 2017.

→ Conduct robust, frequent oversight over the OFCCP's auditing of affirmative action plans (AAPs), including information about whether OFCCP is analyzing the use of assessment tools that rely in whole or in part on artificial intelligence and algorithms when conducting audits.



FAIR COURTS

Our federal courts have never truly worked for all of us and have too often favored the wealthy and powerful over everybody else, but the previous administration doubled down on this trend by stacking our courts with judges who are hostile to our rights.²¹ The Fair Courts Task Force asked President Biden and the Senate to build a judiciary that looks like and cares about all of us by supporting fair-minded, diverse judicial nominees with demonstrated commitments to civil and human rights.

Under the leadership of President Biden, Senate Majority Leader Chuck Schumer, and Senate Judiciary Committee Chair Dick Durbin, the White House and Senate have heeded these calls by nominating and confirming the most diverse slate of judges in American history. President Biden has already put forth 82 lifetime judicial nominations and the Senate confirmed 46 lifetime judges to the federal bench — the fastest pace since the Reagan administration. Most of these judges and nominees reflect professional and demographic diversity, including underrepresented legal backgrounds like public defenders and historic numbers of women and people of color.

However, more progress is needed to transform our courts for the better and ensure that judges will protect the rights of everyone. The White House and senators must select and confirm more diverse nominees, including but not limited to civil rights litigators, Latino/a nominees, nominees with disabilities, LGBTQ nominees, Native American nominees, and nominees of different religions and no religion. Furthermore, Congress must pass legislation that modernizes and reforms our courts, including ethics reform and an increase to the number of authorized judgeships for lower courts.

Status of Civil and Human Rights Priorities on Fair Courts

Accomplished

- The White House must make judicial nominations an immediate and enduring priority of its administration and select and nominate for federal judgeships individuals who have a demonstrated commitment to civil and human rights, are fair-minded, possess a progressive vision of the law and Constitution, and are reflective and representative of the vast and rich diversity of our country. This diversity includes race, sex, gender identity, sexual orientation, disability status, ethnicity, national origin, socio-economic status, and experiential and professional background.
- *This has been a priority with 46 lifetime confirmations and 82 lifetime nominations at the time of this writing. Many of the nominees reflect both professional/experiential and demographic diversity. There are key areas for improvement, including more nominees with civil rights experience, Latino/a nominees, nominees with disabilities, LGBTQ nominees, and Native Americans.*
- Senate leadership must make judicial nominations an immediate and enduring priority of the 117th Congress and must prioritize the selection and confirmation of judicial nominees who have a demonstrated commitment to civil and human rights and who are reflective and representative of the vast and rich diversity of our country. This diversity includes race, sex, gender identity, sexual orientation, disability status, ethnicity, national origin, socio-economic status, and experiential and professional background.

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- Oppose legislation to restrict access to courts and access to justice, such as efforts to impose mandatory arbitration and restrict class actions, discussed in a 2018 Earthjustice report. Support legislation that improves access to courts and justice, such as the FAIR Act.





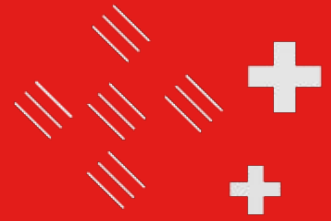
Partially Accomplished

- Lack of accountability for Supreme Court justices and lower court judges on ethics and recusal issues.
 - *Some oversight has been done on this, particularly on recusal, transparency, shadow docket, and diversity of the courts. But more must be done on this issue.*

Awaiting Action

- Inadequacy of sexual harassment reporting mechanisms within the federal judiciary regarding hostile workplaces and sexual harassment, and whether or not the Judicial Conference of the United States is conducting a meaningful review process of the problem.²²
 - *The Judicial Accountability Act was introduced, but more must be done on this issue.*

- Pass legislation that modernizes and reforms our courts, including legislation on ethics reforms, such as extension of the Code of Conduct for United States Judges to apply to Supreme Court justices, and further transparency measures and court structure reforms such as expanding the number of authorized judgeships for circuit and district courts. In addition, consider other structural reforms to the Supreme Court.
 - *There has been some movement on introduction of bills to increase the number of judgeships for lower courts, security and transparency/disclosures for judges, and inclusion of language to encourage the Court to adopt a code of ethics and conduct. The Presidential Commission on the Supreme Court met and issued a final report.*
- The abuse of long-standing legal principles and misreading of the Constitution and federal jurisprudence accelerated by judges selected by President Trump. This should include witnesses who can testify about the impact of harmful rulings, such as those highlighted on the People for the American Way's "Confirmed Judges, Confirmed Fears" website and in their 2019 report.^{23, 24}
 - *This is an area where more progress and oversight would be helpful. Aspects of the past administration's judicial nominees have been highlighted in a few instances. For example, the House Judiciary Committee has held hearings on the importance of diverse judges and the impact of their rulings.*



FAIR HOUSING AND LENDING

When the Biden-Harris administration and the 117th Congress took office, the country faced a crisis in the supply of affordable housing, persistent discrimination in housing and credit markets, a crumbling public housing infrastructure, and a staggering backlog of evictions and foreclosures brought on by the COVID-19 pandemic. The Department of Housing and Urban Development (HUD) had been hollowed out by ill-equipped appointees and low morale among career staffers. Under the previous administration, HUD gutted regulations under the Fair Housing Act, a crucial civil rights enforcement tool. The Consumer Financial Protection Bureau (CFPB) also faced similar neglect, leading to inadequate government oversight of credit and lending programs.

Faced with these challenges, the Biden-Harris administration has done much to mend the broken administrative infrastructure to ensure fair housing and lending practices for all people in America. The administration appointed strong nominees to HUD, CFPB, and the Federal Housing Finance Agency (FHFA) who will help these agencies fulfill their potential to advance housing and lending equity. The administration also reversed some of the most harmful Trump-era decisions, including the disparate impact rule and other policies that weakened the protections of the Fair Housing Act, as well as rules that undermined the Community Reinvestment Act. HUD also recently announced guidance clarifying that Special Purpose Credit Programs aimed at providing lending products that are geared toward historically underserved populations are not in conflict with the Fair Housing Act and promoted their usage in the mortgage industry.



Nevertheless, more remains to be done. For example, the Biden-Harris administration must do more to take an unequivocal stance against discrimination in housing and financial services by restoring the 2015 HUD rule on affirmatively furthering fair housing. The administration should also work with Congress to pass legislation that directly addresses the nation's housing affordability crisis and provides direct housing assistance to every individual and family that qualifies. Much more must be done to tackle discriminatory usage of artificial intelligence and machine learning systems in the housing and mortgage markets as well as remove obstacles to first-generation homebuyers to assist in the creation of generational wealth on an equitable basis.

Finally, it must reverse the CFPB's rulemakings on payday lending and the Home Mortgage Disclosure Act, restore rigorous oversight and enforcement of the Equal Credit Opportunity Act, and ensure that banking regulators move forward with new Community Reinvestment Act rules that meaningfully begin to undo the legacy of government-sanctioned racial redlining.

Status of Civil and Human Rights Priorities on Fair Housing and Lending

Accomplished

- Reverse Trump-era decisions by HUD, including the disparate impact rule, affirmatively furthering fair housing, mixed-status families and housing assistance, the HUD Equal Access Rule, and other policies that weaken the protections of the Fair Housing Act.
- Rescind the OCC's rulemaking on the Community Reinvestment Act and work toward a joint OCC-FDIC-Fed rule that fulfills the intent of this landmark civil rights law.
- Nominations: secretary and deputy secretary of Housing and Urban Development, director of the Consumer Financial Protection Bureau.
 - *The Leadership Conference supported the confirmations of Marcia Fudge for secretary of Housing and Urban Development and Rohit Chopra for director of the Consumer Financial Protection Bureau.*

Partially Accomplished

- Take an unequivocal stance against discrimination in housing and financial services by restoring the 2015 HUD rule on affirmatively furthering fair housing.
 - *HUD published an interim final rule to reinstate the affirmatively furthering fair housing (AFFH) definitions and certification requirements from the 2015 AFFH rule, an important step toward a full restoration.*
- Ensure full enforcement of FHFA's duty to serve rule and affordable housing goals,

“The Biden-Harris administration has done much to mend the broken administrative infrastructure to ensure fair housing and lending practices for all people in America.”

ensure full funding of the Housing Trust Fund and Capital Magnet Fund, and implement the use of alternative credit scoring models to responsibly increase access to mortgage credit.

➤ *Under Acting Director Sandra Thompson, the Federal Housing Finance Agency has taken a number of important steps to advance racial equity in the housing finance system and to address longstanding fair lending issues.*

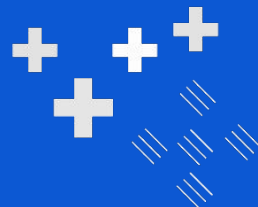
- Enact legislation to advance affordable, accessible, and safe housing to fill the affordable housing gap for all individuals, including relief for homeowners and renters facing hardships as a result of the COVID-19 crisis and full funding for HUD programs promoting affordable housing for low-income individuals.

- *Congress provided significant emergency assistance to renters and homeowners in the American Rescue Plan Act, but the funds have been slow to reach those who most need it. There is still a dire need for investments in the supply of affordable housing and for down payment assistance to help new potential homeowners.*
- Nominations: assistant secretary for Fair Housing and Equal Opportunity with experience running a full-service fair housing enforcement organization; general counsel, Department of Housing and Urban Development; director of the Federal Housing Administration; director of the Federal Housing Finance Agency; directors of the Office of Minority and Women Inclusion in each agency covered under Dodd-Frank.
 - *Sandra Thompson was named acting director of FHFA in June and was nominated to a full term in December. Others have been nominated and are awaiting Senate votes.*

Awaiting Action

- Reverse the Consumer Financial Protection Bureau's rulemakings on payday lending and the Home Mortgage Disclosure Act and restore vigorous oversight and enforcement of the Equal Credit Opportunity Act.
- Create cooperative agreements among federal agencies to ensure the use of artificial intelligence in housing and credit markets do not create discriminatory barriers to opportunity.
- Enact legislation to ensure that the Fair Housing Act, Equal Credit Opportunity Act, Home Mortgage Disclosure Act, and other key civil rights and consumer protection laws are fully and fairly enforced.
- Enact legislation that promotes inclusive and sustainable financial products in a rapidly changing industry, including consumer protections against abusive small-dollar lending, credit scoring, forced arbitration, overdraft, and debt collection practices.
- Appropriate enough funding to fully staff HUD's Office of Fair Housing and Equal Opportunity at a minimum of 750 full-time-equivalent employees.
- Oversight: Fair Housing Act enforcement and rulemakings, including the use of disparate impact doctrine and the implementation of the Fair Housing Initiatives Program; COVID-19-related protections against evictions and foreclosures; Equal Credit Opportunity Act enforcement and CFPB structure; Home Mortgage Disclosure Act reporting; FHA modernization; local land use rules and their impact on affordable housing supply; access to credit issues, including alternative credit scoring and technology; exploration of methods to increase access to mortgage credit for historically excluded borrowers, including through the use of special purpose credit programs.





HATE CRIMES

The Biden-Harris administration entered office during a hate crimes crisis. The hate, bigotry, and xenophobia from the previous administration fostered a climate of hate where violence thrived. Rather than use its bully pulpit to denounce these biases, the previous administration fanned the flames of hate. The years before the election were the deadliest on record for hate crimes — two years in a row.²⁵ Furthermore, 2020 had the highest number of reported hate crimes since 2001.²⁶ Hate crimes targeting Asian Americans saw a sharp and alarming increase during the pandemic.

The Biden-Harris administration set the tone early in its tenure by speaking out against hate and supporting the COVID-19 Hate Crimes Act, which President Biden signed into law on May 20, 2021. The Department of Justice has been working to implement the new legislation, and our Hate Crimes Task Force has shared recommended priorities for implementation.²⁷

Despite the progress made, the administration still has work to do to ensure all communities are able to live free from hate. A key step toward equity and healing will be ensuring the response to hate violence and acts that meet the definition of domestic terrorism do not inadvertently target the very communities most vulnerable to hate.

Status of Civil and Human Rights Priorities on Hate Crimes

Accomplished

- Congress must pass the Jabara-Heyer NO HATE Act.²⁸
 - *The Jabara-Heyer NO HATE Act was included as an amendment to the COVID-19 Hate Crimes Act, which President Biden signed into law on May 20, 2021.*

Partially Accomplished

- Improve federal hate crime data collection, training, and prevention efforts: DOJ should conduct and complete ongoing research into understanding the reasons for under-reporting of hate crimes, and U.S. attorneys, FBI, and CRS should direct resources toward promoting active participation in the Hate Crimes Statistics Act reporting program, with special attention devoted to underreporting large agencies. DOJ should work with police organizations and departments to ensure the implementation of the nationwide adoption of the FBI's National Incident-Based Reporting System (NIBRS) crime reporting program in 2021 and increase real-time reporting and transparency.
 - *Improving federal hate crime data collection and training is aligned with the implementation of the COVID-19 Hate Crimes Act and Jabara-Heyer NO HATE Act, which incentivizes data collection, reporting, and transition to NIBRS.*
- Public awareness and prevention: The president, attorney general, FBI director, U.S. attorneys, and other leaders should use their bully pulpit to educate the public about the

“A key step toward equity and healing will be ensuring the response to hate violence and acts that meet the definition of domestic terrorism do not inadvertently target the very communities most vulnerable to hate.”

impact of hate violence and to speak out against all forms of bigotry and bias-motivated violence.

- *In his speech marking the signing of the COVID-19 Hate Crimes Act and Jabara-Heyer NO HATE Act on May 20, 2021, President Biden noted that everyone is “lessened and hurt” by hate. He called on all to speak up and speak out when they see hate and said “silence is complicity.” This priority is marked partially accomplished as we will continue to monitor the administration’s response to hate violence — not just to mass tragedies, but to everyday hate.*

→ Congress must pass the NO BAN Act.²⁹

- *The NO BAN Act passed the House on April 21, 2021, and was received in the Senate the next day. The NO BAN Act was referred to the Committee on the Judiciary. The bill has not been voted out of committee.*

→ Alternatives to penalty enhancements in response to hate crimes: Recognizing the limits of legal responses to hate violence, the administration and Congress should promote the enactment of comprehensive legislation focusing on community-centered support for people targeted for hate, hate crime prevention, and support for pilot projects to develop more evidence-based practices in restorative work for non-violent hate crimes.

- *The COVID-19 Hate Crimes Act, which was signed into law on May 20, 2021, includes a community-centered approach. In its letter to the Department of Justice regarding implementation of the Jabara-Heyer NO HATE Act, the Hate Crimes Task Force encouraged the DOJ to focus on the community- and victim-centered approaches offered in the bill as it continues to implement the law in the spirit in which it was drafted.*

→ Until Congress makes reporting mandatory, the administration should budget and Congress should provide funding to states to enable the FBI, the Justice Department, and U.S. attorneys to create incentives for participation in the FBI's Hate Crime Statistics Act (HCSA) data collection program — including national recognition, targeted funding, matching grants for state and local HCSA-related training, and mechanisms to promote replication of effective and successful programs. The degree to which a specific agency is participating in the HCSA

program should be included in the rating and scoring criteria as applications for state funding are considered.

- *The COVID-19 Hate Crimes Act allows the attorney general to make funding available for state and local law enforcement agencies that work with communities to improve hate crime data collection and reporting. These funding incentives also provide for training opportunities and support for NIBRS transition.*

→ Congress must conduct oversight of the federal government's efforts to address white supremacist violence, including the government's gathering and use of intelligence regarding white supremacist violence and how federal agencies are using existing federal statutes — including hate crimes statutes — to effectively respond to the threat. This includes oversight of the DOJ, including the FBI, the Civil Rights Division, and the Criminal Division, as well as the Department of Homeland Security (DHS).

- *Congress has conducted several hearings that touched on the federal government's efforts to address white supremacist violence, including oversight hearings of DHS, the FBI, and DOJ.*

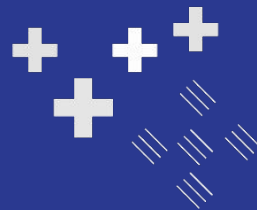
→ Congress must conduct oversight of the DOJ, including the FBI, to ensure full implementation of NIBRS and the FBI's work to improve hate crimes reporting by state and local law enforcement agencies.

- *Congress has held oversight hearings of the DOJ and the FBI, though more focus could be provided to ensure full implementation of NIBRS.*

Awaiting Action

- Congress must pass the Domestic Terrorism Prevention Act and ensure there is no new domestic terrorism charge.³⁰
 - *No new charge of domestic terrorism has passed Congress, however the Domestic Terrorism Prevention Act, which was introduced in both chambers, has yet to be voted out of committee.*
- Re-establish the White House Interagency Initiative on Hate Crimes.
- Support creation (or continuing work) of hate crime working groups composed of community-based organizations, civil leaders, and police officials housed in and convened by every U.S. attorney's office.
- Conduct research into understanding the needs of people targeted for hate, whether it is mental health services, financial support, employment issues, housing, or other needs.
- Fund education and research into the public health implications of hate violence, and research and pilot programs implementing restorative practices and restorative community funds in response to hate incidents and non-violent hate crimes.
- Improve collaboration between the Departments of Education and Justice, law enforcement, and community and civil rights organizations to improve hate crime reporting on campuses.
- Congress should pass legislation mandating that Justice Department funds should be made available only to those agencies that are demonstrating credible participation in the HCSA program.





HEALTH CARE

The Biden-Harris administration took office during what is arguably the greatest public health crisis in American history. As a result, its earliest actions focused on providing relief to those most affected by the pandemic — including frontline workers, many of whom are people of color — and on providing accurate health information on the coronavirus and its variants. These actions included increasing availability of vaccines and undertaking efforts to reach out to vulnerable communities. President Biden signed an executive order directing all relevant federal departments and agencies to advance equity and eliminate disparities in the United States, including but not limited to health and health care.³¹

The administration took decisive and immediate action to restore civil rights rolled back by the previous administration. The Department of Health and Human Services (HHS) reinstated the definition of “sex” to include gender identity and expanded it to explicitly include sexual orientation. It also reversed the Trump administration’s effort to bar Planned Parenthood from receiving Medicaid funding, Title X funding, and funding from other federal health services or prevention programs.

Going forward, we support HHS’s continuing work to reverse the damage done by the Trump administration — including to Section 1557, the nondiscrimination provision in the Affordable Care Act — and we look forward to working with the agency to further strengthen that provision.

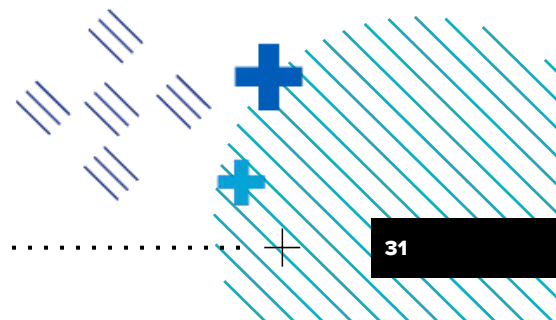
Status of Civil and Human Rights Priorities for Health Care

Accomplished

- Introduce and enact comprehensive COVID-19 relief legislation that provides more relief to the most marginalized communities.³²
- Provide vaccine coverage at no cost for all (including uninsured).
- Sign an executive order directing all relevant federal departments and agencies, under the coordination of the Domestic Policy and National Economic Council directors and with the direct oversight of the president, to actively engage in a reporting and policy execution process supported by cross-government resource reallocation and new investments to advance equity and eliminate disparities in the United States for every category of essential support necessary for individual achievement, including but not limited to health and health care.³³
- Ensure a swift and robust administrative response to COVID-19, including transparent procedures to ensure equitable evaluation, approval, and distribution of treatments and vaccines.
- Oppose all efforts to bar qualified providers, including Planned Parenthood, from receiving Medicaid funding, Title X funding, and funding from other federal health services or prevention programs.
- Nominations: secretary of HHS; director of the Office for Civil Rights at HHS.

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- *The Leadership Conference supported the confirmation of Xavier Becerra as secretary of Health and Human Services.*
- Expand and improve eligibility, affordability, and access to services for all public health programs, including making home and community-based services (HCBS) mandatory and enabling those eligible for Medicaid expansion to receive Medicaid-like benefits in non-expansion states.
- *The House-passed Build Back Better Act provides additional funds for HCBS and requires that insurers provide fully subsidized access to health care in the marketplace for those adults eligible for Medicaid in states that have refused to take up the Medicaid expansion. The Senate must act to pass these critical provisions.*



- Ensure the Centers for Medicare & Medicaid Services (CMS) does not approve restrictive Medicaid waivers, including work requirements/community engagement, exclusion of Planned Parenthood and other reproductive health providers, and premiums on lowest/no-income enrollees.
 - *CMS has revoked all Medicaid waivers that allowed states to institute work requirements, exclude Planned Parenthood and other reproductive health providers, and prohibit premiums in new waivers. Nevertheless, a new problem has emerged outside of the Section 1115 waiver process as a number of states have moved to exclude Planned Parenthood. Therefore, we urge the administration to enforce the free choice of provider provisions of the Medicaid program.*
- Ensure robust enforcement of existing civil rights protections (including Section 1557, Title VI, Title IX, Americans with Disabilities Act, Section 504, Age Discrimination Act, HIPAA); reinstate the definition of “sex” to include gender identity and expand it to explicitly include sexual orientation; and eliminate the OCR Office of Conscience and Religious Freedom Division.
 - *HHS has stated it will enforce the Supreme Court’s decision defining sex to include sexual orientation and gender identity.³⁵*
 - *HHS withdrew waivers through the Administration for Children and Families and the Office for Civil Rights re: religious discrimination.³⁶*

Partially Accomplished

- Roll back/rescind all harmful executive orders, regulations, and guidances related to Medicaid, CHIP, Medicare, the Affordable Care Act, and civil rights and other HHS programs that were implemented by the Trump administration.
 - *HHS has taken steps to roll back a number of regulations, and some regulations are still being rolled back — including NBPP, SUNSET, and Good Guidance Practices. More must be done to undo all harmful Trump-era regulations.*
- Repeal all regulatory reform actions that limit the ability to promulgate new regulations or subregulatory guidance (which includes the 2-for-1 and Good Guidance Practices EO and agency rules).
 - *HHS has published proposed rules to withdraw/repeal the SUNSET and Good Guidance Practices regulations, and the regulatory reform executive order was repealed.³⁴*
- Reinstating the definition of “sex” to include gender identity and expand it to explicitly include sexual orientation.³⁷
 - *President Biden issued Executive Order 13988, “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation,” on his first day in office. Further action is needed by federal agencies to fully implement the order’s directive to fully review, update, and enforce these protections, including within new regulations for Section 1557.*
- Conduct robust, frequent oversight over the sabotage of the ACA, including its civil rights provisions, cuts in ACA outreach and navigator grants, the federal government’s posture in ACA litigation, and raiding ACA funding to pay for other HHS programs and activities — and explore ways to rescind new regulations that have limited access.
 - *HHS increased funding for navigators and ACA outreach.³⁸*

- Repeal the Hyde Amendment and enact the Women’s Health Protection Act (WHPA) and the Equal Access to Abortion Coverage in Health Insurance (EACH Woman) Act.

- *The House has passed the WHPA³⁹ and deleted the Hyde Amendment from the proposed 2022 HHS appropriation.⁴⁰*

- Repeal public charge regulations.

- *The Department of Homeland Security and the Department of State have issued notices of proposed rulemaking to roll back these damaging attacks.*

Awaiting Action

- Eliminate the OCR Office of Conscience and Religious Freedom Division.

- Enact the Black Maternal Health Momnibus legislation.

- *Parts of this were included in Build Back Better legislation.*

- Enact the Health Equity and Accountability Act (HEAA).

- *HEAA is expected to be reintroduced by the tri-caucuses in April 2022.*

- Repeal the 2020 Section 1557 regulations of the ACA and reinstate the 2016 Section 1557 regulations (with improvements).

- *DOJ has noted in court cases challenging the Trump Section 1557 rules that it will undertake new rulemaking in spring 2022; a new Section 1557 proposed rule is also on the Unified Agenda.*

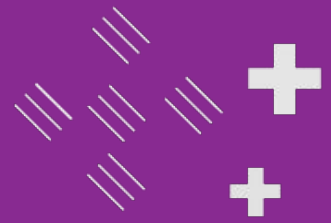


- Ensure immigrants can have access to public health programs, including by rescinding sponsor deeming requirements, and allowing Deferred Action for Childhood Arrivals (DACA) recipients to access Medicaid/CHIP/marketplace.

- *HHS has not yet rescinded the “grants rule,” which is subject to ongoing litigation.*

- Require all HHS administered or funded health care programs/activities to collect comprehensive demographic data (including race, ethnicity, language, sex, gender identity, sexual orientation, age, disability) and report all data, preferably disaggregated, on an annual basis.

- Conduct robust, frequent oversight of rollback and enforcement of rules protecting the health, safety, and rights of residents and people working in nursing facilities.



IMMIGRATION

The Trump administration centered cruelty in every element of its immigration policies, procedures, pronouncements, and practices. In the wake of those policies, there was much work to be done to rebuild a system that acknowledges the dignity of immigrants and strengthens the economy for all people in America. We are still awaiting concrete action from this administration to not only undo the harms of the past, but to affirmatively build a more just and humane immigration system.

The Biden-Harris administration made important progress on day one by repealing the Muslim, African, and immigration bans. However, the vast majority of the civil and human rights priorities we have outlined have been neglected. As a result, countless immigrants are suffering inhumane and illegal conditions at the hands of our government.

On this issue, it is hard to find places where this administration has advanced civil and human rights. Rather than correct the practices of the Trump era, the Biden-Harris administration has perpetuated and validated many of them, including some of the most harmful. Tragically, this administration continues border wall construction and family detention. It has failed to change inhumane conditions at the border and in immigrant detention centers and continues to uphold Title 42 authority as a means to limit access to asylum at the U.S.-Mexico border. It continues to subject immigrant workers to raids and has continued to deport people to Haiti and other countries where they are highly vulnerable. Meanwhile, Congress has failed to open any new, meaningful pathways to citizenship for millions of longtime immigrant residents and failed to extend the application deadline on the Liberian Refugee Immigration Fairness program — one of the few pathways to citizenship for certain immigrants made available in decades.

Status of Civil and Human Rights Priorities on Immigration

Accomplished

- Reverse Trump-era anti-immigrant policies, including by repealing the Muslim, African, and immigration bans.
- Nomination: director of the Office of Refugee Resettlement (HHS).
 - *The Leadership Conference applauded the appointment of Cindy Huang as director of the Office of Refugee Resettlement.*

Partially Accomplished

- Pass the Reuniting Families Act, the New Way Forward Act (including the Dignity for Detained Immigrants Act), the NO BAN Act, the Refugee Protection Act, the POWER Act, and the New Deal for New Americans Act.
 - *The House passed the NO BAN Act in April 2021. All other legislation listed above has been introduced or reintroduced in the House and the Senate in the case of the New Deal for New Americans Act.*
- Issue a moratorium on all deportations while rescinding all Trump administration immigration policies and improving upon Obama-era policies, including but not limited to the public charge rule, asylum bars, border policies, visa sanctions against recalcitrant countries, the 2019 diversity visa passport rule, social media vetting, and the policy memo on the “Detention and Removal of Alien Parents or Legal Guardians.”
 - *In one of his first acts in office, President Biden directed the Department of Homeland Security (DHS) to implement a 100-day moratorium on deportations alongside*

a review of enforcement priorities. The moratorium was immediately challenged by the state of Texas in federal court and did not survive subsequent legal challenges, including a preliminary injunction. Eventually, the state of Texas and the Biden-Harris administration agreed to dismiss the case, as the Biden-Harris administration had no plans to extend or reinstate the defunct moratorium.

- *U.S. Citizenship and Immigration Services (USCIS) stopped applying the 2019 public charge final rule in March 2021 and has reinstated the old rules while new ones are being drafted.*
- *Despite President Biden revoking Executive Order 13768, which strengthened visa sanctions under the Immigration and Nationality Act Section 243(d) for recalcitrant countries, DHS has continued to implement visa sanctions against African and Southeast Asian countries.*
- *In April 2021, the White House Office of Information and Regulatory Affairs rejected a DHS proposal to continue the practice of social media identifiers for screening and vetting purposes, given that the executive orders containing the Muslim and African bans (which authorized the practice) had been repealed.*
- *The 2019 diversity visa passport rule remains in effect as of this writing.*
- *No changes or improvements to the 2017 Immigration and Customs Enforcement (ICE) directive on the “Detention and Removal of Alien Parents or Legal Guardians” have been implemented as of this writing.*
- *The administration has halted mass worksite raids and has issued guidance that begins to address immigration enforcement against workers involved in labor disputes.*

- Reverse Trump-era anti-immigrant policies, including by restoring DACA and Temporary Protected Status (TPS) designations, restoring refugee admission levels, and rescinding the public charge rule and other arbitrary barriers to green cards and naturalization.
- *The Biden-Harris administration designated the following countries for TPS in 2021: Haiti and Burma.*
 - *The Biden-Harris administration redesignated the following countries for TPS in 2021: Somalia, Syria, Venezuela, and Yemen.*
 - *The Biden-Harris administration has declined to enforce dramatic and punitive immigration fee increases that the Trump administration had put in place and has also refused to implement a new citizenship test that would have made naturalization more difficult.*
 - *In May 2021, President Biden revised the annual refugee admissions cap to 62,500 for fiscal year 2021, up from just 15,000 under the Trump administration for the same fiscal year. In October 2021, President Biden announced another revision to the refugee admissions target of 125,000 for fiscal year 2022, however, actual admissions are far lower than those aspirations. Only 4,362 were admitted in the first four months of the current fiscal year.*
 - *In January 2021, President Biden directed DHS to preserve and fortify DACA. In September 2021, DHS published a proposed rule that maintains original DACA eligibility requirements without expansion and makes applying for employment authorization optional when applying for DACA. The proposed rule also clarifies that USCIS can deny DACA to any applicant in an exercise of discretion. The final rule has not been published at the time of this writing.*



- *In October 2021, DHS issued guidelines that restrict immigration enforcement at or near sensitive locations such as schools, hospitals, and protest sites. In an important expansion, the memo restricts enforcement at courthouses, which was frequently abused during the Trump administration.*
- ➔ Introduce and enact comprehensive COVID-19 relief legislation that protects immigrants and citizens alike.⁴¹
 - *This was partially achieved through stimulus payments under the American Rescue Plan, which did not include the senseless punishment of mixed immigration status families contained in previous rounds of stimulus legislation.*
- ➔ Create paths to citizenship for undocumented people, including DACA and TPS recipients, farmworkers, and other essential workers, and improve the paths for family visa applicants, refugees, and asylum seekers.
 - *The House passed the American Dream and Promise Act to provide immigrant youth (DACA-eligible and otherwise) and TPS recipients with a new path to citizenship and the Farm Workforce Modernization Act to do the same for many migrant farmworkers.*
 - *The House also passed the Build Back Better Act, which contained immigrant parole provisions that would provide temporary status and work authorization for eligible immigrants. Immigrant advocates were divided as to whether parole, or other language creating eligibility for lawful permanent resident status, was most appropriate in the bill.*
- *The prospects of any pro-immigrant legislation in the 50-50 Senate — whether the Build Back Better Act or other bills — have been significantly dimmed by the Senate parliamentarian.*
- ➔ Nomination: DHS leadership.
 - *We applauded the confirmations of Alejandro Mayorkas as secretary of the Department of Homeland Security and Ur Jaddou as director of USCIS.*
- ➔ Nomination: director of the Executive Office for Immigration Review (EOIR).
 - *David Neal was appointed director of EOIR in September 2021.*
- ➔ Set up an interagency family separation task force to investigate and ensure that families separated by the Trump administration's inhumane family separation policies are reunited and have access to status.
 - *In February 2021, President Biden (via executive order) ordered the formation of an Interagency Task Force on the Reunification of Families, with Secretary Alejandro Mayorkas as the chair. The task force includes the Department of State, Department of Health and Human Services, and the Department of Justice. In December 2021, DHS requested public input on ways to minimize the separation of immigrant parents, legal guardians, and children entering the United States. Public input will help in the drafting of a forthcoming report required by the executive order.*



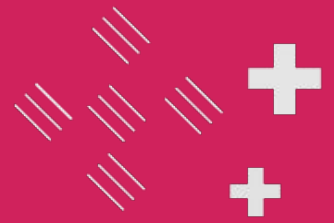


Awaiting Action

- Pass immigration reform that provides an earned path to citizenship for millions of undocumented individuals who have lived in the United States an average of 14 years.
- Designate and redesignate for Temporary Protected Status, as the case may be, Guatemala, El Salvador, Honduras, Mauritania, Nicaragua, Cameroon, and other nations made dangerous or fragile by environmental disasters or civil strife.
- Finalize and publish a regulation that effectively fortifies DACA by modernizing eligibility criteria, streamlining case processing, and making accessing DACA and employment authorization affordable for all eligible persons.
- Eliminate devastating USCIS case processing delays, make citizenship more affordable and accessible, and expand investment in immigration integration initiatives.
- End all programs that commingle immigration enforcement with local law enforcement or other government services, such as INA Section 287(g) programs.
- Expand access to status: Restore DACA and TPS with automatic extensions; rebuild the refugee resettlement program; expand or create new affirmative relief programs; end all denaturalization programs and policies making USCIS an enforcement agency; and make naturalization and green cards accessible and affordable.
- Protect noncitizen workers by restoring the Interagency Working Group for the Consistent Enforcement of Labor, Employment and Immigration Laws, and by creating an affirmative mechanism for undocumented and nonimmigrant workers involved in labor disputes to apply for deferred action.



- Create humane solutions at the border: End the detention of children and families and private detention, greatly reduce the detention of immigrants, and establish humane programs for dealing with immigrants and asylum seekers at our border.
- End immigration-related criminal prosecutions, particularly under the following sections of the U.S. Code: 1324, 1325, 1326.
- Pass the Reuniting Families Act, the New Way Forward Act (including the Dignity for Detained Immigrants Act), the Refugee Protection Act, the POWER Act, and the New Deal for New Americans Act.
- Replace or significantly reform the H-2A, H-2B, H-1B, and other guest worker visa programs to improve labor protections; increase transparency and accountability for foreign labor recruiters; grant guest workers the same labor rights as other workers; and give workers the right to self-petition for permanent status.
- Establish an independent, Article I immigration court and representation rights for individuals in cases before that court.
- Congress should not include harmful enforcement provisions or cuts to family-based immigration in legislative proposals. We would prefer to see positive legislation passed in phases than in a package that harms one community to provide relief to another.
- Cut ICE and Customs and Border Protection funding, including for detention beds and the static border wall; block the transfer of funds between sub-agencies; commit funding to reduce USCIS case backlog and processing times and to lower naturalization fees; cut surveillance funding and Targeted Violence and Terrorism Prevention grants; and cut Federal Emergency Management Agency grants, specifically UASI and SHSP grants, to scale back police militarization.
- Provide \$4,350,000,000 in state and foreign operations appropriations for the Migration and Refugee Assistance account; provide \$4,520,000,000 in the International Disaster Assistance account to respond to the humanitarian needs of refugees and displaced persons; appropriate \$100,000,000 for the Emergency Refugee and Migration Assistance account, increase the authorized level to at least \$200,000,000, and authorize the secretary of state, rather than the president, to draw down funds to streamline emergency response; and provide \$6,342,106,000 in Labor/HHS appropriations for the Refugee Entrant Assistance account to ensure closed offices can reopen and refugees can be served in all locations.
- Conduct robust oversight of immigrant detention facilities, particularly private facilities, including standards and access to health care.
- Conduct oversight of a return to timely processing of naturalization applications and other green card and visa applications.



JUSTICE

The American criminal-legal system replicates and reinforces patterns of racial and economic oppression — resulting in a bureaucracy that denies millions of people the opportunities, legal equality, and human rights that they deserve — and fuels the world’s highest incarceration rate. Transforming our criminal-legal system, enacting comprehensive police accountability, and ushering in a new era of non-carceral responses to crime marked the Biden-Harris administration’s greatest opportunity to enact transformational change. In no other field are racial disparities and blatant disparate treatment as evident as in our criminal-legal system, yet this administration has failed to deliver on its campaign promises to enact true accountability and transformative change.

Indeed, while the previous administration left ample room to rewrite history and change course on a number of ill-advised policies, the Biden-Harris administration’s first action on criminal-legal policy was to redouble the previous administration’s position on drug sentencing instead of championing a public health response to the overdose crisis. We believe that this administration, including the attorney general and the Department of Justice, has a vital role to play in enacting comprehensive reform that meets the demands of the current moment. While the administration has wholly fallen short, we do applaud a few noteworthy actions — including the actions taken to ease DOJ’s restrictions regarding early release of individuals from prison under the CARES Act, the recent reversal of the DOJ’s 2020 Office of Legal Counsel decision specifying that individuals released under the CARES Act must return to carceral settings, and the department’s recent announcement regarding application of earned time credits for early release under the First Step Act.

However, the Biden-Harris administration must do much more to prioritize policies and agency changes that would end harms caused by the federal criminal-legal system, especially given the administration’s stated commitment to advancing racial justice and equity.

Status of Civil and Human Rights Priorities for Justice

Accomplished

- Rescind and replace the Sessions memorandum limiting the authority of the Civil Rights Division on consent decrees addressing patterns or practices of constitutional violations by law enforcement; commit adequate staffing and resources to the Civil Rights Division to investigate under 34 U.S.C. 12601.⁴²
- Rescind the memorandum directing federal prosecutors to charge and pursue the most serious, readily provable offenses, including mandatory minimum sentences.⁴³
- Cooperate with international human rights bodies, including extending standing invitations to UN special procedures.⁴⁴
- Rescind the proposed rule issued by the Bureau of Prisons (BOP) on November 25, 2020, regarding time credits authorized by the First Step Act and delay rule promulgation until the Department of Justice has released data regarding its PATTERN risk assessment tool.
- Rescind the Office of Legal Counsel memo directing the BOP to return individuals released to home confinement under the CARES Act to BOP custody after the emergency period of the pandemic ends.⁴⁵
- Rescind the 2018 changes to the Transgender Offender Manual and reinstate the consideration of a person's gender identity in the BOP's housing placement decisions.⁴⁶

Partially Accomplished

- Rescind the Barr memoranda on compassionate release and implementation of the CARES Act, as well as the BOP internal memo on criteria for home confinement.⁴⁷ Issue expanded guidance directing broad and immediate use of CARES Act home confinement authority. Direct U.S. attorneys' offices not to oppose compassionate release motions for individuals with heightened vulnerability to COVID-19.
- DOJ should place a moratorium on the use of the federal death penalty, rescind the July 19, 2019, addendum to the Federal Execution Protocol, withdraw any pending death warrants, and cease seeking any death sentences.
 - *DOJ placed a moratorium on the use of the federal death penalty on July 1, 2021, and federal prosecutors dropped capital charges in several cases. However, DOJ has not rescinded the Federal Execution Protocol addendum and has opposed requests for resentencing from at least two people on death row. Additionally, the president has not commuted the sentences of any prisoners on federal death row.*
- Restore the DOJ's initiative to end all contracts with private prisons and, because the initiative does not cover detention centers controlled by DHS or HHS, expand the closure to include both DHS and HHS.

- *While the president signed an executive order his first week in office banning new and the renewal of private prison contracts with the federal government, that order does not apply to detention centers controlled by DHS or HHS.*

Awaiting Action

Regulation and executive action

→ Executive clemency

- *Prioritize clemency as a tool to correct unfair sentences and create a standard pardon and commutation process outside of the Department of Justice that would result in more routine grants of clemency.*
- *Commute all death sentences.*
- *Use the commutations process to apply all sentencing reform provisions of the First Step Act of 2018 (sections 401, 402, and 403 are the sentencing reforms which pertain, respectively, to reduced mandatory minimums for drug offenses in 18 U.S.C. 841 and 960, clarification of 18 U.S.C. 924(c), and the expanded safety valve in 18 U.S.C. 3553(f)).*
- *Categorically commute the sentences of individuals a year from their expected release date; individuals who are age 50 or older, with fewer than five years remaining on their sentence (accounting for good conduct time); and individuals incarcerated for technical violations on probation or supervised release.*

→ Capital punishment

- *Rescind the July 25, 2019, addendum to the Federal Execution Protocol.*

- *Rescind proposed rule 85 FR 47324 “Manner of Federal Executions” proposed by the Department of Justice on August 5, 2020. The rule would give the attorney general unfettered ability to deviate from the regulations at will without subjecting any such changes to further review and grant unlimited power to redelegate authority and reassign duties among various DOJ components in direct contravention of 18 U.S.C. 3596(a). The rule would also eliminate the requirement that any execution be preceded by a valid judgment and order from the federal sentencing court, thereby eliminating a federal court’s authority to control its own judgments and violating the separation of powers between the judicial and executive branches.*

- *Withdraw any execution dates already set when the new administration takes office and cease to seek any death sentences.*
- *Withdraw authorization for all pending death penalty trial cases.*
- *Dismantle the federal death chamber at FCI Terre Haute prison.*

→ Policing and militarization

- *Issue guidance establishing a necessary use-of-force standard that allows police use of force only as a last resort.*
- *Rescind the Executive Order on “Combating Race and Sex Stereotyping” issued on September 22, 2020, and reinstate all anti-bias training requirements for federal law enforcement and state and local law enforcement that work with the federal government through joint task forces and other partnerships.⁴⁸*

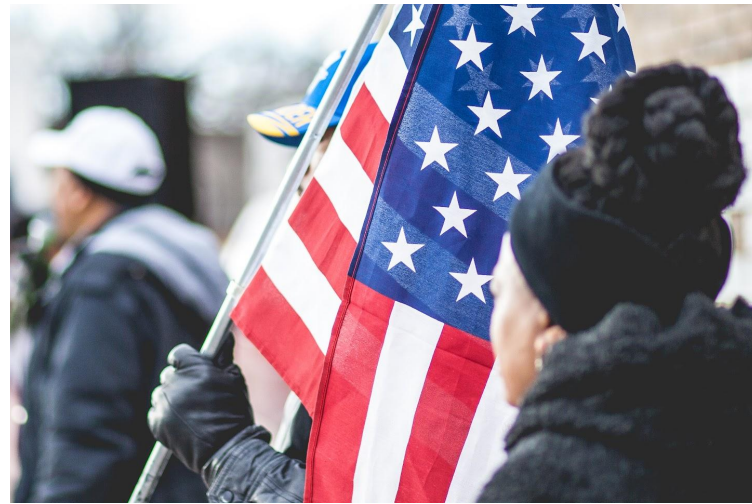


- *End Operation Legend and Operation Relentless Pursuit by suspending all grant funding designated to those programs.⁴⁹*
- *Place a moratorium on the Department of Defense's 1033 program.*
- *Issue final regulations/guidance implementing the Death in Custody Reporting Act.*
- *Require all federal law enforcement agencies to collect and analyze data on stops, searches, arrests, and uses of force; make all data and analysis public.*
- *Ensure the presidential budget redirects resources away from programs that focus on criminalization and toward upfront investments in non-carceral supports, services, and community-led programs.*
- *Withdraw and disavow any reports issued by the Presidential Commission on Law Enforcement and the Administration of Justice created by Executive Order 13896.⁵⁰*
- ➔ **Civil rights enforcement**
 - *Commit adequate staffing and resources to the Civil Rights Division to investigate law enforcement agencies under 34 U.S.C. 12601.*
 - *Condition the receipt of Office of Justice Programs funds to state and local governments on the mandatory collection and reporting of demographic data — including data on disability status and type — on use of force and other police-community encounters (i.e., pedestrian and traffic stops, searches, and arrests) and encourage the adoption and implementation of anti-bias policies and practices.*
 - ➔ **Prosecution, charging decisions, and early release**
 - *Rescind the Sessions memoranda on marijuana enforcement.⁵¹*
 - *Comprehensively revise and expand charging and sentencing policies issued under Attorney General Eric Holder to instruct that prosecutors should not charge mandatory minimums where there is an alternate charge that would not carry a mandatory minimum.*

- *Immediately rescind guidance to the BOP to rely upon PATTERN risk assessment scores when determining which individuals currently incarcerated receive “priority treatment” for transfer to home confinement during the COVID-19 pandemic.*
- *Abandon the use of recidivism risk assessment tools for any form of decision-making in the criminal-legal and immigration systems. Independently review how such risk assessment systems used in federal agencies — such as RCA (ICE), PATTERN (DOJ), and PTR (Administrative Office of the U.S. Courts) — unfairly discriminate against communities of color.*
- *Issue guidance discouraging federal prosecutions of minors.*
- *Mandate data collection and reporting of all prosecutorial decision-making.*
- *Revise and reissue the 2016 dear colleague on fines and fees and bail that advised states that “Courts must not employ bail or bond practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release.”⁵² Importantly, the dear colleague should not propose risk assessments as an alternative to ending money bail systems and, instead, the vast majority of people who could be detained pretrial should be released on their own recognizance and provided with community supports that will ensure their return to court.⁵³*
- *Revoke the 2017 Sessions memorandum calling for maximal prosecutions under 8 U.S.C. 1324 and order U.S. attorneys’ offices to cease all ongoing surveillance, investigation, and prosecution related to suspected offenses under Section 1324 in cases in which profit was not a motive for relevant conduct.⁵⁴*
- *Suspend prosecutions under 8 U.S.C. §§ 1325-1326 pending an urgent review to evaluate the harms caused under the zero tolerance policy and to establish future policy.*
- *End regressive law enforcement initiatives that direct U.S. attorneys’ offices to prosecute state crimes in the federal system. Direct the attorney general to minimize arrests, decline to seek detention of individuals at their initial appearance in court, and consent to the release of those already detained absent clear and convincing evidence that the person poses a specific threat of violence to a specific person. Adopt DOJ guidance instructing U.S. attorneys not to seek life with parole sentences, which we unequivocally oppose.*
- *Allow 21 CFR 1308.11(h)(30),⁵⁵ the temporary scheduling order authorizing the Drug Enforcement Agency (DEA) to add substances to Schedule I, to expire and, as a policy matter, decline to support any new legislation or action that pursues additional scheduling authority.*
 - *Under the classwide control, any offense involving a “fentanyl-related substance” is subject to federal criminal prosecution, even if the substance in question is helpful or has no potential for abuse. Failure to define with specificity through our laws what is or is not illegal will exacerbate pretrial detention, mass incarceration, and racial disparities in the prison system, doubling down on a fear-based, enforcement-first response to a public health challenge.*
- *Instruct U.S. attorneys who choose to charge people who play a peripheral role in a drug conspiracy to charge them with aiding and abetting, not as a co-conspirator. Implement a DOJ policy declining to prosecute individuals for failure to register in cases in which a person had no specific intent to avoid compliance with registration laws.*

→ Prison conditions

- *Direct the Centers for Disease Control and Prevention to update its COVID-19 guidance to explicitly recognize and include decarceration and expanded access to health care for incarcerated and recently released individuals as necessary guidance for federal, state, and local elected officials to reduce the spread of COVID-19 and protect the most vulnerable within the nation's jails, prisons, youth detention facilities, and immigrant detention centers.*



→ Department of Justice initiatives

- *Reinstate and expand the following initiatives and working groups:*
 - *The Smart on Crime initiative — to expand its work to aggressively drive policy change that will transform the criminal-legal system and reverse the course of mass incarceration in America.*
 - *Interagency Working Group on Reentry — to expand its work to remove federal administrative barriers to accessing employment, education, housing, health care, voting, and other public programs and benefits.*
 - *The Law Enforcement Permanent Working Group — to continue dialogue among federal agencies providing excess non-military equipment and to establish a new program for the transfer of that equipment to nonprofits and state and local governments.*

→ Reentry

- *Implement the Fair Chance to Compete for Jobs Act of 2019 (P.L. 116-92, Section 1121) by ensuring that the Office of Personnel*

- *Management and other federal agencies adopt robust complaint procedures; narrowly apply their discretion to exempt categories of workers; and execute outreach, education, monitoring, and an auditing process, particularly with the nation's private contractors, to ensure that the protections and the intent of the fair chance law are fully realized.*

→ Racial justice, equality, and human rights

- *Comply with U.S. treaty reporting obligations and adopt a plan of action to implement the International Convention on the Elimination of All Forms of Racial Discrimination.*
- *Pursue federal policies that address anti-Black racism and promote equality and inclusion, consistent with human rights treaties the United States has ratified.*
- *Uphold at home and abroad the right to free expression and promote a free press, including by improving journalists' access to White House briefings and encouraging robust evidence-based media reporting.*

- *Commit to constructive engagement with UN and regional human rights mechanisms, grounded in globally agreed-upon human rights norms.*
- *Sign a proclamation supporting the International Decade for People of African Descent (2015–2024), which calls for reparatory justice through national, regional, and international legal frameworks for generations of involuntary servitude, socioeconomic subjugation, and racial discrimination.⁵⁶ Make a commitment to support the Programme of Activities for implementation of the decade with federal resources and the creation and implementation of a national plan of action.⁵⁷*
- *Issue a presidential proclamation updating Executive Order 13107 on “Implementation of Human Rights Treaties,” dismantle former Secretary of State Mike Pompeo’s Commission on Unalienable Rights, and instruct the State Department to cancel the implementation of its final report and recommendations.⁵⁸*
- *Reactivate the federal interagency working group to implement international human rights recommendations, including those made as part of the United States’ Universal Periodic Review.*

➔ Appointments and hiring

- *Hire a BOP director with experience in systems reform and culture change and the courage and commitment to aggressively reduce BOP’s population; improve conditions in BOP facilities; focus on rehabilitation and reentry; improve public safety through reforms in correctional practice and strategy; and be transparent, responsive, and accountable.*

Legislative action

- ➔ *Vocally support and push for legislation or executive action to: 1) repeal the 1994 crime bill and shift resources away from criminalization and policing toward investments in communities; and 2) implement a transformative police accountability framework that a) ends qualified immunity, racial profiling, and militarization; b) creates national use-of-force standards; c) reforms Bivens and section 242; d) prohibits quick/no-knock warrants; e) bans certain restraint maneuvers; and f) publicizes officer misconduct.*
- ➔ *Pass the Marijuana Opportunity Reinvestment and Expungement (MORE) Act to deschedule marijuana with racial equity and justice reform components.*
 - *In May 2021, the House again introduced the MORE Act. This bill has garnered more than 100 sponsors but has not yet been brought up for a vote. Moreover, the Senate version of the bill has yet to be introduced, as has the Senate’s own cannabis legislation, which is currently in draft form.*



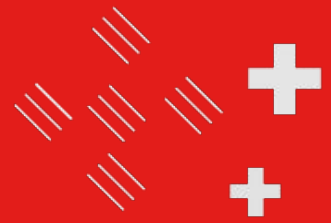
Appropriations

- Redirect all Community Oriented Policing Services funding toward investments outside of the criminal-legal system that increase safety and well-being, such as social services, supports, and community-led programs.
 - Rebalance social policy-oriented funding programs and criminal-legal funding programs, including Byrne-JAG, and redesign all performance metrics so that they prioritize non-carceral, social policy-oriented interventions.
 - Prohibit the use of federal funding to expand federal law enforcement engagement in U.S. cities (i.e., OL or ORP).
 - Fund harm reduction services and restore federal funding to syringe exchange programs.
 - Restore access to federal financial aid to students with drug convictions.
- *Department of Education's school safety initiatives (i.e., the move to allow federal funds to support arming teachers).*
 - *Government surveillance and data collection programs and investigative systems that target communities of color (i.e., watch lists, predictive policing, gang databases, and the National Vetting Enterprise).*
 - *DEA to investigate the ineffectiveness of the agency in achieving its stated enforcement objectives, as well as the agency's misuse of federal resources — including funds expended for the purposes of law enforcement activities beyond those statutorily authorized by Congress and the use of DEA personnel and equipment for conducting surveillance, investigative, and law enforcement activities related to the protests against police brutality.*

Oversight

- Conduct robust, frequent oversight of the following:
 - *DOJ programs and policies regarding local law enforcement.*
 - *BOP, ICE, and U.S. Marshals Service detention facilities, and ICE collaboration with local law enforcement.*
 - *FBI background check systems: Address errors in reporting of records by the FBI and lack of initiative to clean up the record system.*





MEDIA/ TELECOMMUNICATIONS

The Biden-Harris administration came into office during a public health crisis that highlighted the racial and economic disparities in broadband access and a disinformation crisis driven by actors in Silicon Valley.

In a major victory, the Federal Communications Commission (FCC) officially adopted the new Emergency Broadband Benefit (EBB) program that was included in COVID-19 relief measures. The new bipartisan infrastructure bill addresses several priorities of the civil rights community with respect to closing the digital divide and provides historic investments in affordable broadband, including converting the EBB into a more long-term Affordable Connectivity Program.

Yet on many core issues of concern, the administration has not taken meaningful action. The administration has yet to address how AI and other data-driven technologies exacerbate racial, economic, and other social inequities. Both the FCC and Federal Trade Commission (FTC) have been operating without a full complement of commissioners since the start of the Biden-Harris administration. Further delay will harm implementation of key civil rights priorities, including completion of the 2018 Media Ownership Quadrennial Review and initiating and completing the 2022 Media Ownership Quadrennial Review in a timely manner; addressing the dysfunctional market and unjust practices in incarcerated communications; and implementing Congress' directive to collect equal employment opportunity data in broadcasting. The FTC's responsibility to protect and enhance competition and consumer protection while establishing civil rights protections to combat discriminatory data practices is particularly important as much of our economy moves online.

Status of Civil and Human Rights Priorities for Media/Telecommunications

Accomplished

- Congress responded to the crisis in affordable communications caused by the COVID-19 crisis by passing the Consolidated Appropriations Act of 2021 and appropriating more than \$3 billion to fund up to a \$50 monthly emergency broadband benefit for households, which became the EBB program.
- As part of the Infrastructure Investment and Jobs Act, Congress established a \$14.2 billion Affordable Connectivity Program, which expanded the eligibility criteria to include more households and transition the EBB program; passed the Digital Equity Act, which dedicates \$2.75 billion in digital inclusion and other grants through 2027; and established a directive for the FCC to adopt anti-discrimination rules in access to broadband internet.

Partially Accomplished

- The president should rapidly appoint an FCC chair, FTC chair, and assistant secretary of commerce for communications and information at the National Telecommunications and Information Agency (NTIA) who are committed to making the protection of civil rights the highest priority.
 - *FCC Chair Jessica Rosenworcel has been confirmed. FTC Chair Lena Khan has been confirmed. NTIA Administrator Alan Davidson has been confirmed. Gigi Sohn has yet to be confirmed as the fifth FCC commissioner, leaving the FCC in a 2-2 deadlock. Similarly, the fifth FTC commissioner, Alvaro Bedoya, is also awaiting confirmation, leaving the FTC deadlocked 2-2 until he is confirmed.*

- The president should appoint staff in the following offices who are committed to making civil rights the highest priority in media and technology policy: White House special assistant to the president for economic and technology policy, White House Office of Science and Technology Policy (OSTP) director and staff.

- *OSTP has hired staff with significant civil rights and technology policy experience, such as Alondra Nelson and Rashida Richardson.*

- The president should empower any acting FCC chair to move immediately on civil rights priorities, including ensuring affordable broadband for all low-income people and affordable communication for incarcerated people and their families.

- *The FCC should continue its rapid implementation of the Affordable Connectivity Program; and once it gains a fifth commissioner, it should rapidly consider additional means to support affordable access to communications for low-income people and move quickly to complete its current rulemaking to reduce the cost and accessibility of communications for incarcerated people and their families.*

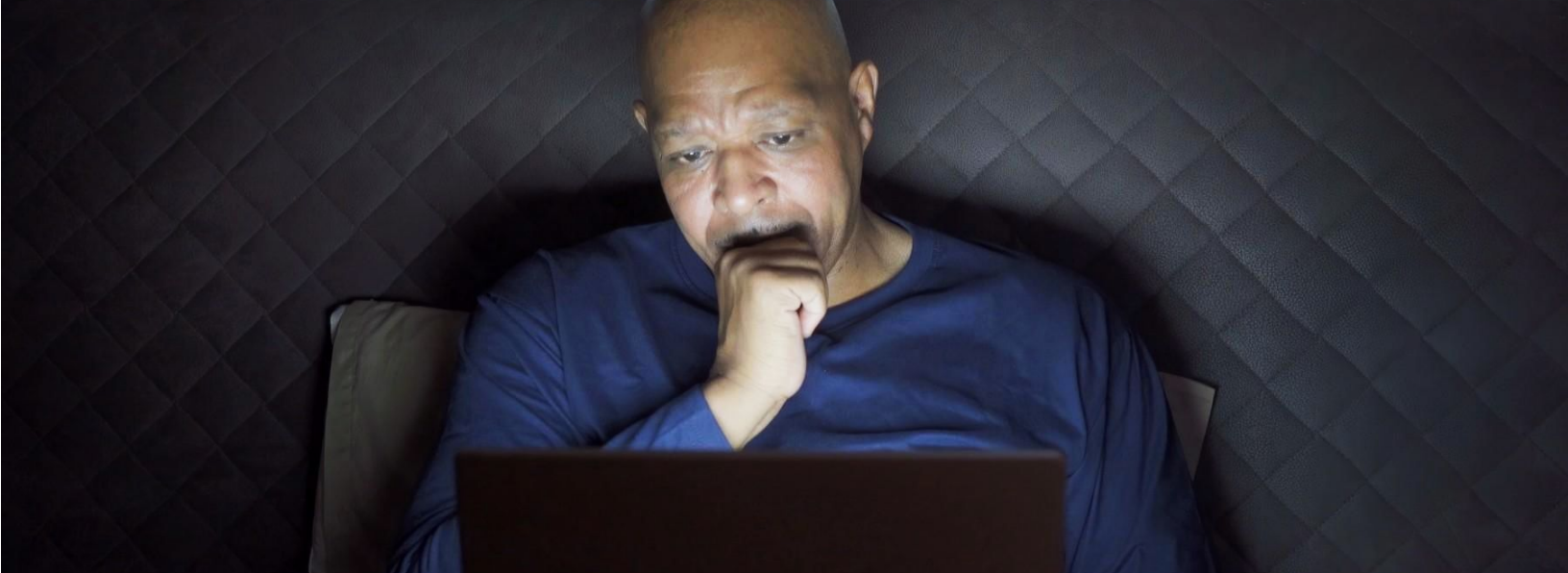
- Congress should do more to investigate the role of online platforms and algorithmic prioritization in electoral disinformation and voter suppression, white supremacy, and violence and discrimination on the basis of protected characteristics with respect to access to credit, housing, employment, education, public accommodations, etc.

- *Committees of jurisdiction in the Senate and House have held hearings examining platform business models and practices and how they contribute to the spread of election disinformation, hate speech, and extremism. These hearings focused on commercial data practices, algorithmic bias and amplification, researcher access to social media data, legal immunity for content moderation, and content moderation practices.*
 - *The Select Committee to Investigate the January 6th Attack on the United States Capitol has issued subpoenas to four social media companies demanding records as part of its investigation.*
 - *Congress should take additional steps to require greater transparency from online platforms on voter suppression content and disinformation, including regular reporting regarding their content moderation, curation, labeling, and ad targeting and delivery efforts.*
- The FTC should allocate additional resources and staff to investigating and enforcing unfair and deceptive practices in the data economy, including but not limited to expanding the Division of Privacy and Identity Protection (DPIP). The FTC should establish an Office of Civil Rights.
- *New FTC leadership under Chair Khan and Commissioner Slaughter, as well as Bureau of Consumer Protection Chief Sam Levine, have clearly prioritized addressing harms from the data economy. It is unclear if DPIP has been expanded.*
 - *The civil rights community has been recommending the creation of an FTC Office of Civil Rights for some time and continues to engage in discussions with FTC leadership on this issue.*

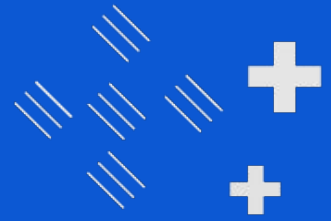
Awaiting Action

- The president should direct the FTC and all agencies with anti-discrimination authority to enforce existing law against online discrimination on the basis of protected characteristics with respect to access to credit, housing, education, employment, public accommodations, etc.; and the FTC and DOJ should jointly establish and co-chair an interagency working group to coordinate this work.
- *The Build Back Better Act would provide \$500 million to the FTC to create and fund a privacy bureau and give it expanded authority against discriminatory and abusive data practices.*
- To ensure our nation's broadcasting industry is diverse, competitive, and accountable to local communities, the FCC must: remedy decades of neglect promoting media ownership diversity by making new pro-diversity proposals; act quickly to complete the 2018 Quadrennial Review; and initiate and complete the 2022 Quadrennial Review by the first quarter of 2024.
- Congress should pass S. 1541, the Martha Wright-Reed Just and Reasonable Communications Act and H.R. 2489, the Martha Wright Prison Phone Justice Act.
- The president should create a cabinet-level position or national director to coordinate the agencies' efforts at broadband digital equity.





- Congress should hold hearings investigating: why the FCC has failed for 20 years to collect and improve broadcast ownership diversity data; the Trump administration's damage to the FCC's Lifeline program, which assists low-income people in gaining access to affordable broadband and telephone service; and its failure to investigate the loss of, or protect communications after, hurricanes in Puerto Rico and other parts of the United States.
- Congress should pass comprehensive federal consumer privacy legislation that prohibits predatory and discriminatory data practices to prevent discrimination on the basis of protected characteristics with respect to access to credit, housing, education, employment, public accommodations, etc. The legislation, at a minimum, should: protect consumers by requiring companies to minimize the data they collect; define permissible and impermissible purposes for collecting, sharing, and using personal data; provide for algorithmic transparency and fairness in automated decisions; and grant a private right of action to consumers to sue companies that violate their privacy rights to ensure these companies are held accountable under the law. Any federal legislation that decreases any protections — particularly civil rights protections — will receive detailed scrutiny or opposition by The Leadership Conference.
- The White House must prioritize a broad government response to the online spread of voting/election disinformation, with the goal of catalyzing improvements well in advance of the 2022 midterm elections. This should include a virtual multi-stakeholder convening to highlight the issues of disinformation and online harms and the development of model policies and best practices for platforms combatting disinformation and online voter suppression.
 - *We have requested that the White House take steps to convene stakeholders to discuss and address the issues outlined above.*
- The FCC chair should immediately establish an Office of Civil Rights.



VOTING RIGHTS

Voting rights in the United States have been under relentless attack in the modern era. The previous administration significantly undermined Americans' faith in state and federal election systems while also failing miserably to ensure equal access to the ballot. The Supreme Court has also substantially undercut voting rights enforcement, first curtailing Section 5 of the Voting Rights Act (VRA) with *Shelby County v. Holder* in 2013 and, more recently, limiting the reach of Section 2 in *Brnovich v. Democratic National Committee*. And just this month, in another VRA case, the Supreme Court allowed racially discriminatory congressional maps to remain in place — an ominous sign for the future of redistricting cases brought under the law. The slate of voting restrictions passed in statehouses across the country following the 2020 election has only made access to the ballot more elusive.

The Biden-Harris administration has so far met this crucial moment with mixed success. Early in the administration, President Biden issued an executive order that requires federal agencies to identify various ways they could promote access to voting. Furthermore, we strongly applaud the appointment of civil rights advocates to the Department of Justice, including Associate Attorney General Vanita Gupta and Assistant Attorney General for Civil Rights Kristen Clarke. We also recognize that the DOJ is strongly enforcing the VRA in particular instances to counter discriminatory voter restrictions, such as its lawsuit in Georgia, and to counter dilution of voting strength in communities of color through the redistricting process, such as its lawsuit in Texas. The Leadership Conference also celebrates the passage of both the John Lewis Voting Rights Advancement Act and the For the People Act in the House of Representatives.

There remains, however, substantial work to be done to meet increasing threats to our democracy. The difficult path forward in the Senate for the John Lewis Voting Rights Advancement Act as well as the Freedom to Vote Act (the updated version of the For the People Act) is a major and fundamental obstacle to the long-term health of our democracy. We continue to urge the administration to place the full force of the presidency behind these bills to ensure that all Americans have the ability to participate in our democracy.

Status of Civil and Human Rights Priorities for Voting Rights

Accomplished

- In its first year, the administration sufficiently funded the Civil Rights Division of the DOJ to ensure continuing enforcement of existing voting laws.
- Nominate and appoint an assistant attorney general of the Civil Rights Division who will vigorously enforce the Voting Rights Act.
 - *The Leadership Conference supported the confirmation of Kristen Clarke to this office.*

Partially Accomplished

- Pass the John Lewis Voting Rights Advancement Act or comparable legislation to restore the protections of the VRA struck down or rendered inoperable by the Supreme Court's *Shelby County* ruling.
 - *The House passed H.R. 4, the John Lewis Voting Rights Advancement Act. S. 4, the Senate version of the bill, failed on a cloture vote. A combined version of this bill, the Freedom to Vote: John R. Lewis Act, also failed on a cloture vote.*
- Pass the For the People Act or similar legislation, which:
 - *Modernizes the voter registration system by creating automatic universal voter registration and online voter registration for all, permanent and portable voter registration election systems within states, and election day registration.*
 - *Ensures that all registration and election systems are inclusive and accessible for people with disabilities and protects against any unwarranted negative consequences for people who are ineligible to register to vote.*
 - *Restores voting rights in federal elections to formerly incarcerated individuals.*
 - *Prevents states from purging voters on account of a failure to vote.*
 - *Requires states to make mail-in voting and in-person early voting available to all voters in federal elections.*
 - *Combats foreign election interference and election hacking and regulates foreign political contributions and disbursements.*
 - *The House passed the For the People Act, but the Senate version failed twice on cloture votes. Language from the Senate version of the For the People Act was included in a compromise bill titled the Freedom to Vote Act. The Freedom to Vote Act failed on a cloture vote. A combined version of this bill, the Freedom to Vote: John R. Lewis Act, also failed on a cloture vote.*

“ We continue to urge the administration to ensure that all Americans have the ability to participate in our democracy.”

- DOJ should proactively enforce the minority language and right to assistance provisions in Sections 4(e), 203, and 208 of the VRA, including by proactively engaging with Section 203-covered jurisdictions once new determinations are made through letters and consultation.
- Congress should pass H.R. 51, the Washington, D.C. Admission Act, to grant statehood to Washington, D.C. and ensure the city's more than 700,000 residents, a majority of whom are people of color, have voting representation in Congress.

- *This legislation has passed the House but is awaiting passage in the Senate.*

- DOJ should aggressively enforce the VRA everywhere necessary and with respect to both state and local voting restrictions and dilution. This would include the general anti-discrimination, bail-in, observer and monitoring, minority language, and right to assistance provisions. DOJ should also vigorously defend the VRA in court.

Awaiting Action

- DOJ should proactively enforce the Americans with Disabilities Act and the Help America Vote Act (HAVA) to ensure accessible polling places and options to cast a private, independent ballot.
- DOJ should proactively enforce the pro-voter provisions of the National Voter Registration Act, including those requiring state agencies to provide voter registration during transactions involving public assistance, disability services, and drivers'



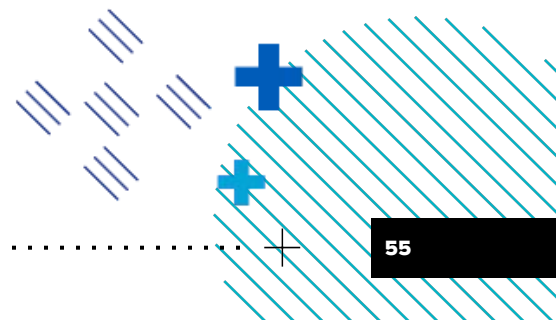
licenses, and those providing safeguards against improper registration purges.

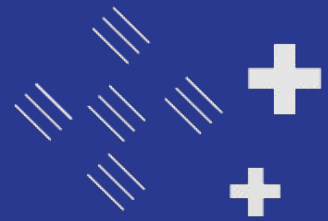
- Congress should pass the Native American Voting Rights Act or comparable legislation that supplies Native American and Alaska Native voters with expanded types of facilities that can be used as voter registration agencies, increases polling site accessibility, and validates tribal identification for voting and registering.

- *This bill was part of the Freedom to Vote: John R. Lewis Act, which failed in the Senate on a cloture vote.*

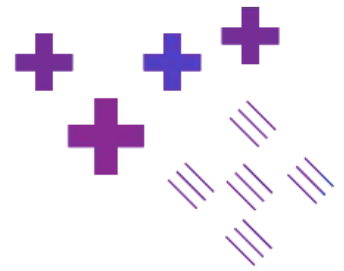
- Lawmakers should oppose legislation that would create barriers to the right to vote, including, but not limited to, photo voter identification bills, bills restricting tribal IDs for voting purposes, bills requiring voters or voter registration applicants to provide documentary proof of citizenship, bills limiting early voting opportunities or proposing widespread precinct closures and/or consolidations, and bills purging qualified voters.

- Congress should pass the Accessible Voting Act or similar legislation to address the specific challenges faced by voters with disabilities by:
 - *Overseeing state efforts to expand voter accessibility.*
 - *Establishing a national voter accessibility website and resource center to provide cultural competency training to election officials and poll workers on how to create a truly accessible polling place and provide a private and independent ballot.*
 - *Protecting the rights of voters who are subject to guardianship.*
 - *Expanding grants available through the Department of Health and Human Services to states to improve and increase accessible voter registration, absentee voting, and in-person voting procedures.*
- The administration should fully fund the Election Assistance Commission and fund states' efforts to modernize election administration through research and development. It should create a permanent funding mechanism for HAVA grants to states for security, accessibility, and compliance with federal election administration guidelines.
- Conduct robust, frequent oversight over the following programs and activities:
 - *Concerns about the accuracy of the data produced by the Census Bureau as it relates to redistricting and apportionment, including the block level citizenship data that the Census Bureau is releasing for the first time.*
 - *Enforcement efforts by DOJ of the VRA, including the general anti-discrimination provisions of Section 2, the bail-in provisions of Section 3(c), language assistance provisions, and the federal observer and election monitoring provisions of Sections 3(a) and 8, in state and local jurisdictions.*
 - *Enforcement efforts by DOJ of the pro-voter provisions of the National Voter Registration Act, including those requiring state agencies to provide voter registration during transactions involving public assistance, disability services, and drivers' licenses, and those providing safeguards against improper purges of registered voters.*
 - *The systematic effort of the use of digital platforms to spread misinformation and suppress the vote of communities of color during the 2016 and 2020 presidential elections and the 2018 midterm elections.*
 - *The U.S. Postal Service operational restrictions that worked to suppress mail-in voting in the 2020 election.*
 - *State election systems, including attempts to create barriers to voting, and state voter registration rolls that were targeted, compromised, or penetrated prior to the 2016 and 2020 presidential elections.*
 - *Inaccessible polling places and voting options for voters with disabilities, including non-ADA compliant polling places and existing non-HAVA compliant vote-by-mail systems, that do not allow for a private and independent ballot to voters with disabilities.*





Endnotes



¹ Learn more about [The Leadership Conference's 11 task forces](#) and co-chairs. *Civilrights.org*.

² Our full analysis of the first session of the 117th Congress is in our annual [Voting Record](#). The legislation mentioned in this report reflects our priorities for the incoming administration and Congress as outlined by our 11 task forces in November 2020.

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