

ANTI-LATINX RACISM

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Introduction

Latinx people are the second-largest racial or ethnic group in the U.S. During the last decade, the Latinx community accounted for about 50 percent of the nation's population growth according to the United States Census Bureau.²

In 1976, the U.S. Congress passed Public Law 94-311, recognizing Americans of Spanish origin or descent as anyone tracing their ancestry “from Mexico, Puerto Rico, Cuba, Central and South America, and other Spanish-speaking countries.”³ Today's Latinx population in the U.S. roughly encompasses these same populations, although “Latinx” commonly refers to a subjective pan-ethnic identity that coexists alongside identification with national origins as well as potentially other racial and nationalist group identities.

One notable aspect of Public Law 94-311 is its recognition that Latinx communities have “made significant contributions to enrich American society and have served their Nation well in time of war and peace.” It also states that significant portions of these communities “suffer from racial, social, economic, and political discrimination.”⁴ Contemporary structural bigotry exists in the same areas identified by Congress decades ago, and permeates U.S. social, economic, and political institutions. Central to the structural bigotry facing the Latinx community is the nation's outdated and inefficient immigration system, which is held hostage by irrational fears, anti-Latinx sentiment, and political grifters, and which hampers the nation's ability to adequately rely on immigrants in a mutually beneficial manner. The nation's immigration system is out of touch with the nation's core values of equality and immigrant incorporation. In addition, it contributes to other forms of structural bigotry in the areas of education, housing, criminal justice, and voting rights, among others. Thus, the sources of structural bigotry are interconnected, suggesting that reforms must be intersectional rather than piece-meal.

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²Luis Noe-Bustamante, Mark Hugo Lopez, and Jens Manuel Krogstad, “U.S. Hispanic Population Surpassed 60 Million in 2019, but Growth Has Slowed,” *Pew Research Center*, updated July 7, 2020, <https://www.pewresearch.org/fact-tank/2020/07/07/u-s-hispanic-population-surpassed-60-million-in-2019-but-growth-has-slowed/>.

³Act of June 16, 1976, Pub. L. No. 94-311, 90 Stat. 688.

⁴Act of June 16, 1976, Pub. L. No. 94-311, 90 Stat. 688.

Part I: Laws, Policies, and Institutions That Perpetuate Anti-Latinx Bigotry

Federal, state, and local entities, both public and private, contribute to the segregation and unequal treatment of the U.S. Latinx population. These forms of bigotry span social, economic, and political spheres that often reinforce one another. This Part focuses on some of the most egregious instances of structural bigotry against Latinx populations in the areas of immigration and immigrant rights, education, housing, policing and mass incarceration, and voting rights and redistricting.

Immigration and Immigrant Rights

Immigration is one of the key issues facing the Latinx community. Prior to the passage of the 1965 Immigration and Naturalization Act, 84 percent of immigrants within the U.S. were born in European countries, Canada, or other North American countries, while about 9 percent were from Mexico and Latin America.⁵ Today, immigrants from Europe, Canada, and other North American countries make up around 13 percent of U.S. immigrants, while 50 percent derive from Mexico and Latin America. Continued immigration is second to new births in driving the Latinx population to 62.1 million in 2020, which makes Latinx the largest minority group within the U.S.⁶ With approximately 19 million foreign-born Latinx currently living within the U.S., the Latinx immigrant community is disproportionately affected by immigration policies and particularly selective deportation.⁷ Some estimates suggest that every 9 out of 10 deportations are members of the Latinx community.⁸

Throughout U.S. history, the U.S. economy has been dependent on Latinx immigrants, which has led to their active recruitment through various temporary guest worker programs and lax border policies. This has also resulted in historical periods during which immigration officials selectively enforced U.S. immigration law in order to keep immigrants working within the country. Such periods have been juxtaposed with periods of anti-Latinx sentiment and xenophobia fueling fear campaigns, social exclusion, mass deportations,⁹ physical violence, and lynchings.¹⁰

The impact of immigration for Latinx communities is widespread. Unwelcoming immigration policies and deportations break up families and prevent people from seeking social services, health care, police protection, and housing opportunities. These policies also hinder educational opportunities for Latinx children and can lead to interpersonal discrimination, fear, anxiety, and undue stress regardless of documentation status.

⁵Abby Budiman et al., “Facts on U.S. Immigrants, 2018,” *Pew Research Center*, August 20, 2020, <https://www.pewresearch.org/hispanic/2020/08/20/facts-on-u-s-immigrants/>.

⁶See Jens Manuel Krogstad and Luis Noe-Bustamante, “Key Facts About U.S. Latinos for National Hispanic Heritage Month,” *Pew Research Center*, updated September 9, 2021, <https://www.pewresearch.org/fact-tank/2021/09/09/key-facts-about-u-s-latinos-for-national-hispanic-heritage-month/>.

⁷Adam Goodman, *The Deportation Machine: America’s Long History of Expelling Immigrants* (Princeton: Princeton University Press, 2020), 6.

⁸Goodman, *The Deportation Machine*, 6.

⁹Goodman, *The Deportation Machine*, 6–7.

¹⁰Richard Delgado, “The Law of the Noose: A History of Latino Lynching,” *Harvard Civil Rights-Civil Liberties Law Review* 44, no. 2 (Summer 2009): 298–300.

Various institutions, laws, and processes contribute to structural bigotry toward Latinx communities at points of entry and within the U.S. Latinx immigrants are subject to discriminatory and conflicting implementation of immigration laws with the inhumane treatment of immigrants at the southern U.S. border. This discrimination often takes the form of inhumane treatment of immigrants at points of entry, detention, and during legal processes. There is a failure among U.S. policy-makers and the public to recognize privileges that past white European groups had in earlier waves of immigration. The Latinx community as a whole is also subject to racial profiling by federal immigration authorities, such as Immigration and Customs Enforcement.

Structural bigotry within U.S. immigration processes includes immigrant quotas based on national origin, static immigration quotas that are unlinked to economic growth, and the prevention of immigrant spouses and dependents from working while living within the U.S. Latinx communities are also adversely affected by the backlog of immigrants on the U.S. State Department's waitlist for family- and employer-related immigrant visas. Latinx immigrants are also discriminated against by the lack of due process during immigration hearings and throughout the deportation process, including the lack of legal representation.

Structural bigotries also plague the enforcement of U.S. immigration policy. The ability of the U.S. president to selectively enforce immigration laws including banning immigrants from specific countries without due process often results in harsher treatment of Latinx immigrants. Latinx immigrants are also unduly burdened by the detention of undocumented persons by state and local law enforcement agencies that then deliver individuals into federal custody, even though local law enforcement is not authorized under state and local laws to detain such persons. Discrimination also occurs from the sharing of information about immigrants and undocumented persons by state and local law enforcement agencies and various public agencies with federal immigration agencies, despite the fact that such information-sharing is not authorized under state and local laws.

Education

Government and private actors have denied—and continue to deny—Latinx children access to education and have segregated them into low-performing schools on various bases, including national origin, skin color, language, immigration status, and income.¹¹

Public schools are highly segregated by race and ethnicity. In the last five decades, America's public school system witnessed dramatic shifts in its student body composition: its proportion of white students fell sharply from 79.1 percent in 1970 to 47.1 percent in 2018, while the Latinx student

¹¹See, e.g., *New York v. Utica City School District*, 177 F. Supp. 3d 739, 744–45 (N.D.N.Y. 2016) (describing school district's policy that funneled limited English proficient students into separate educational program and denied them opportunities given to non-immigrant and English proficient students); *Plyler v. Doe*, 457 U.S. 202, 205 (1982) (challenging Texas policies that withheld school funding for undocumented children and authorized school districts to deny admission to such students); *Aspira of New York, Inc. v. Board of Education of City of New York*, 423 F. Supp. 647, 648–49 (1976) (finding New York City Board of Education in contempt of court order requiring provision of bilingual education); *Serna v. Portales Municipal School*, 499 F.2d 1147, 1153–54 (10th Cir. 1974) (holding that school district's curriculum discriminated against limited English proficient students); *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 11–16 (1973) (challenging school funding policy that caused lower-income, predominantly Mexican-American communities to receive less funding); *Westminster School District of Orange County v. Mendez*, 161 F.2d 774, 776 (9th Cir. 1947) (describing school district policy segregating Latinx students).

population soared from 5.1 percent to 27.1 percent.¹² Many Latinx students attend schools where they constitute 55 percent of the student population¹³ Further, one out of every nine Latinx student attends an intensely segregated school.¹⁴ Intensely segregated schools are also six times as likely to be predominantly high poverty schools.¹⁵ Latinx and other students of color in intensely segregated schools “are more than four times as likely to be in predominantly poor schools than their [white] peers.”¹⁶ Notably, high poverty schools suffer worse educational outcomes.¹⁷

The lack of language access poses another barrier to educational access and success.¹⁸ “Roughly 3.8 million students in U.S. schools are native Spanish-speakers who are not proficient in English. They make up the bulk of the approximately 5 million students nationwide identified as English language learners . . . the lowest-performing [group of students], as judged by achievement tests and graduation rates.”¹⁹

Numerous problematic laws, policies, and institutions prevent Latinx students from meaningfully accessing a high-quality education. For example, state and local governments, including local school boards, will improperly require families to produce documentation of citizenship or immigration status before enrolling their children in public schools, and divert immigrant children, and those with Limited English Proficiency (LEP), into alternative programs that do not provide a pathway to a high school diploma and erect barriers to their enrollment in mainstream educational programs. Further, Latinx and other children of color are significantly underrepresented in magnet schools and gifted and talented programs, in large part due to high stakes testing requirements to gain admission.

¹²Gary Orfield and Danielle Jarvie, *Black Segregation Matters School Resegregation and Black Educational Opportunity* (Los Angeles: The Civil Rights Project/Proyecto Derechos Civiles, 2020), 19, <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/black-segregation-matters-school-resegregation-and-black-educational-opportunity/BLACK-SEGREGATION-MATTERS-final-121820.pdf>.

¹³Gary Orfield and Chungmei Lee, *Historic Reversals, Accelerating Resegregation, and the Need for New Integration Strategies* (Los Angeles: The Civil Rights Project/Proyecto Derechos Civiles, 2007), 24, <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/historic-reversals-accelerating-resegregation-and-the-need-for-new-integration-strategies-1/orfield-historic-reversals-accelerating.pdf>.

¹⁴See Erica Frankenberg, Chungmei Lee, and Gary Orfield, *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* (Cambridge: The Civil Rights Project, 2003), 5, <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/a-multiracial-society-with-segregated-schools-are-we-losing-the-dream/frankenberg-multiracial-society-losing-the-dream.pdf>; see also Gary Orfield and Chungmei Lee, *Why Segregation Matters: Poverty and Educational Inequality* (Cambridge: The Civil Rights Project, 2005), 13, <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/why-segregation-matters-poverty-and-educational-inequality/orfield-why-segregation-matters-2005.pdf> (“[C]lose to a million Latino students attend schools that are almost all [students of color] compared to less than ten thousand white students.”).

¹⁵Frankenberg, Lee, and Orfield, *A Multiracial Society with Segregated Schools*, 35; see also Orfield and Lee, *Historic Reversals*, 20 (“[E]conomic polarization is now evident for both white and nonwhite children, but concentrated poverty hits [mostly] nonwhite schools.”).

¹⁶See Orfield and Lee, *Historic Reversals*, 21.

¹⁷Orfield and Lee, *Historic Reversals*, 5, 18 (“On average, segregated [nonwhite] schools are inferior in terms of the quality of their teachers, the character of the curriculum, the level of competition, average test scores, and graduation rates.”).

¹⁸Sutherland & Willis Esqueda Contribution.

¹⁹Kristin Lam and Erin Richards, “More US Schools Teach in English and Spanish, but Not Enough to Help Latino Kids,” *USA Today*, January 6, 2020, <https://www.usatoday.com/in-depth/news/education/2020/01/06/english-language-learners-benefit-from-dual-language-immersion-bilingual-education/4058632002/>; Conor Williams, *A New Federal Equity Agenda for Dual Language Learners and English Learners* (The Century Foundation, 2021), https://production-tcf.imgix.net/app/uploads/2021/11/19184110/williams_federal-el_final1.pdf.

Public schools are often funded by local property taxes, which means that children who live in lower-income neighborhoods attend schools that are under-resourced in comparison to those in wealthier districts; a higher proportion of Latinx children live in the lower-income areas. The United States Supreme Court has held that this school financing practice does not violate equal protection.²⁰

Finally, schools disproportionately discipline and exclude Black and Latinx children, including by referring them into the criminal justice system.²¹ Additionally, schools that implement “zero tolerance” policies for disciplinary infractions rely on police and school resource officers to discipline students, resulting in a disproportionate number of Latinx students being suspended and excluded from school, and arrested and drawn into the criminal justice system.

Housing

Latinx communities suffer from a lack of affordable housing and living in highly segregated neighborhoods. In 2020, the median Latinx household income was \$55,321 with 50 percent of Latinx households owning a home relative to a median white non-Hispanic household income of \$74,912 with 74.5 percent of white non-Hispanic households owning a home.²² In addition to income disparities, government policies and private-sector banking practices obstruct Latinx home ownership. Subsequently, a greater number of Latinx (41 percent) live in high poverty census tracts relative to white non-Hispanics (16 percent).²³ Latinx are also over-represented in experiencing homelessness, making up 22 percent of the homeless population in the U.S. but comprising only 18 percent of the total U.S. population.²⁴

A Brookings Institution report using the segregation index shows that unfair housing related policies and practices also push Latinx households into segregated neighborhoods. Using the segregation (dissimilarity) index, Latinx and white segregation in the U.S. ranges from a value of 31 (Jacksonville, Florida) to 61 (Los Angeles, California) with values indicating the percentage of Latinx that would need to relocate to be equally distributed within a neighborhood of white non-Hispanics. Despite increases in the Latinx population as a whole, white segregated neighborhoods continue to remain mostly white. And whites are moving away from neighborhoods that are predominantly Latinx.²⁵

²⁰San Antonio Independent School District, 411 U.S. at 5–6.

²¹Grace Chen, “Students of Color Disproportionately Disciplined in Schools,” *School Discipline Policies* (blog), *Public School Review*, August 13, 2019, <https://www.publicschoolreview.com/blog/students-of-color-disproportionately-disciplined-in-schools>; Lauren Camera, “School Suspension Data Shows Glaring Disparities in Discipline by Race,” *U.S. News & World Report*, October 13, 2020, <https://www.usnews.com/news/education-news/articles/2020-10-13/school-suspension-data-shows-glaring-disparities-in-discipline-by-race>.

²²Emily A. Shrider et al., *Income and Poverty in the United States: 2020* (Washington, DC: U.S. Government Publishing Office, 2021), 3, <https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-273.pdf>; *Quarterly Residential Vacancies and Homeownership, Fourth Quarter 2021* (Washington, DC: U.S. Census Bureau, 2022), 9, <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>.

²³See *Quarterly Residential Vacancies and Homeownership*, 9.

²⁴Meghan Henry et al., *The 2019 Annual Homeless Assessment Report (AHAR) to Congress* (Washington, DC: The U.S. Department of Housing and Urban Development, 2019), 1, <https://www.huduser.gov/portal/sites/default/files/pdf/2019-AHAR-Part-1.pdf>.

²⁵William H. Frey, “Neighborhood Segregation Persists for Black, Latino or Hispanic, and Asian Americans,” *Brookings Institution*, April 6, 2021, <https://www.brookings.edu/research/neighborhood-segregation-persists-for-black-latino-or-hispanic-and-asian-americans/>.

The lack of affordable housing and segregated neighborhoods create numerous burdens on Latinx communities. Housing problems can drive Latinx households away from key economic centers, thus limiting employment options. The costs of housing along with this push away from economic opportunities contributes to income inequality and poverty. Housing costs and segregation also relate to adverse health outcomes for Latinx communities; families are forced to choose between housing and health, and segregated areas often are located near underperforming health care services and environmental waste.²⁶ Latinx-majority neighborhoods are also more likely to have poor access to healthy food choices contributing to poor nutrition and obesity.²⁷ The lack of affordable housing also means Latinx households are more likely to live in high crime areas with higher levels of contact with law enforcement officials, which can erode beliefs relating to efficacy and trust in other governing institutions.²⁸ Finally, housing affordability is directly related to educational inequalities and the lack of social mobility among the Latinx community as Latinx households are segregated from high performing, well-funded educational institutions.²⁹

Various laws, policies, and institutional norms by both public and private actors preclude home ownership and contribute to the segregation of Latinx households, most notably the low quantity of affordable housing in the U.S. and the lack of government programs to encourage homeownership.³⁰ In addition, the construction and location of interstate highways and other infrastructure can segregate Latinx communities from economic, health, educational, and other community resources. Lack of citizenship and first-generation status also discourage Latinx people from seeking what public housing assistance is available.

In private rental markets, discrimination against Latinx people takes various forms, including landlords failing to return calls, show properties, and imposing occupancy limits above the legal threshold. Local ordinances that attempt to have private rental actors enforce U.S. immigration law, as well as crime-free housing ordinances, push Latinx and other people out of communities.

Unfair banking practices such as “redlining,” i.e., denying loans based on historic neighborhood boundaries drawn by race, national origin, and ethnicity, have historically discouraged Latinx home ownership.³¹ So has a lack of credit history, particularly among Latinx lacking citizenship and first-generation Latinx, which results in higher mortgage premiums and exclusion from better quality

²⁶See D. Phuong Do et al., “Hispanic Segregation and Poor Health: It’s Not Just Black and White,” *American Journal of Epidemiology* 186, no. 8 (October 15, 2017): 990, 992, <https://academic.oup.com/aje/article/186/8/990/3852290>.

²⁷Zulema Valdez et al., “Community Perspectives on Access to and Availability of Healthy Food in Rural, Low-Resource, Latino Communities,” *Preventing Chronic Disease* 13, no. 170 (December 2016): 1, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5201142/>.

²⁸Andrea Silva et al., “Perceived Police Performance, Racial Experiences, and Trust in Local Government,” *Politics, Groups, and Identities*. Published ahead of print, October 28, 2020: 1–24, <https://doi.org/10.1080/21565503.2020.1824122>.

²⁹See Education section above.

³⁰*The State of, and Barriers to, Latino Homeownership* (Washington, DC: UnidosUS, 2019): 2–5, https://www.unidosus.org/wp-content/uploads/2021/07/unidosus_statement_stateminorityhomeownership.pdf.

³¹*The State of, and Barriers to, Latino Homeownership*, 3.

neighborhoods.³² Indeed, Latinx are prey to mortgage steering by realtors to mortgage companies that push buyers into adverse loans or loans they cannot afford.³³ Geographic steering by rental and real estate agents pushes Latinx households into low-income or segregated neighborhoods. And the deportation of the Latinx head of households can lead to housing foreclosure.

Policing and Mass Incarceration

Law enforcement agencies disproportionately police Latinx individuals.³⁴ Similarly, the criminal penal system incarcerates Latinx people at a rate 1.3 times higher than that of non-Latinx white people.³⁵ “Latinx men born in 2001 have a 1 in 6 chance of being incarcerated in their lifetime, while white men have a 1 in 17 chance. Latinx women born in 2001 have a 1 in 45 chance of incarceration, while white women have a 1 in 111 chance.” Today, Latinx people account for “19 percent of the United States’ incarcerated population.”³⁶ These high numbers are partly explained by the war on drugs, which has disproportionately targeted the Latinx community; “[a]bout 50 percent of federal drug cases are against Latinx people, even though they make up only about 17 percent of the U.S. population.”³⁷ Indeed, this country’s addiction to over-policing and locking up Latinx youth and adults prevents the Latinx community from exercising its full potential power. White supremacist culture is baked into the origins and history of law enforcement in this country and drives and still legitimizes violence—sometimes fatal—against people of color. Meanwhile, police misconduct goes largely unchecked, as government entities consistently fail to hold police accountable for harm wielded against Latinx and other people of color.

Various institutions, policies, and norms drive these outcomes. Law enforcement agencies engage in racial profiling, i.e., police disproportionately stop Latinx individuals, and set up more traffic stops in majority Latinx communities as compared to white neighborhoods. In many urban areas across the country, law enforcement agencies have succeeded in branding entire communities as being homes to gangs, thus justifying the compilation of highly inaccurate “gang databases,” increased and harsher policing, and profiling of youth by their attire and language; these practices ultimately lead to hugely disproportional incarceration rates. The “criminalization of poverty” further drives the mass incarceration of Latinx persons who are unable to pay various court-imposed fines, fees, and costs, often used by local government to increase revenues.

³²See *The State of, and Barriers to, Latino Homeownership*, 3–4.

³³See *The State of, and Barriers to, Latino Homeownership*, 3.

³⁴See, e.g., “Stop-And-Frisk Data,” *New York Civil Liberties Union*, accessed March 3, 2022, <https://www.nyclu.org/en/stop-and-frisk-data> (finding that “Black and Latinx communities continue to be the overwhelming target” in stop-and-frisks); Ben Poston and Cindy Chang, “LAPD Searches Blacks and Latinos More. But They’re Less Likely to Have Contraband Than Whites,” *Los Angeles Times*, October 8, 2019, <https://www.latimes.com/local/lanow/la-me-lapd-searches-20190605-story.html> (finding that Black and Latinx individuals are more likely to be subject to searches during traffic stops); Christopher Connelly, “Report: Police in Texas Most Likely to Search Latinos, but Most Often Find Contraband on Whites,” *Houston Public Media*, June 3, 2021, <https://www.houstonpublicmedia.org/articles/news/criminal-justice/2021/06/03/399704/report-police-in-texas-most-likely-to-search-latinos-but-most-often-find-contraband-on-whites/> (noting that Latinx individuals searched “more than any other racial or ethnic group”).

³⁵Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, DC: The Sentencing Project, 2021): 6, <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

³⁶Hernandez, “We Need More Data.”

³⁷Colin Hernandez, “We Need More Data.”

The failure to discipline, terminate, and criminally prosecute law enforcement for discriminatory policing and even acts of violence against community members adversely affects the Latinx people. There are many factors that contribute to this problem, including a lack of civilian oversight and discipline of police, as well as the lack of transparency and public access to records of police misconduct; the doctrine of qualified immunity—developed in the federal courts—which makes it nearly impossible to find officers liable for civil rights violations; the unwillingness or reluctance of prosecutors to fully prosecute police accused of wrongdoing and violence, given the co-dependent relationship between prosecuting offices and law enforcement agencies; and the power of police unions to successfully thwart efforts to create more transparency and civilian oversight of police discipline. Further, the militarization of police forces, i.e., the practice of the federal government providing military grade weapons and vehicles to state and local law enforcement agencies, turns local police agencies into occupying forces in the community.

Once entangled in the criminal legal system, Latinx people confront insurmountable obstacles, many of them government-generated, to reentry and reintegration into society. These barriers include parole systems that readily re-incarcerate for technical violations, and laws and regulations that keep individuals with criminal records out of public housing. Private and public employers are often unwilling to hire Latinx individuals with a record; relatedly, there is a lack of access to procedures to expunge or seal criminal records.

Voting Rights and Redistricting

The current wave of state voter suppression laws—combined with a federal bench and Supreme Court that is hostile to claims of voter suppression and gerrymandering—is a structural impediment directly aimed at preventing Latinx communities from leveraging their increasing numbers and translating that into actual power, i.e., by electing officials who will provide true representation of their interests.

Examples of laws and policies that drive this result include the U.S. Supreme Court’s 2013 decision in *Shelby County v. Holder*,³⁸ which effectively struck down the Voting Rights Act’s Section 5 pre-clearance requirement protections, thus making it much more difficult to protect the rights of racial and language minority groups in the U.S. In 2019, the U.S. Supreme Court’s decision in *Rucho v. Common Cause*³⁹ held that federal courts have no role in adjudicating claims of partisan gerrymandering of electoral districts, thus foreclosing federal review of such claims. These rulings foreclose the federal courts as an avenue of relief for voter suppression and partisan gerrymandering, meaning that Latinx communities have fewer opportunities to challenge and fight back against these attempts at voter dilution.

³⁸*Shelby County v. Holder*, 570 U.S. 529, 537, 557 (2013).

³⁹*Rucho v. Common Cause*, 139 S. Ct. 2484, 2508 (2019).

Elected officials continue to spread baseless claims of widespread voter fraud during the 2016 presidential election and beyond and are using the “Big Lie” as justification for enacting voter suppression laws. As of July 2021, 18 states had passed almost three dozen laws making it harder for Americans to vote.⁴⁰ Many of those states would have been required to seek federal permission had the Voting Rights Act stood. Moreover, one-party control of redistricting in certain states, including some that are no longer required to obtain pre-court clearance of maps, increases the likelihood of dilution of Latinx representation, even in states where the Latinx population has grown over the last ten years.

Part II: Mitigating Latinx Bigotry by Changing Federal, State, and Local Laws, Policies, and Institutions

Immigration and Immigrant Rights

The U.S. must reform its immigration system to be more responsive to the nation’s changing needs, by implementing the following reforms to create humane refugee, asylum, and immigrant systems consistent with the nation’s idealized commitment to welcoming immigrant communities and ensure fair and quick due process.

The U.S. must permanently end family detention for parents and children who arrive at our borders, stop family separation allowing families to stay together throughout the immigration process. These policies must be enacted into federal law rather than reside on the whims of the Executive Branch. Federal law must also ensure full due process rights are provided in an equitable manner and create a quick and efficient pathway to citizenship for immigrants currently residing in the U.S. The U.S. should remove three- and ten-year bans that prevent undocumented individuals from re-entering the U.S. and provide more legal avenues for immigrants to remain in the country. This includes the removal of national origin quotas.

The U.S. economy and immigrants would both benefit from expedited processes to connect immigrants to needed economic centers, the expansion of seasonal and agricultural work visas, laws to ensure immigrants receive fair wages and safe working conditions, and to allow family members of immigrants to work and earn a living within the U.S.

U.S. immigration agencies should embrace humanitarian principles and create a more cooperative rather than adversarial relationship with immigrants. Therefore, we call for the abolition or reform of ICE, and the ending of local law enforcement involvement in immigration enforcement.

Finally, permanent protections must be provided for immigrants who arrived as children and people with temporary protected status. Federal and state governments should ensure affordable health care and educational opportunities to all families regardless of immigration status.

⁴⁰“Voting Laws Roundup: July 2021,” *Brennan Center for Justice*, July 22, 2021, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021>; Benjamin Swasey, “Map: See Which States Have Restricted Voter Access, and Which States Have Expanded It,” *NPR*, updated September 7, 2021, <https://www.npr.org/2021/08/13/1026588142/map-see-which-states-have-restricted-voter-access-and-which-states-have-expanded>.

Education

To ensure equitable access to education, we must undertake a number of reforms, including enacting legislation that establishes equitable state funding of schools. School funding must not depend on the income levels and property values of the individual school districts in which children reside. State and local governments must conduct regular audits of school district policies and practices regarding admission requirements for children and alternative programs for English language learners. Schools must eliminate reliance on high-stakes tests as the sole means for children to gain admission to gifted and talented programs and, instead, ensure multiple pathways to admission to such programs. Finally, we must remove police from schools. If that is not possible, we must significantly limit the powers of police in schools, i.e., remove them from any role in school discipline.

Housing

Housing policies, practices, and laws must be implemented to provide Latinx people with better gateways to the rental of affordable housing and home ownership, particularly in less segregated areas. On the federal level, we must implement additional federal programs to develop new low-income housing in less segregated neighborhoods. In addition, we must reverse Trump-era housing policies and re-implement key protections, such as the Fair Housing Act's Discriminatory Effects Standard, and eliminate section 212(a)(4) of the Immigration and Nationality Act, which deems an individual inadmissible for purposes of permanent residency if that person is deemed a "public charge,"—i.e., they sought public assistance for housing. Federal and state governments should increase resources and lending programs, including cash and credit assistance/guarantee programs, for minority homeownership, and provide better community education about these programs.

On the local level, government bodies must revise local zoning ordinances to increase housing production, increase density, speed up permitting processes, and promote more inclusionary land-use; there also must be greater transparency regarding local zoning ordinances and how local officials determine the development of new housing. Local governments must also plan to increase public transportation from segregated neighborhoods to less impoverished economic, health, and educational centers.

And all levels of government must educate private sector landlords and real-estate agents about anti-discrimination laws and fines for violations of these laws, and conduct regular audits and testing to ensure these actors not violating such laws. State licensing protocols could mandate implicit bias training for real-estate agents and private sector rental agents.

Policing and Mass Incarceration

To end the over-policing and mass incarceration of Latinx people, we must implement policies and practices that fundamentally transform policing and end mass incarceration. A key strategy is to defund police and divest them of authority to intervene in situations in which civilians are better trained to serve the community, and without violent outcomes. We must require law enforcement agencies to provide demographic data on stops and other encounters with the public as a requirement of federal and state funding, while also withholding funding from agencies that show a pattern and practice of racial profiling. Oversight and discipline of police must be placed in civilian hands to

increase accountability, including removing dangerous officers from duty, and there must be greater transparency regarding police disciplinary records, particularly with respect to police violence against residents. The elimination of numerous low-level offenses, as well as the elimination of fees, fines, and court costs, would reduce the unnecessary incarceration of non-violent individuals, as would establishing more alternatives to incarceration.

For those Latinx individuals who serve time in carceral settings, we must overhaul the parole system and eliminate the practice of incarcerating individuals for technical parole violations, and instead re-enfranchise individuals returning to the community from carceral settings.

Voting Rights and Redistricting

Federal and state legislation is critically needed to protect the voting rights of the Latinx community, including laws that safeguard against and invalidate voter suppression practices. This includes enacting state legislation and constitutional amendments to combat partisan gerrymandering, as well as state laws that serve to enfranchise Latinx and other voters of color, including early voting, no-excuse absentee voting, same-day voter registration, automatic registration, and voting rights restoration.

Part III: Mitigating Latinx Bigotry by Changing Narratives

False and pejorative narratives about the Latinx community help to sustain structural bigotry. One of the most enduring is that Latinx individuals are criminals, in particular those who are immigrating into the country. Numerous institutions and public figures perpetuate a narrative and imagery of Latinos as gangbangers, drug kingpins, and traffickers. This includes the past president labeling Latinx immigrants as “bad hombres,” “animals,” and “drug dealers, criminals, rapists,” who come from “shithole countries.”⁴¹ Indeed, one Latinx woman who participated in an Antibigotry Convening conversation group described encounters with U.S. students who related her national origins to stereotypes of cocaine trafficking.⁴² Under this narrative, law enforcement agencies and federal immigration authorities are justified in stopping, searching, arresting, detaining, and incarcerating such people, separating them from family members, and deporting them with little or no due process.

Another popular narrative often used to justify anti-immigration policies is that of the zero-sum game: Latinx immigrants come to the U.S. to steal jobs and economic opportunities from the people who belong here; they apply for public assistance that is paid for with U.S. tax dollars; and they send their children to our schools, also paid for with our tax dollars. This narrative of blaming the foreigner for “stealing” diverts the focus away from the largely successful efforts of the white privileged class to protect their wealth and power, as exemplified by a popular cartoon.⁴³ Despite these narratives, several members of the Latinx community describe their experiences with employers who exploit their labor

⁴¹Stephanie L. Canizales and Jody Agius Vallejo, “Latinos & Racism in the Trump Era,” *Daedalus* 150, no. 2 (Spring 2021): 151, https://www.amacad.org/sites/default/files/publication/downloads/Daedalus_Sp21_10_Canizales-%26-Vallejo.pdf.

⁴²Antibigotry Convening Conversation Group, February 9, 2022 (transcript on file with LatinoJustice PRLDEF).

⁴³See u/barsas161, “thE ImMigRAnTs Are ComInG fOR YoUr JObs!,” Reddit photo, December 28, 2019, https://www.reddit.com/r/PoliticalHumor/comments/egnxxzj/the_immigrants_are_coming_for_your_jobs/.

by paying them lower wages, working them longer hours, and exposing them to hazardous working conditions.⁴⁴

Latinx people are subject to an “othering” narrative whereby they are labeled different and inferior—and therefore not entitled to the same opportunities and protections as others—because they are of a different ethnicity, speak a different language, or are undocumented. Afro-Latinx people face additional types of “othering” because they may be racialized as Black. These various types of “othering” are evident in speaking to members of the Latinx community about their housing situations where their race, ethnicity, or documentation status is used to justify bigoted actions by landlords and property owners.

Moreover, bigoted narratives portray Latinx people as unwilling or unable to assimilate and suggest that there is a need for Latinx to assimilate as other immigrant groups have done (although such assimilation is a myth). Other assimilation narratives suggest that Latinx people lack American values and work ethic and that other “good” immigrants—those few who work hard, stay out of trouble, and keep their head down—are worthy.

Attempts to offer factual evidence to refute many of these baseless narratives are often unsuccessful. For example, we can offer evidence that demonstrates that the vast majority of Latinx individuals who immigrate into the U.S. are not bad actors but instead are fleeing violence, corruption, poverty, and climate disasters to build a better life for their families. Similarly, we can point to data that shows that immigration actually fuels the U.S. economy, making the “pie” bigger for all of us, and even demonstrate how our inability to enact practical, sustainable immigration policies will dampen economic growth and hurt us in the long run.⁴⁵ But it is often easier to change existing institutions and power structures than it is to try to change hearts and minds, even when we have the evidence to refute the narrative.

Perhaps one approach, but one that is also more labor intensive, is to offer new, alternative narratives through social contact and interpersonal relationships, and attempt to change social norms on this more intimate level. This includes tying narratives of Latinx to those of other groups so that individuals can see commonalities. Advocacy between peers, family members, friends, and coworkers whereby trusted messengers send new messages and tell new stories may be one of the most fruitful strategies that we can pursue.

⁴⁴Antibigotry Convening Conversation Group, February 9, 2022 (transcript on file with LatinoJustice PRLDEF).

⁴⁵Damien Cave and Christopher F. Schuetze, “Contending with the Pandemic, Wealthy Nations Wage Global Battle for Migrants,” *New York Times*, November 23, 2021, <https://www.nytimes.com/2021/11/23/world/asia/immigration-pandemic-labor-shortages.html>.