

A Civil Rights Agenda for the Next Quarter Century



Discrimination in the 21st Century:  
How Civil Rights Policies  
Can Best Embrace the Growing  
Mixed-Race Population

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## About the Series

### *A Civil Rights Agenda for the Next Quarter Century*

The Civil Rights Project was founded in 1996 at Harvard University, during a period of increasingly conservative courts and political movements that were limiting, and sometimes reversing, major civil rights reforms. In 2007 the Project moved to UCLA. Its goal was—and still is—to bring together researchers, lawyers, civil rights advocates and governmental and educational leaders to create a new generation of civil rights research and communicate what is learned to those who could use it to address the problems of inequality and discrimination. Created a generation after the civil rights revolution of the 1960s, CRP’s vision was to produce new understandings of challenges and research-based evidence on solutions. The Project has always maintained a strong, central focus on equal education and racial change.

We are celebrating our first quarter century by taking a serious look forward—not at the history of the issues, not at the debates over older policies, not at celebrating prior victories but at the needs of the next quarter century. Since the work of civil rights advocates and leaders of color in recent decades has often been about defending threatened, existing rights, we need innovative thinking to address the challenges facing our rapidly changing society. Political leaders often see policy in short two- and four-year election cycles but we decided to look at the upcoming generation. Because researchers are uniquely qualified to think systematically, this series is an attempt to harness the skills of several disciplines, to think deeply about how our society has changed since the civil rights revolution and what the implications are for the future of racial justice.

This effort includes two very large sets of newly commissioned work. This paper is the third in the series on the potential for social change and equity policies in the nation. The second set of studies focuses on California, a vast state whose astonishing diversity foretells the future of the U.S.

and whose profound inequality warns that there is much work to be done. All these studies will initially be issued as working papers. They will be brought together in statewide conferences and in the U.S. Capitol and, eventually, as two major books, which we hope will help light the way in the coming decades. At each of the major events, scholars will exchange ideas and address questions from each other, from leaders and from the public.

The Civil Rights Project, like the country, is in a period of transition, identifying leadership for its next chapter. We are fortunate to have collaborated with a remarkable network of important scholars across the U.S., who contributed to our work in the last quarter century and continue to do so in this new work. We are also inspired by the nation's many young people who understand that our future depends on overcoming division. They are committed to constructing new paths to racial justice. We hope these studies open avenues for this critical work, stimulate future scholars and lawyers, and inform policymaking in a society with the unlimited potential of diversity, if it can only figure out how to achieve genuine equality.



Gary Orfield



Patricia Gándara

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## Foreword

America has always been a society where race matters and race divides, but the nature of race in the U.S. is becoming much more complex. U.S. society now includes millions of people of mixed-race background who define themselves as multiracial, an option that was not even included in the Census until 2000.

Although segregation and caste-like social relations have been basic structures of American society, there have always been some mixed-race people who are openly acknowledged, and many others living as if they are of one race, often the product of covert relationships or rapes by slave owners. Given the realities of racial discrimination, the vagaries of skin color markers, and the ability to change identity in a vast continental society with massive migration, some people have adopted another racial identity and assimilated into a different group. The basic tradition, however, was to assign people to one category, in a society where racial and ethnic identities have had major consequences. Under the “drop of blood” racism in the South, any Black ancestry resulted in mixed-race people being classified as Black no matter how minor the percent of Black ancestors was. Laws in many states, which forbade interracial marriage and made such marriages a crime until the 1960s, reflected the intense stigma attached to “race mixing.”

With the civil rights revolution of the 1950s and 60s, the striking down of the marriage bans, changes in racial attitudes about personal relationships and the arrival of huge groups of immigrants from Latin American and Asian societies with less extreme racial barriers, the number of interracial relationships and children of those relationships grew substantially. There were massive migrations to the U.S. of largely *mestizo* mixed-race populations from Mexico and Central America in the second half of the twentieth century, adding to the complexity. By 2000 the Census and other data systems

permitted people to identify as more than one race and/or ethnic background. There will be further changes in the 2030 Census.

America is changing. It is obvious in the mass media, culture, politics, and marketing. More people have mixed racial backgrounds. People are much more willing to claim mixed-race status as the social barriers decline and as genetic testing becomes widespread. Some major immigrant groups have far higher levels of mixed-race heritage and higher intermarriage rates in the U.S. than whites and Blacks.

Government has played a major role in defining racial groups and has changed its definitions in recent decades, particularly in the Census, and it is considering further changes. For much of history the racial data were presented as if race was a clear boundary and a singular identity, focusing attention largely on whites and Blacks. From the 1960s until after 2000 all educational data were based on five mutually exclusive groups—Whites, Blacks, Latinos, Asians and Indians or Native Americans. In the recent Supreme Court decision outlawing affirmative action, the conservative justices argued that racial boundaries were inaccurate, “imprecise,” and did not deal with important subgroups, making it impossibly confusing even without dealing with multiracialism.<sup>1</sup> When the Census changed in 2000, it allowed people to claim two or more racial/ethnic groups and did not ask whether one was the primary identity. Race in the U.S. has a strong relationship to skin color, but color varies widely, especially among mixed-race populations. We now have enough data to know what the dominant mixed-race patterns are at this point in the society and how the various mixed-race groups are doing.

Civil rights policies are about protecting individuals and groups against discrimination and providing appropriate remedies for race-based discrimination and inequality, in a society where race

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<sup>1</sup> *Students for Fair Admissions v. President and Fellows of Harvard College*, 600 U.S. \_\_\_\_ (2023).

is linked to many forms of opportunity and discrimination. When groups are excluded or treated differently on the basis of their race, ethnicity or national origin, it is a civil rights issue defined in the Fourteenth Amendment and the 1964 Civil Rights Act. As society changes, social realities change and civil rights policies must take those changes into consideration.

Though the share of multiracial students is still modest in most areas, we need to locate this growing group into a history of civil rights law and policy that was based mostly on a simple Black-White duality, in a society with caste-like separation between those two groups. Are there mixed-race groups that really operate as subsets of established racial categories? What groups of multiracial people are or are not likely to face discrimination? Have government institutions or private businesses discriminated against particular mixed-race groups? Are there other groups that are basically part of the mainstream and experiencing great success in terms of treatment in society and major institutions? Should there be national, state or institutional policy about treating these groups? Are they entitled in public schools, colleges and job markets to race-based remedies for patterns of discrimination? What kind of research and data do we need to help answer these questions?

None of these are easy issues, which is why we decided that it was important to move the discussion forward. The authors of his paper don't give us any detailed answers but they help us to understand the dimensions of the multiracial population, how it is changing over time, and what are the most frequent combinations. They give us good information on the relative success of those from different kinds of multiracial combinations. They describe how the courts and agencies have proceeded so far. These are vital first steps.

It is possible, of course, that basic racial and ethnic definitions and their consequences will shift. Since racial identity is basically a social construction, it can evolve. The emergence of multiracial identity in governmental data systems is, in part, a response to a movement of multiracial

people requesting the right to claim a different, multi-faceted identity. Of course, the publicity and use of such data and the emergence of explicitly multiracial groups make the identity more available.

There is an increasing tendency in some mixed-race groups to identify as White. Some researchers have suggested that the White category itself could expand as a result. It surely has in the past, as people of color “passed” as Caucasian. While social pressures and attitudes change and millions obtain ancestry gene analysis, some may be more eager to claim a second or third racial background, but we will not know from the genes discovered or the boxes checked if the second or third identity is an add-on or a basic social identity. A person can acknowledge ancestors from more than one race but still identify with a single race. I wonder whether, in the future, the category “White,” which has long been a mix of Europeans and some others, will expand, be redefined or even renamed. That is an interesting question for further research and, of course, the answer may differ with time or place. Another paper we commissioned shows a massive expansion of Americans claiming Native American ancestry or Alaskan Native ancestry. The study also reports that the great majority of marriages of Native Americans are now interracial (Liebler, 2023). Tribal status may be far more important than race for some civil rights purposes and it may have an increasingly weak link with racial history. A third paper we commissioned, projecting racial/ethnic trends to 2050, shows a slow continuing increase in students who identify as multiracial if present trends continue.

One important thing we see in this paper (that is also found in a number of our other forthcoming reports) is the distinctively worse situation of multiracial Black people in comparison with other multiracial combinations. Civil rights policy in our multiracial society must not lose consciousness of the unique dimensions of anti-black attitudes and discrimination. We still live, in many ways, with the consequences of our country’s original situation in 1619, when the Virginia pioneers brought African slaves to Virginia and an extreme form of slavery created rigid social and legal barriers that were not seriously challenged for hundreds of years. We institutionalized these

barriers with nearly two and a half centuries of slavery, fully supported by extreme laws in the states where most Blacks lived, followed by another century of apartheid laws in the Southern states and severe stereotypes of and systematic discrimination against Blacks across the country. Obviously, both that distinctive history and current statistics deserve a special focus in civil rights policy.

This paper documents trends and offers clues. We are, however, in a relatively early period of consciousness and research on this topic of mixed-race groups with limited data and changing consciousness. Politically, we're obviously in a period characterized by strong fears among many Whites of fundamental demographic change, which conservative demagogues call "replacement." If you study U.S. birth statistics of the last decades, it is clear that a fundamental change has already happened among the young, and will increase in the future, with a steadily declining minority of whites and many people marrying across racial and ethnic lines.

Our society would be healthier if we could accept the changes and honor the growing diversity. In many parts of the nation, children are growing up in a generation without a racial majority. This is obvious, for example, in watching campus life at our great California universities. Multiracialism makes things more complicated for drawing up categories, but it is a good complexity, reflecting changing backgrounds and identities. Older Americans could learn from the young in accepting it.

Race still matters very much in American society. We have been passing through a time of dangerous polarization and racial tension, too often linked to destructive politics, but it is also a time in which more Americans are creating families that cross racial lines and create new possibilities. Society is changing and it is the responsibility of policy makers to understand and to protect civil rights as new patterns emerge. Mixed race Americans could help foster successful changes.

We are in a period of ongoing social change and the emergence of new identities. This paper cannot give specific policy solutions, but it does provide essential data and analysis. It moves us

from vague impressions that something important is happening to a much clearer understanding of that evolution. This knowledge is the prerequisite for creating effective policies that both enable multiracials to be fairly treated and create a bridge across divisions, rather than further splintering a fragmented society in serious need of more understanding and wiser policies.

Thinking about the future and developing good policies requires that we understand the growth of mixed-race communities, describe the basic combinations and their experiences and think about how we apply or change civil rights policies developed for what was seen as a two-race society to one with four major racial groups, more than 500 recognized Indian tribes, and millions of mixed-race citizens. Young researchers, many living one of the varieties of this experience, can help us answer the questions this study so well lays out.

The importance of analyzing the implications of increasing multiracialism is evident in the Supreme Court's decision this June striking down affirmative action. The decision complained about "opaque racial categories." The concurring opinion by two supporting Justices, Gorsuch and Thomas, noted, "American families have become increasingly multicultural, a fact that has led to unseemly disputes about whether someone is really a member of a certain racial or ethnic group." The implication is that things have become too complex and, therefore, nothing need be done. Though the vast majority of Americans identify with a single race or ethnicity, good answers are needed by civil rights advocates as society evolves. This study is an important step in understanding our social realities.

For me, on a personal note, the issues discussed here are not only challenging academic and policy issues, but immediate family realities. As a grandfather of children with four different racial/ethnic ancestries, I have, of course, more than an academic interest in the outcomes. I see smart, kind, and beautiful young people growing up in environments that cross racial boundaries daily. I know they will have to work out their identities in this changing society, but I think that they

will have both more choices and a kind of social fluency that few in my generation possessed. It's a very small sample but when I see them together, I am full of optimism. I believe very strongly that we need to take race conscious steps to move toward equal opportunity and equal success in American society. I do truly hope, as Martin Luther King so eloquently expressed, that race will eventually matter much less. It is not an accident that our first Black President and Vice President have multiracial backgrounds and skills in crossing lines of racial division.

*-Gary Orfield*

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## Executive Summary

This report catalogues the growth of the modern mixed-race population in the United States and highlights the many complications this population presents for the future of civil rights law and policy. What is most distinctive of today's mixed-race individuals is their assertion of a mixed-race identity which they claim embodies a different experience compared to those who report to be a single race such as "white" or "black." This emphasis on personal identity presents a new dimension that must be considered in the development of new civil rights policy.

### **Key findings about today's mixed-race individuals include:**

- Mixed-race individuals assert a distinctive identity, but evidence shows that their experiences of racial discrimination often mirror those who are single-race minorities (i.e., those who are only "Black" or "Asian").
- Mixed-race individuals often change their asserted racial identity and may downplay their mixed-race identity in response to their social or political surroundings.
- Mixed-race individuals do not share the same experiences of racial discrimination. There is significant variation depending on the person's racial combination (e.g., those who identify as Black-White have different experiences from those who are Asian-White or Latino-White).

### **Demographic Summary**

- Multiracials experienced a 276% growth in population between 2010 and 2020. (Census, 2020).
- Multiracials total 33.8 million, or 10.2% of the total U.S. population in 2020 (up from 9 million [2.9% of population] in 2010).
- Largest mixed-race subgroups are (Census, 2020):

- White and Some Other Race (19.3 million)
- White and American Indian/Alaska Native (4 million)
- White and Black (3.1 million)
- White and Asian (2.7 million)
- Intermarriage trends (Pew, 2017):
  - Latino/White partnerships account for 42% of all new heterosexual intermarriages (22% involve White husbands, 20% involve Latino husbands).
  - Asian/White partnerships account for 15%... (11% involve White husbands, 4% involve Asian husbands).
  - Black/White partnerships account for 11%... (3% involve White husbands, 7% involve Black husbands).

### **Policy Recommendations**

- Abstain from developing one uniform policy towards remedying needs for mixed race populations—It may cause more harm rather than improve equity.
- Increase compliance with Office of Management and Budget (OMB) guidelines for race data collection among state and local governments.
- Build better consensus on how to “count” Mixed-Race individuals when identifying target populations in public policy.
- Allocate more resources toward measuring and monitoring Mixed-Race Individuals’ experiences with discrimination, feelings of racial identity and relevant civil rights markers.

Discrimination in the 21st Century:  
*How Civil Rights Policies Can Best Embrace  
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Gregory Leslie and Natalie Masuoka

## Introduction

At the release of the 2020 Census (U.S. Census Bureau, 2021), a striking statistic reported that 33.8 million people—or 10.2% of the total population—considered themselves to be two or more races. The United States in 2020 is more racially and ethnically diverse than it has ever been, and one outcome of this diversity is that more Americans are self-identifying as mixed race. In response to the growth of the mixed-race population, pundits have offered a variety of interpretations about the mixed-race population ranging from speculations that this group is evidence of a harmonious “melting pot,” to proclamations that mixed race foregrounds an end of race in America. These narratives tend to frame public assumptions about mixed-race populations, so that policy may be guided by punditry and politics rather than the real needs of mixed-race individuals. This paper offers guidance on how to approach and understand mixed race in the twenty-first century through lessons gleaned from a growing body of systematic, academic studies on mixed-race populations in the United States.

The focus of this paper is to understand how the rise of mixed-race identities in recent decades may or may not result in a push to change the conceptualization of civil rights policy. Given the increase of personal attachment to a mixed-race identity in the general public and the official acknowledgement of these identities by the state, we pose two questions that are commonly asked in relation to mixed-race identity. The first of these questions asks, Does the rise of mixed-race identity today mean that there are fundamental changes to the practice of race afoot? Scholars in different

academic fields have already begun to address whether this is the case, but in this paper, we apply this question to the area of civil rights policy. By civil rights policy we refer to the general category of policies that govern responses to racial discrimination (such as anti-discrimination law) as well as those policies that promote some form of redistribution with an aim towards creating equity across racial groups (such as racial redistricting or affirmative action). We argue that the most important new development connected to today's mixed-race population is the increased demand for official recognition of mixed-race identities. The emphasis on the importance of identity is distinct to this modern period of American race relations, and we will discuss how this claim for identity recognition might impact how we conceptualize civil rights policy.

Next, given our focus on civil rights policy, we address a second question: Will those who identify as mixed-race be in need of new policy tailored to remedy certain challenges that they face? It is reasonable to expect that with greater visibility and recognition by the state, mixed-race communities might envision and demand resources for the needs of their members. However, we argue that we cannot define mixed-race as a group in the same way that we define other racial populations such as African Americans or Asian Americans. First, it is not certain that there exists one clearly identified or coherent mixed-race group that can be targeted by public policy. Definitions of what constitutes as "mixed-race" can vary. Some definitions emphasize self-identification as mixed-race, while others emphasize family heritage and identify those as mixed-race whose biological mother and father are of two different races. Since effective public policy requires a clearly defined target population, the lack of a universal definition for who is mixed-race poses a number of challenges. Moreover, given the level of racial diversity in the United States, mixed-race individuals can represent different racial combinations. For example, the two or more races category collected by the Census reports 57 different racial combinations that have been selected by Americans completing the 2010 census. This raises a question of whether there is a coherent mixed-race

experience such that a person who reports to be mixed-race White and Black will have the same racialized experiences as a person who reports to be mixed-race Japanese and Mexican. Given the emphasis placed on racial background in the United States, it is often expected that one's racial heritage combination will inform how they are treated. These questions related to the definition of mixed-race must be taken into consideration and will strongly influence how policy needs to be designed.

The objective of this paper is not to assert that there are established answers to these questions. Rather we seek to make more visible the complexities and complications that mixed-race identities create for American race relations. We argue that policymakers and other practitioners need to be more aware of the complexities involved with defining a mixed-race population because a limited understanding will result in policy that could unintentionally undercut the very values civil rights policy seeks to uphold. By problematizing how we define mixed-race and introducing complex questions regarding their incorporation into civil rights policy, we hope to inspire a more critical approach to policymaking.

This paper will proceed as follows: first, we will outline and define key terms that will be used throughout the text. We will then offer historical background on the rise of mixed-race identification in the modern era and discuss how this identity movement may come to interact with civil rights policy. Then, we begin to discuss the challenges of policymaking for mixed-race populations by reviewing the complicated nature of defining mixed-race. After this we will review existing evidence on the experiences of racialization and discrimination of mixed-race individuals. We will conclude by reviewing what kinds of future steps could be taken in the development of civil rights policy that covers the needs of mixed-race individuals.

## Background: Definitions of Terms

To begin, we provide an explanation of terms that will be used throughout this paper and offer some historical context on their use. Terms are particularly important because the choice of term has historically reflected a political orientation. Although not completely neutral in meaning, throughout this report we will use the term “mixed-race” to designate classification as being of multiple racial backgrounds.

Historically there have been different terms to designate being of multiple racial backgrounds which demonstrate how the culture and politics of a given time understood interracial mixing. For example, the terms “mulatto” or “octoroon” were the terms used in the nineteenth century which emphasized blood quantum level of African heritage. In the development of Jim Crow segregation, level of blood quantum at the time was being used to distinguish which populations were to be subject to racial segregation policies (Davis, 1991; Gross, 2009). In the late twentieth century, the term “Multiracial” was one embraced by activists who wanted the specific category of “Multiracial” added as a racial group classification on the U.S. Census (Williams, 2006). Today, there is increasing emphasis on self-identity and self-expression (Masuoka, 2017). Young adults have crafted their own individualized terms to designate being of multiple racial backgrounds. Golfing athlete Tiger Woods is reflective of this trend when he announced his race as “Cablinasian,” a portmanteau he uses to acknowledge his Caucasian, Black, American Indian, and Asian heritages. We find this to be a general practice today—there are many different terms that an individual may hold strong preference for, but there does not exist a label that has been universally embraced by all. Thus, there exists variation both across time and even across the population today in the labels that are applied to mixed-race individuals. Again, at the point of this writing, the term “mixed-race” has not been deployed in a specific political effort and so this is the term we employ in this report.

A second concept that requires discussion is “hypodescent.” Also known more colloquially as the “one drop rule,” hypodescent can be considered a concept unique to American race relations (Davis, 1991) and serves as an important backdrop to how Americans have come to understand racial classification. The practice of hypodescent means that a person who can trace any African ancestry (i.e., one drop of African blood) is to be classified as Black (rather than as mixed-race or as White). Prior to the abolition of slavery, hypodescent was a tool used to uphold the racial line between free and slave, given that there were often births between White owners and Black slaves (Douglass, 1881; Du Bois, 1903; see also Morgan 1975). After abolition, hypodescent served a particularly important role when there was a need to establish the political and economic rights allocated to those classified as White while denying opportunity to those classified as Black (Davis, 1991; Lee, 1993). In the political efforts to uphold segregation, the rise of hypodescent in the twentieth century also marked the end of using mixed-race terms such as “mulatto.” Under a culture guided by the rule of hypodescent, those who would have been previously considered “mulatto” were then classified as “Black,” thus establishing a firm line distinguishing racial groups. The practice of hypodescent coupled with codified anti-miscegenation laws barring interracial marriage for the first half of the twentieth century helped to discourage public perceptions that there existed mixed-race populations. As a result, today, mixed-race populations are often framed as a “new” demographic trend in the United States, which is not an accurate claim given the long history of interracial mixing. At the same time, anti-miscegenation laws were ruled unconstitutional in the 1967 *Loving v Virginia* Supreme Court case, which meant that legal interracial marriages and their families could be understood as a new population in the United States.

Third, we use the term “single-race” to designate the collectivity encompassing those individuals who either identify with or are classified into only one racial group. Those who see themselves as *only* either Asian, Black, Latino, American Indian, Pacific Islander or White would be

collectively referred to as “single-race” individuals. This terminology is the practice employed by the Census Bureau. We employ this term for purposes of description and to reduce the task of listing all possible racial groups in the text of this paper.

Through discussing these main terms, we unveil the complex and political nature of mixed-race in the United States. Mixed-race in the United States has been conceived differently across historical periods, which makes it difficult to reference established precedent. The one consistent idea is that the concept of mixed-race can be seen as a clearly political one of which its definition, meaning and application are driven by the state of race relations of the respective time-period.

## **Background: Rise of Mixed-Race Identity and Representation in Civil Rights Policy**

In this second background section, we review history of the rise of mixed-race identity in the twenty-first century and how mixed-race identity movements have sought to shift our cultural approach to race. We first acknowledge that mixed-race populations have existed in the United States since the colonial era, but our focus for this discussion is the modern development since the civil rights movement. Today’s mixed-race identity movement is traced to the social organizing of interracially married couples in the late 1980’s through 1990’s who wanted to create safe spaces to socialize and to feel a sense of belonging (Williams, 2006). These organizations began to network and connect around a shared political issue: formal recognition of their children as mixed-race (as opposed to being classified as a single-race minority such as “Black,” which was the more common practice). In what was labeled the “Multiracial Movement,” this collective group began to lobby local governments to change how individuals answered the racial identification question on school and other official forms (Williams, 2006). This culminated with a political lobbying effort to change the

race question on the federal census, since federal data collection practices dictated those at the local level.

During the heyday of the Multiracial Movement in the 1990's, longstanding civil rights organizations like the NAACP saw Multiracial advocacy as a threat to the longstanding gains for communities of color made by civil rights policy (see Williams, 2006). Multiracial movement leaders argued that mixed-race individuals had their own distinct racial identities and their own distinct experiences and so should be represented as their own group. They saw the longstanding practice of hypodescent, which resulted in mixed-race individuals being racially classified into a (mono)racial minority group, as one which denied them the opportunity to be recognized by their preferred racial identity. In contrast, longstanding civil rights organizations perceived mixed-race representation as an effort to splinter the population sizes of racial minority groups thereby shrinking the number of individuals counted as "Black" or as "Asian" or as "Latino." Decreasing the size of these populations would result in fewer federal resources towards these communities. The Multiracial Movement became further politicized when movement goals to add a specific "Multiracial" category on the racial identification question on the census were embraced by conservative Republican leaders such as Newt Gingrich who believed that increased identification as "Multiracial" would demonstrate the waning importance of racial categorization by showing that the American population is a melting pot. By this reasoning, with less reliance on race, there would be less need to uphold race-based policies. In the end, the "mark one or more" option which is now included on the racial identification question on the census form was a compromise between these two opposing positions.

The Multiracial Movement may have seemed to some, including those involved in the Movement, as unrelated to civil rights policy, since it was organized around the issue of identity recognition and targeted bureaucratic procedures related to racial data collection. Yet because the

Movement sought to redefine the practice of race by conceptualizing race as identity expression, it was seen by many racial minority groups as a challenge to the very nature of civil rights policy. Civil rights law and policy were developed to recognize that there were individuals suffering from mistreatment and subjugation due to their race, an attribute of which they have no control over and did not choose to begin with (Brest, 1976). The first effort of civil rights policy was to establish what has been labeled a principle of antidiscrimination or the “prohibition of race-dependent decisions that disadvantage members of minority groups” (Freeman, 1978, p. 1054; see also Brest, 1976). The thirteenth, fourteenth and fifteenth amendments to the constitution are read as establishing the antidiscrimination principle. It was a long and difficult battle to even establish an antidiscrimination principle, but it is also today a principle continually under attack (Crenshaw, 1998). Fundamental to civil rights policy was understanding that race is used as a tool to constrain those classified as non-White and used as a justification to discriminate.

In contrast, the Multiracial Movement characterized race as personal identity expression. Their political demand was for the liberty to express their preferred identity and to have that preferred identity formally recognized by the government. This conceptualization of race as identity should be recognized as a distinct contrast to the longstanding cultural practice of race as assignment in the United States (Masuoka, 2017) and to many of the assumptions rooted in civil rights law and policy. In this way, the Multiracial Movement sought to expand American’s definition of race by adding that, while race could be imposed on individuals through assignment, it could also be one of choice and personal expression.

Given this, could mixed-race identity claims be integrated into the category of civil rights policy? In the development of civil rights policy, the first area of development was to establish the antidiscrimination principle, but the second was to offer a form of remedy or reform to rectify the inequalities created by discriminatory practices based on race (Crenshaw, 1988; Gewirtz, 1982;). For

example, court decisions on cases involving the implementation of the 1965 Voting Rights Act outlawed practices such as drawing majority minority districts, which were seen as a response to combat minority vote dilution (Grofman, 2000). Policies developed in this second area of civil rights policy require that a group or individual first establish that they witness disadvantage due to discrimination based on race, and if that threshold is met then they can be granted some remedy. It is this dimension of civil rights policy that we will explore in the remainder of this paper.

## **Defining a Mixed-Race Population: Issues in Measurement**

Since mixed-race identity expression can be seen as a new conceptualization of race, this complicates how we define and classify a racial population because we must recognize both assignment and identity as features used to classify a person's race. While this presents difficulties for a practitioner, we might also see this as a welcome challenge. The longstanding cultural practices of race created the perspective that race can be easily assigned to individual subjects and that we can quickly sort individuals into the categories of "White," "Black," or another racial category. Yet, with the rise of mixed-race identity expression, the ease of sorting individuals into racial categories becomes more complicated.

In contemporary scholarship, researchers have differed in how they define mixed-race, demonstrating how today there is some fluidity in how we understand mixed-race (Charmaraman, Woo, Quach, & Erkut, 2014; Herman, 2011; Patten, 2015). The two most common practices for identifying a mixed-race population are through self-identification or by referring to the racial background of the mother and of the father. These two practices do not necessarily identify the same population and most studies would show that relying on the race of the parents results in a larger population of mixed-race individuals than when relying on self-identification (Parker, Morin, Horowitz, Lopez, & Rohal, 2015). A third practice is a measure that relies on how a person

perceives the race of others. This third practice is more difficult to empirically measure and thus used less often in scholarship, but this does not imply it is less significant.

Before moving forward, it may be important to address the issue of how Latino or Hispanic identities should be considered in terms of the modern framework for understanding mixed-race. As noted above, the federal government today recognizes “Latino” as an ethnic category rather than as a race. This practice makes it impossible to identify and measure the characteristics of a “half-White, half-Latino” Biracial subpopulation through the census. However, this is a sharp departure from social science and mixed-race research today which characterize Latino as a distinct race akin to Black, White, etc. The census aside, there is good reason to believe that “Latino” will be popularly characterized as a stand-alone racial group in the future. For example, researchers find that among individuals who consider themselves Latino or Hispanic, an overwhelming 81% perceive that this identity constitutes a race rather than an ethnicity (Gonzalez-Barrera & Lopez, 2015). Similarly, studies find that individuals who identify as Latino (when presented as a racial category) have highly distinct patterns of social and political behavior and experiences of discrimination which differentiate them from Whites (Davenport, 2018), despite the propensity for the census to lump the two together. As a consequence of this work, the dominant practice for the understanding of Latino today is to characterize it as a distinct racial group, and not an ethnicity.

In this section, we offer examples of these three practices and discuss how these different practices of measurement offer distinctly different pieces of information about mixed-race. This discussion is rooted in academic research practices, but we argue it serves as an important practical purpose. Civil rights policy must define a target population that is to be protected by enforcement. As we discuss in this section, defining a mixed-race population to be a covered group in civil rights policy is more complex than many might believe.

## **Self-Identified Mixed-Race**

The most common definition today of a mixed-race population is measured by a question in which respondents self-report to be of mixed-race. The start of mixed-race identification began in the year 2000 when the U.S. Census included the option to allow individuals to check one or more races on the racial identification question. Those who select two or more racial categories on the racial identification are classified as mixed-race. Since public policy relies on information collected by the census, the federal change to the racial identification question was then adopted by other state and local governments and in the private sector, who also employ the mark one or more boxes directions on the racial identification question. Moreover, with the rise of survey data, race today is commonly collected using respondent self-report.

Relying on census data to establish demographic facts about a mixed-race population has produced a number of assumptions about mixed-race individuals in the U.S. The first is the general assumption that this population will grow exponentially over time. Table 1 provides weighted population estimates from the 2019 American Community Survey (U.S. Census Bureau, 2019), which is a survey fielded by the Census Bureau to 1% of the United States population each year. Those who mark two or more races to describe their own identities are estimated at 11.3 million individuals, or 3.45% of the total American population. This estimate is more than double what was reported fourteen years ago (5.5 million), when the ACS first began to collect data on the “two or more” race population (U.S. Census Bureau, 2005). Explanations for this population growth point to traditional demographic factors, such a growing interracial marriage rate, while others have hypothesized that the growth is a consequence of an increased propensity to actively identify with two or more races as this practice becomes more commonplace (Parker et al., 2015).

**Table 1: Population estimates and socioeconomic characteristics of census categories.**

	Population Estimates		Socioeconomic Characteristics			Geographic Distribution			
	% of US Population	Population Size	Median Age	Median Income*	% with Bachelors or Above*	Northeast	Midwest	South	West
<b>Total Population</b>	100%	328,239,523	38	\$32,300	33.2%	17.1%	20.8%	38.3%	23.9%
<b>Two or more races</b>	3.45%	11,336,792	20	\$30,000	33.2%	15.4%	17.4%	32.3%	34.9%
<b>White (non-Hispanic)</b>	59.95%	196,795,251	43	\$36,700	36.9%	18.4%	26.1%	35.8%	19.7%
<b>Black (non-Hispanic)</b>	12.38%	40,650,969	35	\$25,000	22.7%	15.3%	17.4%	58.7%	8.7%
<b>Asian (non-Hispanic)</b>	5.60%	18,393,713	38	\$35,000	55.9%	20.1%	12.4%	23.7%	43.8%
<b>American Indian/Alaska Native (non-Hispanic)</b>	0.67%	2,212,455	35	\$21,400	15.8%	4.6%	16.4%	32.0%	46.9%
<b>Latino/Hispanic (single race)</b>	17.51%	57,467,041	30	\$25,000	17.4%	13.5%	9.0%	38.6%	38.9%

\* = individuals aged 25 and older.

Source: 2019 American Community Survey Public Use Microdata Sample (Weighted).

In addition to demographic growth, census data has established that the two or more races population has specific characteristics. The defining characteristic of the two or more races population is that it is currently very young with a median age of 20 years old, 18 years younger than the national median of 38 years old. Despite being a young population, educational attainment and average income of this population is on par with the national average suggesting that, relative to many other non-White groups, the two or more races population is of higher socioeconomic status. Finally, the majority of those who actively identify with two or more racial groups exist in the West and the South.

There are some considerations that need to be taken into account when relying on self-identification. Research has repeatedly demonstrated that one’s choice to self-identify as mixed-race

is heavily influenced by various features of one's social context. For example, a study by Harris and Sim (2002) found that among adolescent children who identified as mixed-race when at home, more than half (54%) changed their choice of racial identification to a single-race category when asked the same question at their school. Similar sociological studies have found that for individuals with parents from two different racial groups, their propensity to identify with a single-race category increases when surrounded by others who identify with that single-race category (Rockquemore & Brunnsma, 2007; Saenz, Hwang, Aguirre, & Anderson, 1995; Xie & Goyette, 1997). Other studies have highlighted that racially liberal spaces such as Hawai'i and California are associated with lower public sentiment of racial essentialism, or the idea that race is immutable, singular, and fixed (Does et al., 2021; Pauker, Carpinella, Meyers, Young, & Sanchez, 2018). This context leads to higher rates of identification with two or more races. Thus, the social and racial context where a person resides influences the likelihood of asserting a mixed-race identity.

Research also shows that how racial categories are presented to individuals will influence how they respond to the racial identification question (Charmaraman et al., 2009; Patten, 2015; Roth, 2018; Townsend, Markus, & Bergsieker, 2009). While Census data is widely used, it is important to acknowledge some implications to its methodology of collecting racial and ethnic data. A major limitation to Census methodology is its continued treatment of Hispanic or Latino heritage as an "ethnicity" rather than a race. Latino ethnicity is measured by a separate question from the racial identification question which means respondents who identify as Latino must also report a race as White, Black, Asian, American Indian/Alaska Native, Native Hawaiian/Pacific Islander, Some Other race, or two or more combinations of these racial categories. Since the public may not understand the implications of how they answer questions on the census or other surveys, the data may reflect different concepts depending on the respondent. For example, one respondent who identifies as Latino and as White might be trying to imply that they self-identify as a mixed-race

Latino-White person. But a different respondent might instead identify as ethnically Latino but be phenotypically White and so consider their race to be White. Secondly, this methodology reflects race as a function of what is reported by the respondent. Heads of household report the race of children on the decennial census, which suggests that the large share of two or more races population which is under the age of 18 is attributed to the heads of household labelling children in their household. Taken together, census data and other data that rely on self-identification should be recognized as one type of estimate of a mixed-race population.

### **Mixed-Race by Parentage and Intermarriage Patterns**

A second methodology for identifying a mixed-race population is to focus on family structure by identifying those who have parents with different racial backgrounds. A survey conducted by Pew found that as many as 6.9% of the American population has parents with different racial backgrounds. This represents a larger mixed-race population compared to what the Census finds using self-identification. Policies that define a mixed-race population based on race of parents would thus target a larger population compared to that measured by self-identification.

Interracial marriage was legally barred in many localities until ruled unconstitutional in the 1967 case, *Loving v Virginia*. In 1967, only 3% of both newlyweds and all married couples were interracially married; however, this rate has increased dramatically such that as of 2015, 17% of newlyweds and 10% of all married couples are interracially married (Livingston & Brown, 2017). Still, while the share of couples intermarrying has increased over time, some racial groups are more likely to intermarry than others. As of 2015, Blacks are the least likely minority group to marry someone from a different racial group at a rate of 18%, compared to 27% for Latinos and 28% of Asian Americans (Livingston & Brown, 2017). For the Asian American and Latino populations, once you take immigration status into account, the rates are even more striking. If you look at only U.S. born married Latinos, 57% marry someone of a different race, as do 72% of married Asian

Americans. Moreover, there is a particular pattern to the type of marriage partner choices. Most interracial married couples are typically made up of one partner who is a racial minority and one partner who is White: 69% of Blacks who intermarry have a White partner, as do 90% of Latinos and 87% of Asians (Lee & Bean, 2012). Relying on marriage rates may therefore result in overrepresentation of specific marriage pairings.

There are some unique insights to identifying mixed-race populations based on the race of parents. Families of interracial married couples have historically been subject to discrimination given the long taboo against interracial intimacy in the United States. Ariela Gross's (2009) historical study on the legal policing of interracial intimacy demonstrates the severe discrimination faced by Black-White interracial couples who were denied basic civil liberties, with women in particular to suffer punitive judgments. Although current interracial marriage patterns suggest that some types of interracial couples are seen as more socially acceptable than others, interracial couples likely continue to face distinct racialized experiences relative to same race couples. It could be expected that being a child of an interracial couple would also lead to distinctive racialized experiences due to the ways their families were treated by society. In this way, defining a mixed-race person through the race of the parents can be used as an appropriate proxy to capture the distinctive experiences related to interracial marriage. Moreover, respondents have been found to more consistently report the race of their parents across time and context, which may provide a more consistent population for public policy purposes (Doyle & Kao, 2007; Harris & Sim, 2002; Rockquemore & Brunnsma, 2007).

At the same time, we caution that reliance on race of parents can generate a greater emphasis that there is a biological function to race. Although historically race was once defined by blood quantum in which being "half" Black (or one parent is Black) was considered to be fundamentally different from being "a quarter" Black (or one grandparent is Black), we today now know that one's race is not simply defined by only ancestry or blood quantum but by a number of converging social,

cultural and political norms. Furthermore, with the rise of DNA testing we are increasingly aware of the fact that many individuals do not hold factually correct information about their family ancestry, since families often pass down stories that emphasize or deemphasize certain aspects of history (Hirschman & Panther-Yates, 2008; Hochschild, Weaver, & Burch, 2012). Studies on individual responses to DNA testing show that individuals selectively embrace certain pieces of information provided by a DNA test (Foeman, 2012; Lawton & Foeman, 2017). For example, a person who has identified as White for their entire life when presented with a DNA test to suggest that they have ancestral roots in Africa is not then reclassified as Black, because race is not solely defined by blood quantum (See also Foeman, Lawton, & Rieger, 2014).

### **Treated as Mixed-race: Race Assigned by Others**

The final type of methodology for identifying a mixed-race population is to rely on how a person is racially classified by others. How the public racially classifies a person's race has long been relied on as a practice to determine racial classification in the United States and was established in case law. Prior to 1952, there existed a racial prerequisite to naturalization: only those immigrants classified as "White" would be eligible for American citizenship. As a result, 52 different cases were heard in American courts to decide how a person could be classified as "White," with the Supreme Court confirming through decisions in two cases (*Ozawa v U.S.* and *Thind v U.S.*) that "common knowledge" of race was to serve as a determining factor (Haney-Lopez, 2006). Of course, there are different ways how common knowledge is asserted and so scholars have identified different strategies for how common knowledge is practiced.

One practice that individuals use to racially classify others is to rely on visual appearance. Psychologists have studied how respondents classify mixed-race individuals and those who appear racially ambiguous. Often, scholars use lab experiments where photos are digitally altered to contain differing proportions of skin color and phenotypic characteristics from members of two different

racial groups. These photos are then presented to respondents to be racially classified. Overall, these studies confirm that there is wide and systematic variation in how perceivers categorize the faces of mixed-race individuals. Not only are respondents much more likely to disagree on which race category mixed-race faces should be classified as, it takes much longer for a perceiver to categorize a mixed-race face than to classify one of a single-race person (Chen & Hamilton, 2012; Pauker et al., 2009; Willadsen-Jensen & Ito, 2006). Additionally, mixed-race faces are less likely to be remembered by respondents than are single-race ones. Scholarship shows that categorizing ambiguous faces tends to be more cognitively taxing and involves drawing upon social contextual incentives to make a decision.

Qualitative research similarly depicts mixed-race individuals' experiences with having their race ascribed to them by others. For example, Sims and Njaka (2020) describe one incidence using their interview data in which a Black-White Biracial man was interrogated by his boss because he chose to identify as "White" on his job application. Having others question or rebuke one's chosen racial identity in lieu of their own expectations is a prominent phenomenon among mixed-race individuals. Research from Critical Mixed-Race Studies (CMRS) reminds us that these phenomena are in large part due to the fact that Whites have played an active role over the last few centuries monitoring and policing the boundary between Whites and all others in order to preserve their privilege (Curington, 2016). This color line maintenance is reflected in Whites' propensity to censure or levy judgement upon mixed-race individuals who may attempt to identify as White.

Studies on how individuals racially classify others have confirmed that the rule of hypodescent is a strong assumption practiced by respondents, even among interracial married couples (Lichter & Qian, 2018). At the same time, these studies also confirm that the rule of hypodescent is most often employed when a person looks to be of partial Black descent, while the rule is less likely applied when a person looks to be of partial Asian or Latino descent (Ho, Roberts,

& Gelman, 2015; Krosh, Bernsten, Amodio, Jost, & Van Bavel, 2013; Pauker, Meyers, Sanchez, Gaither, & Young, 2018; Peery & Bodenhausan, 2008). Ho and others (Ho, Sidanius, Levin, & Banaji, 2011) conducted experiments which used computer graphics technology to morph faces to exhibit varying degrees of racial phenotypes on continuums for those classified as Black-White or Asian-White. For both of these groups, a face needed to have a lower proportion of minority phenotypical properties to be perceived by subjects as minorities than did the proportion of White phenotype necessary to be perceived as White. However, Black-White faces needed much less proportion of minority phenotype to be categorized as a minority than did Asian-Whites. Thus, hypodescent is most strongly applied to individuals of partial Black descent.

The finding that hypodescent in categorization is applied differentially to mixed-race individuals based on their different Biracial subgroup heritages is well grounded in recent research. In particular, scholars have highlighted how society's increased acceptance of interracial marriage seemed to go hand in hand with increasing rates of marriage between Whites and non-Black minorities, especially Asian Americans, for whom interracial unions are perceived as less taboo (Curington, 2016). In fact, scholars have pointed out the special status of Asian-White Biracials in that they have assimilated with Whites to such a degree that some consider them to be "White enough" (Strmic-Pawl, 2016). Evidence of varied statuses between Biracials from different subgroups is even present among dating patterns between single-race and mixed-race individuals. Scholars using data from online dating websites demonstrate that both single-race and mixed-race individuals reinforce the paradigm of hierarchical stratification on which hypodescent is based (Buggs, 2017a, 2017b; Curington, 2016; Curington, Lundquist, & Lin, 2020). One finding of note is that White women almost never respond to dating requests from single-race Black men or Black-White Biracial men; however, they are just as likely to respond to requests from Asian-White men as they are single-race White men (Curington, 2016). Therefore, even when it comes to perceiving race

in the form of online photos of mixed-race people, some groups of Biracials tend to be more readily assigned an out-group status than others.

Scholars have also demonstrated that perceivers' preconceived attitudes about race can predict the likelihood that they will rely on hypodescent as a means of racial categorization. In one study, perceivers answered survey questions which measured the degree to which they considered race essential (biologically distinct, immutable and fixed) (Ho, Roberts, & Gelman, 2015). Perceivers who scored higher on essentialism were far more likely to categorize ambiguous faces as a single-race minority than were those with less essentialized thinking about race. Similarly, another study found that perceivers who indicated being politically conservative were more likely to employ hypodescent when categorizing ambiguous faces compared to those who identified as liberal (Krosh et al., 2013).

Socioeconomic cues represent a third factor influencing how individuals apply racial classification. Given the interrelated relationship between race and class, markers of socioeconomic status prime perceivers' preconceptions of racial stereotypes and inform their racial categorization decisions (Sapsterstein & Penner, 2012). Some studies examined how personal presentation such as an individual's occupation or clothing influenced how perceivers racially classified an individual. One study varied the clothing of a racially ambiguous (Black-White) individual to be presented either as a janitor or as a businessperson. They found a much higher likelihood for the individual presented as businessperson to be categorized as White, while the janitor was more often categorized as Black (Freeman, Penner, Saperstein, Scheutz, & Amady, 2011). In another study, merely priming respondents to perceive economic scarcity (e.g., respondents' were shown pictures of empty offices and indicated that jobs were scarce) increased the propensity with which they subsequently identified a mixed-race individual as Black rather than as White (Rodeheffer, Hill, & Lord, 2012).

Racial classification by others can be highly consequential because it is found to be self-reinforcing by influencing the racial identity attachment of mixed-race individuals. Sims (2016) found that if mixed-race individuals are most often assumed to be a member of a single-race minority group, then they are more likely to identify with that group. On the other hand, constant racial misclassification leads to a higher propensity to self-identify as mixed-race. In this way, measures of self-identification and racial classification by others may be strongly interrelated.

Furthermore, given the realities experienced by mixed-race individuals in that they are predominantly subjected to racial classification based on other's perceptions, mixed-race individuals are also known to take an active role in attempting to influence other's categorizations (Sims & Njaka, 2020). CMRS research details how mixed-race individuals who have strong internal feelings about their racial identity, but whose outward appearances may not reflect that identity, engage in performative activities such as styling one's hair in an afro or wearing racialized clothing in order to tug external perceivers' assessments toward one that matches their preferred racial identity (Sims, Pirtle, & Johnson-Arnold, 2020). As a consequence, it is a major challenge to researchers to disentangle the directional nature of the relationship between self-identification and racial classification, and more work is greatly needed.

Our review of these three different practices for measuring mixed-race--self-identification, race of parents and classification by others--demonstrates that, due to the complex nature of how race is practiced in the United States, there are special considerations that need to be taken into account when trying to delineate the boundaries defining a mixed-race population. Social science research shows that this is a complicated matter which requires a critical and complex approach. While public policy needs to clearly delineate a mixed-race population in order to target a group for protections or services, we show here that the choice selected to define a mixed-race population is a

subjective decision, which will in turn determine the types of individuals who are targeted for that policy.

## **Is Mixed-Race One Cohesive Group?**

So far in this paper we have generally described mixed-race individuals as one group. While demographic trends like those provided by the Census often represent mixed-race individuals as a single population, the question that continues to be asked is whether mixed-race individuals should be understood as one or as multiple groups. Scholars and activists have staked distinct positions on this issue with some arguing that we can envision one coherent mixed-race population while others argue that the racial combination of a mixed-race person should be taken into consideration. Others have argued for “Black exceptionalism” by pointing to the historical emphasis on the White and Black categories throughout American history and asserting that mixed-race individuals of Black descent should be understood as a distinct group from mixed-race individuals of other racial combinations (see for example Lee & Bean, 2012; Leslie & Sears, 2022). In this section, we offer an assessment of this claim and find that, empirically speaking, there are important and systematic differences when comparing individuals of different mixed-race combinations on a host of demographic and attitudinal factors.

If we disaggregate the mixed-race population into smaller groups representing a specific racial combination and compare their demographics, we find that these groups are characterized by distinctive demographic traits. First, looking at the two or more races population collected by the Census, we find that certain racial combinations are more likely to be reported than others. As seen in Table 2, the most common racial category combination is that of Black-White, which consists of 2.7 million people or 24% of the two or more race population. The second most populous subgroup is Asian-White (2.3 million, 20.3% of the total mixed-race population), followed by American

Indian-White (1.4 million, 12.42%). Another large group are those who indicate Latino/Hispanic and then in the race question mark both White and Some Other Race (913,112, 8.05%).

**Table 2: Population estimates and socioeconomic characteristics of mixed-race subgroups.**

	Population Estimates		Socioeconomic Characteristics			Geographic Distribution			
	% of Mixed Population	Population Size	Median Age	Median Income*	% with Bachelors or Above*	Northeast	Midwest	South	West
<b>Total Two or More Races Population</b>	100%	11,336,792	20	\$30,000	33.2%	15.4%	17.4%	32.3%	34.9%
<b>Non-Hispanics</b>									
<b>Black-White</b>	24.02%	2,723,462	14	\$32,600	33.9%	16.1%	26.3%	40.0%	17.7%
<b>Asian-White</b>	20.35%	2,307,140	19	\$40,400	52.1%	14.6%	15.5%	26.4%	43.4%
<b>Black-Asian</b>	1.84%	208,381	23	\$34,900	36.0%	16.5%	11.1%	42.8%	29.6%
<b>Black-Other</b>	0.60%	68,030	31	\$28,000	26.7%	37.0%	9.1%	37.6%	16.3%
<b>American Indian-White</b>	12.42%	1,408,203	35	\$26,500	25.5%	8.4%	22.1%	38.6%	30.9%
<b>American Indian-Black</b>	2.28%	258,772	35	\$22,000	23.6%	15.7%	18.4%	46.0%	20.0%
<b>Hispanics</b>									
<b>White-Other</b>	8.05%	913,112	21	\$26,400	19.7%	13.9%	13.0%	29.7%	43.4%
<b>Black-Other</b>	1.76%	199,143	15	\$27,400	21.7%	30.8%	9.5%	35.0%	24.8%
<b>American Indian-White</b>	3.70%	419,210	27	\$27,000	25.3%	6.7%	10.8%	23.1%	59.4%
<b>Three or more races</b>	8.82%	1,000,308	20	\$30,800	31.6%	14.0%	14.1%	27.9%	44.1%

\* = individuals aged 25 and older.

Source: 2019 American Community Survey Public Use Microdata Sample (Weighted).

We compared demographic factors—age, education, income and geographic distribution—across a sample of mixed-race subgroups and demonstrated clear variation across mixed-race subgroups (see Table 2). In terms of age, the youngest group are those who identify as Black-White, with over half of the population younger than 14. In contrast, those that claim to be of partial

American Indian descent are generally much older with a median age of 35, much closer to that of the national population median of 38 years old. The age variation indicates that some mixed-race subgroups had a childhood socialization during a very different social and political time period compared to others. The differences in geographic dispersion across subgroups also suggest that there may be minimal intimate contact across mixed-race subgroups. In fact, mixed-race subgroups have more contact with those of a single-race group than they do with other mixed-race subgroups.

One of the main take-aways from Table 2 is that the socio-economic profiles of different mixed-race subgroups are extremely diverse. Often, socio-economic differences between these mixed-race subgroups are greater even than the differences observed between single-race groups (as observed in Table 1). For example, the difference in median income between the highest and lowest earning mixed-race subgroups is \$22,000 per year (that between Asian-Whites and American Indian-Blacks), which is a good bit larger than the maximum difference of \$15,300 observed between single-race groups (Asians and American Indians/Alaska Natives). Similarly, among the most educated subgroup, Asian-Whites, over half hold at least bachelor's degree whereas less than a fifth of Latinos who identify as White-Other are college educated. Based on this demographic analysis, there is important and consequential variation across mixed-race subgroups. The patterns in Table 2 suggest that mixed-race subgroups live different types of lives characterized by varying opportunities and challenges telling us that this is not a single, coherent, or homogenous racial group.

Moreover, another curious point worth addressing is the unique case of those who identify both as White and as American Indian—who tend to be qualitatively different than most other White-minority Biracial subgroups. For example, while American Indian-Whites comprise a large portion of the mixed-race population as identified by the census (12.42%), this proportion is actually quite small when mixed race is measured by parentage (Qian, 2004). Those who include part-American Indian heritage in their personal racial identification tend to have ancestral connections

which are much farther back generationally in their family history than is the case for those who identify as part-Black, part-Latino, or part-Asian (2015 Pew Survey of Multiracial Adults). Perhaps consequently, American Indian-White identifying Biracials show little similarity with those who identify singularly as American Indians on several dimensions such as education, income, discrimination profiles, etc., and tend to resemble Whites. This is unique compared to other Biracial subgroups, who tend to either measure in-between or more near their minority racial group in terms of their characteristics.

Another way of assessing group cohesion is by assessing to what extent mixed-race subgroups hold similar attitudes or preferences with one another. Demographics do suggest that mixed-race subgroups live different lives but that does not rule out shared preferences. Research in political science has found that there is clear systematic variation in attitudes across the different mixed-race subgroups (Davenport, 2018; Masuoka, 2017). In fact, since the most common racial combination found among mixed-race respondents is identifying as half White and half racial minority, research suggests that attitudes held by mixed-race individuals align closer with those of the racial minority group. For example, Black-Whites do not hold different perceptions of discrimination or attitudes on race conscious policies from Blacks but do vary significantly from Whites. Likewise, the attitudes of Latino-Whites fall somewhere in between those of Whites and Latinos. A possible exception to these findings is that the attitudes of Asian-Whites are often racially conservative and closer to those of single-race Whites than are those of other single-race minorities, but the small sample size in studies may have yielded unreliable results (Masuoka, 2017). But while there is variation in attitudes across mixed-race subgroups, one area that may signal some similarity across subgroups is that mixed-race individuals tend to be extremely liberal on social issues like gay marriage and abortion rights. Davenport (2018) links these especially liberal attitudes to the political

characteristics of the parents of mixed-race individuals, who tend to be highly educated and liberal themselves.

Although the empirical evidence suggests that mixed-race individuals cannot be lumped together into only one group, scholars have still documented efforts by activists to generate a sense of collective and cohesive group identity among mixed-race individuals (DaCosta, 2007; Masuoka, 2017; Williams, 2006). Group identities do not simply form from nothing and history shows that charismatic leaders or an appealing message can generate a sense of collective spirit among a group of diverse individuals. So, while the mixed-race population is diverse, activists have identified opportunities to generate a collective group identity among mixed-race individuals. The “Multiracial Movement,” which began to form in the late 1990’s, successfully grew into a national movement characterized by a network of organized social groups, non-profits, and advocacy organizations scattered throughout the United States (See Root, 1992; also Dacosta, 2007; Williams, 2006).

Early scholarship often focused on how experiences were similar among all mixed-race peoples. In a prominent work, Maria Root (1992) presented a collection of essays that explored the highly complex matter of how mixed-race individuals formulated their feelings about their racial identities. One of the most prevalent themes is that mixed-race individuals battle tremendously with experiences of exclusion. Mixed-race individuals combat overarching social and institutional norms like the one-drop rule and hypodescent and face questioning about their authenticity as a member of a (mono)racial group. Mixed-race individuals thus negotiate their identities constantly and situationally as they strive for acceptance and belonging. One essay in particular noted that a unifying feature for mixed-race individuals is the unique strength and social abilities they develop as a result of having to traverse such racially and ideologically diverse contexts (Hall, 1992).

Building from this, empirical studies have sought to address whether holding a mixed-race identity or the strength of a mixed-race identity can explain distinctive choices or attitudes

(Masuoka, 2017). Politically, studies have also found that those holding a mixed-race identity have advocated for increased recognition or representation of a mixed-race identity in the public sphere (DaCosta, 2007; Masuoka, 2017; Williams, 2006). Therefore, identity may be the strongest link that connects together a coherent Multiracial population and the key mechanism explaining how individuals understand the role their race plays on their life chances.

## **Are Mixed-Race Peoples Subject to Discrimination?**

In these next two sections, we consider how racial discrimination applies to the experiences of mixed-race individuals. We will first address to what extent mixed-race individuals are victims of discrimination and how severe is the discrimination they witness. Here we bring survey data to bear which explores the propensity of mixed-race and single-race individuals to experience different types of discrimination. The evidence in the above sections shows that it is not useful to combine all mixed-race individuals into one group but rather we should disaggregate and analyze by mixed-race subgroups. In this analysis, we break down mixed-race by racial combination in order to determine if there are specific subgroups that are more likely to report to be victims of racial discrimination than others.

Our analysis draws upon the 2015 Pew Survey of Multiracials which is one of the most extensive survey data collections to date that focus on a mixed-race sample. This survey interviewed 21,224 respondents, allowing us to disaggregate and categorize respondents by racial combination while still having a large sample to report reliable results. Mixed-race in this analysis was identified by race of parent. For this analysis, we focus on six subgroups: Black-Whites, Latino-Whites, Asian-Whites, Black-Latinos, American Indian-Whites, and American Indian-Blacks.

In this survey, respondents were not only asked if they had been a victim of discrimination but were also asked about the type of discrimination they had witnessed. Respondents were asked if

in the past 12 months they had experienced one or more of the following: 1) Been unfairly stopped by the police; 2) Been treated unfairly by an employer in hiring, pay, or promotion; 3) Received poor service in restaurants, hotels, or other places of business; 4) Been subject to slurs or jokes; 5) Been threatened or physically attacked.

In Table 3 we calculate the share of respondents who report to have experienced each of the five forms of discrimination and compare responses across mixed-race subgroups and single-race groups. Consistent with the findings when analyzing demographic and attitudinal data, we observe differences in the types of discrimination they experienced. For example, the first row presents the percentage of individuals who report to have been stopped by the police. While 3% of American Indian-Whites and Asian-Whites report being stopped, 12% of Black-Whites and 13% of Black-Latinos report to have been stopped by the police.

**Table 3: Self-reported experiences of racial discrimination in the past 12 months by mixed-race and single-race groups**

<i>Self-Reported Experiences of Discrimination in the past 12 Months</i>	Monoracial Groups				Mixed-Race Groups					
	Whites	Blacks	Latinos	Asians	Black-Whites	Latino-Whites	Asian-Whites	Black-Latinos	American Indian-Whites	American Indian-Blacks
Unfairly stopped by police	1%	9%	4%	2%	12%	7%	3%	13%	3%	10%
Treated unfairly by an employer in hiring, pay or promotion	3%	11%	8%	8%	8%	7%	1%	9%	4%	7%
Received poor service in restaurants, hotels or other places of business	8%	15%	15%	11%	18%	12%	8%	13%	8%	19%
Subject to slurs or jokes	8%	11%	17%	13%	17%	16%	15%	23%	11%	16%
Threatened or physically attacked	2%	3%	2%	3%	4%	3%	1%	2%	3%	3%
Average Sum of Experiences	.22	.49	.45	.37	.59	.44	.28	.60	.30	.55
Sample Size	1122	508	151	256	187	291	120	47	790	135

Source: 2015 Pew Survey of Multiracials.

As a general pattern, these results also show that the American racial order strongly influences how mixed-race subgroups experience their world. Blacks have long been placed at the bottom of the racial order resulting in their longstanding marginalization and exclusion from opportunity. If you look across all five discrimination types, those mixed-race subgroups in which one parent is Black are more likely to report discrimination compared to other mixed-race subgroups. While the American racial hierarchy can explain much of this pattern, it should be acknowledged that other related forces are also at play. For example, in the previous analysis, we showed that mixed-race subgroups vary in socioeconomic status with some mixed-race subgroups much better off than others. We know from existing research that individuals use cues like social status to make assessments about race and strongly influence how they treat others (Saperstein & Penner, 2012), and so it may very well be the case that the relatively high economic status of certain mixed-race subgroups like Asian-Whites also explains these patterns of racial discrimination. Although these nuances of the role of factors such as race and social class also apply to single-race individuals, they are made to be much more visible when considering the experiences of mixed-race groups.

The discriminatory acts presented in Table 3 are those that are more prototypically identified by scholars to constitute racial discrimination. Recently, a plethora of qualitative (Does et al., 2021; Harris, 2017; Nadal, Sriken, Davidoff, Wong, & McLean, 2013) and quantitative studies (Albuja, Gaither, Sanchez, Straka, & Cipollina, 2019; Albuja, Sanchez, & Gaither, 2019, 2020) have examined other, more subtle forms of discrimination experienced by mixed-race individuals. These studies all underscore that mixed-race individuals may be particularly vulnerable to interpersonal experiences of exclusion or isolation from members of one or more of the racial groups in their heritage. For example, Asian-Black mixed-race respondents report being isolated by their Asian family members and friends, subjected to both explicit discrimination such as being called the N-word by family

members, as well as subject to microaggressions (Tran, Myake, Martinez-Morales, & Csizmadia, 2016). Studies further confirm that these experiences are associated with deleterious mental health outcomes (Campbell & Troyer, 2007; Franco, Katz, & O'Brien, 2016; Franco & O'Brien, 2018; Townsend et al., 2009). These more subtle and interpersonal forms of discrimination may be more common for mixed-race individuals because they are exposed to a wider variety of different racial groups compared to other Americans. Mixed-race individuals are more likely to live in mixed-race neighborhoods and have exposure to others of a different race in their family and friendship circles (Rockquemore & Brunisma, 2007) suggesting that these subtle forms of discrimination are more commonly experienced across mixed-race subgroups.

Another important dimension to discrimination experienced by mixed-race individuals is that it tends to be gendered. CMRS provides robust evidence that mixed-race women and mixed-race men often differ both in the types of racial discrimination they experience as well as who tends to target them as victims. For example, mixed-race women are more likely to experience discrimination in the form of social exclusion and rejection from their minority counterparts than are men (Buggs, 2017a, 2017b, 2019; Sims & Joseph-Salisbury, 2019). This often occurs in the form of single-race minority women's antipathy toward mixed-race women who may be perceived as reinforcing White-centric and paternalistic standards of beauty by possessing more European features such as skin color, hair texture, or phenotype. In turn, these experiences of discrimination can lead women to embrace either their mixed-race identity or their White identity more often than men (Davenport, 2016).

Between subgroups differences exist as well. Strmic-Pawl (2016) collected qualitative interview data of both Asian-White and Black-White Biracial individuals and found that Asian-Whites are more likely to experience racial discrimination in the form of microaggressions such as racial miscategorizations or interpersonal slights. On the other hand, racial discrimination as

traditionally conceived is much more central to the lived experience of Black-White Biracials. In line with the evidence presented in Table 3, Strmic-Pawl used Black-White Biracials' own stories to draw a connection between experiencing traditional forms of racial discrimination and the consolidation of one's perception that they are minorities on the lower rung of the racial hierarchy.

Studies on experiences of discrimination typically focus on self-reported experiences of the respondent and how those experiences may impact mental health, interpersonal relationships and their attitudes about society. More simply, the focus is on the victim of discrimination. But there is also research which examines how outside viewers perceive the existence of discrimination. Many public opinion studies have demonstrated clear agreement among the majority of Americans that Blacks experience significant racial discrimination in their everyday lives. Historically, this then leads to public support for redistributive policies to rectify the inequalities Blacks have experienced (Schuman, Steeh, Bobo, & Krysan, 1997). More recent research has sought to examine whether the public believes that mixed-race individuals are also deserving of redistributive policy. These studies find that respondents from single-race groups are less likely to perceive mixed-race individuals as deserving of anti-discrimination protections, such as affirmative action (Campbell & Herman, 2010; Good, Sanchez, & Chavez, 2013). So, while some mixed-race subgroups report experiencing discrimination at similar rates as other single-race minority groups (as shown in Table 3), in the eyes of the public, mixed-race individuals are believed to be less deserving of redistributive policies. Since public support for an issue, particularly those involving race, is critical for successful policy passage, these public attitudes about mixed-race individuals may pose challenges for policy that targets mixed-race populations.

## Legal Cases Involving Discrimination Against Mixed-Race Identities

While research shows that mixed-race individuals report experiencing racial discrimination, how are these experiences of discrimination handled in practice? Turning to legal studies, most litigation cases involving mixed-race identities have struggled with how to understand the form of discrimination experienced by a mixed-race litigant. The primary question asked is whether or not mixed-race individuals suffer from a unique form of discrimination based on their mixed-race status or if the mixed-race individual suffers from discrimination because they are being classified as a single-race minority.

Civil rights case law tends to follow a rule of hypodescent when dealing with a case involving a mixed-race individual. Typically, if a case involves a claim of racial discrimination, then the usual practice is to attribute discrimination on the basis of the mixed-race individual's minority background. Nancy Leong (2009) argues that the current system of reclassifying mixed-race people poses both normative and practical harm for mixed-race complainants. For Leong, the practice diminishes the personal efficacy and agency of an individual who wants to be recognized specifically as mixed-race. This also undermines the ability of mixed-race individuals to lay claim to their unique experiences of racialization as mixed-race in court. Leong points to the very small number of legal cases involving a mixed-race individual. In these cases, mixed-race persons are almost always framed as single-race minorities.

What Leong and others find most practically harmful is that the current legal system of relying on specific racial categories could preclude mixed-race individuals from coming forward with their cases of discrimination or harm their chances of success if they do. The current system often relies on the use of a comparator—an individual of a different racial group than the plaintiff—to prove that race was the specific basis for discrimination in a certain setting. Given that mixed-race

individuals subscribe to multiple racial categories, it can become difficult to identify the ideal comparator. For example, in the case *Walker v. Colorado*, the claimant identified as a “Multiracial person of Black, Native American, Jewish, and Anglo descent.” The court held that Walker in this case was a member of a protected class based on his membership in various minority racial groups; however, questions arose as to whether or not he would need to prove worse treatment compared to a White, Black, or other comparator of a different race. While his case was dismissed for other reasons and the comparator question was not fully explored, Leong points to this as a useful example demonstrating the difficulties of trying a case involving a mixed-race person.

Conversely, on the other side of the debate, scholars such as Hernández (2018) argue that the current system can adequately resolve discrimination experienced by mixed-race individuals. Hernández points out that in the overwhelming majority of discrimination cases involving mixed-race plaintiffs, the crux of their discriminatory experiences is centered around their membership in their minority racial group which was almost always as Black. Since the plaintiffs were being mistreated due to their assumed status as Black, emphasizing their racial classification as Black best characterizes the circumstances of the case. This strategy is of practical importance since proving race-based discrimination is a highly difficult endeavor on its own. Since there exist numerous legal precedents in cases involving a Black plaintiff, relying on precedent further substantiates the claims made in the case, thus increasing the chances of a ruling that discrimination has occurred.

Yet, while most cases involving a mixed-race individual relate to their classification as Black, Hernández (2018) does find two successful cases where the claimant experienced discrimination on the basis of being mixed-race. In one of these cases, *Moore v. Board of Education of Harford County*, a Black-White identified high school student suffered egregious verbal and physical abuse from an African-American teacher, specifically on the basis of his mixed-race heritage. The student was frequently insulted as a “Euronigger,” told he was a “confused person” because of his mixed-race

heritage, and eventually suffered the breaking of two wires from a prior cervical spine surgery as a result of a choking headlock from his teacher. Cases that successfully prove race-based discrimination against mixed-race individuals on the basis of their mixed-race racial identity are rare but do exist. As a consequence of this rarity, questions certainly persist as to whether or not there are systemic or institutional forces that under-equip mixed-race individuals' ability to be protected under the modern civil rights framework, despite the fact that institutions do currently allow for mixed-race specific claims. The number of legal cases involving discrimination against mixed-race individuals is relatively small, but these cases demonstrate how the longstanding rule of hypodescent guides decisions on cases involving mixed-race litigants. These cases show that discrimination against Blacks in particular guides how Americans and the legal system understand racial discrimination more generally and so uses discrimination against Blacks as a lens to understand discrimination experienced by other racial groups, in particular mixed-race individuals. At the same time the unique case of *Moore v Board of Education of Harford County* provides insight into one instance when the courts recognized mixed-race individuals to experience their own unique form of racial discrimination attributed to their mixed-race background.

## Recommendations

The purpose of our review has been to set the stage for reconciling how the growth of a mixed-race population may challenge the existing framework of civil rights. Building from this, we offer the following recommendations for moving forward:

### ***Policy Recommendation 1: Abstain from the Development of One Uniform Policy for Mixed Race Populations—It May Cause More Harm Rather Than Improve Equity***

This extensive review of studies from a variety of disciplines all show that mixed race cannot be conceptualized as one uniform or homogenous group. In reality, any definition of mixed race

used today would result in identifying a diverse, heterogeneous group whose members witness distinctively different racialized experiences and even hold different levels of identity attachment with other mixed-race individuals. In addition, the role of class, status, regional location, and generational cohort also explain clear variation in experiences of mixed-race individuals. Given the degree of variation that exists among mixed-race individuals, any attempt to assert a uniform policy or approach would result in an outcome that privileges some mixed-race individuals while painfully ignoring others. Put more simply, policies that address the experiences of mixed-race individuals who identify as White and Black cannot and should not be applied to the experiences of those who identify as, say, Asian and Latino or as Pacific Islander and Black. The total number of policy approaches that attempts to address the needs of mixed-race individuals will likely need to be larger in quantity because there will need to be many targeted policies aimed at particular sub-groups of the mixed-race population.

Building on this, we remind audiences that those who assert expertise about one type of mixed-race experience should not be presumed to hold expertise about all other types of mixed-race experiences. We make clear throughout this paper that much of the literature we reviewed primarily focused on mixed-race individuals who identify as White and with a minority racial group, most often White-Black or White-Asian. These are two of the larger mixed-race groups as identified by the census today and are those who have been the subject of most of the systematic studies on the mixed-race experience. We offer less discussion on the American Indian experience or how mixed race operates within Latino America. This imbalance is not an attempt to reflect a perception that these are less important groups to study. On the contrary, we emphasize that these are important groups in need of greater attention by policy audiences. However, each mixed-race experience is complex and informed by the unique racialization, legal treatment, social and economic constraints applied to the categories of American Indian or Latino/Hispanic. Each of these groups deserves

focused attention in their own right and should be discussed separately, in their own policy briefs. In this way, we model for policymakers an approach. Experts should offer clear definitional guidelines about the specific mixed-race populations to be discussed and should not appear that their recommendations can exhaustively capture all mixed-race experiences.

***Policy Recommendation 2: Increase Compliance with Office of Management and Budget***

***Guidelines for Race Data Collection***

The “mark one or more” methodology for collecting race and ethnicity data developed in OMB policy offers us the most detailed information on the mixed-race experience because it offers the opportunity to understand how a mixed-race person’s racial background leads to different experiences with discrimination or other systemic inequities. This methodology should be practiced more broadly in other sectors outside of those under the purview of the federal government.

However, in practice, many state and local governments along with private businesses continue to adopt their own methodologies for collecting race and ethnicity data. This variation makes it difficult to monitor the experiences of mixed-race populations. For example, take data collection for voter registration. Section 5 of the Voting Rights Act sets a requirement that several states (mostly in the South) collect data on the race of individuals upon registering to vote. The purpose of this was to ensure that Blacks and other racial minorities were not subjected to racial discrimination in the form of intimidation or prevention from participating in electoral democracy. However, since the commencement in 2000 of the “mark one or more” OMB guidelines for the census, no state in America has adopted this framework in terms of voter registration. Moreover, what may be especially pernicious is that two states in particular, North Carolina and Florida, amended their registration forms to include the term “Multiracial” as a specific, stand-alone category alongside other traditional single-race groups in the racial identification question (see Appendix

Figures A1 and A2). We emphasize that including “Multiracial” as a racial category option is highly problematic and has likely caused a major undercounting of racial minority voter registration and electoral participation. Data shows that the proportion of individuals who are categorized as “Multiracial” in voter registration data is not trivial; thus, this undercounting can impact decisions which rely on race data such as racial redistricting and weakens the posture of racial minority groups by giving the appearance that they are less impactful on elections than they truly are. Hence, we argue that using the option “Multiracial” in voter registration forms and elsewhere is actually tantamount to a tool of discrimination.

Another example of noncompliance with the OMB guidelines is the current system for university reporting of racial demographic statistics to the federal government (Integrated Postsecondary Education Data System [IPEDS]). While students and applicants are allowed to mark one or more races to designate their racial identity, only the umbrella term “two or more races” is ultimately reported to the federal government (Lipson, 2016). While universities have knowledge of the specific subgroups to which the two or more race applicants belong, this information is not reported. Given existing research that shows important educational disparities by racial combination within the mixed-race population, more detailed racial backgrounds of those designated as the two or more races category could offer analysts an opportunity to identify these disparities.

Finally, while private companies are not required to follow federal guidelines for racial data collection, we advocate that race data which allows for the option of identifying as mixed-race also collect data on the racial combination of the individual. Collecting detailed race data will be most useful for identifying specific needs among the mixed-race population particularly among industries where we know there to be racial disparities, such as health care. This effort may require further funding since resources are needed for assisting federal and state agencies with transitioning data

collection systems which may include updated hardware or software, updated paper work, training staff, and monitoring compliance with OMB guidelines.

***Policy Recommendation 3: Build Consensus on How to “Count” Mixed-Race Individuals***

Once there is a consistent data collection practice in place, the next concern is how analysts and policymakers deal with the data provided. For example, do we consider the mixed-race population to be collectively all individuals who check more than one racial category on the race question? Alternatively, do you look at each racial combination as a separate group by, for example, disaggregating by those who are for example Black-White, Asian-White, Asian-Latino, or American Indian-Black-White? While a wealth of detailed data can on the one hand be useful, it also means that the analyst must often make subjective choices in how to use the data. To date, there are no clear guidelines on how to approach detailed race data.

There does exist a guideline specifically for civil rights monitoring and enforcement established by the federal government. According to the OMB Bulletin NO. 00-02 (2000), for the purposes of civil rights monitoring and enforcement, “responses that combine one minority race and White are allocated to the minority race.” Additionally, if a response includes two or more minority races, then for situations where race-based complaints are concerned, the race that a complainant alleges the discrimination was based upon is the one used for allocation. These established federal guidelines for using race data were outlined to help mitigate those concerns by civil rights organizations that mixed-race identification would take away from federal spending allocations to minority groups. At the same time, these allocational rules allow for the redistribution of the population back into the established single racial categories. In this way, these procedures for using race data continue to uphold the longstanding practice of racial classification into discrete single-race categories in particular for continued implementation of civil rights and voting rights policies.

While this is the current federal guideline for civil rights enforcement, this does not imply that it is the appropriate or best strategy for managing detailed race data. Though we acknowledge that civil rights law's ability to engage in group-based remedies is currently experiencing a major dismantling by the courts with the overturning of many sections of the Voting Rights Act, it remains an important question as to how we use detailed race data for civil rights policy and enforcement. Given research that shows great variation between mixed-race individuals from different subgroup combinations in terms of socioeconomic status and experiences with discrimination, we recommend that mixed-race individuals not be treated as if they are one cohesive group and so policies should not be designed assuming uniformity of the mixed-race experience. We also caution assignment of mixed-race individuals into single-race minority groups for all civil rights policy implementation. With growing diversity of the mixed-race population, there is increasingly a share of this population that identifies with multiple minority groups. Therefore, assigning a mixed-race individual into only one single-race minority group will be increasingly problematic and could unintentionally create tensions across minority groups.

***Policy Recommendation 4: Allocate Resources Toward Measuring and Monitoring Mixed-Race Individuals' Experiences with Discrimination, Feelings of Racial Identity, and Relevant Civil Rights Markers***

The above recommendations are based on data and evidence about mixed-race individuals that are available at the present moment. However, perhaps one of the most important conclusions we can offer is that mixed race is a complex construct that is still in formation. Therefore, we should not make assumptions about the needs of mixed-race individuals even if they are rooted from scientific study. We must continue to collect data on the mixed-race experience and monitor how mixed race may evolve over the coming decades. Below, we discuss areas that are especially in need

of additional research in order to best inform civil rights policy making, and we provide a few specific suggestions for research programming.

We recommend that funding be allocated to provide more complete information about the nature and prevalence of racial discrimination experienced by mixed-race individuals. It is also important that these studies are longitudinal in order to monitor how mixed-race individuals' experiences with discrimination may change in the future. We sympathize with legal scholars who fear that a lack of public awareness and legal precedent regarding mixed-race peoples' experiences with racial discrimination may be deterring mixed-race individuals from coming forward with important grievances. Indeed, existing research suggests that the mass public often perceives mixed-race individuals as unlikely to be subjected to racial discrimination (Campbell & Herman, 2010; Good et al., 2013), which may have the effect of making potential mixed-race complainants—and their legal counsel—pessimistic and therefore unwilling to bring forward certain cases. As a consequence, more funding should be allocated to sponsor research which can explore the nature and prevalence of mixed-race-specific forms of racial discrimination.

Additionally, we offer the normative recommendation that researchers and policy makers should do better to publicize data on mixed-race individuals' experiences with racial discrimination so as to augment the public consciousness by raising awareness and acknowledgement of mixed-race people's confrontations with racial hostility. Doing so may help align the public's perceptions with real world experiences, which may lead to more mixed-race individuals coming forward with important anti-discrimination cases, and better enable jurors to identify such discrimination.

We acknowledge an oft-noted contention which is that mixed-race individuals have benefited disproportionately from redistributive programs designed to redress historical discrimination, such as affirmative action. It remains an important question whether mixed-heritage may provide advantages or possibly even constitute as a privilege in comparison to the status and

treatment of single race minorities. We acknowledge that this is an area where the lack of broad and consistent measurement of mixed-race identity-related data has rendered scholars and policy makers ill-informed to draw definitive conclusions. To this point, we recommend allocating funding to measure and monitor how mixed-race individuals fare on several dimensions related to the enforcement, protection, and inclusion in redistributive policies.

As the mixed-race population grows, it is imperative that policy makers meet the challenges of the 21<sup>st</sup> century by continuing to explore the role this population may play in shaping race relations for America.

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# Appendix

Figure A1.

**NORTH CAROLINA VOTER REGISTRATION APPLICATION** (fields in red text are required) 2020.02 **06w**

**1** Indicate whether you are qualified to vote or preregister to vote based on U.S. citizenship and age.

**Are you a citizen of the United States of America?**  
IF YOU CHECKED "NO" IN RESPONSE TO THIS CITIZENSHIP QUESTION, DO NOT SUBMIT THIS FORM. YOU ARE NOT QUALIFIED TO VOTE

Yes  No

**Will you be at least 18 years of age on or before election day?**  
**Are you at least 16 years of age and understand that you must be 18 years of age on or before election day to vote?**  
IF YOU CHECKED "NO" IN RESPONSE TO BOTH OF THESE AGE QUESTIONS, DO NOT SUBMIT THIS FORM.  
YOU ARE NOT QUALIFIED TO REGISTER OR PREREGISTER TO VOTE.

Yes  No  
 Yes  No

**2** Provide your full legal name.

Last Name  Suffix   
First Name   
Middle Name

**3** Provide your date of birth and identification information.

Date of Birth (MM/DD/YYYY)  /  /  State or Country of Birth   
NC Driver License or NC DMV ID Number  Last 4 Digits of Social Security Number   
 Check if you do not have a driver license or Social Security number. State Voter Registration Number (Optional: To locate, check "Voter Lookup" at [www.NCSBE.gov](http://www.NCSBE.gov))

**4** Provide your residential address - where you physically live.  
*Do not enter a P.O. Box or a mail drop location.*

Address Number  Street Name and Type   
Address Line 2 (e.g., apartment, lot or unit number)   
City  State  Zip Code   
County  Have you lived at this address for 30 or more days?  Yes  No If "No", date moved?

**5** Provide a mailing address.

Do you receive mail at your residential address?  Yes  No  
If "No", you are required to provide a mailing address.

Mailing Address Line 1   
Mailing Address Line 2   
Mailing Address Line 3   
City  State  Zip Code

**No Physical Address?** If you do not have an address, use the space to the right to illustrate where you normally live or sleep. Write in the names of the nearest crossroads (or streets). Draw an X on the map to show where you live or usually sleep.

IMPORTANT: You should also provide a valid mailing address above to permit the board of elections to send you a voter card.

**6** Provide your demographic information (optional).

Gender  Male  Female  
Ethnicity  Not Hispanic/Latino  Hispanic/Latino  
Race  African American/Black  American Indian/Alaska Native  Asian  Multiracial  Native Hawaiian/Pacific Islander  White  Other

**7** Provide your choice for political party affiliation.

Democratic Party  Unaffiliated  Other  
 Libertarian Party  Republican Party  
If you select a party that is not recognized in North Carolina, you will be registered as *Unaffiliated*.

**8** Complete if you are currently registered to vote in another NC county or in another state.  
*(This information will be used to cancel your previous voter registration in the other county or state.)*

First Name Used in Last Registration  Middle Name Used in Last Registration  Last Name Used in Last Registration  Suffix   
Address Where You Were Last Registered  City/State/Zip Code of Last Registration  County of Last Registration

**9** Provide your contact information (optional).  
*(This information is helpful if we need to contact you concerning your voter registration. Your contact information may be disclosed as a public record.)*

Area Code  Phone Number  Email Address  Would you like to be contacted to be a poll worker?  Yes  No

**10** Sign below to attest to your qualifications to vote.  
**FRAUDULENTLY OR FALSELY COMPLETING THIS FORM IS A CLASS I FELONY UNDER CHAPTER 163 OF THE NC GENERAL STATUTES.**

I attest, under penalty of perjury, that in addition to having read and understood the contents of this form, that: (1) I am a United States citizen, as indicated above; (2) I am at least 18 years of age, or will be by the date of the general election; or I am at least 16 years old and understand that I must be at least 18 years old on the day of the general election to vote; I shall have been a resident of North Carolina, this county, and precinct for 30 days before the date of the election in which I intend to vote; (3) I will not vote in any other county or state after submission of this form and if I am registered elsewhere, I am canceling that registration at this time; and (4) I have not been convicted of a felony, or if I have been convicted of a felony, I have completed my sentence, including any probation, post-release supervision or parole OR I am serving an extended term of probation, post-release supervision, parole, I have outstanding monetary obligations, and I am not aware of other reasons for the extension of my period of supervision.

**X** \_\_\_\_\_  
Signature Required \_\_\_\_\_  
Date

Figure A2.

<b>Florida Voter Registration Application</b> Part 1 – Instructions (DS-DE 39, R1S-2.040, F.A.C.)(eff. 10/2013)		<b>Información en español:</b> Sírvase llamar a la oficina del supervisor de elecciones de su condado si le interesa obtener este formulario en español.	
<p><b>To Register in Florida, you must be:</b></p> <ul style="list-style-type: none"> <li>a U.S. citizen,</li> <li>a Florida resident,</li> <li>at least 18 years old (you may pre-register at 16 or 17, but cannot vote until you are 18).</li> </ul> <p>If you have been convicted of a felony, or if a court has found you to be mentally incapacitated as to your right to vote, you cannot register until your right to vote is restored.</p> <p><b>If you do not meet any ONE of these requirements, you are not eligible to register.</b></p> <p style="text-align: center;"><b>Questions?</b></p> <p>Contact the Supervisor of Elections in your county:  <a href="https://dos.myflorida.com/elections/contacts/supervisor-of-elections">dos.myflorida.com/elections/contacts/supervisor-of-elections</a>                  Visit the Florida Division of Elections' website at:  <a href="https://dos.myflorida.com/elections">dos.myflorida.com/elections</a></p> <p><b>CRIMINAL OFFENSE:</b> It is a 3rd degree felony to submit false information. Maximum penalties are \$5,000 and/or 5 years in prison.</p> <p><b>PUBLIC RECORD:</b> Once filed, all information including your phone number and email address as provided become public record except for the following which can only be used for voter registration purposes: your FL DL#, FL ID#, SSN, where you registered to vote, and whether you declined to register or to update your voter registration record at a voter registration agency. Your signature can be viewed but not copied. (Section 97.0585, Fla. Stat.)</p>		<p><b>Where to Register:</b> You can register to vote by completing this application and delivering it in person or by mail to any supervisor of elections' office, office that issues driver's licenses, or voter registration agency (public assistance office, center for independent living, office serving persons with disabilities, public library, or armed forces recruitment office) or the Division of Elections. Mailing addresses are on page 2 of this form.</p> <p><b>Deadline to Register:</b> The deadline to register to vote is 29 days before any election. You can update your registration record at any time, but for a Primary Election, party changes must be completed 29 days before that election. You will be contacted if your new application is incomplete, denied or a duplicate of an existing registration. Your Voter Information Card will be mailed to you once you are registered.</p> <p><b>Identification (ID) Requirements:</b> New applicants must provide a current and valid Florida driver's license number (FL DL#) or Florida identification card number (FL ID#). If you do not have a FL DL# or FL ID#, then you must provide the last four digits of your Social Security number (SSN). If you do not have any of these numbers, check "None." If you leave the field and box blank, your new registration may be denied. See section 97.053(6), Fla.Stat.</p> <p><b>Special ID requirements:</b> If you are registering by mail, have never voted in Florida, and have never been issued one of the ID numbers above, include one of the following with your application, or at a later time before you vote: 1) A <b>copy</b> of an ID that shows your name and photo (<i>acceptable IDs</i>–U.S. Passport, debit or credit card, military ID, student ID, retirement center ID, neighborhood association ID, or public assistance ID); or 2) A <b>copy</b> of an ID that shows your name and current residence address (<i>acceptable documents</i>–utility bill, bank statement, government check, paycheck, or other government document).</p> <p>The special ID is not required if you are 65 or older, have a temporary or permanent physical disability, are a member of the active uniformed services or merchant marine who is absent from the county for active duty, or a spouse or dependent thereof, or are currently living outside the U.S. but otherwise eligible to vote in Florida.</p> <p><b>Political Party Affiliation:</b> Florida is a closed primary election state. In primary elections, registered voters can only vote for their registered party's candidates in a partisan race on the ballot. In a primary election, all registered voters, regardless of party affiliation, can vote on any issue, nonpartisan race, and race where a candidate faces no opposition in the General Election. If you do not indicate your party affiliation, you will be registered with no party affiliation. For a list of political parties, visit the Division of Elections' website at: <a href="https://dos.myflorida.com/elections">dos.myflorida.com/elections</a>.</p> <p><b>Race/Ethnicity:</b> It is optional to list your race or ethnicity.</p> <p><b>Boxes:</b> Please check boxes ( ) where applicable.</p>	
<b>Numbered rows 1 through 7 and 12 must be completed for a new registration.</b>			
<b>Florida Voter Registration Application</b> Part 2 – Form (DS-DE #39, R1S-2.040, F.A.C.)(eff. 10/2013)		The downloadable/printable online form is available at: <a href="https://registertovoteflorida.gov">registertovoteflorida.gov</a>	
This is: <input type="checkbox"/> New Registration <input type="checkbox"/> Record Update/Change (e.g., Address, Party Affiliation, Name, Signature) <input type="checkbox"/> Request to Replace Voter Information Card			
<b>1</b>	Are you a citizen of the United States of America? <input type="checkbox"/> YES <input type="checkbox"/> NO		<b>OFFICIAL USE ONLY</b>
<b>2</b>	<input type="checkbox"/> I affirm that I am not a convicted felon, or if I am, my right to vote has been restored.		
<b>3</b>	<input type="checkbox"/> I affirm that I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my right to vote has been restored.		
<b>4</b>	Date of Birth (MM-DD-YYYY)    [ ][ ] - [ ][ ] - [ ][ ][ ][ ]	FVRS No:	
<b>5</b>	Florida Driver License (FL DL) or Florida identification (FL ID) Card Number [ ][ ][ ][ ] - [ ][ ][ ][ ] - [ ][ ][ ][ ] - [ ][ ][ ][ ]		If <u>no</u> FL DL or FL ID, then provide → [ ][ ][ ][ ]    Last 4 digits of Social Security Number <input type="checkbox"/> I have NONE of these numbers.
<b>6</b>	Last Name	First Name	Middle Name
<b>7</b>	Address Where You Live (legal residence-no P.O. Box)	Apt/Lot/Unit	City
<b>8</b>	Mailing Address (if different from above address)	Apt/Lot/Unit	City
<b>9</b>	Address Where You Were Last Registered to Vote	Apt/Lot/Unit	City
<b>10</b>	Former Name (if name is changed)	Gender <input type="checkbox"/> M <input type="checkbox"/> F	State or Country of Birth
<b>11</b>	<input type="checkbox"/> Email me SAMPLE BALLOTS if option is available in my county. (See Public Record Notice above) My email address is:		Telephone No. (optional) (    )
<b>Party Affiliation</b> (Check only one. If left blank, you will be registered without party affiliation) <input type="checkbox"/> Florida Democratic Party <input type="checkbox"/> Republican Party of Florida <input type="checkbox"/> No party affiliation <input type="checkbox"/> Minor party (print party name):		<b>Race/Ethnicity (Check only one)</b> <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Black, <i>not</i> of Hispanic Origin <input type="checkbox"/> Hispanic <input type="checkbox"/> White, <i>not</i> of Hispanic Origin <input type="checkbox"/> Multi-racial <input type="checkbox"/> Other:	
		(Check only one if applicable) <input type="checkbox"/> I am an active duty <b>Uniformed Services or Merchant Marine member</b> <input type="checkbox"/> I am a <b>spouse or a dependent</b> of an active duty uniformed services or merchant marine member <input type="checkbox"/> I am a <b>U.S. citizen residing outside the U.S.</b>	
		<input type="checkbox"/> I will need assistance with voting. <input type="checkbox"/> I am interested in becoming a poll worker.	
<b>12</b>	Oath: I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true.		Date
		<b>SIGN/MARK HERE</b> 	