



AMERICAN CIVIL LIBERTIES UNION

California

VIA ELECTRONIC MAIL

August 12, 2020

Dear Board of Supervisors:

We wish you and your family health and wellness as you grapple with the COVID-19 virus in your community. We write to lift-up key concerns pertaining to issues of equity as the coronavirus (COVID-19) pandemic continues to devastate communities throughout California. We commend public officials for working tirelessly throughout the last four months to keep their constituencies safe while supporting those impacted by this virus. We additionally recognize the need to address the disproportionate and often devastating impacts of COVID-19 on communities of color. The creation of a task force dedicated to addressing the racial and ethnic disparities in the impact and outcomes of the coronavirus pandemic is a crucial step in the effort to mitigate the disproportionate harm that this pandemic has created among Black, Indigenous, and Latinx communities and People of Color. Although it is important for the state to fix issues with its data collection and standardization, given the recent issues with data glitches, it is more important than ever for counties and localities to ensure their reporting reflect standardization and community input.¹ It is also important for counties to have record of data to help stop the spread of COVID-19, track disparities, and ensure that marginalized communities are not left out of important data conversations. The ACLU of California urges each county across the state to create a task force which will be designated to addressing the racial/ethnic disparities in COVID-19 data collection, impacts, and outcomes and includes membership from Black, Indigenous, and Latinx led community organizations.

Background on & Importance of the Creation of a COVID-19 Racial and Ethnic Disparity Task Force:

In California, over four months after the emergence of COVID-19, racial and ethnic data remains unknown for more than 35% of cases and 124 deaths from the coronavirus.² The racial and ethnic disparities in those affected by COVID-19 are staggering and indisputable – the Atlantic and the Antiracist Research and Policy Center's COVID Racial Data Tracker has found that Black deaths are nearly two times greater than would be expected based on their share of the population nationally, Native Americans and Alaska Natives are dying at a rate 25% higher than that of white

1 "California sorts through coronavirus data as glitch stymies policy decisions." Politico, 7 August 2020, available at <https://www.politico.com/states/california/story/2020/08/07/california-sorts-through-coronavirus-data-as-glitch-stymies-policy-decisions-1305972>; "CA's coronavirus 'data reporting errors were completely preventable,' expert says." ABC News 7, 10 August 2020, available at <https://abc7news.com/california-data-glitch-venafi-coronavirus-covid-date/6364752/>; "California's top public health official resigns after massive coronavirus data glitch." CBS News, 11 August 2020, available at <https://www.cbsnews.com/news/dr-sonia-angell-california-top-public-health-official-resigns-coronavirus-data-glitch/>.

2 "Racial Data Dashboard." The COVID Tracking Project, covidtracking.com/race/dashboard.

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people, Latinx populations make up a greater share of COVID-19 cases in 42 states, and white deaths from COVID-19 are lower than their share of the population in 37 states.

These disparities result from a variety of factors, ranging from living conditions to work circumstances or underlying health conditions and lower access to care. People in ethnic and racial minority groups are more likely to live in neighborhoods with residential segregation, farther from medical facilities, and are over-represented in jails, prisons, and detention centers.³ Black, Indigenous, and People of Color (BIPOC) also hold a disproportionate number of positions in essential industries, increasing their risk of exposure, and are often denied paid sick leave. Additionally, members of Black and Brown communities are less often insured in comparison to their white counterparts – Latinx individuals are three times as likely to be uninsured and Black people twice as likely to be uninsured.⁴

California is home to more Indigenous people than any other state. Indigenous communities face well-documented inequities as is, ranging from access to public health, education, and housing which have only been exacerbated by the coronavirus pandemic.⁵ Native people additionally – and often consequentially – face disproportionately high risk factors that increase vulnerability to COVID-19, which include high levels of chronic, underlying medical conditions coupled with a lack of infrastructure and organizational structure to support relief and provide crucial public health information to protect Native peoples from the COVID-19 pandemic.⁶ With such prevalent, complex, and wide-ranging causes of the devastating impact of COVID-19 on BIPOC communities, it is crucial that task forces exist to better understand the unique as well as generalized causes and means to address these disparities in each county. Those most familiar with these disparities, and particularly Black, Latinx, and Indigenous led organizations, should be the organizations and individuals leading the effort to understand, collect data on, and work to alleviate these conditions.

A task force that holds expertise in the intersection of race, ethnicity, and health will ensure that resources to address COVID-19 make it to the communities that most need it as well as help

3 "COVID-19 in Racial and Ethnic Minority Groups." Centers for Disease Control and Prevention, 4 June 2020, available at https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/race-ethnicity.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fracial-ethnic-minorities.html.

4 Bartel AP, Kim S, Nam J, Rossin-Slater M, Ruhm C, and Waldfogel J. "Racial and ethnic disparities in access to and use of paid family and medical leave: evidence from four nationally representative datasets." *Monthly Labor Review*, U.S. Bureau of Labor Statistics, January 2019, available at <https://www.bls.gov/opub/mlr/2019/article/racial-and-ethnic-disparities-in-access-to-and-use-of-paid-family-and-medical-leave.htm>

5 "UN/DESA Policy Brief #70: The Impact of COVID-19 on Indigenous Peoples." United Nations, 8 May 2020, available at <https://www.un.org/development/desa/dpad/publication/un-desa-policy-brief-70-the-impact-of-covid-19-on-indigenous-peoples/>.

6 "For California Native Americans, COVID-19 is yet another existential threat to survive." *Sacramento Bee*, 7 May 2020, available at <https://www.sacbee.com/opinion/article242555401.html>.

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us better understand who those communities those are. Marcella Nunez-Smith, the Director of Yale School of Medicine's Equity Research and Innovation Center, states that race and ethnicity data collection are also necessary for officials to craft tailored public health responses.⁷ For example, current national data show that rates of COVID-19 cases and deaths among Asian Americans are similar to rates of cases and deaths for white Americans. However, the aggregation of data for all Asian subgroups masks the often stark socioeconomic and health inequities within the community that place some groups of Asian Americans at higher risk for COVID-19 than others.⁸ Developing sustainable and effective policies to address racial and ethnic disparities requires data and strategies that are specific to the needs of specific communities.

Creating a task force designed to address racial and ethnic disparities in COVID-19 impacts will ensure that the most impacted communities receive an appropriate public health response, ultimately benefiting all Californians. Other cities and counties, including the City of Oakland⁹, San Jose¹⁰, San Diego¹¹, as well as Santa Clara County¹², have already begun the process of creating such task forces. While each task force will undoubtedly have slightly different organizational structure, strategies, and goals, we believe that these task forces can serve as prototypes for the format and goals of new task forces as they are created.

Disparities in Data Collection Across California

Having dedicated racial and ethnicity data collection taskforces can help provide accountability and mitigate disparities in data collection. Indeed, public health groups across the country are calling for data standardization to adequately track COVID-19 cases.¹³ Many of the reasons they are calling for data standardization are outlined in the challenges we faced here in California. For purposes of our analysis, disparity is defined as the ratio between the percentage

7 Godoy, Maria, and Daniel Wood. "What Do Coronavirus Racial Disparities Look Like State By State?" NPR, 30 May 2020, available at <http://www.npr.org/sections/health-shots/2020/05/30/865413079/what-do-coronavirus-racial-disparities-look-like-state-by-state>.

8 "Asian Americans invisible in COVID-19 data and in public health response." The Chicago Reporter, 16 June 2020, available at <https://www.chicagoreporter.com/asian-americans-invisible-in-covid-19-data-and-in-public-health-response/>.

9 "Local Leaders Announce Covid-19 Radical Disparities Task Force." City of Oakland, 17 April 2020, available at <https://www.oaklandca.gov/news/2020/local-leaders-announce-covid-19-racial-disparities-task-force>.

10 Lopez, Nadia. "San Jose leader unveils task force to tackle COVID-19 racial disparities." San Jose Spotlight, 28 May 2020, available at <https://sanjosespotlight.com/san-jose-leader-unveils-task-force-to-tackle-covid-19-racial-disparities/>.

11 Bravo, Christina. "Task Force Created to Ensure Equity in SD County's COVID-19 Response as Reports Showing Disparities Released." 7 San Diego, 17 June 2020, available at <https://www.nbcstandiego.com/news/local/task-force-created-to-ensure-equity-in-san-diego-countys-covid-19-response/2348888/>.

12 Lopez. "San Jose leader unveils task force to tackle COVID-19 racial disparities."

13 "Public health group calls for standardized data collection to more clearly track Covid-19." Stat News, 21 July 2020, available at <https://www.statnews.com/2020/07/21/group-calls-for-standardized-data-collection-to-track-covid19/>.

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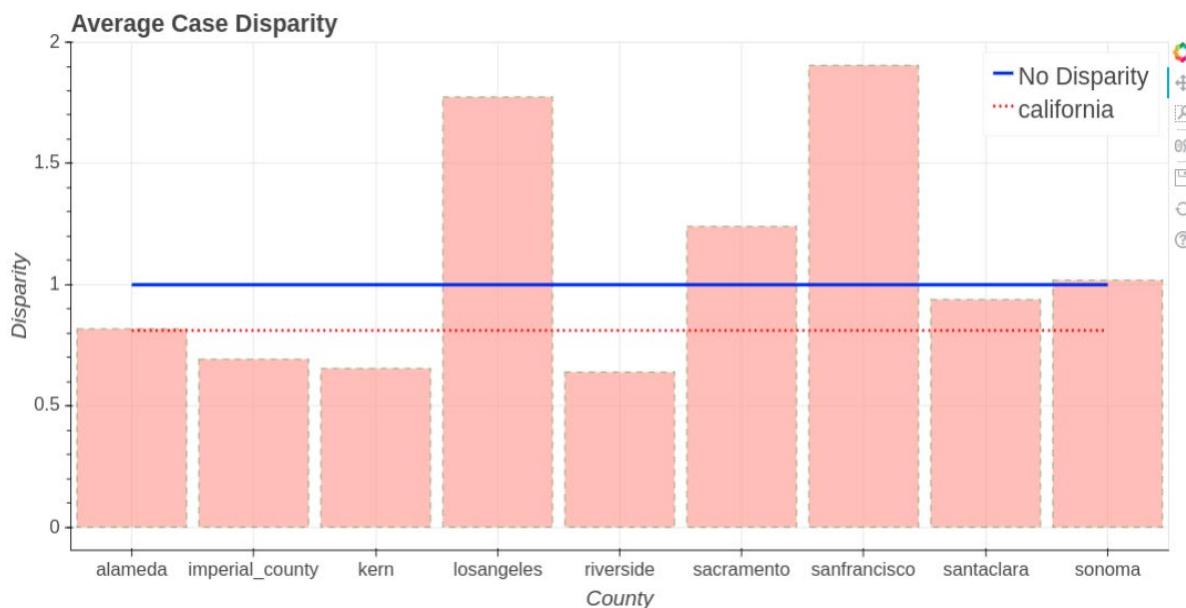
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of racial or ethnic cases/deaths and their demographics in the county. For example, a disparity of 2 means that a population is represented twice as much in COVID-19 cases/deaths as would be expected if there were no underlying socioeconomic issues. The average and max disparity where calculated as follows:

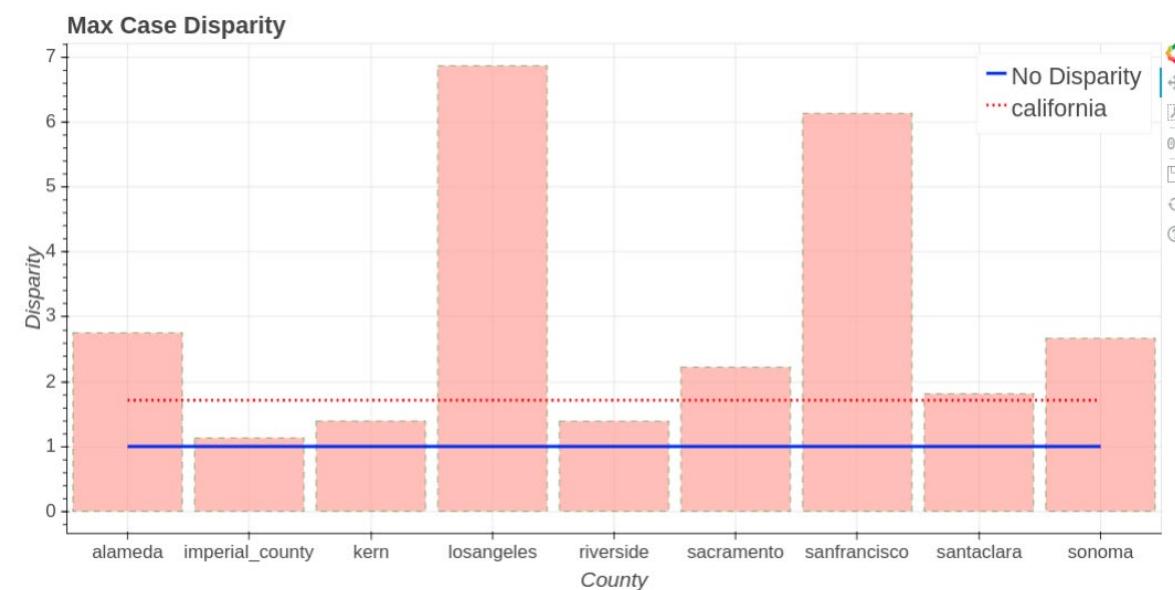
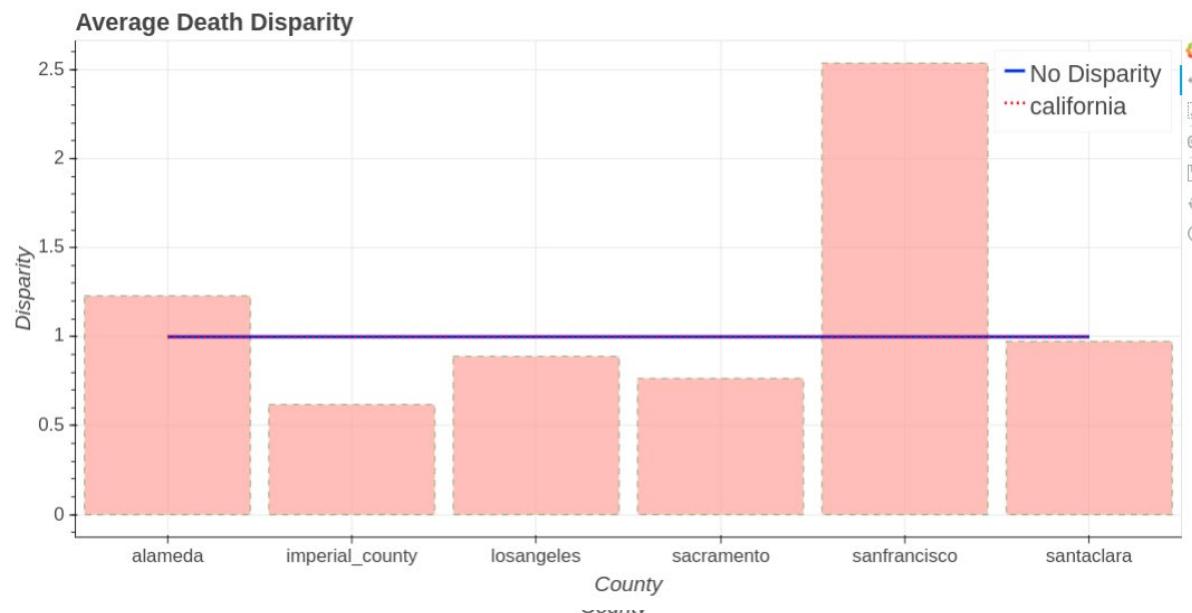
Average Disparity: Average disparity seen in county defined ethnic groups both over time and across ethnic groups

Max Disparity: Average disparity over time for different ethnic groups, and the maximum of each ethnic group

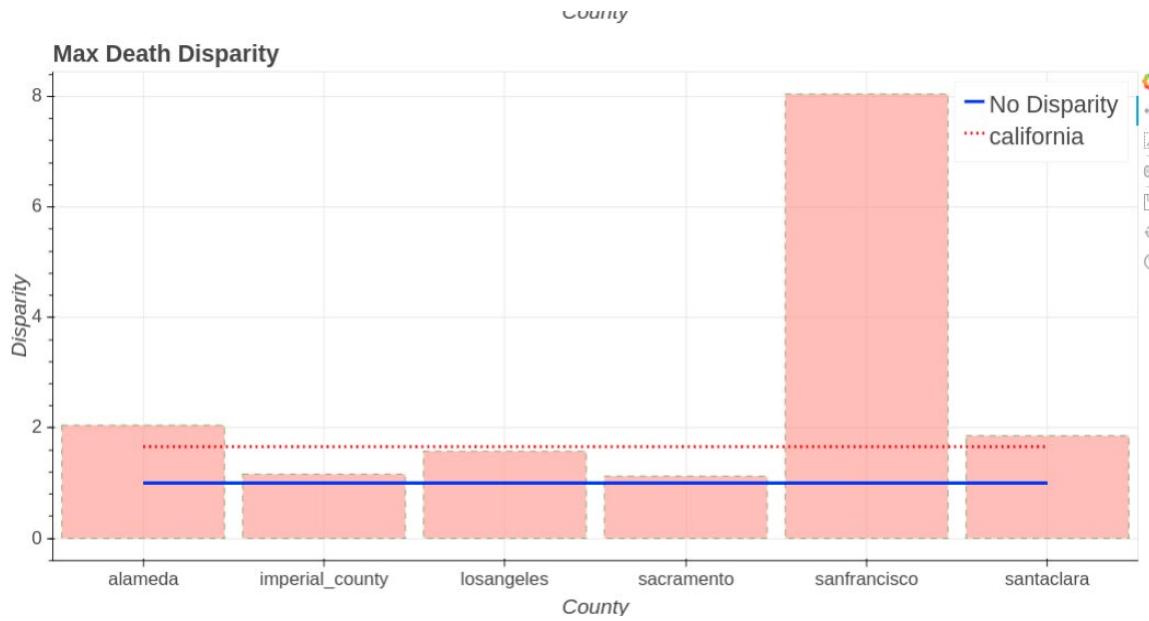
Average (in time and ethnicity) Discrepancy by County and California (Cases and Deaths)



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As seen by the illustrations above, these are just a snapshot of disparities in different counties across the state. Every single county had a max case and max death disparity. And those max disparity numbers report the worst disparity number for each county. Based on these plots, for each county, there is at least one racial and/or ethnic group that is disproportionately being impacted by COVID-19. It is additionally clear that the level of disparity of disparity in both cases and deaths are higher in counties containing densely populated cities (i.e. Los Angeles and San Francisco). This makes it clear that racial and ethnic disparities continue to persist, and counties must ensure to prioritize voices of marginalized communities in a dedicated taskforce space. Quality reporting of the above data can act as a driver for policy as well as understanding what we need to do to help communities, both in the present and future.¹⁴ Even trying to analyze and obtain this data was difficult as a result of a variety of issues in the recording of COVID-19 cases/deaths across California. These issues can be summarized as (1) inconsistency in definition of race and ethnicities in different counties and (2) inconsistency in the way data is stored. Local taskforces can provide critical insight into standardizing data.

Examples of issues with data collection

1. Inconsistency in definition of race and ethnicities:

While the state of California reports 7 identifiable ethnicities, others report different numbers of identifiable ethnicities, some of which have changed over time. Imperial County, for example, reports only two (Hispanic and non-Hispanic). Additionally, places like Sacramento

¹⁴ "Public health group calls for standardized data collection to more clearly track Covid-19." Stat News, 21 July 2020, available at <https://www.statnews.com/2020/07/21/group-calls-for-standardized-data-collection-to-track-covid19/>.



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County began reporting 5 groups, then added American Indian/Alaskan Native, which skewed the data reported. While we have also called on the state to create better data accountability and continue to request guidelines of the Governor, having a local COVID-19 Racial/Ethnicity Disparity Task Force can ensure that this is a priority across the state and provide accountability for these inconsistencies.

2. Inconsistency in the way data is stored:

Moreover, different counties store data on different websites that are all formatted in a variety of ways. County data collection websites formats for storing data change not just between counties, but over time. For example, the ACLU had to parse raw data gathered from Sacramento's website in three different ways over the course of a single month. For Riverside, the number of different data gathering methods accounted to six ways in one month.

Importance of Including Black, Indigenous, and Latinx led organizations in COVID Task Forces:

A COVID-19 Racial/Ethnicity Disparity Task Force takes important strides in creating more equitable outcomes for marginalized communities. These task forces will not effectively close the racial and ethnic gap in impacts and outcomes of the coronavirus pandemic, however Black, Indigenous and Latinx leaders and organizations must lead the work that involves and affects their communities. The inclusion and centering of marginalized voices goes beyond creating the appearance of diversity in a task force, but rather is imperative in developing policies and initiatives that are supported by those they are designed to serve.¹⁵ PolicyLink's Leadership for Policy Change 2003 Report found that leaders of color who are grounded in the communities they represent are needed to impact policies that affect their quality of life. This report also determined that this arena needs people who can "broaden the discourse, minimize harmful decisions, and increase the likelihood that policies will have a positive impact."¹⁶ By including and centering Brown and Black led organizations in this work, COVID-19 Racial/Ethnicity Disparity Task Forces are more likely to succeed.

Our Letter to Governor Newsom:

The ACLU of California has already sent a letter to Governor Newsom, which can be found [here](#), detailing the importance of creating and streamlining a COVID-19 Racial/Ethnicity Disparity Task Force that includes leadership from Black, Latinx, and Indigenous led community organizations. Local level COVID-19 Racial/Ethnicity Disparity Task Forces should coordinate

15 Vega, Dennis. "We Need to Increase Diversity in Policymaking." Center for American Progress, 21 May 2013, available at <http://www.americanprogress.org/issues/race/news/2013/05/21/64024/we-need-to-increase-diversity-in-policymaking/>.

16 Marsh, Dwayne S., et al. Leadership for Policy Change: Strengthening Communities of Color through Leadership Development. PolicyLink, 2003, pp. 1–43, available at https://hewlett.org/wp-content/uploads/2016/08/Leadership_for_Policy_Change.pdf.

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with the state level COVID-19 task force to fill gaps in data and encourage statewide racial/ethnic justice responses to this public health crisis. Though such a statewide and streamlined Racial/Ethnicity Disparity Task Force does not yet exist, we urge each county to create such a team to begin to understand and alleviate the unique ways in which their communities of color are affected and harmed by this pandemic. The importance of localized public health responses in partnership with vulnerable populations within communities is well-documented,¹⁷ and further demonstrates the need for localized task forces in addition to a streamlined statewide response.

The Importance of Transparency for a Racial and Ethnically Equitable COVID-19 Response:

We also urge this committee to be transparent in its efforts to address racial and ethnic disparities in COVID-19 by providing the names and affiliations of *all* task force members once such a force is created. Transparency has a proven impact on trust in governance and levels of accountability.¹⁸ A commitment to transparency in a COVID-19 racial/ethnic justice task force will demonstrate a partnership between state and society to citizens, which will go beyond the apparent “good intention” of creating such a task force and lead to a more legitimate, sustained commitment to creating change. Creating transparency in task force membership will also make task forces more accessible to the communities they serve, rather than continuing to alienate community members from the figures responsible for representing them.

The Racial and Ethnically Disproportionate Impact of Contact Tracing Technology:

Steps are already being taken throughout California to attempt to track and stop the spread of coronavirus that could have disproportionate harm on communities of color. One of the most prominent examples of this effort is the increasing use of contact tracing technology. This solution to tracking the spread of the coronavirus presents several concerns for communities that have been disproportionately impacted by this virus that have been largely overlooked by largely non-Black and Brown companies and officials.

These concerns include the possibility of false-positives for people who live in more densely populated housing, as Bluetooth-based contact tracing apps can travel through walls and floors. Black, Indigenous, and People of Color are more likely to live in apartment complexes and multi-family units and could result in more false-positives that result in mandatory quarantine that cost individuals two weeks of income, or even their job. Other concerns about contact tracing include that adoption and use rates in communities of color are likely to be lower due to lack of

17 Bevc, Christine A et al. “Institutional facilitators and barriers to local public health preparedness planning for vulnerable and at-risk populations.” *Public health reports* (Washington, D.C. : 1974), vol. 129 Suppl 4 (2014): 35-41, available at doi:10.1177/00333549141296S406.

18 Michael Johnston, “Good governance: Rule of law, Transparency and accountability,” Colgate University New York, 2004, available at <https://etico.iiep.unesco.org/en/resource/good-governance-rule-law-transparency-and-accountability>.



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access to Bluetooth technology, misinformation or understanding of the app's capabilities for non-English speakers, or its potential tie to law enforcement. The use of Bluetooth contact tracing, as other apps have done, could also later be repurposed or used by organizations such as Immigration and Customs Enforcement.¹⁹

Contact tracing technology is just *one* example of the essentiality of any COVID-19 task force and *particularly* a Racial and Ethnic Disparity Task Force to both exist and include the leadership of community organizations that are most familiar with the communities that they serve. In order to equitably address the spread and impact of the coronavirus, it is *essential* that Black, Indigenous, and Latinx led organizations are leading these conversations and initiatives. These organizations are familiar with and able to anticipate problems with potential COVID-19 mitigation efforts in ways that many historically unequal and exclusionary entities cannot do on their own.

Localized responses to addressing the disproportionate affects of this pandemic on communities of color are a crucial step in mitigating the harm of COVID-19. We would like to thank any county that has already created or begun to create a task force to address the racial and ethnic disparities in COVID-19 infection rates, impacts, and outcomes, and encourage any county that has not yet done so to take this critical step in addressing the larger and systemic public health crisis of racism in our communities, state, and country. We understand that many counties are in different stages of this process and may already be working with local organizations to create county or city level solutions that best fit their needs. Our broad requests for each county across the state, which may supplement local efforts, include:

- **Create a task force designed to address the racial and ethnic disparities in COVID-19 impacts, responses, and outcomes.** Task forces to address the racial and ethnically disparate impacts and outcomes of the coronavirus are an essential part of addressing this public health crisis. A task force will provide expertise and localized community responses in ways that less intentional, organized, or coordinated responses to public health disparities are not. Upon creation, each task force should include local healthcare providers, elected officials, community members, city officials, as well as Black, Indigenous, and People of Color (BIPOC) led organizational representation. These teams should work to collect and review data about the racial and ethnic disparities in coronavirus impact within communities, identify and mitigate risk factors and barriers to services for at-risk populations, and create community-based solutions to mitigate the harm of the coronavirus pandemic on BIPOC.
- **Each task force should include at least one leader of a Black, Indigenous, or Latinx led organization.** Research has indisputably demonstrated the importance of including a variety of individuals who have been impacted by issues to create effective policies

19 "The Importance of Equity in Contact Tracing." Lawfare, 5 May 2020, available at <http://www.lawfareblog.com/importance-equity-contact-tracing>.

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and mitigate potential harm to the communities that these task forces aim to serve. We encourage you to consult local Black or Latinx-led organizations in this work, and encourage you to contact the CA Consortium for Urban Indian Health, a network of urban Indian health centers who have done a great deal of work around COVID-19 response and are deeply connected to the communities they work with.²⁰ We also encourage each county to develop relationships with area Tribes and native-led organizations in your communities.

- **Upon creation of the task force, the county should release the names and affiliations of all members.** This will increase transparency and accessibility to services and task force efforts for community members who the task force aims to serve. Providing task force member name and affiliations will protect privacy while ensuring Task Force accountability and public access to the work of these organizations.
- **Create a centralized platform on which different counties are encouraged to report data.** As seen by glitches at the state level, now is the time to ensure that data platforms are centralized, standardized, and can accurately report what is happening. Having a centralized platform at a county level, and at a state level, will help communities, health experts, and others get a clearer picture of what is happening.
- **Have a person, or small group of people, whose job is to reconcile disparate sources of data and keep up with any local changes.** As seen by our review, the changes that are happening at a local level vary drastically. If your county has dedicated COVID-19 data staff, this can help to fix these issues.

If you have questions or seek to discuss these matters, please contact Abre' Conner at aconner@aclunc.org. Thank you for your tireless work to respond to this crisis and address the impacts of the coronavirus on your communities. We look forward to your response.

Sincerely,

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20 "California Consortium for Urban Indian Health." Last checked 11 August 2020, <https://ccuih.org/>.

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