



Memorandum

TO: Kevin J. Jackson, Village Manager *KJ*

FROM: Dr. Danielle Walker, Chief Diversity, Equity, and Inclusion Officer *DW*
Paul L. Stephanides, Village Attorney *PLS*

FOR: Village President and Board of Trustees

DATE: July 12, 2024

SUBJECT: Reparations Update

Purpose

The Office of Diversity, Equity, and Inclusion (DEI) within the Village Manager's Office will discuss the latest developments on reparations for Black/African Americans in Oak Park. This is part of the Village Board's commitment to addressing historical injustices and advancing racial equity.

Background

The public conversation for reparations for the Black/African American community in Oak Park began with a presentation from Walk the Walk before the Village Board on February 22, 2021. Since that time, Walk the Walk created an independent Oak Park Reparations Task Force which partnered with Dominican University to develop a reparations survey. Walk the Walk finalized the report in February 2024.

On June 14, 2021, the Village Board adopted its Board goals which include "continue to explore reparations" under "Racial Equity." In 2023, the Board expounded upon this goal to include reparations research and evaluation, conduct community educational sessions, and provide recommendations for next steps including potential advocacy efforts at the state and federal level.

Review of Government Reparations Initiatives

Most initiatives around reparations for Black/African Americans to date have focused on creating an official government task force or advisory group to conduct a multi-year study.

Some cities have taken steps to issue a formal apology to their Black community for the impact of systemic injustice, and others are exploring direct cash payments to Black residents. However, these programs have faced numerous criticisms and challenges in their implementation. The City of Evanston, for example, is facing a legal challenge to its reparations program in which the plaintiffs claim that the program violates the Fourteenth Amendment of the United States Constitution. This lawsuit was filed on May 23, 2024.

The chart below provides a brief overview of key initiatives from all levels of government pertaining to reparations for Black/African Americans in the United States.

Federal Level		
	Action	Status
House Bill 40	<ul style="list-style-type: none"> Commission to Study and Develop Reparation Proposals for African-Americans Act - This bill establishes the Commission to Study and Develop Reparation Proposals for African-Americans to examine slavery and discrimination in the colonies and the United States from 1619 to the present and recommend appropriate remedies. 	Reintroduced
State Level		
	Action	Status
California	<ul style="list-style-type: none"> Reparations taskforce established in 2020 in response to the murder of George Floyd. As of 2024, the California Senate advanced legislation to offer an official apology to Black residents and to compensate Black residents for land unjustly taken by eminent domain. Legislation was also introduced to create an agency to help Black families research their family lineage and confirm eligibility for any future restitution measures and to establish a reparations fund. 	Awaiting Assembly Vote
Colorado	<ul style="list-style-type: none"> Established Black Coloradan Racial Equity Commission. \$785,000 privately raised to fund the commission's study on historical racial harm against Black Coloradans. 	Adopted

Minnesota	<ul style="list-style-type: none"> MN HF5456 (“Minnesota Migration Act”) sought to establish funds to study reparations for American descendants of chattel slavery. 	Failed
Illinois	<p>The African Descent-Citizens Reparations Commission (ADCRC), authorized by 20 ILCS 405/405-540, was created to survey the State procurement process to make recommendations, hold meetings, provide reports, and discuss and perform actions concerning:</p> <ul style="list-style-type: none"> Preservation of African American neighborhoods and communities Building and developing vocational centers for People of African Descent-Citizens Ensuring proportional economic representation in all State contracts Creation and enforcement of an Illinois Slavery Era Disclosure Bill 	Adopted
Local Level		
	Action	Status
Evanston, IL	<ul style="list-style-type: none"> In 2021, Evanston became the first U.S. city to offer reparations to Black Americans for past housing discrimination. Now, a conservative legal group is challenging the program in court claiming it unconstitutionally discriminates against residents who are not Black/African American. 	Facing legal challenge
Chicago, IL	<ul style="list-style-type: none"> On June 17, 2024, Mayor Brandon Johnson signed the Historic Executive Order to Launch Black Reparations Task Force and Agenda. The Task Force will conduct a comprehensive study and examination of all policies that have harmed Black Chicagoans from the slavery era to present day and make a series of recommendations that will serve as appropriate remedies 	Allocated \$500,000 for Fiscal year 2024

Providence, RI	<ul style="list-style-type: none"> In July 2020, Providence launched a three-phase process comprised of truth-telling, reconciliations, and reparations for African heritage and Indigenous residents. Developed a “race neutral” reparations program in 2022 using ARPA funds. 	Adopted
St. Paul, MN	<ul style="list-style-type: none"> Established a one-year limited term reparations legislative advisory committee 	Ongoing
San Francisco, CA	<ul style="list-style-type: none"> Established African American Reparations Advisory Committee. 	Ongoing

Legal Test for Reparations

A municipal reparations program is subject to the Fourteenth Amendment of the United States Constitution. The Fourteenth Amendment was ratified after the Civil War on July 9, 1868 and it provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Furthermore, state and local laws must pass the “strict scrutiny” test. Under the test, government policies that classify people by race are presumptively invalid unless the government shows that favoring one race over another is necessary to achieve a compelling state interest.

The strict scrutiny test is applicable to government policies at the state and local level. The Supreme Court held in the case of Fullilove v. Klutznick, 448 U.S. 448 (1980), that when Congress acts to remedy a nationwide history of past discrimination, it may legally do so because of the specific constitutional mandate to enforce the dictates of the Fourteenth Amendment. In Fullilove, the Court upheld a mandatory 10% set-aside for contracts with minority business enterprises under a federal public works program mandated by federal statute. Even when the government can show it has a compelling interest, it must narrowly tailor its remedy to advance that interest.

Preliminary Legal Analysis

Village staff conducted preliminary research of Village and community records to analyze whether there is a legal basis for a reparations program similar to the one adopted by the City

of Evanston program referenced above. The records include those contained in the Village Clerk's office that date back to the founding of the Village in January 1902 and the records of the Historical Society of Oak Park and River Forest. These records are not digitized or readily accessible which hampers the ability to conduct this research.

This finding is based upon the legal precedents cited in the presentation given to the Village Board on July 11, 2022. That presentation is attached as part of this agenda item. At this time, staff's preliminary finding is that we are unable to identify similar evidence to base a reparations program compared with the findings in Evanston. The Evanston program is based on evidence compiled over a multi-year process and our preliminary finding may warrant more extensive research.

Key Legal Takeaways for Establishing a Reparations Program

- A local reparations program must target specific past discrimination by the involved governmental unit. It cannot rest on a generalized assertion of past discrimination; there must be evidence of past intentional discrimination.
- The governmental unit must have had a hand in the past discrimination it seeks to remedy.
- The program must be narrowly tailored to remedy the discrimination and race-neutral alternatives must be considered.
- Compelling evidence must be gathered before establishing a reparations program.

Staff Review of Local Reparations Taskforce

Village staff has reviewed the Report from the locally-led Reparations Task Force. The Report provides excellent information regarding the history of Oak Park and brings needed attention to the significant events that have impacted the Black community. The list of recommended repairs pertaining to the Village of Oak Park has several items that staff has either completed or is in the process of completing.

Next Steps

Staff plans to begin community educational sessions regarding reparations in early fall 2024. T these sessions will provide information regarding reparations and collect community input. Additionally, staff will continue to review Village records to provide guidance and the Office of Diversity, Equity, and Inclusion will continue to work with the local reparations group around racial equity needs. Community engagement and Village record review will help inform possible recommendations to be brought forth to the Board regarding next steps. Staff recognizes that this is a complex and ongoing process, but remains dedicated to fostering healing, reconciliation, and positive change.

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For questions, contact Dr. Danielle Walker, Chief Diversity, Equity, and Inclusion Officer, by email at dwalker@oak-park.us or by phone at (708) 358-5778.

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