

# Advancing Equity for Older Adults Part 1: An Introduction to Advancing Equity in Legal and Aging Services

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# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About Shriver Center on Poverty Law

The Shriver Center on Poverty Law fights for economic and racial justice by litigating, shaping policy, and training and connecting people in the advocacy community.

Our goal is to build a future free from racism, poverty, and the interlocking systems designed to keep those inequities alive. From litigating and shaping policies in Illinois, to training and convening multi-state networks of public interest attorneys, the Shriver Center on Poverty Law works with and for the communities we serve to make equal justice and economic opportunity a reality.



# About Community Legal Services of Philadelphia

- Our mission is to fight poverty, challenge systems that perpetuate injustice, and change lives through cutting-edge advocacy and exceptional legal representation.
- Founded in 1966 by the Philadelphia Bar Association, **Community Legal Services** (CLS) has provided free civil legal assistance to more than one million low-income Philadelphians. Approximately 10,000 clients were represented by CLS in the past year. CLS assists clients when they face the threat of losing their homes, incomes, health care, and even their families.
- CLS attorneys and other staff provide a full range of legal services, from individual representation to administrative advocacy to class action litigation, as well as community education and social work.

# About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

# Agenda

- Why advancing equity
- Racial justice primer
- Race equity in practice
- Q&A

# Poll 1

At what stage is your organization at in centering equity?

- A. We have taken several steps in centering our work on equity and have a defined plan going forward
- B. We have taken some steps in centering our work on equity but do not have a defined plan
- C. We are interested in centering our work on equity but do not know where to start
- D. We have not started the conversation on centering our work on equity
- E. Other (please share in questions box)



# Why Advancing Equity?

# Equity for Older Adults

- Aging does not protect from discrimination or related disparities—in fact, it may make them worse
- Ageism (e.g. employment)
- Discrimination based on other identities exacerbated over the course of an individual's life

# Older Americans Act

- The Older Americans Act emphasizes that limited program and service resources should be targeted to older adults with the greatest economic or social need.
  - Includes legal assistance
- Some of the noneconomic factors that cause social needs include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including isolation caused by racial or ethnic status.
  - Advancing equity is an important goal in the delivery of aging and legal services to older adults.

# COVID-19: Crisis Standards of Care

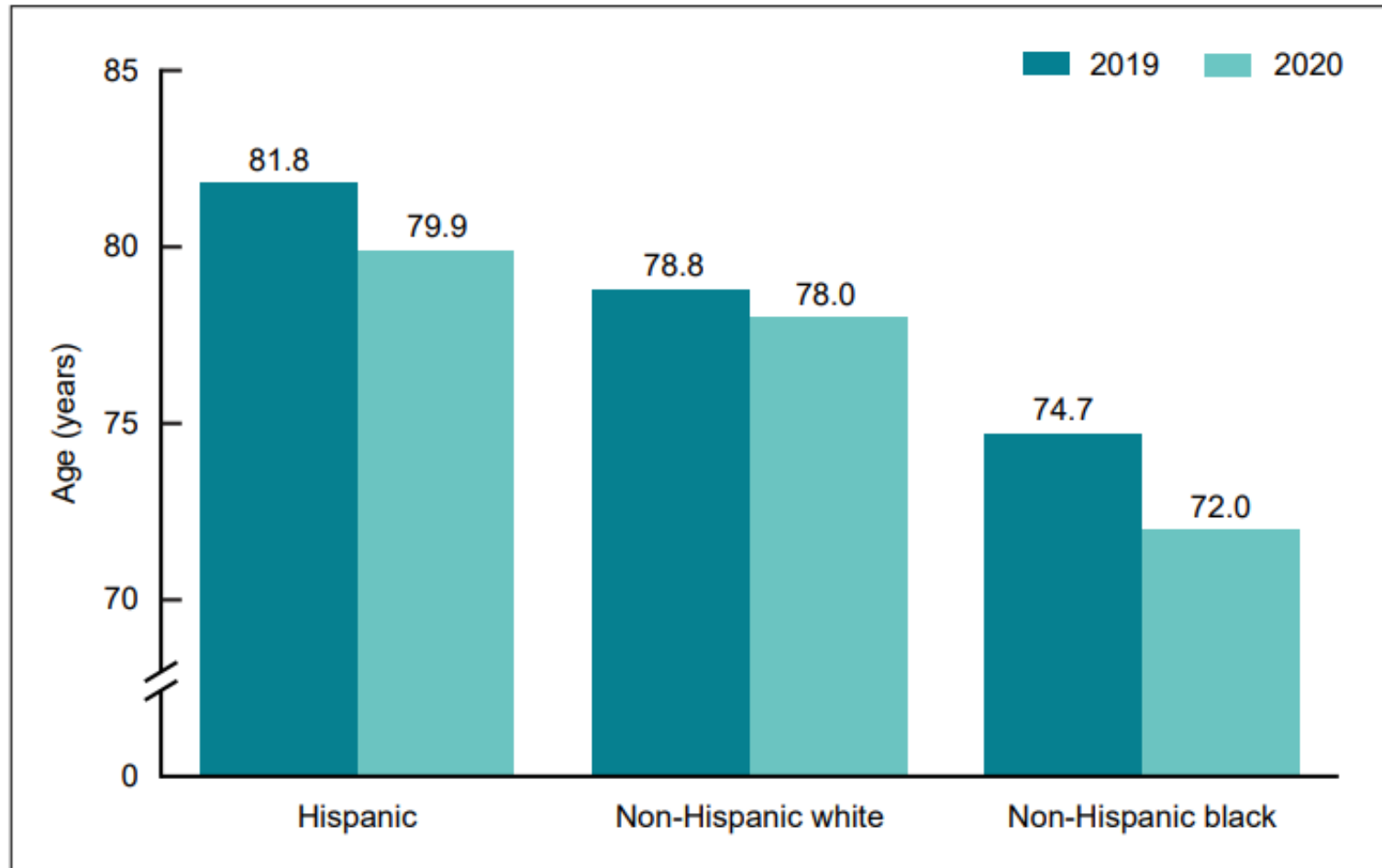
- Life-cycle considerations should be used as a tiebreaker if there are not enough resources to provide to all patients within a priority group, with priority going to younger patients.
- It is a valuable goal to give individuals equal opportunity to pass through the stages of life. This does not rely on considerations of one's intrinsic worth or social utility.
- Younger individuals receive priority because they have had the least opportunity to live through life's stages.
- When individuals are asked to consider situations of absolute scarcity of life-sustaining resources, most believe younger patients should be prioritized over older ones.

# More on CSCs

Patients who are more likely to survive with intensive care are prioritized over patients who are less likely to survive with intensive care. Patients who do not have serious comorbid illness are given priority over those who have illnesses that limit their life expectancy...[T]he presence of life-limiting comorbid conditions is used to characterize patients' longer-term prognosis.

# Life Expectancy Chart

Figure 2. Life expectancy at birth, by Hispanic origin and race: United States, 2019 and 2020



NOTES: Life expectancies for 2019 by Hispanic origin and race are not final estimates; see Technical Notes. Estimates are based on provisional data from January 2020 through June 2020.

SOURCE: National Center for Health Statistics, National Vital Statistics System, Mortality data.

# COVID-19 Hospitalizations

## Preliminary Medicare COVID-19 Data Snapshot:

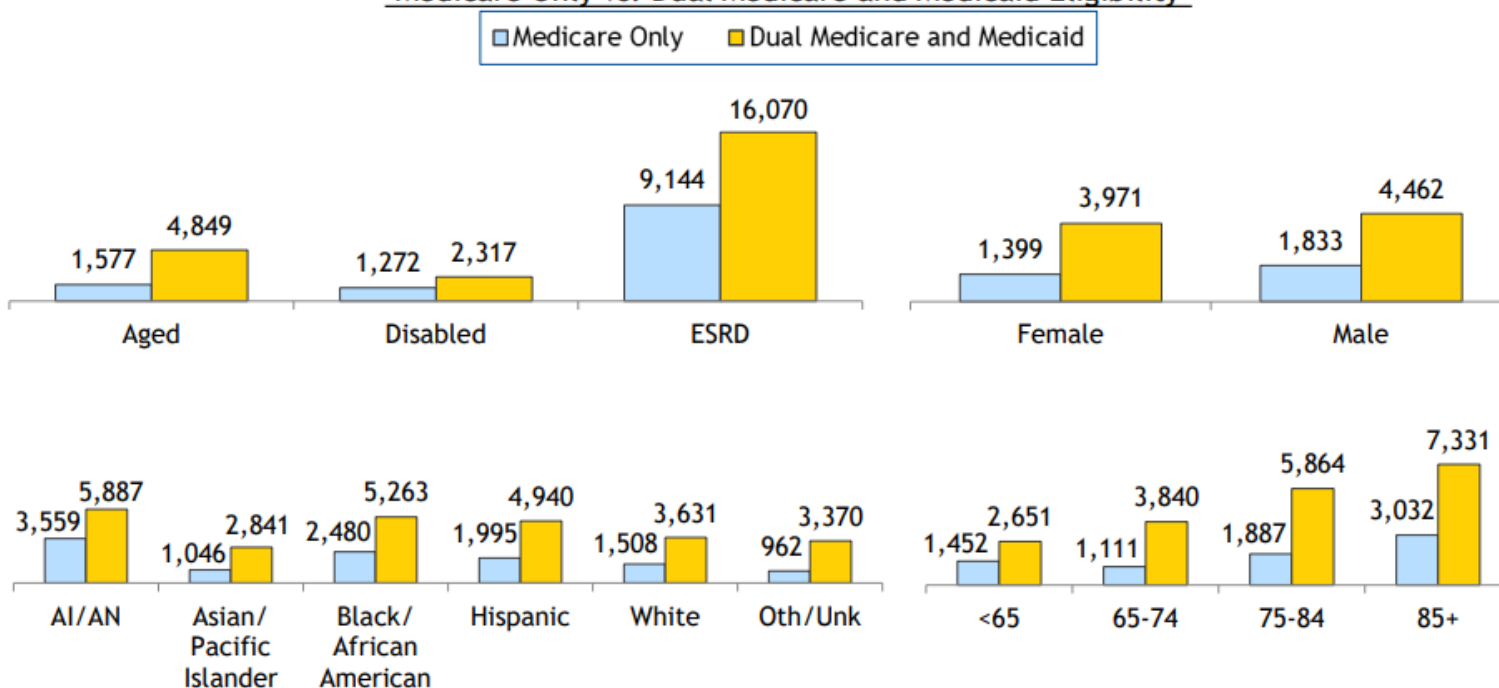
Medicare Claims and Encounter Data: January 1, 2020 to July 24, 2021, Received by August 20, 2021

## COVID-19 Hospitalizations

**1,302,874** Total COVID-19 Hospitalizations    **2,077** COVID-19 Hospitalizations per 100k

### COVID-19 Hospitalizations per 100K by Beneficiary Characteristics

-Medicare Only vs. Dual Medicare and Medicaid Eligibility-



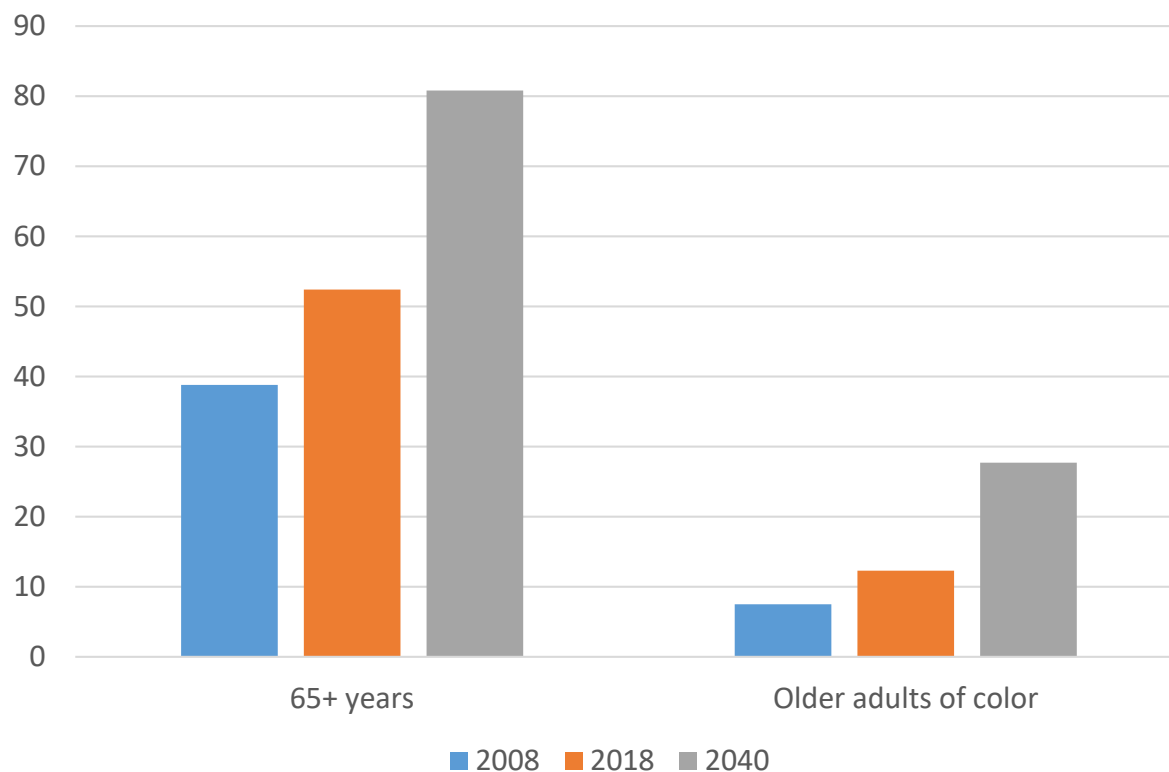
# Pre-Existing Disparities

- *“Race/ethnicity was significantly associated with most adverse outcomes on health indicators. Except for Asians, all racial/ethnic minority groups were significantly more likely than whites to report poor mental health status, presence of most health symptoms, sensory limitations, and ADL disability.”*
  - [Beyond Black and White: Race/Ethnicity and Health Status Among Older Adults](#)
- *“A growing body of research suggests that experiencing racism damages a person’s health by triggering the release of stress hormones and a chain of biological events that cause premature aging, thereby increasing the risk of chronic disease.”*
  - [Key Factors Underlying Racial Disparities in Health Between Black and White Older Americans](#)
- *“Whites were more likely to use case management, equipment, technology, and modifications, and nursing services...White men had the highest HCBS expenditures, followed by White women and African-American women. Black men had the lowest Medicaid HCBS expenditures.”*
  - [Racial disparities in Medicaid home and community-based service utilization and expenditures among persons with multiple sclerosis](#)



# Moving into the Future

- More adults are 65+ and more are older adults of color. 1 in 10 live in poverty.



# Advancing Equity in Our Work

- *“The only way to undo racism is to consistently identify and describe it—and then dismantle it.”*  
-Ibram Kendi
- Justice in Aging’s [Framework to Advance Equity for Older Adults](#)

# Race Equity Advocacy Primer

# The Shriver Center's Advocate Training

We build the capacity and skills of legal aid and public interest lawyers and activists to champion economic and racial justice in their fields.

Our training programs are built on four principles essential to effective advocacy on behalf of low-income communities of color: racial justice, community power, leadership development and affirmative advocacy.

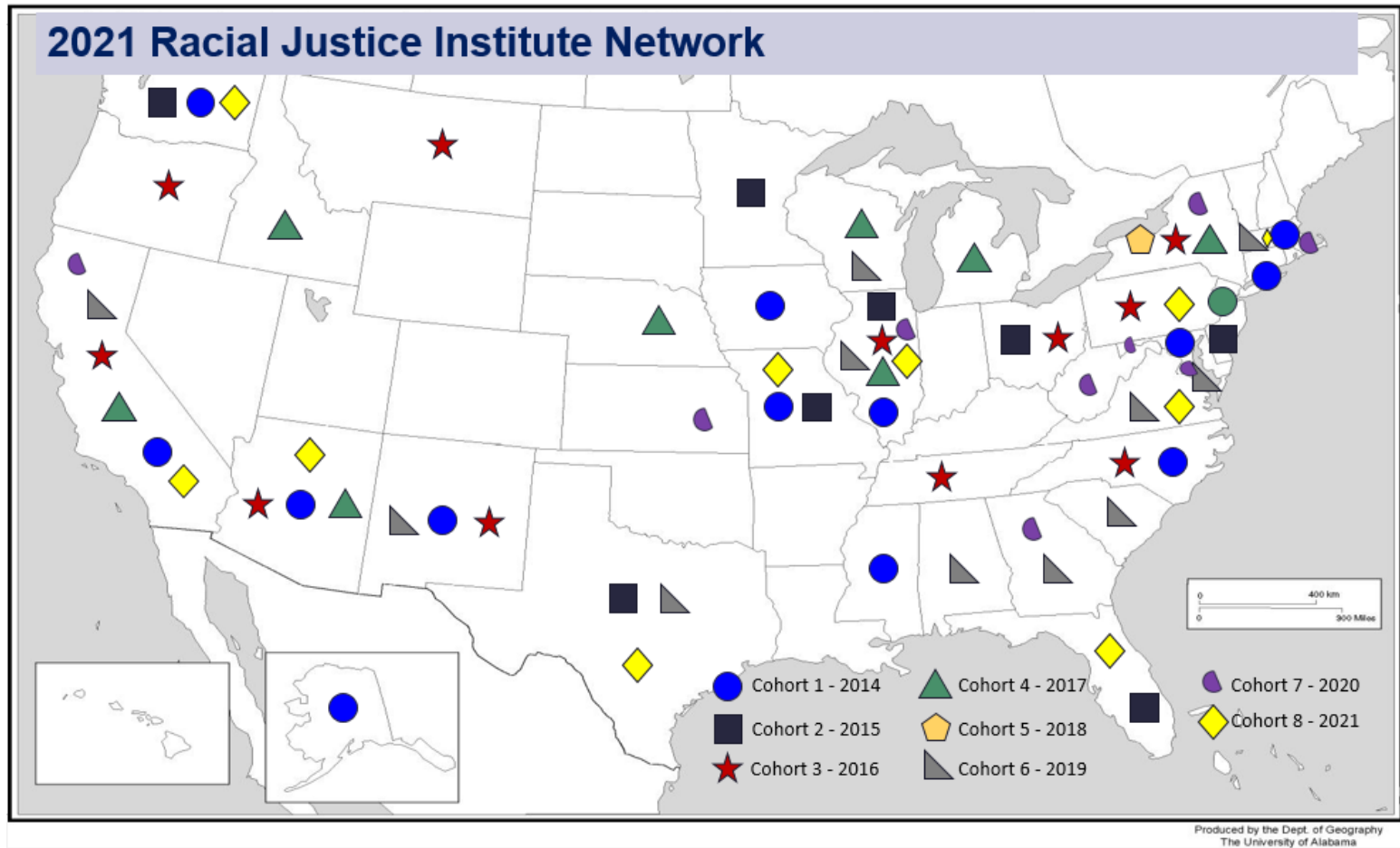


# About the Racial Justice Institute

The Racial Justice Institute is a national leadership program grounded in a commitment to race equity as an integral and essential part of anti-poverty advocacy in the belief that legal aid and public interest advocates are key to achieving real change.



# Racial Justice Institute Network



In its 8<sup>th</sup> iteration, the Racial Justice Network is currently more than 350 alumni strong, in over 100 organizations, spanning across 32 states and the District of Columbia.

# Racial Justice Core Practices



Structural  
Racialization



Social  
Cognition &  
Implicit Bias



Systems  
Thinking



Community  
Lawyering



Multi-Form  
Advocacy



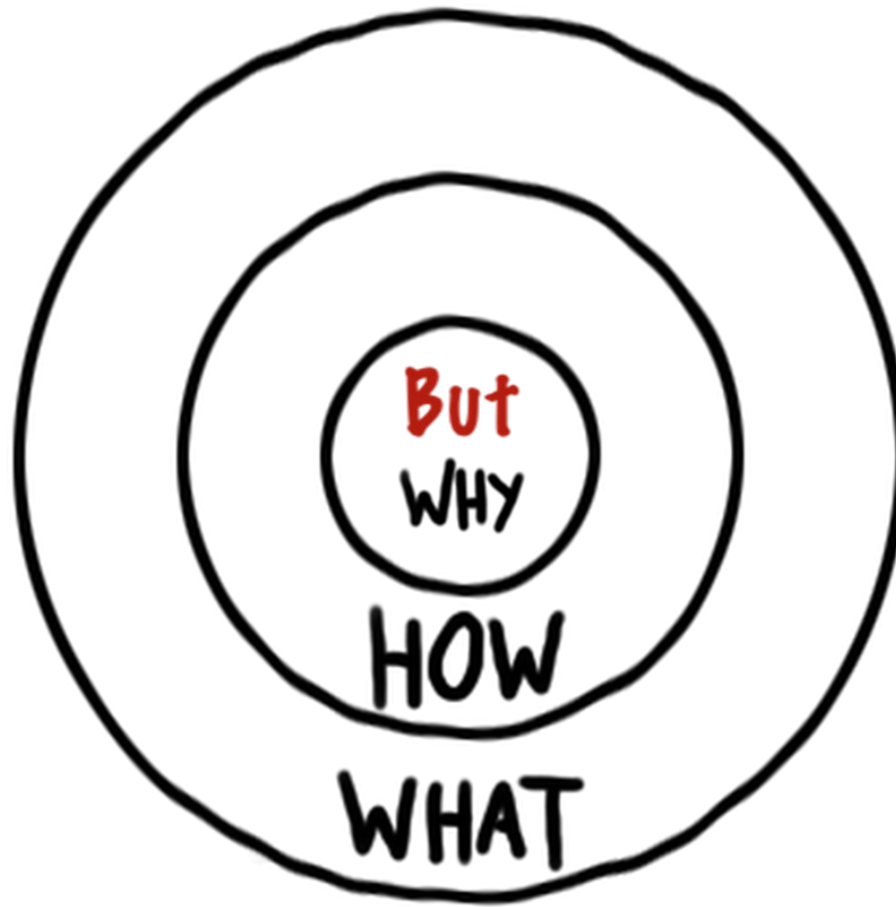
Framing  
&  
Communications



Leadership  
&  
Organizational  
Alignment

The Institute focuses on seven core practices: structural racialization; social cognition and implicit bias; systems thinking; community lawyering; multi-form advocacy; framing and communications; and leadership and organizational alignment.

# Why Focus on Race?





# Race is a Social Construct

Race is a social construct or idea that:

- Has been **built** over time
- Continues to **evolve** and change
- Has **concrete** ramifications for people's lives, and
- Has many interconnecting sides or **facets**



# Death of George Floyd



The death of George Floyd sparked massive projects across the nation.

# National Response to Death of George Floyd



Black Lives Matter



Starbucks supports BLM



Removal of Confederate Emblem from Mississippi State Flag



Washington Football Team

Removal of Native mascot from Washington Football Team



Colin Kaepernick is vindicated



# Push Back and Resistance



Insurrection on the Capitol



Proud Boys



Voter Suppression



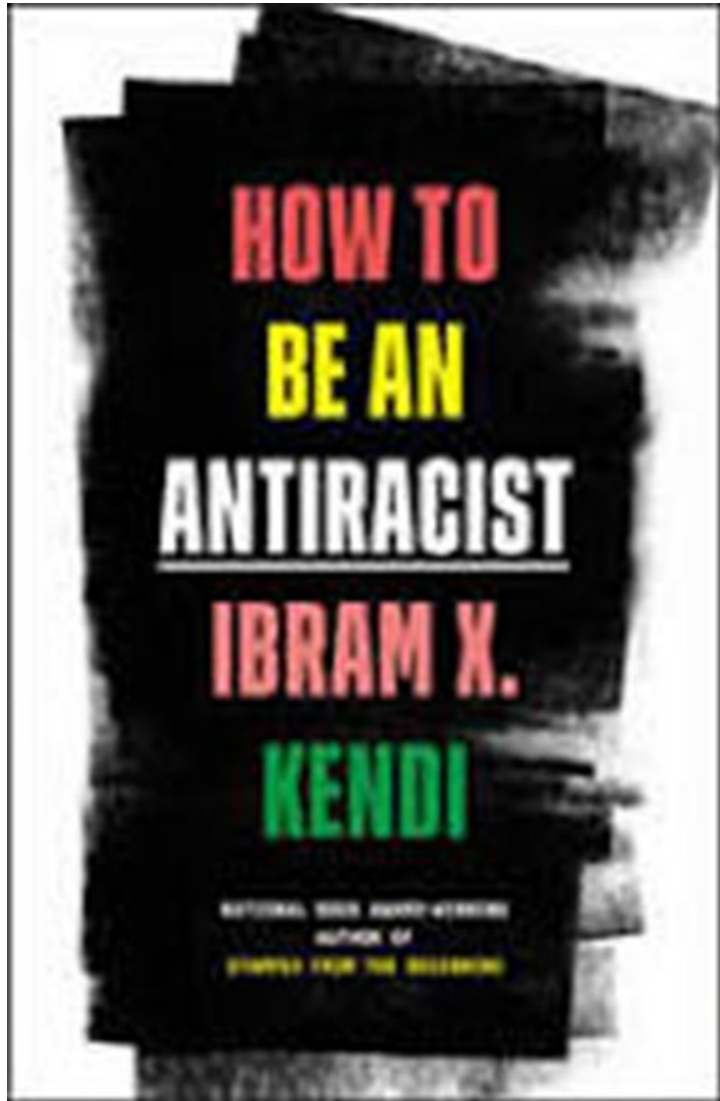
QAnon



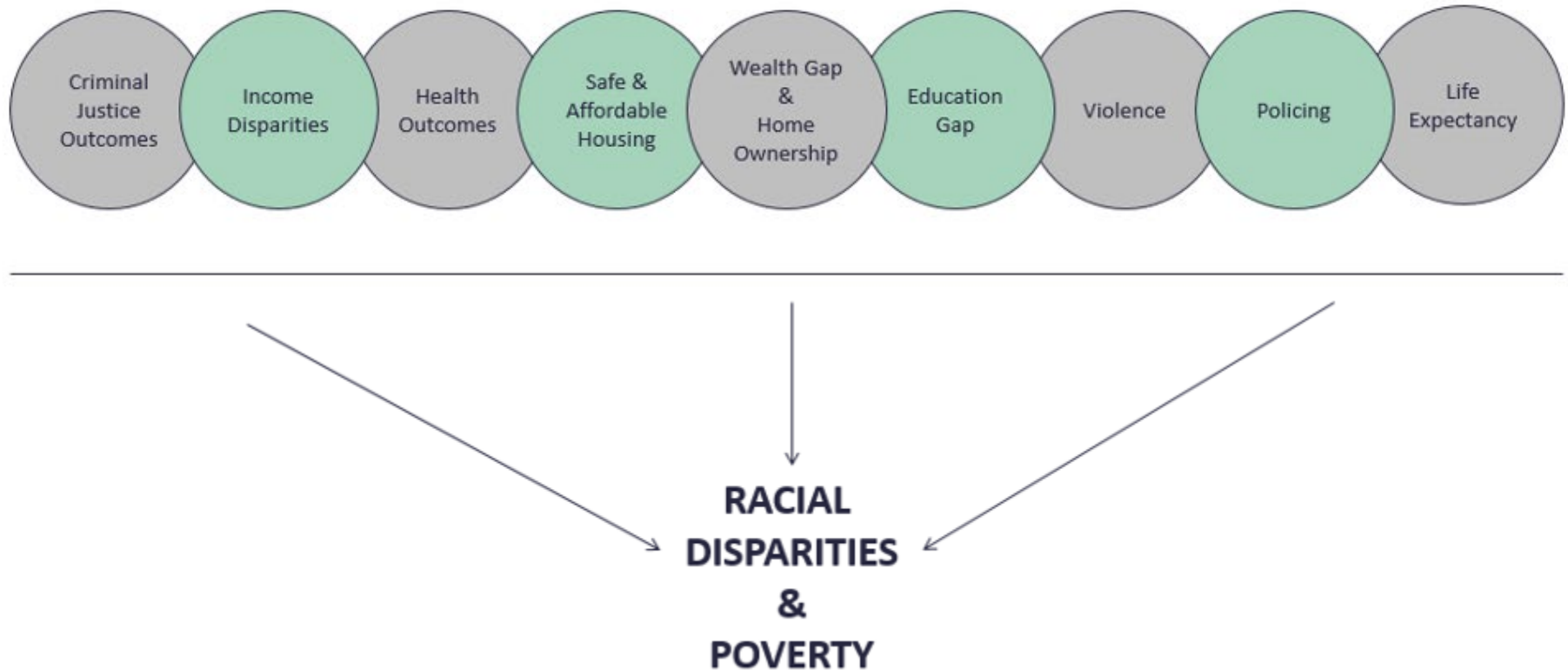
Charlottesville March

# Racism and Antiracism

- “The only way to undo racism is to constantly identify it and describe it—and then dismantle it.”
- The opposite of “Racist” is not “Not Racist”.
- A racist is supporting racist policy or expressing a racist idea.
- An antiracist is supporting antiracist policy or expressing an antiracist idea.
- A racist or antiracist is not who we are, but what we are doing in the moment.



# We See Disparity Across All Sectors



# Access to Opportunity

We can define opportunity through **access** to:

- Education
- Economic
- Transportation
- Food
- Housing
- Justice
- Healthcare
- Communications

*Source: Professor John Powell*

We define opportunity through **access** to...



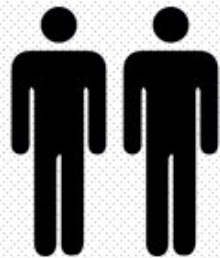


# Four Levels of Racialization

## INDIVIDUAL LEVEL



Internalized



Interpersonal

## SYSTEMIC LEVEL



Institutional



Structural



# Spheres of Systemic Racialization

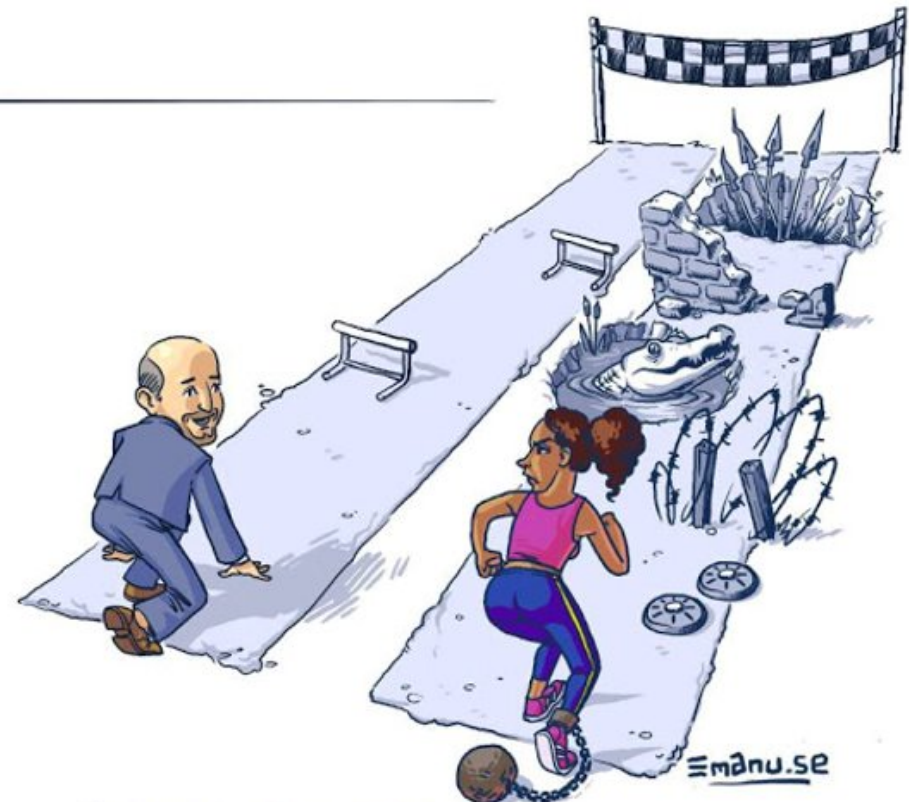
All four of these levels are undergirded by unconscious or implicit bias, which increase the disparate outcomes we see.



# Structural Racialization

A framework for understanding the institutional and public policies that, whether intentionally or not:

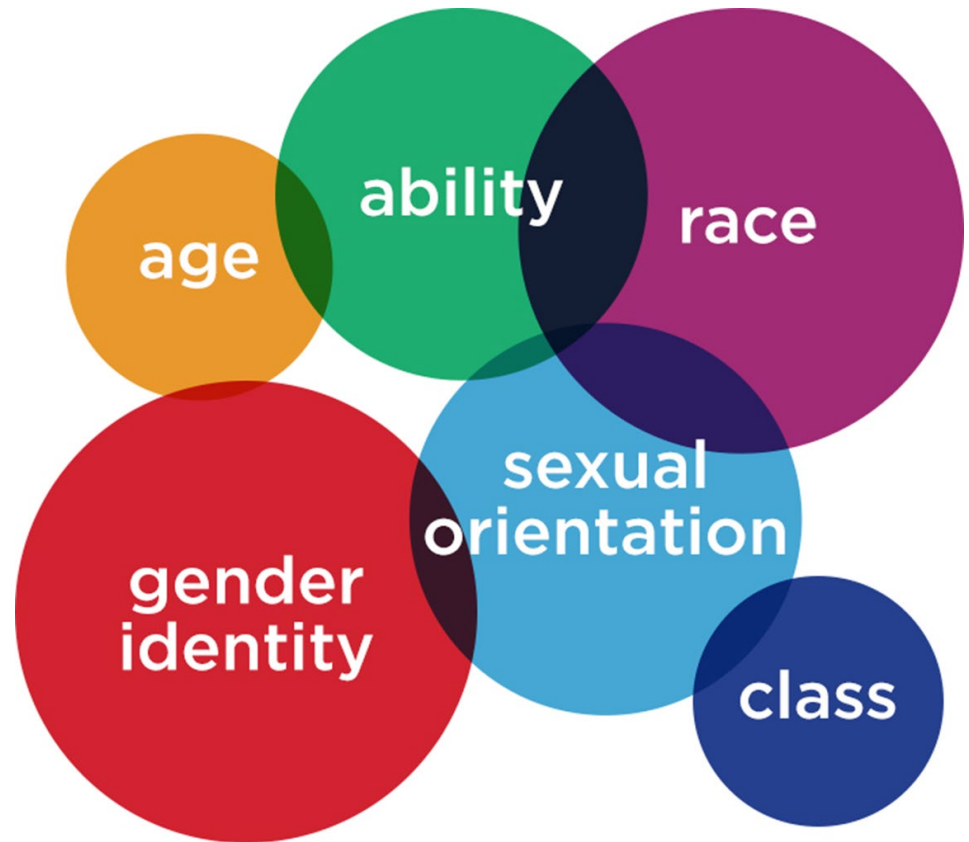
- Create & perpetuate
- fundamental barriers to economic and social equality for persons and communities of color and
- give opportunities to white individuals and communities.



"What's the matter?  
It's the same distance!"

## Intersectionality

The interconnected nature of social categorizations such as race, class, and gender are regarded as creating overlapping and interdependent systems of discrimination or disadvantage.



# Targeted Universalism

Targeted Universalism is setting universal goals pursued by targeted processes and strategies to achieve those goals.



# The Path Ahead Requires



# Race Equity in Practice

# Development of Racial Equity Work at Community Legal Services

- Racial justice committee
- Each unit met to consider how racial justice intersects with its work and how to advance racial equity in its area
- Commitment to including analysis of racial equity in all of our work
- Appointment of Race Equity and Inclusion Director to provide strategic vision and leadership in CLS' substantive racial justice work

# How We Came to This Work in Nursing Home Advocacy

- Representation of individual nursing home residents in cases involving poor treatment, abuse, residents' rights and evictions
- Collaboration with long term care ombudsman programs and policy advocacy
- COVID laid bare and exacerbated pre-existing quality of care problems in nursing homes, as well as shocking racial disparities and inequities
- Formation of state coalition in 2020 which established ongoing dialogue with state licensing agency and made:
  - COVID-related recommendations and
  - Recommendations for revisions to strengthen nursing home licensing regulations



# A Crisis Within a Crisis

- New York Times: [\*The Striking Racial Divide in How Covid-19 Has Hit Nursing Homes\*](#)
- Formation of subcommittee to focus on racial disparities in nursing facilities, particularly related to COVID-19

# Research Findings (1 of 2)

- Nursing homes are segregated, with Black and Hispanic residents segregated in the lowest quality facilities.
- Black and Hispanic residents are:
  - More likely to be in substandard facilities with more (and more serious) deficiencies;
  - More likely to have bad outcomes like pressure ulcers;
  - Less likely to get appropriate treatment; and
  - More likely to be in facilities with lower staffing.

# Research Findings (2 of 2)

- Of Philadelphia's 41 nursing homes:
  - 19 are predominantly White (14 are 80% or more white, 4 are 97% or more white and one nursing home is 100% white).
  - 22 are predominantly Black or Hispanic (18 have 75% or more Black or Hispanic residents)
  - 8 of the 11 facilities which have a 1 star Medicare rating are predominantly Black and Hispanic
  - 4 out of the 5 facilities with a 5 star Medicare rating have an 80% or more White population.

# Disproportionate Impact of COVID-19 on Black and Hispanic Residents

- Black & Hispanic residents, particularly those in nursing homes where they were the majority population, were:
  - more likely than white residents to have a COVID-19 outbreak;
  - more likely to have a severe outbreak; and
  - more likely to have deaths as a result of COVID-19.
- Nursing homes with at least 7 in 10 Black and Hispanic residents saw a death rate that was about 40% higher than homes with majority-White populations.
- COVID-19 has made long-documented racial and ethnic disparities and the structural racism they are rooted in even more visible.

# Report: Separate and Unconscionable

## **Separate and Unconscionable**

**A Report on Racial and Ethnic Disparities in Pennsylvania's  
Nursing Homes with Recommendations for Immediate Action**

**August 2021**

Community Legal Services of Philadelphia  
Center for Advocacy for the Rights and Interests of the Elderly (CARIE)  
Pennsylvania Council on Independent Living  
Disability Rights Pennsylvania  
SeniorLAW Center  
Pennsylvania Health Law Project  
Center for Independent Living of Central Pennsylvania

*Prepared by: Alissa Halperin, Halperin Butera Consulting*

- [Report Issued On Racial And Ethnic Disparities In Pennsylvania Nursing Homes](#)

# Recommendations and Advocacy (1 of 1)

- Revise state nursing home licensing regulations to increase staffing levels
  - Since nursing homes with primarily Black and/or Hispanic residents are disproportionately understaffed, proposed regulations would address racial and ethnic disparities in addition to enhancing quality of care for all nursing home residents.
- Take steps to avoid steering and discrimination in admissions, improve patient access to information on nursing home quality.

# Recommendations & Advocacy (2 of 2)

- Many Medicaid recommendations, including adjusting payments to reduce incentives to reject applicants who rely on MA and provide short term payments to increase staff and improve quality of care in facilities that disproportionately serve Black and Hispanic residents.
- Require Medicaid managed care plans to take steps to prevent disparities in their members' care.
- Improve and act on state data collection.

# Lessons Learned

- Disparities vs. Inequity
- Expanding the table to include partners with expertise in racial justice equity
- Building those relationships
- Bringing the community into the conversation and listening to their voices



# Questions?

# Poll 2

- What information on equity would you like to receive?
  - A. General resources on equity and older adults, such as historical, statistical, and trends
  - B. Examples or models on advancing equity from other organizations, such as on budgeting, staffing, and outreach
  - C. Resources for starting the conversation around equity internally within your organization
  - D. Information on population-specific equity issues and/or intersectionality
  - E. Other (please share in questions box)

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# Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).