

CENTER ON

# RACE, INEQUALITY + THE LAW

ANNUAL REVIEW  
2019-2020

Center on  
**RACE,**  
INEQUALITY,  
+ THE  
**LAW**

NYU School of Law

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# THE CENTER ON RACE, INEQUALITY, AND THE LAW: 2019–2020 ANNUAL REVIEW<sup>1</sup>

## Letter from the Faculty Directors

December 2020

The events of this past year have spurred an unprecedented national focus on race and inequality. COVID-19 has forced us to reckon with our national racial disparities in the delivery of health care services and the state of public health. The pandemic has dramatically affected communities of color. Death rates for Black and brown people have far outpaced those of white Americans. The impact of the employment fallout from the pandemic has also laid bare our nation's economic inequality.

While the nation sheltered in place this summer, we all bore witness to the unprovoked killing of George Floyd and Breonna Taylor. Their names joined the legions of unarmed people of color murdered by law enforcement. For the first time in our nation's history, the majority of Americans could not simply change the channel or divert their attention from the realities of police treatment of so many Black and brown Americans. And what they witnessed was so unacceptable that it prompted millions of all backgrounds to take to the streets to demand change. But change is hard work. As we begin the difficult work of changing policing policies and reforming the criminal legal system, we will need a diverse set of voices, more thought leadership, and greater national urgency to alter the trajectory of our nation.

We stand at a crossroads. There is little national help. With a president who has been openly hostile to the interests of people of color and an administration that has empowered and emboldened white supremacists here in America and around the world, we cannot expect a progressive change in the national narrative around race. But, as I look at the groundswell of support for an antiracist, inclusive and more equitable America, I remain optimistic. Instead of turning to political leaders, it is time for each of us to step up to be the change we want to see.



**DEBORAH ARCHER**



**ANTHONY C. THOMPSON**

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<sup>1</sup> This Annual Review covers the Center's activities from September 2019 through September 2020. Last year's Annual Review can be found [here](#).

In our most trying times, the best in us emerges. I have never been prouder of the work done by the Center on Race, Inequality and the Law. Co-Faculty Director Professor Deborah Archer has produced exciting and important work on race and infrastructure development and has helped us broaden our analysis of the ways often-hidden—that racism infests systems. Executive Director Vincent Southerland personally helped to defend our law students’ right to protest this summer. In addition, he participated on numerous panels, commissions, and forums on race and justice. His contributions have helped to keep the Center grounded and on the frontlines of the current national discussion on racial equity and social justice. And in this year, we have participated in a number of amicus briefs and reports and have consulted various groups on a range of issues related to economic and racial justice.

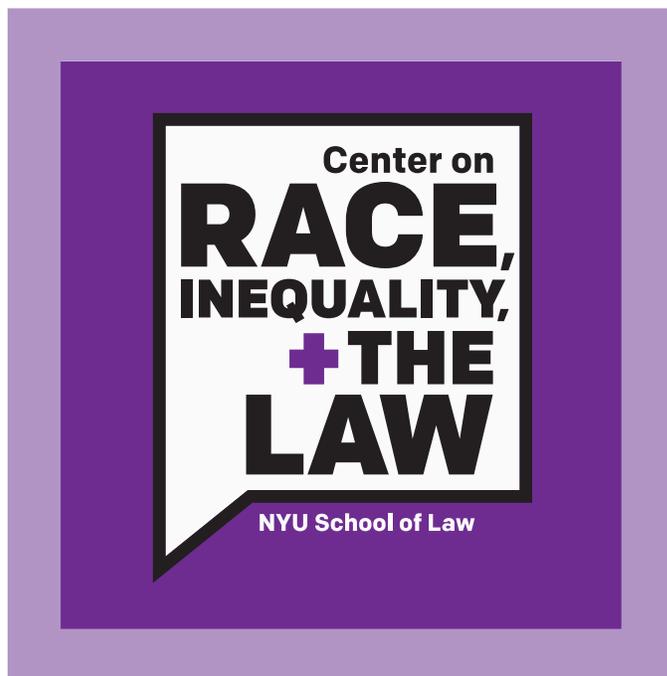
We have also had the good fortune of forging relationships with key strategic partners. The law firm of Paul, Weiss, Rifkind, Wharton & Garrison and specifically Brad Karp, Valerie Radwaner ’87, Alan Kornberg ’77, and Danyale Price have been great thought partners and contributors. Our great alumna Damaris Hernandez ’07 and her team at Cravath, Swaine & Moore have participated in some of our amicus work and been exceptional teammates in the fight for racial equity and justice. Along with our law firm collaborators, our national network of centers on race and inequality have served as valuable partners in our thinking and our work. It is with these great partners in our work that I believe the Center is thriving.

In this great moment for the Center and the work here at NYU School of Law, I believe this is the right time for me to step aside as the founding faculty director of the Center. So, at the end of this academic year, I will be retiring from the law school and from the Center. The last 25 years here at the law school after a decade as a public defender and a number of years in private practice have been the best years of my life. The foundation that we have put in place at the Center will endure. I want to thank all of the students, faculty and staff colleagues, and alumni and supporters who helped establish the Center as a place in the university that will always champion racial, social, and economic justice.

Sincerely,



Anthony C. Thompson





## 2. ABOUT THE CENTER ON RACE, INEQUALITY, AND THE LAW

### 2.1. STAFF

#### Faculty Directors

Professors Anthony C. Thompson  
Deborah N. Archer

#### Executive Director

Vincent M. Southerland

#### Administrator

Danisha N. Edwards

#### Research Scholars

Steven Demarest (2019–2021)  
Sarah L. Hamilton-Jiang (2018–2020)

#### 2019–2020 Law Student Fellows

Eli Ashenafi ('22)  
Keiler T. Beers ('20)  
Jeremy M. Burton ('21)  
Kimberly Fayette ('20)  
Eli Hadley ('21)  
Kameron M. Johnston ('21)  
Sofia Lopez-Franco ('21)  
Danielle Piacentile ('22)

#### 2019–2020 Interns

Gabrielle Buchanan ('20)  
Regina Fairfax ('20)

### 2.2. WHAT IS THE CENTER ON RACE, INEQUALITY, AND THE LAW?

Four centuries of racism and systemic discrimination have left an indelible mark on the architecture of American society. Racism infects the way policies are developed and applied at all levels of government. It infiltrates our laws, institutions, and systems, resulting in enduring racial inequities in every domain and institution that touches on people's lives. Racial inequality infects everything, from the criminal legal system to the areas of education, employment, housing, and the environments that shape communities.

The Center on Race, Inequality, and the Law at New York University School of Law was created to confront the laws, policies, and practices that lead to the oppression and marginalization of people of color. We believe that the racism that permeates our present-day legal system has deep roots. By documenting the history of racism in America, elevating the stories of those affected by race-based inequality, and rigorously applying a racial lens to analyze unremitting disparities, we identify actionable, forward-looking solutions to address the injustices caused by racism.

The Center envisions a world in which laws, policies, and legal practices are applied fairly and equitably to all people. This will be achieved as:

- Communities of color transform racial narratives and are active contributors in the movement toward racial equity in the legal system;
- Understanding the law through the lens of race and inequality becomes a fundamental component of legal education in the United States;
- Legal practitioners, policymakers, teachers, advocates, and the public are catalyzed to combat institutional racism and work to create a fair and equitable legal system;
- Inequitable laws, policies, and practices are challenged and reformed, or abolished as a result of legal action, advocacy, research, and training.

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## 2.3. HOW WE WORK

**The Center works in four key ways:**

### *Driving the narrative*

The Center leverages its expertise to produce content that addresses the historical, empirical, and pervasive character of racial bias in the legal system. We conduct research on the nuances that drive racial disparities in the law—from in-depth historical reporting, to rigorous legal examinations, to complex data analysis. We publish original materials to enrich the discourse and present actionable solutions to advance the efforts of system actors and policymakers. We provide space for communities of color to tell their stories that lie at the intersection of race and the law.

### *Challenging current policy and practice through research, litigation, and advocacy*

We challenge institutions and systems that perpetuate racial injustice by taking legal action. As a key part of our

strategy, we use our expertise, research, and advocacy to support legal actions that provide individual redress and build momentum for scalable reform.

### *Providing education and training*

We provide education and training to actors at all levels—from law students to practicing attorneys—on the history of racism and its impact on the contemporary legal system. We infuse law school curricula with principles of racial justice, and work to ensure that legal education is informed by an understanding of the history of race and white supremacy in America. We produce original training materials to support the continuing education of practitioners, and we actively support them to become leaders who will advance racial justice. We work with a robust network of partners in universities across the country to share lessons learned, collaborate on curriculum development, and host joint meetings.

### *Convening*

We convene community and civic leaders, advocates, practicing attorneys, academics, formerly incarcerated people and their families, and the broader public to facilitate productive discourse about racial disparities in the law. We host roundtable discussions and community conversations to gather input and explore solutions that will reduce racial disparities and improve justice outcomes for all. We invite experts to speak about their emerging research, and we host a variety of public events, such as film screenings and moderated conversations centered on urgent issues of racial justice.

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## 2.4. THEMATIC PRIORITIES IN 2019–2020

**The Center's thematic priorities fall within the following areas:**

- Race and Narrative
- Race and the Criminal Legal System
- Race and Technology
- Race, Community Equity, and Economic Justice
- Race and Legal Education.



## 3. RACE AND NARRATIVE

The Center’s work on race and narrative focuses on hosting public events to generate discussions and shape the discourse on race in America. The Center hosts an annual public conversation series on a range of contemporary issues to explore the effects of racial narratives, inequality, and the law and to provide strategic solutions to address current societal concerns. In 2019–2020, in collaboration with the NYU Law Review, the Center presented a three-part series entitled “[The Anatomy of Racism and Inequality](#).” The series explored the use of the law as a tool to foster, sustain, confront, and address racial inequality in education, housing, democracy, and the criminal legal system. The series focused on understanding the source, nature, and impact of racial inequality with an eye toward providing a framework and vision that incorporates and develops emerging strategies—legal and otherwise—to challenge race-based inequality. Selected articles from the series were published in the online edition of the *NYU Law Review*.<sup>2</sup>

The Center also hosted a public conversation on affirmative action in higher education and partnered with several organizations to co-host a series of events and convenings across sectors and disciplines throughout the year, enabling the Center to reach a wider audience.

<sup>2</sup> Mehrsa. Baradaran, [Closing the Racial Wealth Gap](#), 95 N.Y.U. L. Rev. Online 58 (2020); Richard R. Buery, Jr., [Public School Admissions and the Myth of Meritocracy: How and Why Screened Public School Admissions Promote Segregation](#), 95 N.Y.U. L. Rev. Online 102 (2020); Michael Pinard, [Race Decriminalization and Criminal Legal System Reform](#), 95 N.Y.U. L. Rev. Online 119 (2020).

### 3.1. PUBLIC CONVERSATIONS

#### 3.1.1. *A Conversation on Affirmative Action in Higher Education*

On October 2, 2019, the Center hosted [a public conversation on affirmative action in higher education](#) moderated by Center Co-Faculty Director Deborah Archer and featuring Anurima Bhargava, founder and president of Anthem of Us; Julie J. Park, professor at the University of Maryland, College Park; and Jin Hee Lee, Senior Deputy Director of Litigation of the NAACP Legal Defense and Educational Fund. The panel discussed the legal arguments used to bolster the use of affirmative action in college admissions, the role of affirmative action in ensuring diversity and redressing racism in higher education, and the potential impact of legal challenges like the high-profile Harvard affirmative action case on the future of diversity in education.



*Left to right: Julie J. Park, Anurima Bhargava, Deborah Archer, Jin Hee Lee*



Left to right: Phil Tegeler, Kim Sweet, Dennis D. Parker, Richard R. Buery, Russell K. Robinson

**3.1.2. The Anatomy of Race and Inequality: The United States: Separate and Unequal**

On October 28, 2019, the Center hosted “[The United States: Separate and Unequal](#),” the first installment of “[The Anatomy of Racism and Inequality](#).” The conversation looked at the impact of racism in areas including education, housing, community development, and economic opportunity. Panelists considered how advocates can disrupt and ultimately eradicate the systems that disadvantage people of color. The panel of advocates, scholars, and attorneys included Richard R. Buery, president of Achievement First; Dennis D. Parker, director of the National Center for Law and Economic Justice; Kim Sweet,

executive director of Advocates for Children; and Phil Tegler, executive director of the Poverty and Race Research Action Council. Russell K. Robinson of UC Berkeley School of Law moderated.

**3.1.3. The Anatomy of Race and Inequality: Race and an Exclusionary American Democracy**

On November 4, 2019, the Center hosted “[Race and an Exclusionary American Democracy](#),” the second installment of “[The Anatomy of Race and Inequality](#).” Panelists discussed how racism, xenophobia, and religious intolerance have impacted public conceptions of who is an American and has the right to participate in the nation’s political life. Panelists examined



Left to right: Atiba Ellis, Myrna Perez, Ryan Haygood, Danielle Lang

contemporary efforts to expand and restrict active engagement in the democratic process, such as discriminatory redistricting efforts, voter ID laws, and felon disenfranchisement. The conversation, which Center Executive Director Vincent Southerland moderated, included Khaled Beydoun, professor at University of Detroit Mercy School of Law; Atiba Ellis, professor at Marquette University Law School; Ryan Haygood, president and CEO of the New Jersey Institute of Social Justice; Danielle Lang, Co-Director of

Voting Rights and Redistricting at Campaign Legal Center; and Myrna Perez, director of the Brennan Center for Justice’s Voting Rights and Elections Program.

**3.1.4. *The Anatomy of Race and Inequality: Examining Racial Inequality in the Criminal Legal System***

On November 15, 2019, the Center hosted “[Examining Racial Inequality in the Criminal Legal System](#),” the final installment of “[The Anatomy of Race and Inequality](#).” The conversation focused on the origins of structural injustice and racial inequality in the criminal legal system, the collateral consequences of involvement with the system, and efforts to remedy biased and discriminatory decision-making by actors in the system. The panel featured Center Executive Director Vincent Southerland; ReNika Moore, director of the ACLU’s Racial Justice Program; Michael Pinard, professor at University of Maryland Francis King Carey School of Law; and Christina Swarns, president and Attorney-in-Charge of the Office of the Appellate Defender. Alexis J. Hoag of the Eric H. Holder Initiative for Civil & Political Rights at Columbia University moderated the conversation.



*Left to right: Michael Pinard, Christina Swarns, ReNika Moore*

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**3.2. CO-SPONSORED EVENTS**

The Center co-sponsored a wide range of events, and our staff and faculty co-directors were featured on a number of panels to share our expertise on broader issues of race, inequality, and the law.

**3.2.1. *The 24th Annual Derrick Bell Lecture on Race in American Society: Race, Violence, and the Word: Living in Uncertain Times***

The Center co-sponsored the [24th Annual Derrick Bell Lecture on Race in American Society](#), in partnership with NYU Law’s Office of Development and Alumni Relations, on November 6, 2019. The 2019 lecture, entitled “[Race, Violence, and the Word: Living in Uncertain Times](#),” was delivered by Kenneth Mack, Lawrence D. Biele Professor of Law and Affiliate Professor of History at Harvard University. In his lecture, Professor Mack discussed the relationship between law, race, and violence in the years since the 2014 protests in Ferguson, Missouri and throughout American history.



*Kenneth Mack*



*Left to right: Eric Gonzalez, Danielle Sered and Vincent Southerland*



*Left to right: Vincent Southerland and Nikole Hannah-Jones*

### ***3.2.2. In Conversation: Nikole Hannah-Jones and Christina Greer***

On November 18, 2019, the Center partnered with NYU’s McSilver Institute for Poverty Policy and Research to co-sponsor a [conversation](#) between Nikole Hannah-Jones, creator of *The New York Times’s* groundbreaking 1619 Project, and political scientist Christina Greer. The discussion, which drew a capacity audience, centered on how the legacy of slavery continues to shape and define life in the United States.

# THE PAST, PRESENT, AND FUTURE OF REPARATIONS

FEBRUARY 19 | DINNER & REFRESHMENTS  
NYU SCHOOL OF LAW, GREENBERG LOUNGE

- 4:00 PM - 5:00 PM | **SETTING THE STAGE**  
DR. RON DANIELS NATIONAL AFRICAN AMERICAN REPARATIONS COMMISSION  
KATHERINE FRANKE COLUMBIA UNIVERSITY  
ROBERT WESTLEY TULANE UNIVERSITY
- 5:15 PM - 6:15 PM | **CURRENT EFFORTS**  
QUEEN MOTHER MASHARIKI JYWANZA NATIONAL COALITION OF BLACKS FOR REPARATIONS IN AMERICA  
DAVID RAGLAND TRUTH TELLING PROJECT OF FERGUSON  
JOYCE HOPE SCOTT INTERNATIONAL NETWORK OF SCHOLARS AND ACTIVISTS FOR AFRICAN REPARATIONS
- 6:30 PM - 7:30 PM | **FUTURE POSSIBILITIES**  
JENNIFER BELLAMY AMERICAN CIVIL LIBERTIES UNION  
KESI FOSTER MOVEMENT FOR BLACK LIVES  
JESSICA GORDON NEMBARD JOHN JAY COLLEGE OF CRIMINAL JUSTICE  
NKECHI TAIFA THE TAIFA GROUP & JUSTICE ROUNDTABLE

### ***3.2.3. The Past, Present, and Future of Reparations***

On February 19, 2020, the Center co-sponsored the NYU Review of Law & Social Change’s 50th Anniversary Colloquium, entitled “[The Past, Present, and Future of Reparations.](#)” Center Executive Director Vincent Southerland and Co-Faculty Director Deborah Archer each moderated a panel at the event, which brought together scholars, legal



*Audience for “A Conversation on Affirmative Action in Higher Education”*

practitioners, community activists, and policymakers to imagine the possibilities—and limits—of the law in facilitating truth, reconciliation, and meaningful reparations.

#### ***3.2.4. Kenneth P. Thompson Lecture on Race and Criminal Justice Reform***

Following a successful inaugural lecture in 2019, the Center again partnered with the Center on the Administration of Criminal Law to co-host the second [Kenneth P. Thompson ‘92 Lecture on Race and Criminal Justice Reform](#) on March 9, 2020. Center Executive Director Vincent Southerland moderated a panel featuring Danielle Sered, founder and executive director of Common Justice, and Eric Gonzalez, district attorney for Kings County, New York. The discussion centered on the issue of race and the criminal legal system and the work being done to move the current system to one that treats people with dignity, deploys empathy and advances racial and social justice.



## 4. RACE AND THE CRIMINAL LEGAL SYSTEM

The Center’s portfolio in race and the criminal legal system focuses on addressing the racially biased exercise of discretion in the criminal system and confronting the taint of racial inequality that drives injustice and unfairness. Our work includes advocacy to advance parole justice, upend systemic inequality, and cleanse the system of the stain of racism while tackling the harmful role that it often plays in communities of color. In addition, the Center provides training and public education and engages in advocacy initiatives that contribute to the elimination of racial disparities in the criminal legal system.

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### 4.1. PAROLE JUSTICE

The Center continued to engage with the area of parole, partnering with local organizations such as the [Release Aging People in Parole \(RAPP\) Campaign](#) and the [Parole Preparation Project](#) to advance reforms in New York and across the nation. Policy proposals that the Center supported included an expansion of parole eligibility for elderly incarcerated individuals and a reworking of parole release standards to better account for the growth that a person may have undergone while incarcerated. The Center engaged parole system actors and policymakers to advocate for changes to the system. The spread of COVID-19 in prisons, a setting in which social distancing is impossible, made the Center’s parole work in 2019–2020 vital. The Center’s parole-centered work included:

- *COVID-19 and Parole Advocacy*—The Center worked with the Parole Preparation Project, the RAPP Campaign, and other coalition partners to [advocate for the release of incarcerated people at high risk from COVID-19](#). As explained in greater detail in section 5.4.2, the Center filed amicus briefs in support of habeas petitions for the release of an elderly man; a class of incarcerated people with numerous medical conditions; and an at-risk trans woman. The Center also supported a [briefing](#) on COVID-19 and conditions inside prisons and detention facilities based on reports from incarcerated people, their loved ones, and advocates.
- *Parole Client Advocacy*—The Center drafted a compassionate release letter to support the release of a person from prison whose conduct and conviction grew out of racial justice advocacy in the 1960s.



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## 4.2. TRAINING ACTORS IN THE CRIMINAL LEGAL SYSTEM

The Center values the importance of training as a means to help actors in the criminal legal system exercise their discretion in ways that confront and account for racial bias. Since its launch, the Center has provided direct training to legal actors and facilitated trainings in partnership with organizations working at the intersection of race and criminal justice.

### *4.2.1. Annual Symposium on Race and Ethnicity for Defense Lawyers*

The Center co-hosted the 2019 Annual Symposium on Race and Ethnicity for Defense Lawyers, bringing together nearly 100 federal and state public defenders. The symposium invited insights on race and ethnicity from various disciplines and, through small group discussion, considered the application of those insights to criminal defense practice, litigation, and advocacy on behalf of clients. Panelists discussed racial implicit bias, talking about how it exists at the intersections of intellectual disability and race, and mental illness and race; how it is evident in biased policing and sentencing, microaggressions, and empirical studies of racial disparity; and how it emphasizes the importance of diverse defense teams and sentencing advocacy.” The Center was pleased to work with the following co-sponsors: the Administrative Office of the US Courts, Defender Services Office Training Division, the Federal Public and Community Defenders, the Federal Capital Trial and Post-Conviction Resource Projects, the NAACP Legal Defense and Educational Fund, and the Cornell Death Penalty Project at Cornell Law School.

### *4.2.2. Dignity, Racial Justice, and Prosecution*

Center Executive Director Vincent Southerland participated in a joint initiative launched by the Vera Institute of Justice’s Reshaping Prosecution Program and John Jay College’s Institute for Innovative Prosecution and focused on developing a [framework to guide prosecutors in ensuring](#) that their [work is informed](#) by an unwavering commitment to racial equity, respect for the dignity of those entangled

with the criminal legal system, and efforts to ensure thriving, healthy communities.

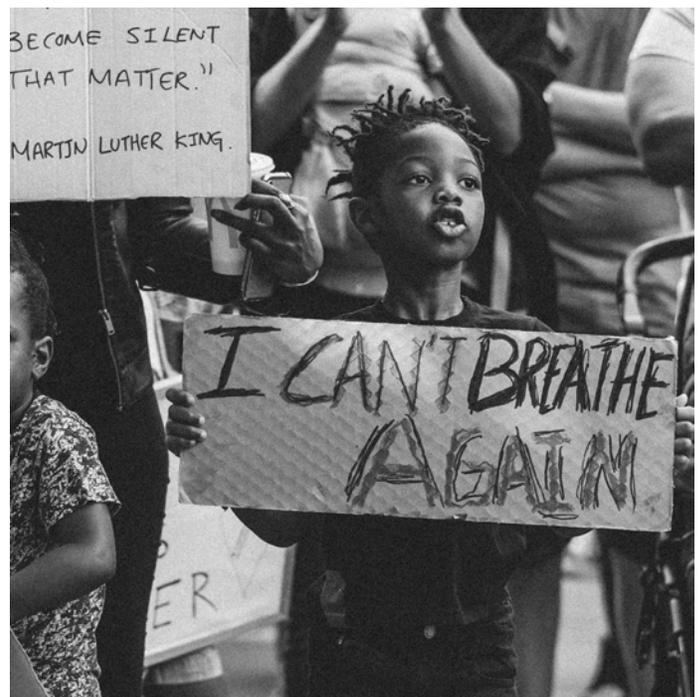
### *4.2.3. Trainings for Public Defenders and Civil Legal Aid Organizations*

The Center provided trainings on issues of race and inequality to several organizations whose work is, either in whole or in part, steeped in the criminal legal system. Those organizations included:

- Federal Defenders of New York
- New York State Defenders Association
- Delaware Community Legal Aid Society, Inc.

### *4.2.4. Policing Black Bodies II: Race and Pretrial Practices, hosted by the National Association of Criminal Defense Lawyers*

In July 2020, Center Executive Director Vincent Southerland took part in a [discussion](#) hosted by the National Association of Criminal Defense Lawyers on the ways in which systemic racism manifests in the pretrial process and how supporters of racial equity can work toward change. Southerland was joined by sociologists Angela Hattery and Earl Smith and by Cherise Fanno Burdeen of the Pretrial Justice Institute. Attorney Robert Patillo moderated the conversation.



#### 4.2.5. *Advocacy on Race and the Criminal Legal System*

The Center partnered with the Justice Collaborative, the RAPP Campaign, and other members of the racial justice advocacy community throughout the year to support public letters to policymakers to advance racial justice. The Center's activity included:

- A letter to the New York City Council and Office of the Mayor denouncing the legacy and present-day realities of police violence, racism, and brutality and calling for systemic changes to create a safer, more democratic, and racially just city;
- Advocacy letters<sup>3</sup> calling for policymakers to immediately grant release to incarcerated people endangered by COVID-19;
- Advocacy letters calling on New York legislators to uphold the state's important discovery reform;
- An advocacy letter opposing the hiring of more prosecutors in Harris County, Texas and calling for prosecutorial accountability; and
- An [advocacy letter](#) criticizing fearmongering by opponents of New York's important bail reform.

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### 4.3. PUBLIC EDUCATION

#### 4.3.1. *Presentations by Center Staff*

- Center Executive Director Vincent Southerland was a panelist for "[Race and Criminal Justice in a 'Colorblind' America](#)," hosted by the Vera Institute of Justice.

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<sup>3</sup> [Advocacy Letter to USCM: Immediate Action Needed to Prevent the Spread of COVID-19 in Jails](#) (March 23, 2020); [Advocacy Letter to Attorney General Barr RE: The use of the PATTERN risk assessment in prioritizing release in response to the COVID-19 pandemic](#) (April 3, 2020).

- Southerland served as a panelist for "[Re-Examining Mandatory Minimum Sentences in the Era of Criminal Justice Reform](#)," hosted by the New York City Bar Association.
- Southerland was a panelist for a conversation on race and criminal justice to launch the [Mockingbird Project](#), which was co-sponsored by the Innocence Project.
- Southerland was featured on the "92Y Confronts Hate" panel conversation on Netflix's [The Innocence Files](#).

#### 4.3.2. *In the Media*

- Center Executive Director Vincent Southerland was featured on the second episode of the National Geographic Channel's documentary series [Activate](#), speaking on the importance of ending cash bail.
- Southerland was a guest on New York's local National Public Radio [station to discuss bail reform](#).
- Center Co-Faculty Director Deborah Archer spoke on [The Debrief with David Ushery](#) about George Floyd and the future of New York City policing.
- Professor Archer was interviewed by [Teen Vogue](#) on the importance of jail support in social movements.
- Professor Archer spoke to [Women's Wear Daily](#) about the George Floyd protests.



## 5. RACE AND TECHNOLOGY

The Center engages in advocacy, research, and public education to address and mitigate the harms of algorithmic tools in criminal and civil domains. The Center’s work in this area seeks to apply a racial justice lens to the development, design, implementation, and oversight of technological tools that analyze datasets to identify patterns that are used to inform forecasts about people or places. The Center is a member of several coalitions and has participated in a host of public-facing events to advance racial justice in this area.

### 5.1. TESTIMONY AND POLICY ADVOCACY

The Center provided public testimony and advocated for public policy measures to prevent racial discrimination from being reproduced by technological tools. The Center’s activity in this realm included:

- Partnering with the AI Now Institute, Data for Black Lives, and the Surveillance Technology Oversight Project to submit [testimony](#) to the Massachusetts Joint Committee on State Administration and Regulatory Oversight in support of legislation establishing a commission to help policymakers and the public better understand the risks and opportunities presented by the use of artificial intelligence, automation, and algorithms in government decision-making;
- Providing testimony to the New York City Council in support of bills to limit the use of facial recognition technology and biometric data collection in businesses and residences;
- Providing testimony to New York City’s COVID-19 Racial Inclusion and Equity Taskforce urging the City to recognize that COVID-19 data is shaped by racially unjust conditions, establish strict data-sharing guidelines, and engage with impacted communities;
- Advocating against the use of facial recognition technology in schools.
- In collaboration with the AI Now Institute, the Center submitted a [comment to the Department of Housing and Urban Development \(HUD\)](#) regarding a proposed federal rule that would amend HUD’s interpretation of the Fair Housing Act’s disparate impact standard. The Center expressed concern that the proposed rule would heighten the already significant burden that plaintiffs must meet to raise claims of housing discrimination and allow defendants accused of housing discrimination to use algorithmic tools to shield themselves from legal liability. The

comment explained how the proposed rule was at odds with the purpose of the Fair Housing Act and called upon HUD to withdraw it.

- The Center joined several civil rights organizations in submitting [comments](#) to the National Institute of Justice in response to the First Step Act of 2018: Risk and Needs Assessment System report. The comments centered on the First Step Act’s use of the PATTERN risk assessment tool in prison release decisions, detailing how the tool reproduces racial and gender discrimination, and lacks transparency and accountability. The comments also noted how PATTERN fails to sufficiently consider the growth that people undergo while incarcerated. The Center and its co-authors urged the federal government to suspend the use of PATTERN until these concerns are addressed.

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## 5.2. PUBLICATIONS

### 5.2.1. *Litigating Algorithms Report*

In June 2019, the Center and the AI Now Institute held the second “Litigating Algorithms” workshop. The workshop provided the basis for a [report](#), issued in September 2019, which captured the discussions of workshop attendees from a variety of advocacy, policy, and research communities. Attendees considered recent legal challenges that raise significant questions about what access criminal defense attorneys should have to algorithmic decision systems used by law enforcement, the collateral consequences of the government’s erroneous or vindictive use of algorithmic decision systems, and the relationship between biometric privacy and algorithmic decision system accountability. Attendees also revisited cases discussed at the [2018 “Litigating Algorithms” workshop](#) and examined new developments. The report provided ten key recommendations on how to litigate challenges to algorithmic decision systems and steps that policymakers can take to prevent these systems from being misused.

### 5.2.2. *Reports of UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance*

The Center provided [research support](#) to Tendayi Achiume, the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance, on two reports. One report focused on [racial discrimination and emerging digital technologies](#). The other report focused on the [relationship between race, borders, and digital technologies](#). The Center provided research on the array of predictive technologies used in the criminal punishment, and immigration systems and the mechanisms by which these tools perpetuate racism.



### ***5.2.3. Race, Technology, and Immigration Report***

The Center produced a forthcoming report on the use of algorithmic decision-making tools in the immigration system. The report examines four immigration-related contexts in which algorithmic decision-making tools come into play: ICE’s Risk Classification Assessment used to make detention and release determinations, automated targeting systems, age assessment procedures, and gang databases. Drawing on the history of racialization of immigrants, the report details the harm algorithmic decision-making tools can cause to immigrants and the racial inequities those tools can perpetuate.

### ***5.2.4. Membership on New York City and Philadelphia Research Advisory Councils***

As a member of an independent research advisory council, Center Executive Director Vincent Southerland joined with other criminal justice advocates and experts to provide input, guidance, advice, and expertise to the [City of New York’s Criminal Justice Agency](#) and the [Mayor’s Office of Criminal Justice](#) as they worked to [update the City’s pretrial release assessment instrument](#), which was implemented in November 2019. Southerland also serves on the Philadelphia Pretrial Reform Research Advisory Council, which is tasked with helping the First Judicial District of Pennsylvania consider whether and if technological interventions can be used to improve the city’s pretrial justice system and reduce racial disparities in pretrial detention.

### ***5.2.5. Membership on New York City’s Automated Decision Systems Task Force***

Center Executive Director Vincent Southerland served as a member of the [New York City Automated Decisions Task Force](#), which was tasked with developing a process for ensuring fairness, accountability, and equity in the use of algorithmic decision-making tools. The Task Force, which was the first of its kind in the United States, issued a [report](#) in November 2019 detailing recommendations for the city on how to responsibly use these tools.

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## **5.3. PUBLIC EDUCATION**

### ***5.3.1 Presentations by Center Staff***

- Southerland participated as a panelist on “Criminal In/Justice and Data Use,” part of Haverford College’s [Technology and Justice 2019–20](#) series.
- Southerland hosted a webinar presentation on the criminal legal system and algorithmic tools to [Hive New York](#), a city-wide learning laboratory for educators, technologists, and mentors to design innovative connected educational experiences for youth.
- Southerland served as a panelist on “[Liberty at Risk: Pretrial Risk Assessment](#),” hosted by the Electronic Privacy Information Center.



## 6. RACE, COMMUNITY EQUITY, AND ECONOMIC JUSTICE

Race shapes communities in countless ways. The racial composition of a community impacts the education that children receive, the homes in which residents live, the level of pollution to which people are exposed, and more. People of color are often disadvantaged by racial dynamics and public policies that have created hostile environments around them. A racial justice lens is integral to ensuring that all people can enjoy just and equitable conditions in their communities. The Center advances its work in this space through a dynamic, multifaceted approach to advocacy and public education.

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### 6.1. THE ENDURING PROBLEM OF SCHOOL SEGREGATION

The Center explored new avenues for public education by producing a brief documentary, [The Enduring Problem of School Segregation](#), that examines racial segregation in education in the context of the New York City public school system. The documentary, a mixture of live footage and illustrative animations, features exclusive interviews with Richard Buery, president of Achievement First; Dennis Parker, director of the National Center for Law and Economic Justice; Anurima Bhargava, founder and president of Anthem of Us; and student activist Tiffani Torres of Teens Take Charge. *The Enduring Problem of School Segregation* has received well over a thousand views to date.

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### 6.2. PUBLICATIONS

#### 6.2.1. *Building Roads to a Just & Equitable Future*

The Center published a toolkit for community advocates seeking to challenge prospective highway projects. Entitled [Building Roads to a Just & Equitable Future](#), the toolkit recommends different ways that community advocates can influence the course of a highway project during each phase of the project. The toolkit emphasizes the importance of bringing a racial justice perspective to this work, examining how past highway projects have disproportionately harmed communities of color and encouraging opponents of modern highway projects to consider how this past harm can be addressed and prevented from happening again.



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## 6.3. PUBLIC EDUCATION

### 6.3.1. Presentations by Vincent Southerland

- Phone briefing on “[The Constitution and the 2020 Election](#),” hosted by the American Constitutional Society.
- Panelist at “[Take Your Feet Off Our Necks: Implicit Bias in the Workplace](#),” hosted by the Brooklyn Historical Society.

### 6.3.2. Presentations by Deborah Archer

- Keynote speaker on “Jim Crow in the 21st Century: The Impact of Crime Free Housing Ordinances and Mass Criminalization on Racial Segregation,” hosted by Boston University School of Law
- Keynote speaker on “[155 Years Since the End of American Slavery: Global Reflections on Juneteenth](#),” hosted by White & Case LLP
- Keynote speaker on “[From ‘Living While Black’ to the Fight Against Affirmative Action: Contextualizing, Understanding and Fighting the Movement to Reclaim ‘White Spaces’](#)” at Smith College’s Otelia Cromwell Day
- Featured speaker on “The Challenge of Systemic Racism” at the Page Society Annual Conference
- Speaker on “The Role of History: Understanding Systemic Racism and How Bias Can be Baked into Structures and Systems,” hosted by the Florida Judicial College

- Speaker on “White Men’s Roads Through Black Men’s Homes: Advancing Racial Equity Through Highway Reconstruction” at Miami and Brooklyn Law Schools
- Lecturer on “Jim Crow in the 21st Century: Crime Free Housing Ordinances, Racial Segregation, and Mass Criminalization,” part of the [New York University Scholars Lecture Series](#)
- Panelist at “Anti-Racist Lawyering: The Next Civil Rights Frontier,” hosted by Tulane Law School
- Panelist at “[The Future of Law and Transportation](#),” hosted by University of Iowa College of Law
- Panelist at “Racial Justice and Equity in the Time of COVID-19,” part of *SXSW Sessions Online*
- Featured guest on *Densely Speaking: A Podcast About Cities, Economics, and Law*
- Contributor on [The Beat with Ari Melber](#)
- Interviewed by [The Atlantic](#) and [Futurity](#) about how crime-free housing ordinances facilitate housing segregation
- [Featured by Monocle](#)
- Interviewed by [Getting Curious with Jonathan Van Ness](#) about the legacies of slavery and Jim Crow laws

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## 6.4. AMICUS SUBMISSIONS ON RACE

The Center’s amicus submissions bring to bear a racial justice lens to advance litigation across all areas of the Center’s work.

### 6.4.1. *Edwards v. Vannoy*

The Center authored and filed an [amicus brief](#) in *Edwards v. Vannoy*, pending before the United States Supreme Court. The case concerns whether the Supreme Court’s holding in *Ramos v. Louisiana*—that nonunanimous jury convictions violate the Sixth Amendment—applies retroactively to habeas petitioners. The Center’s brief examined the racist history of the nonunanimous jury conviction rule, looking at the rule’s origins in the late 19th century as a Southern effort to minimize the influence of Black jurors and reduce the chances of Black people on trial being acquitted. The brief emphasized that refusing to allow collateral challenges to nonunanimous jury convictions would be at odds with the Court’s vocal commitment to eliminating the influence of racial animus in judicial proceedings.

### 6.4.2. COVID-19

The Center supported amicus efforts in several cases involving incarcerated individuals facing high risk from COVID-19 and seeking habeas relief. In *People ex rel. Muntaqim v. Keyser*, the Center co-authored an amicus brief to New York’s Appellate Division, Third Department in support of a habeas petition brought by Jalil Muntaqim, an elderly incarcerated man with underlying medical conditions that severely heighten for him the danger of COVID-19. The brief examined the history of habeas petitions as a mechanism for protecting vulnerable people when other legal tools are inadequate and considered how habeas petitions have been used to challenge inhumane conditions of confinement. The Center was also a signatory to an amicus brief to New York’s Appellate Division, Second Department on behalf of a group of people incarcerated at Otisville Correctional Facility, as well as to another amicus brief to the Third Department in support of Cathy Citro, a transgender woman



incarcerated at Eastern Correctional Facility. These briefs made similar arguments and called for the release of these habeas petitioners, all of whom suffered underlying medical conditions. Mr. Muntaqim and Ms. Citro were ultimately released.

### 6.4.3. *Uniformed Fire Officers Association v. De Blasio*

The Center, in partnership with the law firm Spears & Imes, LLP, filed an [amicus brief](#) in the Southern District of New York in *Uniformed Fire Officers Association v. De Blasio* in support of New York City’s Civilian Complaint Review Board. The case concerns a challenge led by law enforcement unions to the public release of certain police misconduct records by the Civil Complaint Review Board. The brief pushed back against the union’s argument that the release of these records would violate the constitutional rights

of officers and cause officers irreparable harm. The brief also emphasized the careful consideration behind the legislative decision to make these records publicly accessible.

#### **6.4.4. *Banks v. United States***

The Center co-authored a [brief](#) to the United States Supreme Court in *Banks v. United States*, calling on the Court to grant certiorari in a case involving a pretextual traffic stop of a Black driver. The brief urged the Court to revisit its 1996 decision in *Whren v. United States* that the Fourth Amendment allows for pretextual traffic so long as there is probable cause to believe that a crime has occurred. The brief discussed how *Whren* has facilitated the widespread and unchecked racial profiling of Black motorists throughout the country. Reviewing empirical data in support of this understanding, the brief exhorted the Court to overrule *Whren* and hold that pretextual traffic stops violate the Fourth Amendment.

#### **6.4.5. *Juliana v. United States***

Led by the Fred T. Korematsu Center for Law and Equality at Seattle University School of Law, the Center joined a coalition of racial justice law centers as a signatory to an [amicus brief](#) to the United States Court of Appeals for the Ninth Circuit in *Juliana v. United States*. The case involves an attempt by youth to judicially compel government action to reduce carbon emissions and mitigate climate change. The brief tied the broad injunctive relief sought by the Juliana plaintiffs to the broad injunctive relief that has played a major role in racial justice litigation, such as in school segregation cases. The brief defended the propriety of courts issuing these types of elaborate structural injunctions and argued that courts should not reject complex ongoing remedies when such remedies are necessary to protect important rights.

#### **6.4.6. *Singleton v. Cannizzarro***

The past year saw success in *Singleton v. Cannizzarro*, a case before the United States Court of Appeals for the Fifth Circuit in which the Center previously served as a signatory to an [amicus brief](#) in support

of the plaintiff. Filed by the ACLU Trone Center for Justice and Equality, the ACLU of Louisiana, and Civil Rights Corps, the lawsuit challenges the Orleans Parish District Attorney's Office practice of using fake subpoenas and intimidation to illegally coerce and wrongly jail crime victims and witnesses—a practice that has been aimed specifically at Black individuals. The brief focused on how dismissing the lawsuit would directly contravene the purposes of Section 1983, the civil rights statute under which the lawsuit was brought and which was enacted to vindicate the rights of Black Americans subjected to discrimination by law enforcement following the Civil War. In April 2020, the Fifth Circuit affirmed the lower court's rejection of the District Attorney's Office's motion to dismiss, allowing the lawsuit to proceed.





## 7. RACE AND LEGAL EDUCATION

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### 7.1. STUDENT OPPORTUNITIES

#### 7.1.1. Fellowships, Internships, and Research Opportunities

The Center [continued to engage students](#) at NYU School of Law through a summer fellowship program, a term-time fellowship program, and volunteer opportunities. In 2019–2020, the Center hosted six student fellows during the academic year, including the inaugural class of [Paul Weiss Student Fellows](#); two full-time student fellows over the summer; two undergraduate interns; and a host of volunteers throughout the year. Student fellows were involved in all facets of the Center’s work, providing valuable research on race and inequality, strengthening the Center’s social media presence, authoring blog posts, and more. Volunteer opportunities and support positions are available for undergraduate and graduate students who wish to deepen their understanding of the intersection of race, inequality, and the law.

#### 7.1.2. Reading Groups

The Center staff hosted reading group sessions throughout the year, offering students and other members of the NYU community opportunities to discuss different aspects of race and inequality throughout society. Reading groups included:

- *Structural Dimensions of Romantic Preferences* – Participants discussed the subject matter of scholar Russell Robinson’s article [Structural Dimensions of Romantic Preferences](#), which examines

how structural conditions impact racial preferences regarding intimacy, and the dynamics of racialized intimacies. Participants shared experiences and thoughts about how identity, place, and demography determine possibilities for enduring romantic relationships, expanding the conversation about civil rights beyond traditional domains such as education, employment, and incarceration.

- *Race, Injustice, and the American Legal System* – Led by NYU Law Professor and Vice Dean Randy Hertz and Executive Director Vincent Southerland, participating first-year law students explored the historical origins of racial identity, the underpinnings of institutional racism, and the ways in which race and inequality shape the law and outcomes for individuals. The group discussed [The New York Times’s 1619 Project](#), the mini-series *When They See Us*, and Equal Justice Initiative founder Bryan Stevenson’s [Just Mercy](#). Participants reflected on the opportunities, challenges, and potential strategies associated with advancing racial justice, particularly with regard to criminalization, incarceration, and the criminal legal system.

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## 7.2. RACE AND THE LAW CENTERS CONVENING

On October 17–18, 2019, the Center hosted a national convening of law centers, projects, programs and initiatives from across the country to discuss opportunities, challenges and collaborative efforts to develop a coalition of centers working on issues of race and the law. The convening provided space for participants to share insights from their respective centers and regions, exploring how centers can leverage collective power and collaborate with their respective institutions to advance racial justice. The convening was enormously successful, bringing together thirty individuals representing eighteen organizations. Represented at the convening were, in addition to NYU School of Law, Harvard Law School, Stanford Law School, Rutgers Law School, Seattle University School of Law, University of Virginia School of Law, UC Davis School of Law, UC Irvine School of Law, Wayne State University Law School, Howard University School of Law, Columbia Law School, UCLA School of Law, Boston University School of Law, Fordham University School of Law, UC Berkeley School of Law, University of Florida Levin College of Law, UNC School of Law, and the Open Society Foundations. Participants left the convening having developed resources to guide continued collaboration, and committed to further supporting each other's work.

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## 7.3. WORKSHOPS

### ***7.3.1. Leading Differently Across Difference: A National Conference on Training Lawyers as Leaders***

On November 8, 2019, the Center co-sponsored “[Leading Differently Across Difference: A National Conference on Training Lawyers as Leaders](#)” with the Freedman Institute at Hofstra University's Maurice A. Deane School of Law. The day-long conference offered ideas on how to develop inclusive and equitable leadership in the legal profession. Center Co-Faculty Director Anthony Thompson gave a keynote address on the importance of leadership training in a diverse

world and what leadership training regarding equity and inclusion might look like. Center Executive Director Vincent Southerland served on a panel focused on cross-cultural competencies, race, ethnicity and leadership.

### ***7.3.2. Suddenly Silent: Strategies to Speak Up and Stand Out***

Partnering with NYU's Center for Diversity, Inclusion, and Belonging and the Birnbaum Women's Leadership Network, the Center co-sponsored an interactive workshop, “[Suddenly Silent: Strategies to Speak Up and Stand Out](#),” on October 7, 2019. The workshop featured NYU law professors Melissa Murray, who serves as the Faculty Director of the Birnbaum Women's Leadership Network, and Erin Murphy, as well as K.M. Zouhary, founder of Cadenza Communications. The workshop addressed women's experiences and the underrepresentation of women's voices in the classroom, and provided students strategies for addressing anxieties about classroom participation.

### ***7.3.3. Navigating Racial Oppression***

On February 11, 2020, Executive Director Vincent Southerland facilitated “[Racial Identity, Institutional Racism and the Law](#),” an interactive workshop at CUNY School of Law's annual Community Day for CUNY law students, that allowed students to analyze the historical origins of racial identity, the underpinnings of institutional racism, and the ways in which race and inequality shape the law and outcomes for individuals. The workshop also examined the opportunities, challenges, and potential strategies associated with advancing racial justice, with a particular emphasis on concerns related to mass incarceration and the criminal legal system.

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## 7.4. NYU INSTITUTIONAL PARTNERSHIPS

Throughout the year, the Center continued to work closely with the law school's student affinity groups, faculty, and staff to provide training, guidance, and thought partnership on issues of race and inequality. As part of these efforts, the Center continued its annual training with the Lawyering faculty to equip them with approaches and techniques to manage conversations about race and difference in the classroom.

As a member of the [NYU Alliance for Public Interest Technology](#), the Center maintained a partnership with a dynamic and multidisciplinary group of NYU faculty to support the responsible, ethical, and racially equitable use of technology. Through the [Blueprints for Progressive Change in Juvenile Justice initiative](#), the Center collaborated with NYU faculty to support progressive reform of the criminal legal system's treatment of children.

Finally, the Center partnered with a wide array of NYU organizations, such as the [AI Now Institute](#), the [McSilver Institute for Poverty Policy and Research](#), and the Center on the Administration of Criminal Law to host events, engage in advocacy, and confront racial injustice. By working with the [NYU Law Review](#) and the [NYU Review of Law & Social Change](#) to organize public conversations, the Center also strengthened its relationship with the law school's student body.

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