

US Environmental Protection Agency
Urban Waters National Training Workshop
Arlington, VA 2016

Robert García, JD
Founding Director and Counsel, The City Project
Assistant Professor, Charles Drew University
www.cityprojectca.org

Goals

1. How are parks and school fields civil rights and environmental justice issues?
2. Five point plan to distribute benefits and burdens and avoid discrimination
3. The values at stake
4. Community strategies



We heard from the community. Too many children, especially children of color, don't have access to parks where they can run free, breathe fresh air, experience nature, and learn about their environment.

This is an issue of social justice.

Because it's not enough to have this awesome natural wonder within your sight—you have to be able to access it.

President Barack Obama
San Gabriel Mountains
National Monument Dedication
October 2014

My commitment to conservation . . . is about working with communities to open up our glorious heritage to everybody — young and old, black, white, Latino, Asian, Native American — to make sure everybody can experience these incredible gifts.

President Barack Obama
San Gabriel Mountains
National Monument Dedication
October 2014

Civil rights and environmental justice compliance plan

Applies to recipients of federal funding, public and private

1. Describe what do you plan to do

2. Analyze benefits and burdens on all people

Statistical and anecdotal evidence

GIS mapping and demographics

Define standards to measure progress and hold officials accountable

3. Analyze alternatives

4. Include people of color and low-income people

5. Implement a plan to distribute benefits and burdens fairly and avoid discrimination: both intentional discrimination, and unjustified discriminatory impacts.

L.A. River US Army Corps of Engineers Best Practice Revitalizing the L.A. River

LA River Alternative 20



USACE L.A. River final plan \$1.4 billion

- 1. There are not enough parks, especially for people of color and low income people.**
- 2. This contributes to health disparities based on race, color, national origin, and income.**
- 3. Civil rights and environmental justice requires agencies to alleviate these disparities.**

Title VI Civil Rights Act 1964

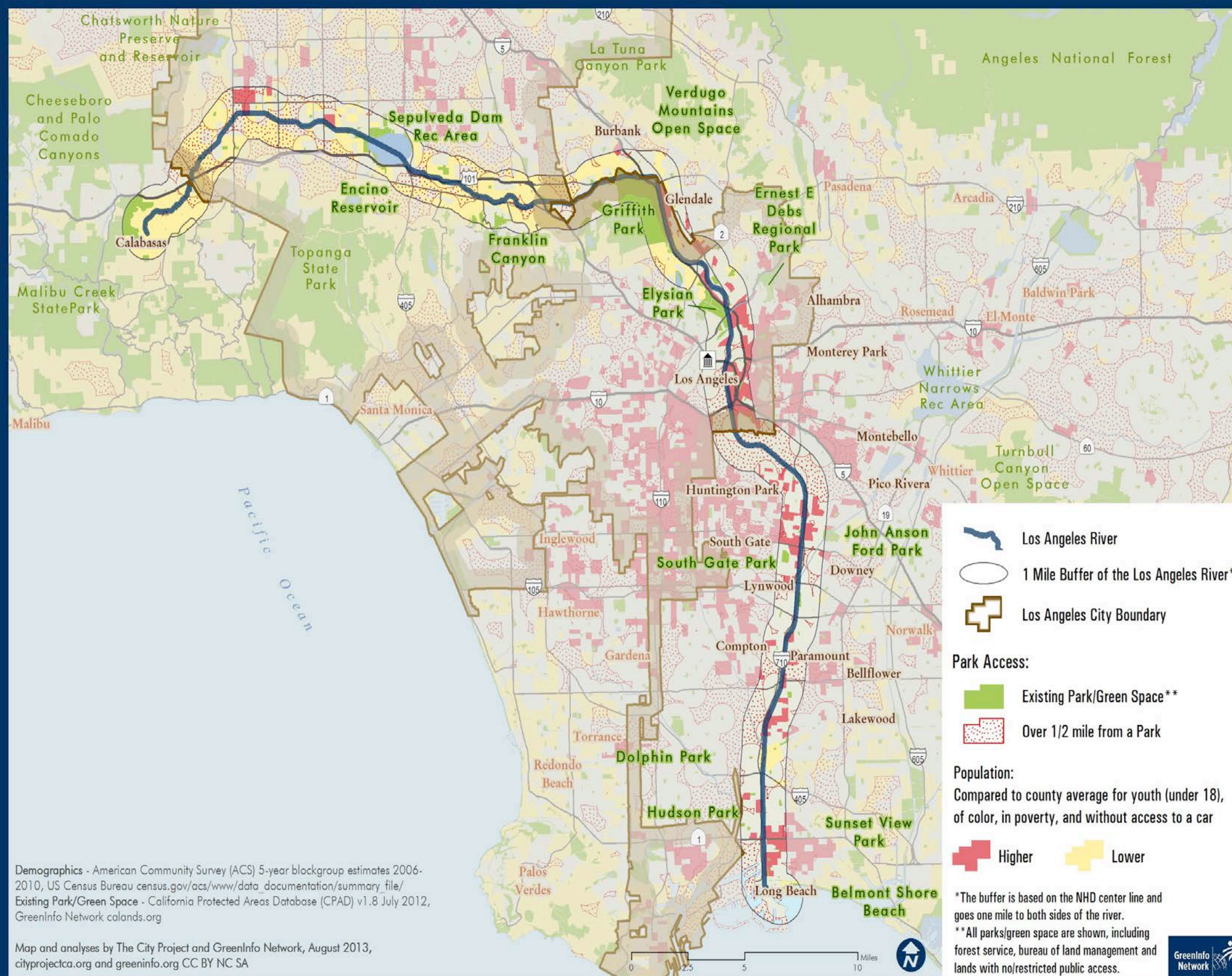
President's Executive Order 12898



The City Project

Park Access for Children of Color Living in Poverty with No Access to a Car

Los Angeles River



Agree:

President Obama

USACE L.A. River Plan

National Park Service plan Santa Monica Mountains

National Park Service plan San Gabriel Mountains National Monument

Housing and Urban Development L.A. State Historic Park

Title VI Civil Rights Act 1964

President's Executive Order 12898



GROWING A HEALTHIER CALIFORNIA - WITH - **PHYSICAL EDUCATION** FOR ALL!

The **PEOPLE**
have spoken



97% of California voters
agree students need more
physical activity in school

The **LEGISLATURE**
has spoken



An average of at least



of physical education is required by law

The **COURTS**
have spoken



Physical education
is a **right!**

Science has spoken and the benefits are clear

Studies show:

Physical education:

- Enhances academic performance, graduation rates, & attendance
- Increases skills, knowledge, & confidence to be healthy throughout life
- Lowers risk of obesity, diabetes, & heart disease
- Promotes emotional well-being

Obesity & physical inactivity
cost CA \$41 billion per year,
\$20 billion due to inactivity.



NEVERTHELESS

**Schools are not meeting physical education requirements,
and civil rights disparities persist**

50% of school districts did not meet physical
education requirements between 2005 and
2009, and the problem continues.



Elementary school students in districts that did not meet physical
education requirements were more likely to be Hispanic or black,
while districts that did included fewer low-income students.

Physical education is good policy and required by law



TAKE ACTION



Write to your school board, share with your state legislators,
and make sure your children receive the physical education they deserve.
Even one teacher or parent per district can make a difference!



The L.A. County Department of Public Health has a physical education
Checklist and MAP (Model Action Plan) for school and community
leaders to make sure children receive quality physical education.
Visit goo.gl/qe8JUY.



The
City
Project

Based upon: LACDPH, California Physical Education MAP (Model Action Plan) and Checklist (2015); Choose Health LA: Physical Education (LACDPH 2015); Choose Health LA: Parent's Guide to Physical Education (LACDPH 2015); The City Project policy brief, Physical Education for All California Public School Students (2015).



The
City
Project

THE VALUES AT STAKE

FUN,
HEALTH, AND
HUMAN
DEVELOPMENT

EQUAL
JUSTICE,
DEMOCRACY, AND
LIVABILITY FOR
ALL

ART,
CULTURAL,
SPIRITUAL,
AND NATIVE
AMERICAN
VALUES

NATIONAL PARK SERVICE HEALTHY
PARKS HEALTHY PEOPLE EGUIDE...

THE GREAT WALL OF LOS ANGELES
IS A PROJECT OF SPARC, A NONPROFIT MULTICULTURAL
ART CENTER. TO MAKE A DONATION OR TO PURCHASE
WALKING TOURS, POST CARDS, SLIDES, T-SHIRTS OR TO
ARRANGE A GUIDED TOUR, CONTACT
SPARC: Creating Sites of Public Memory
685 VENICE BLVD.
VENICE, CA 90231
(310) 522-9967
SPARCVLRALS.ORG

ECONOMIC
VITALITY

CONNECT PEOPLE ON DEEP LEVELS...

CLIMATE
AND
CONSERVATION

CHILDREN WHO ARE PHYSICALLY FIT
TEND TO DO BETTER ACADEMICALLY.
PARKS AND SCHOOL FIELDS CAN
CREATE COMMUNITY AND DRIVE OUT
CRIME...

PARKS AND SCHOOLS CAN CREATE
LOCAL **GREEN** JOBS AND
CONTRACTS FOR DIVERSE
ENTERPRISES, **BUT** WE MUST AVOID
GENTRIFICATION AND DISPLACEMENT
AS COMMUNITIES BECOME GREENER,
MORE DESIRABLE, AND MORE
EXPENSIVE...

THE CITY PROJECT SUPPORTS
CLIMATE JUSTICE AND SAFE, GREEN
RESOURCES ACCESSIBLE TO ALL.

GREAT WALL OF LOS ANGELES © JUDITH BACA + SPARC

Transit to Trails & Every Kid in a Park



Strategies for Success

The City Project works with diverse allies to implement strategies to improve green access for all through: (1) community organizing and coalition building; (2) translating research into policy, law and systemic change; (3) strategic media campaigns, including new social media; and (4) policy and legal advocacy outside the courts. (5) When necessary, we also seek access to justice through the courts.





Two Legal Frameworks for Reviewing Title VI Claims

- **Disparate Treatment Discrimination**
 - Similarly situated persons treated differently based on their race, color, or national origin
 - Action was, at least in part, based on race, color, or national origin
- **Disparate **Impact** Discrimination**
 - Policy or practice that is neutral on its face, but has a disproportionate adverse impact on persons of a particular protected class



“Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.”

President John F. Kennedy, message to Congress
on Title VI of the Civil Rights Act of 1964

**"We do not have to be lawyers to understand,
'Do unto others as you would have them do unto
you'"**

Senator Hubert Humphrey,
Senate Debate on Civil Rights Act of 1964

Environmental Justice Principle



- **Environmental justice embraces the principle that all people and communities are entitled to equal protection of our environmental, health, employment, education, housing, transportation, and civil rights laws**



Fisher v University of Texas, SCOTUS, 2016

Data analysis of race, color, and national origin

Ensure public benefits and burdens promote racial justice, human dignity, and diversity

The value of diversity:

Ending stereotypes

Promoting cross-racial understanding

Preparing for increasingly diverse workforce and society

Cultivating leaders with legitimacy in the eyes of the public

*Texas Department of Housing and Community Affairs
v. Inclusive Communities Project, SCOTUS, 2015*

Discriminatory impact standard regardless of intent is
necessary to overcome legacy of residential
segregation

Move the nation toward equal opportunity for all

Counteract unconscious prejudice, disguised animus,
and implicit bias that escape easy classification as
intentional discrimination

Using Civil Rights Tools to Address Health Disparities

Michael Rodriguez, MD, MPH; Marc Brenman;
Marianne Engelman Lado, JD; and Robert García, JD



Policy Report
The City Project

2014

CELEBRATE THE CIVIL RIGHTS REVOLUTION

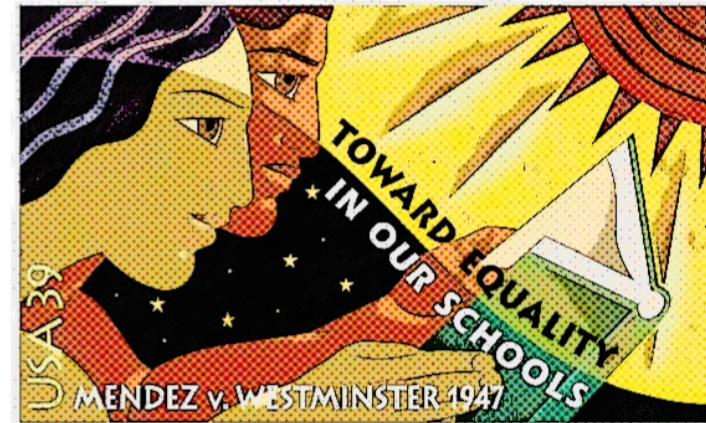
STRENGTHEN, DON'T ROLL BACK, CIVIL RIGHTS...



THE SELMA TO MONTGOMERY MARCH
PHOTO TILE IN CIVIL RIGHTS PARK,
LOS ANGELES



THE NAACP LEGAL DEFENSE FUND (LDF) WON
BROWN VS. BOARD OF EDUCATION IN 1954



THE CITY PROJECT FIGHTS
TO UPHOLD PEOPLE'S RIGHTS UNDER
THE CIVIL RIGHTS ACT OF 1964,
THE FAIR HOUSING ACT OF 1968,
THE AFFORDABLE CARE ACT, AND
EXECUTIVE ORDER 12898 ON
ENVIRONMENTAL JUSTICE AND HEALTH...

THE CIVIL RIGHTS REVOLUTION INCLUDES
ATTORNEYS WORKING IN AND OUT OF COURT,
COURAGEOUS JUDICIAL DECISIONS,
GRASS ROOTS ORGANIZING,
LEGISLATION BY CONGRESS AND THE STATES,
PRESIDENTIAL LEADERSHIP,
IMPLEMENTATION BY AGENCIES,
AND THE PEOPLE'S RIGHT TO **VOTE**.

THE STRUGGLE CONTINUES...

Climate is a civil rights issue, as well as a health, economic, and environmental issue





Donations are tax deductible!

hello@cityprojectca.org

www.cityprojectca.org

Unjustified Discriminatory Impacts Title VI and Regulations

1. Are there numerical disparities?

Statistical studies, anecdotal evidence

Data collection and analysis

GIS mapping, demographics and census data

Standards to measure progress, hold officials accountable

2. Are the disparities justified by business necessity?

3. Are there less discriminatory alternatives to accomplish similar goals?

Intentional Discrimination Title VI and Regulations

Circumstantial evidence of intent

1. **Numerical impact** is the starting point for analysis.
2. Is there **a history of discrimination**?
3. Are there departures from **substantive values**?
4. Are there departures from **normal procedures**?
5. Is there a **pattern of discrimination**?
6. Do decision makers **know the harm** they will cause?

Who is covered by Title VI?

Applies to **any recipient of federal funding**

States, cities, universities, private corporations,
individuals

Applies to **all programs or activities of recipients**

**No intentional discrimination and no unjustified
discrimination based on race, color, or national
origin**

How can federal agencies ensure compliance with Title VI?

Collect, analyze, and publish data on park and health disparities

Teaching materials

Funding requirements

Planning

Regulations and guidance

Complaint investigations

Require civil rights analysis if evidence of disparities

Justice Department access to justice through courts

How is Title VI enforced by the people?

Recipients of federal funding compliance analysis and plan

Collect, analyze, publish data on park and health disparities

Take part in funding, planning, public comment process

Administrative complaints

Access to justice through the courts

This work is supported in part by

California Endowment

Resources Legal Fund

Gilbert Foundation

NIH-NIMHD grant U54MD007598 (formerly
U54RR026138)

CDU-AXIS, Grant# U54MD007598 from NIMHD