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# Fair Housing Past to Present

## Insights from the Field

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Any opinion, findings, and conclusions or recommendations expressed in this material are those of the authors and do not necessarily reflect the views of the Department of Housing and Urban Development.

# Presentation Outline

- I. Historical overview of housing exclusion/rights in United States
- II. Fair Housing 101
- III. Current landscape of rental market in Metro Boston area
- IV. Implicit bias and best practices
- V. Q&A

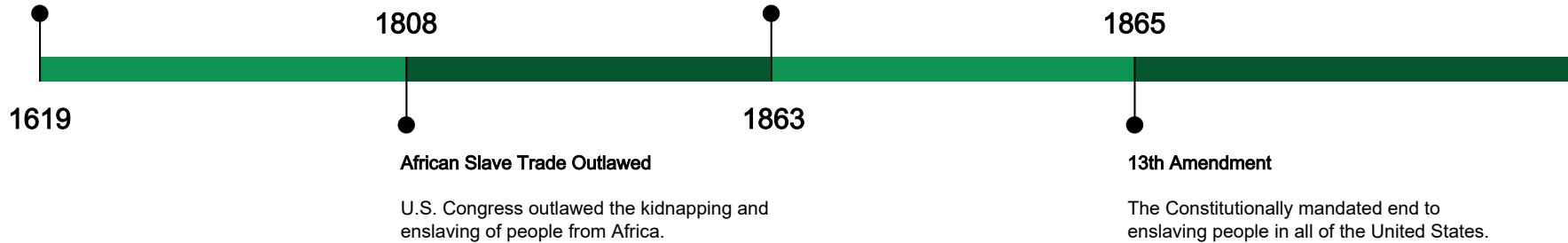
# Evolution of abusing

## Enslaving people

Considered to be the starting point in the United States.

## Emancipation Proclamation

January 1, 1863 Abraham Lincoln issued the proclamation that gave people who were enslaved in the rebel states their freedom.



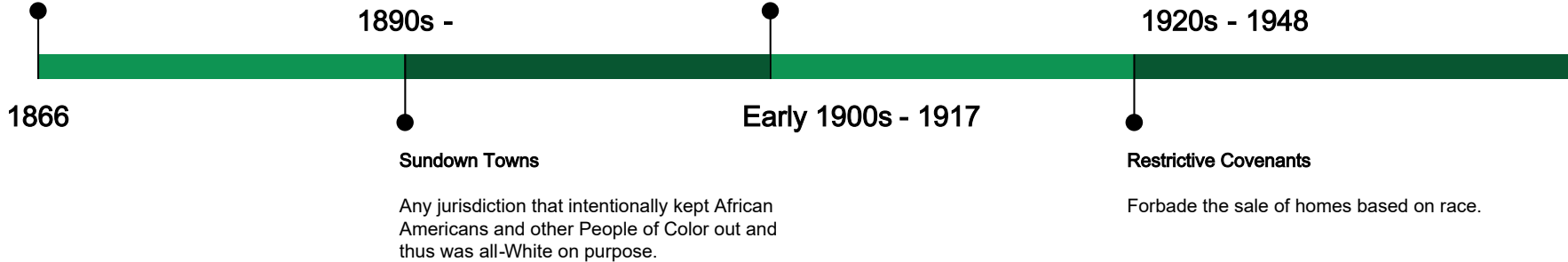
# Evolution of housing

## Civil Rights Act of 1866

Race-based discrimination in housing has been illegal since this law was passed; however, the law specifically excluded Native Americans.

## Exclusionary Zoning Laws

Ordinances that prevented racial and ethnic minorities from moving into specific neighborhoods.

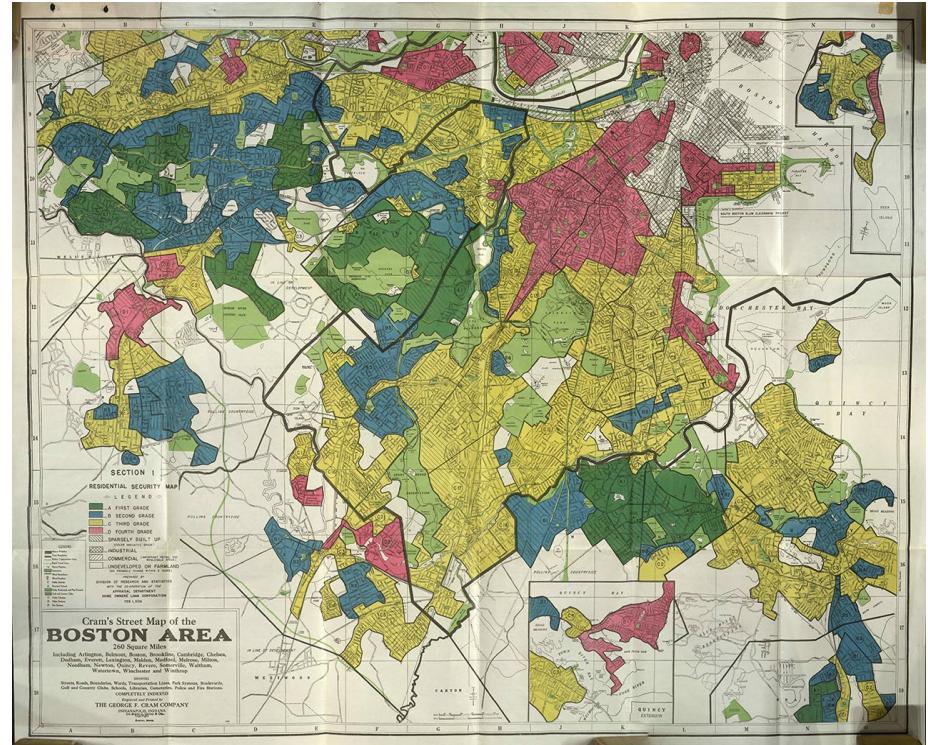


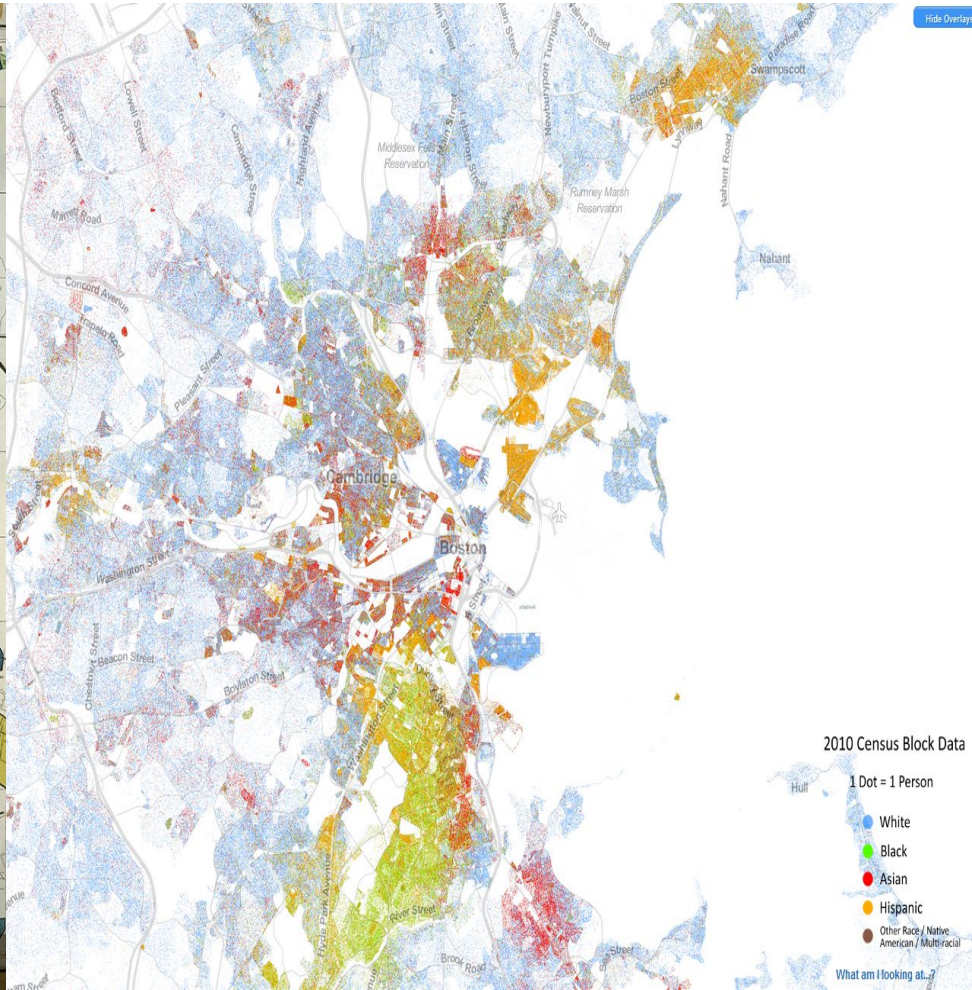
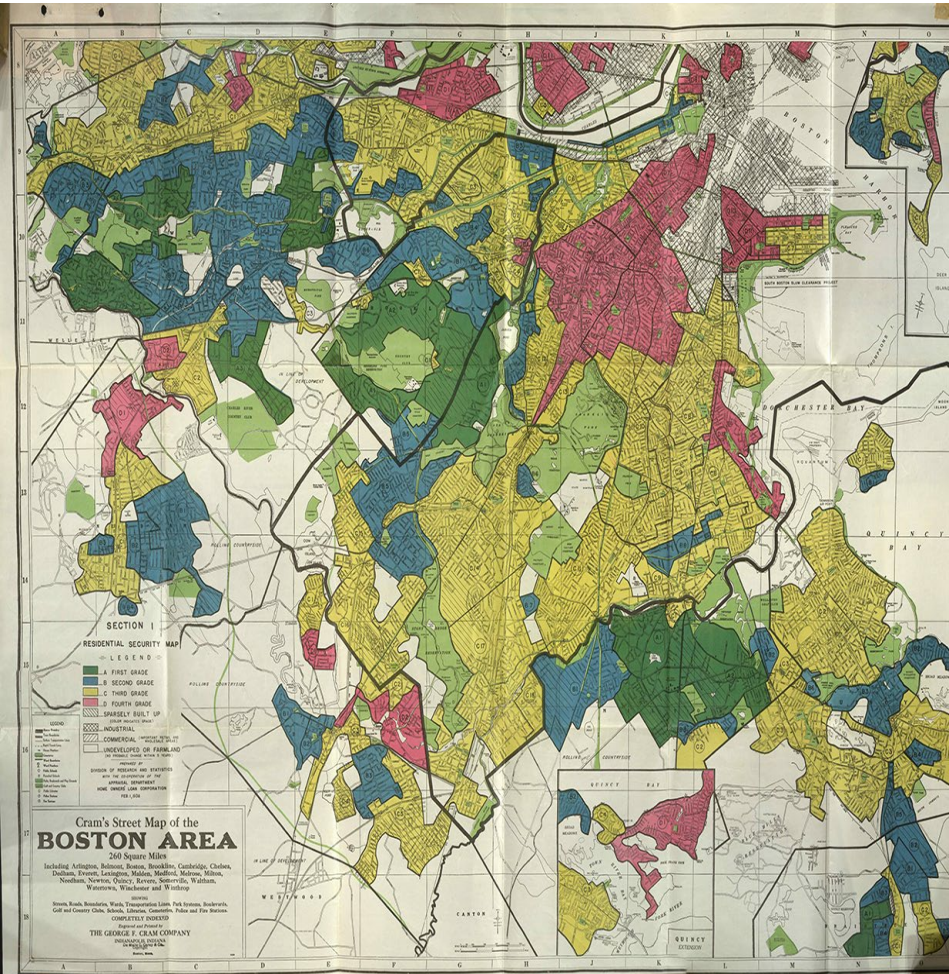
# Evolution of housing 1930s

Federal Housing Administration

The New Deal - more accessible home loans (to some)

Redlining





# Evolution of Fair Housing Act

Fair Housing Act of 1968 (amended in 1988)

Outlaws discrimination based on 7 protected classes

Refuse to rent, sell, or negotiate

Making housing unavailable or denying

Setting different terms, conditions, or privileges

Providing different housing services or facilities

Falsely denying that housing is available for inspection, viewing, or rental



# Fair Housing Act cont.

For profit, persuade, or try to persuade homeowners to sell by suggesting that people of a particular race, etc. have or are about to move into a neighborhood (blockbusting)

Deny access to or membership or participation in any org., facility, or service (such as mls) related to sale or rental of dwellings

To make, print, or publish any notice, statement, or advertisement that indicates a preference or limitation based on a protected class

Coerce, intimidate, threaten or interfere with the exercising of a fair housing right

# The Landscape Today

Home ownership = the building of wealth

Net worth (sum of value of total assets - value of debts)

White people: \$247,500

Black people: \$8

Dominicans: \$0

Ana Patricia Muñoz et.al, *The Color of Wealth in Boston*, p. 20 Federal Reserve Bank of Boston (2015).

Analysis is estimates of U.S. born people in the Boston Metropolitan Statistical Area.

# What is a protected class?

- Characteristic of a person that cannot be targeted for discrimination
- Prohibited conduct under law + action being done based on a person's protected class = fair housing violation



# Protected Classes in Fair Housing

## Fair Housing Act (federal law)

- Race
- Color
- Religion
- Sex
- Disability
- Familial Status
- National Origin

## Massachusetts Anti-Discrimination Law (151B)



That whole list, +

- Age (40 and older)
- Military Status
- Gender identity
- Sexual Orientation
- Marital Status
- Receipt of public assistance
- Genetic information
- Ancestry

# Who must follow fair housing law



- Property owners/sellers
- Housing authorities
- Developers
- Condo associations and homeowner associations
- Housing employees such as property managers, clerical staff, maintenance and other housing personnel
- Attorneys
- Real estate agents
- Advertisement venues
- Other residents in the building, development and neighborhood
- Architects and contractors can be held liable under the accessible design and construction fair housing mandates

# Mass. Lead Law

- Dwellings must be made lead safe if a child under the age of 6 resides or will reside there. This is a strict liability law.
- A family with a child under the age of 6 cannot be denied a rental property because of the presence of lead paint (violation of multiple laws).
- A lead law notification is not a waiver. An owner cannot avoid liability by asking tenants to sign an agreement that they accept the presence of lead paint.
- A tenancy may be delayed to make a property lead safe

# Disability Reasonable Accommodations & Modification

Accommodation : a change or waiver to policies, practice, procedure, or service that is needed due to a disability

Modification : a physical alteration to provide greater accessibility and use of the premises for a person with a disability

- A verbal request is accepted- no magic words and all requests must be considered
- A provider can request information in order to evaluate if R.A. is necessary due to a disability - but not if the person's disability is **obvious** , **readily apparent** , or **already known** to the provider

# Housing Vouchers

- In Massachusetts, source of income (state or federal housing vouchers, SSDI etc) is a protected class.
- No exemptions whatsoever, even if owner occupied. -
- Discriminatory advertising is an additional and separate violation of fair housing laws.



# Exemptions

- No exemptions for source of income.
- There are limited, narrowly constructed exemptions to state and federal law, including some owner -occupied buildings.
- Exemptions do not apply to real estate agents.
- It is always illegal to express discriminatory preferences in advertisements (even for owners who would otherwise be exempt).

# Enforcement

- Administrative Agencies
  - HUD
  - MCAD
  - Local (e.g., Boston Fair Housing Commission)
- State and/or Federal Courts

# Other Housing Barriers

- Application fees, holding deposits, and other move-in expenses
- Eviction records
- Criminal history
- Minimum income requirements

# Tips for Housing Seekers

- Keep notes on units contacted and people you spoke with.
- Get as much information about costs as you can before touring the unit. Write these down and compare to what you are told later.
- Save advertisements, emails, and texts.
- Do not record people without their permission.

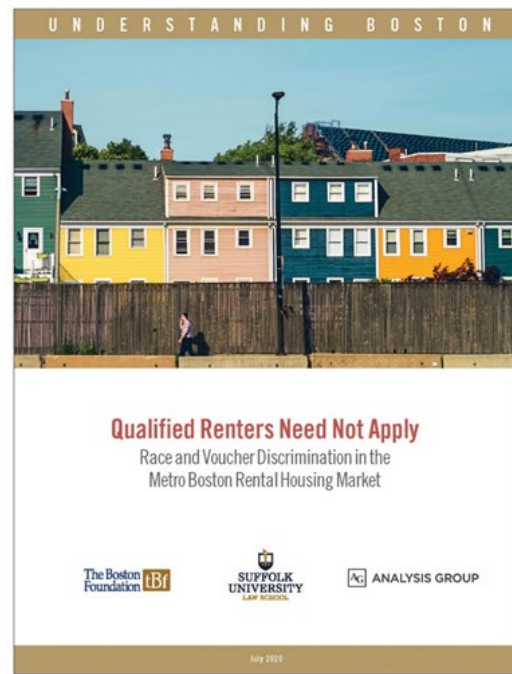
# Qualified Renters Need Not Apply

## Race and Voucher Discrimination in the Metro Boston Rental Housing Market

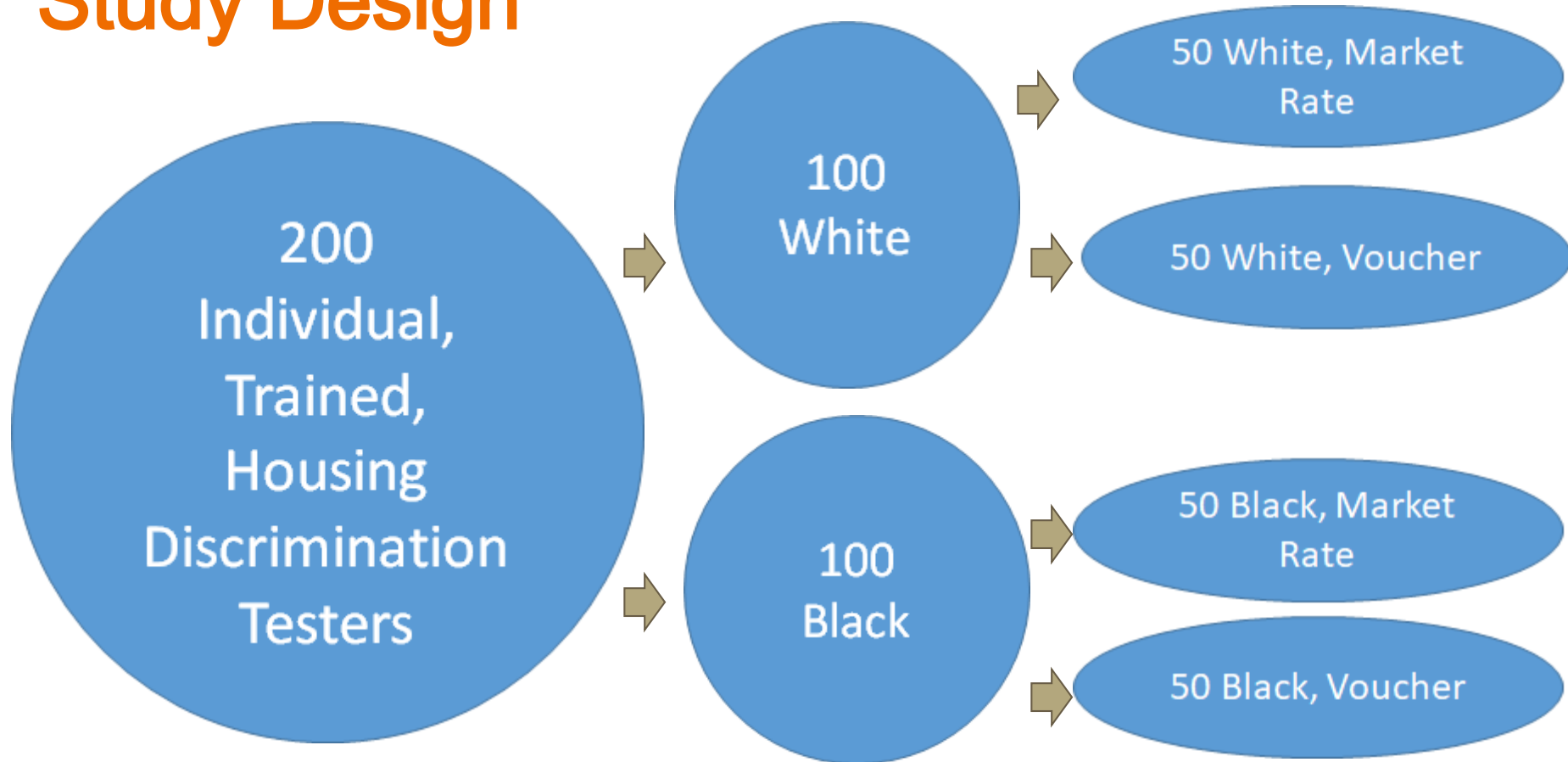
Measure level of race -based and  
voucher-based discrimination

Investigate if voucher-based  
discrimination is a proxy for race-  
based discrimination

Testing took place between  
August 2018 – July 2019



# Study Design



# Paired Testing

Similar as possible in all ways but for variable(s) being tested:

- All 4 testers for each test were same sex
- Same credit, same rental history
- Everyone could afford the apartment based on their total incomes
- Race was indicated over the phone by assigned names

All properties were accessible by public transportation, within voucher payment standards, and randomized.

Other protected classes were not introduced

- Everyone had same family size (single)
- Everyone presented as cisgender, no visible disabilities, accent considerations etc.

# Typical Business Practices

Testers simulated a real housing search:

Contacted advertising person (a real estate professional in the majority of cases)

Expressed interest in setting up an appointment

Introduced name and if relevant voucher

Gathered evidence as to what information was given, what was asked, and whether could make an appointment and view the unit



# What we found: Discrimination with a sm

**86% of Voucher Testers Experienced Discrimination**

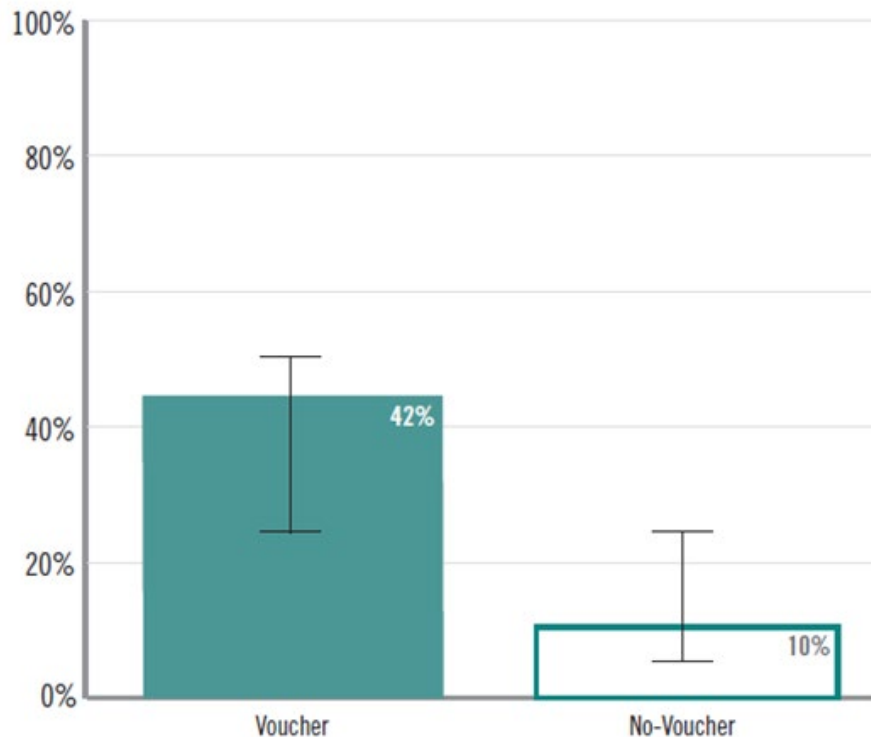
**71% of Black Testers Experienced Discrimination**

**GHOSTING**

**NUMBER OF  
UNITS  
AVAILABLE**

**ABILITY TO  
TOUR UNIT**

# Ghosted by Housing Provider



Some voucher holders were expressly told that their voucher was not a barrier to renting the unit.

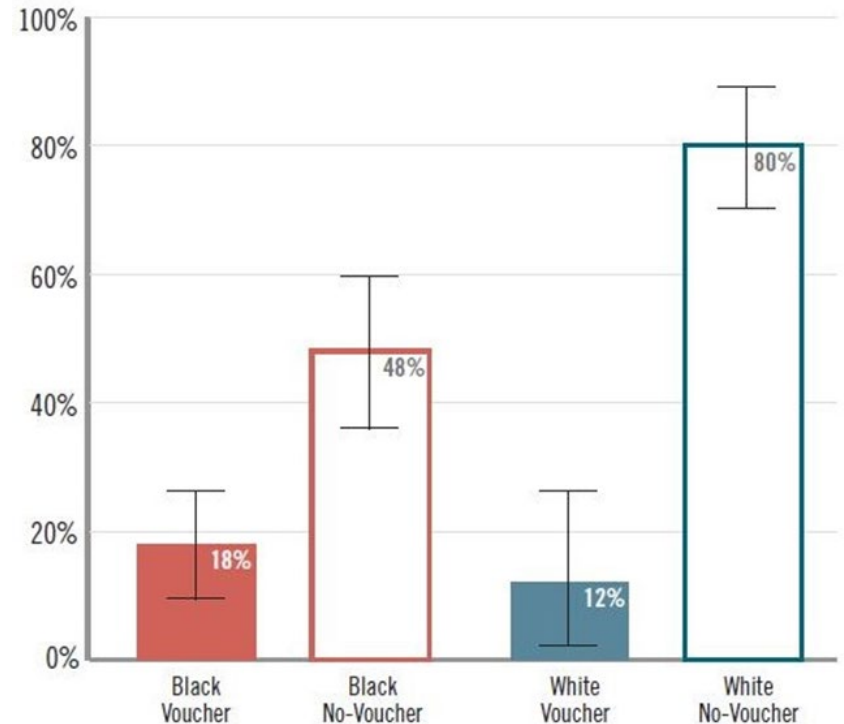
In 81% of those tests, evidence of discrimination was ultimately found.

In 56% of those cases, the real estate professional ceased all communication with the testers in spite of significant efforts on each testers' part to make contact.

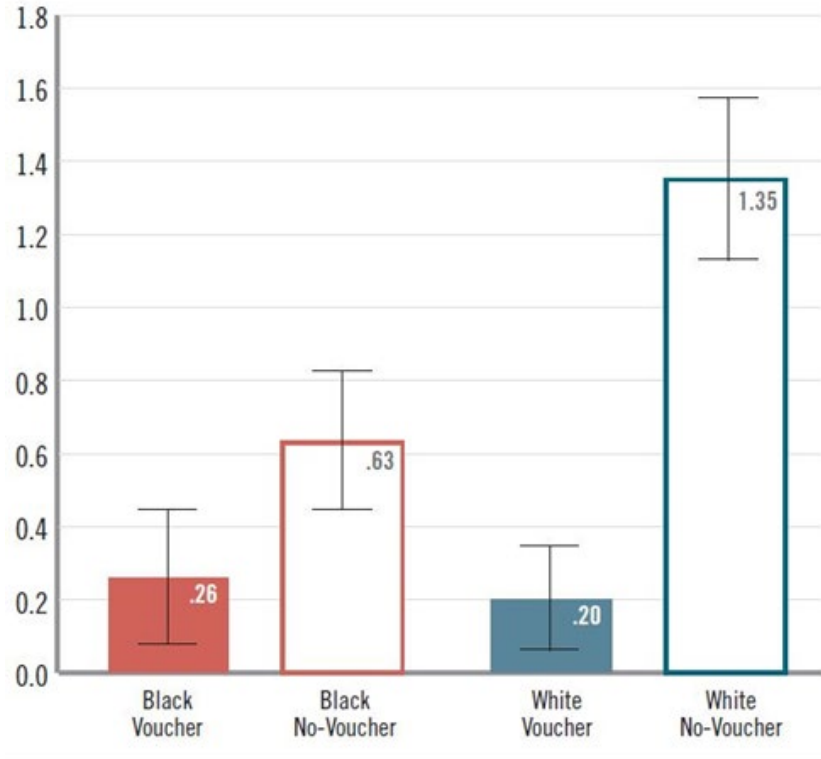
# Touring the Unit

Real estate professionals did not return calls from Tyrone and Ebony.

Brad and Jill were able to tour the unit (if they didn't have a voucher).



# Units Housing Providers Said were Available



After Meredith's tour, she was invited to join a "select group" to see another unit:

They don't advertise that apartment because then they would have to respond to everyone who inquires...

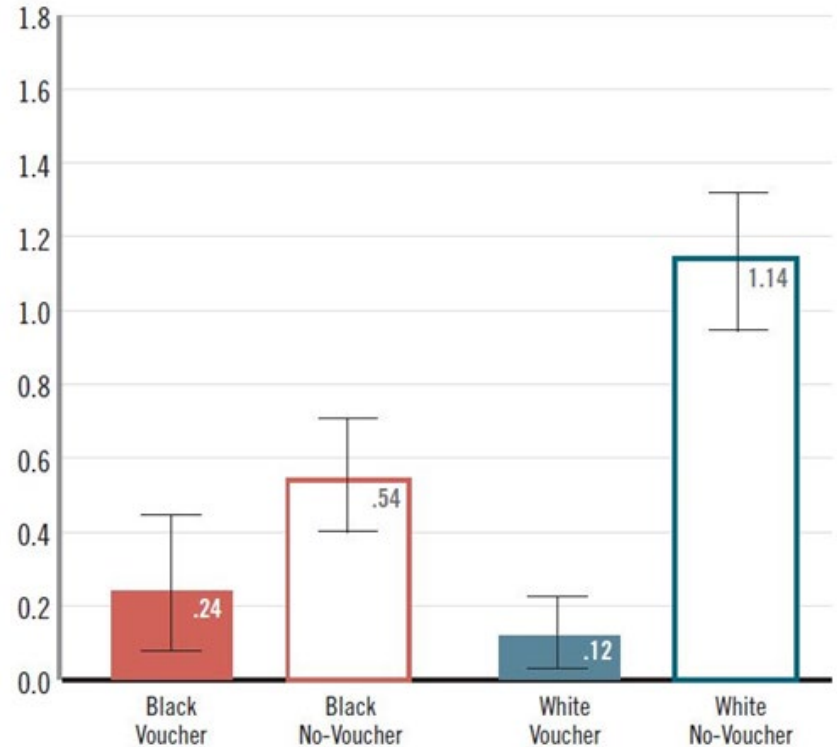
They were looking for people with quiet lifestyles who work, not CEOs necessarily, but people with good jobs.

The other three testers did not receive this offer.

# Units Shown to Testers

The White Market Rate tester was unable to tour a unit in only 10 tests.

In 5 of these tests, the unit had rented.



# Gatekeepers

187 testers interacted with a real estate professional

14 testers interacted with the property owner

4 testers interacted with property management personnel

**On paper, all the testers were equally qualified to rent.**

**Many testers were never able to demonstrate their ability to rent the unit because they were screened out early in the process.**

# Implicit Bias



Our brains process info for us.

For many people, some things we don't have to "think" about - the process just happens (i.e., *reading* - we see letters grouped together and our brains translate to words)

some things we need to spend more mental energy on to process (i.e., complex math)

# Quickly but not always correctly

RED	GREEN	YELLOW
ORANGE	BLUE	RED
BLUE	RED	GREEN
YELLOW	ORANGE	BLUE
GREEN	YELLOW	ORANGE



# Thinking Fast



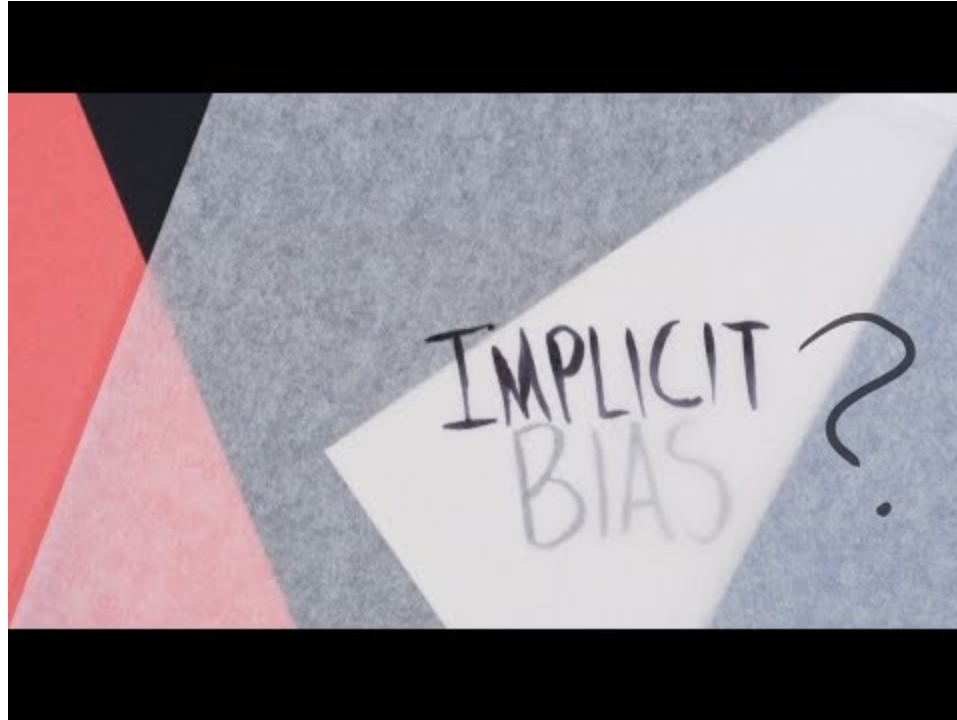
# Thinking Slow

$$17 \times 24$$

# System 1 and System 2

Operates automatically	Mental activities that need a lot of effort
Operates quickly	Complex calculations
Little effort or voluntary control	Makes comparisons and analyzes
Takes over in emergencies	Used to reflect on an experience
Useful for processing large amount of info	Takes greater mental effort
Prone to bias/snap judgments	Engaged when System 1 needs assistance

See Daniel Kahneman, *Thinking Fast and Slow*, Farrar, Straus and Giroux (2011).



*Implicit Bias: Peanut Butter, Jelly and Racism, New York Times*

# Why implicit bias matters

Impacts how we treat people

Law does not differentiate between discrimination that occurs because of explicit bias or implicit bias

Better business practice to factor in implicit biases

# Tips for Housing Providers

- Establish a checklist and team plan.
- Use template emails or other correspondence.
- Background and credit checks OK – as long as EVERY APPLICANT is asked for the same information
- Maintain a call log for every property.
- Be prepared to communicate about relevant laws.
- Slow down. Engage in self-reflection.
  - Self-assessment - Project Implicit, take implicit association tests at (<https://implicit.harvard.edu/implicit/>\_\_\_\_\_)

# Want to dive deeper ~~history~~ *history*

- Richard Rothstein, *The Color of Law A Forgotten History of How Our Government Segregated America* (1st. Ed. 2017)
- James W. Loewen, *Sundown Towns: A Hidden Dimension of American Racism* (Touchstone 1st ed. 2006)
- *Segregated by Design* available at <https://www.segregatedbydesign.com/> (length - 17 min. 42 sec.)
- *This American Life: 512: House Rules* Nov. 22, 2013, available at <https://www.thisamericanlife.org/512/house-rules> (55 min. 34 sec.)

# Want to dive deeper *Studies on discrimination*

The full report, “Qualified Renters Need Not Apply” is on the Boston Foundation’s website

Additionally, researchers and policy advocates convened a discussion of the study results which can also be accessed on the Boston Foundation’s website (length: 60 min.)

Newsday’s study *Long Island Divided* available at

<https://projects.newsday.com/long-island/real-estate-investigation-videos/>



# Want to dive deeper *Implicit Bias*

- Jerry Kang, *Immaculate perception: Jerry Kang at TEDxSanDiego 2013* (on youtube ~ 14 minutes long)
- Saleem Reshamwala, *Snacks and Punishment*, New York Times (2016)
- Jerry Kang, *Implicit Bias: A Primer for Courts*,  
<https://cdm16501.contentdm.oclc.org/digital/collection/accessfair/id/248>

# Pronouns

My.pronouns.org, *What are personal pronouns and why do they matter?*

<https://www.mypronouns.org/what-and-why/> (website also has a helpful section entitled *How do I share my pronouns?* that includes links for he, she, they, and ze that can be used in email signatures)

Q & A