Qualified Renters Need Not Apply
Race and Voucher Discrimination in the Metro Boston Rental Housing Market

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This study about race and housing voucher discrimination comes at a time when there is a tremendous amount of focus on the lack of affordable housing in Greater Boston and the threat that crisis poses to our region’s continued prosperity. Our own Greater Boston Housing Report Card has shown that we must expand our housing stock at all price points and in all of the cities in towns around Boston to meet the current need.

Equally important to housing supply is the issue of fair access to existing and new housing for those who have not been lifted by Boston’s rising tide of prosperity. To survive and thrive in any city, especially in Boston, residents must have fair access to decent rental housing. It is a right, not a privilege, to expect that all individuals and families should have the same opportunities to seek decent shelter, which is so central to our physical and mental health.

This study shows that those opportunities clearly are not available to everyone. Indeed, race and voucher-based discrimination exists to an alarming degree, a situation that we must address by facing and exposing the underlying negative biases that persist throughout our current housing voucher system.

In this study, we learn that would-be renters who are clearly qualified are being shut out by brokers who have devised complicated systems of barriers and by landlords whose units could be filled far more fairly. The ramifications of discrimination based not only on race, but on class, extend far beyond the microcosm of the rental housing realm. They help to perpetuate the inequalities that keep Boston from reaching its true potential.

Evaluating issues related to race-based and voucher-based discrimination, especially with scientific approaches, such as the matched pair testing reflected in this study, is essential if we want to solve the problem of inequity in the rental market. And we do. Our mission of creating a city and region in which opportunity and justice are extended to everyone depends upon it.

Paul S. Grogan
President & CEO
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Executive Summary

Housing has a major impact on a person’s health, economic, and social well-being. Inability to obtain quality housing has negative health and social consequences that can perpetuate the cycle of poverty and detachment from the labor market. Discrimination that prevents a person from accessing a neighborhood that can provide easier access to better economic and educational opportunities lowers the ceiling on that individual’s future success. Where a person lives does not just impact their future success or long-term well-being. The COVID-19 pandemic and protests sweeping the country following the killing of George Floyd, Ahmaud Arbery, Tony McDade, Breonna Taylor, and so many others have painfully illuminated the inequities that have always existed in American society. This study offers empirical evidence of the discrimination that people of color and those with housing vouchers face in our community. It is time for policy makers to act to undo this history of structural oppression, racism, and discrimination.

The COVID-19 crisis has shown that neighborhood, often segregated by race and/or class, can be a rapid and deadly factor in negative health consequences. In the United States, an analysis of ZIP code data from 12 states showed that the infection rate of COVID-19 is twice as high in neighborhoods with median income of less than $35,000 than those with incomes of more than $75,000, and five times higher in majority minority ZIP codes. Black people are 2.4 times more likely than White people to die from COVID-19, and also are much more likely to contract the disease. While the data is incomplete due to lack of consistent reporting, it is incontrovertible that the burden of COVID-19 has fallen on minority communities. The experience of the City of Chelsea in Massachusetts in this regard is well documented. Indeed, social distancing is more difficult in high-density neighborhoods, such as Chelsea, in which modest income individuals often cannot shelter at home and must work essential jobs or face a lack of resources for food and shelter. Disparities also exist in the location of testing sites. An NPR investigation in Texas found that testing sites were disproportionately located in whiter neighborhoods. The Centers for Disease Control (CDC) and Prevention has recognized that the data suggests that there are disproportionate levels of Covid-19 illness and death among people of color. The CDC recognizes that living conditions are a factor that influence health and that "research also suggests that residential segregation is a fundamental cause of health disparity." Residential segregation did not occur organically. Government policies and discriminatory practices by both government and individuals have led to and perpetuated segregation. It will take government action and a change in the behavior of individuals to begin to reverse hundreds of years of structural racism. We are witnessing the results of inaction, as people of color are dying in disproportionate numbers from Covid-19 and other health inequities and are also dying at the hands of White people. George Floyd was killed by White police officers on May 25th, 2020, after being held down on the ground with a knee on his neck for eight minutes and 46 seconds. White police officers ignored his pleas that he could not breathe. Ahmaud Arbery was chased and killed by White men on February 23rd, 2020, while he was out jogging. Tony McDade, a Black trans man, was shot and killed by police on May 27th, 2020. Breonna Taylor was killed in her bed on March 13th, 2020, after police officers entered her house using a no knock warrant. This pattern goes on year after year. Research from Boston University’s School of Public Health found that states with higher degrees of structural racism, and in particular, residential segregation have increased disparities in fatal police shootings of unarmed people. This is a matter of life and death. Segregation, discrimination, and killings of unarmed Black people are not problems from our past, but rather ongoing, interrelated actions that must be addressed. The data from this study reveals that housing discrimination is still occurring around Greater Boston at alarmingly high rates. If there was ever a time for policy makers to act to address housing discrimination and the other lingering forms of structural oppression against people of color, the time is now.
This study measures the levels of discrimination in the Greater Boston area rental housing market based on race and income level. Data from this study show that high levels of discrimination exist throughout the pre-rental application process against both Black people and individuals using housing vouchers, beginning with the very first interaction between a prospective tenant and the person advertising housing (referred to throughout as “housing provider”). In the vast majority of cases, real estate professionals perpetuated the discrimination. Policy makers should heed the findings from this study and work to enact measures that can curb housing discrimination.

The Study

The goal of the present study was to gather data on race-based and voucher-based discrimination, measure the levels of such discrimination present in the Greater Boston rental housing market, and determine whether source of income discrimination is a proxy for race discrimination. To do so, the Housing Discrimination Testing Program (HDTP) at Suffolk University Law School and Analysis Group, Inc. (AG), an economic consulting firm, gathered information on the behavior of realtors and property owners with “matched pair” testing. The study measured a number of data points including:

- whether testers were able to make appointments to see the properties;
- how many units housing providers told testers about or showed them;
- whether housing providers offered financial incentives;
- whether housing providers made positive or negative comments about the housing units; and
- whether housing providers offered testers an application.

Indications that a housing provider offered preferential treatment to White testers over Black testers or market-rate testers over voucher testers constituted evidence of discrimination. For example, if a housing provider showed the market-rate testers a unit, but stopped communicating with the voucher testers prior to setting up an appointment to view the unit, this would constitute evidence of discrimination.

Findings

The data from the study reveal high levels of discrimination based on both race and voucher status. Testing uncovered evidence of discrimination based on voucher status in 86% of the tests. In many instances, housing providers screened out voucher holders and ceased all communication with them after learning that the individual intended to use a voucher. There was evidence of discrimination based on the prospective renter’s race in 71% of the tests. The data suggests that voucher discrimination is not a proxy for race discrimination.

Results indicate that White market-rate testers—meaning White testers not using vouchers—were able to arrange to view apartments 80% of the time. Similarly situated Black market-rate testers seeking to view the same apartments were only able to visit the property 48% of the time. Testers who had vouchers, regardless of their race, were prevented from viewing apartments at very high rates. White voucher holders were able to view rental apartments only 12% of the time. Black voucher holders were
able to view apartments they were interested in renting only 18% of the time (see figure below). In addition, housing providers showed White market-rate testers twice as many apartment units as Black market-rate testers, and provided them with better service as measured by a number of different variables. The results also showed that testers who were offered a site visit by the housing provider received differential treatment at the visit based on race and voucher status.

These results are disheartening. Housing discrimination based on race has been illegal for well over 150 years at the federal level. It is also illegal in Massachusetts to discriminate against a person based on race or because they have a housing voucher. Providing housing for profit is a business and those in business have an obligation to obey relevant laws related to that business. Nevertheless, we found evidence of discrimination across a variety of property types, including owner-occupied buildings and stand-alone properties owned by commercial real estate companies. Moreover, the data revealed that real estate professionals are deeply involved in purveying the discrimination. Overall, these results highlight the high levels of race and income discrimination in the Greater Boston rental market and underscore the need for increased enforcement and education efforts to combat housing discrimination.

**Recommendations**

Analysis of the testing results surfaced a number of policy recommendations to combat discrimination against qualified renters, ranging from education to enforcement. While there may be other possible initiatives, results from this study make clear that proactive steps must be undertaken to change the status quo. The recommendations outlined are just a beginning.
A variety of factors affect an individual’s housing choice, including affordability, proximity to work or family, quality of schools, and availability of green spaces. In a fair housing market, all prospective renters with the ability to pay the rent should have equal opportunity to choose where they want to live based on factors that are the most important to them (including affordability). These prospective renters should also have the same opportunities to make appointments to view, collect information on, and submit an application for a rental property. Housing providers should select tenants based on their ability to pay the rent, and the belief that the tenant will be a good caretaker of the property and a good neighbor to others. Through data gathered from “matched pair” testing conducted from August 2018 to July 2019, this study demonstrates that the reality is far from this ideal in the Greater Boston area. Findings from this study indicate that prospective tenants face high levels of illegal discrimination based on factors unrelated to their ability to become a good tenant, specifically their use of a housing voucher and their race.

Residential segregation along racial and income lines emerged as a significant national concern in 1968, when the National Advisory Commission on Civil Disorders—formed in response to growing violence and civil unrest in cities—released a report declaring that the United States was “moving toward two societies, one black, one white—separate and unequal.” The Commission identified “pervasive discrimination and segregation” in housing as one of the main causes of this division. High levels of residential segregation persist across the country in the present day, despite the passage of the Fair Housing Act (FHA) and corresponding state and local laws, which have prohibited housing discrimination for decades. According to a 2015 report of the Center for American Progress, residential segregation has been increasing over the previous three decades, creating a deeply divided America along both racial and income lines. Segregation was deeply embedded in our society long before Congress passed the Fair Housing Act in 1968. Certain government policies played a significant role in causing and perpetuating housing segregation, including rules regarding public housing that led to the concentration of all–Black tenant housing projects in Black neighborhoods, restrictive covenants prohibiting the sale of property to Black people, FHA loan guarantees that included an explicit condition that Black people be excluded from developments, and redlining, a process by which banks refused to grant loans in majority-Black neighborhoods.

The Greater Boston area is not exempt from this problem. A 2015 index created by the financial news website 24/7 Wall St. identified the Boston-Cambridge-Newton area of Massachusetts as the seventh most segregated area in the country. While Boston, by itself, is not part of the site’s list of the 16 most segregated cities in the country, this appears to be the result of increasing levels of segregation nationwide rather than declining levels in Boston. Boston’s schools reflect the high level of segregation in the city. A 2018 report by the Boston Globe found that almost 60% of schools in the Boston Public Schools system are “intensely segregated,” meaning that students of color make up almost 90% of those schools’ student populations. A 2020 Boston Indicators report on changes in the school-aged population in the city also found intensifying segregation in schools, noting that students from low-income families are increasingly attending schools in which low-income students constitute the vast majority of the student population.

**A Brief Overview of Housing Vouchers**

The Housing Choice Voucher Program (HCV) is a long-standing government program aimed at providing access to quality housing to low-income families. The HCV is a federal program under the purview of the U.S. Department of Housing and Urban Development (HUD) that “pays rental subsidies so eligible families can afford decent, safe, and sanitary housing.” Congress created the program in the 1970s in order to help low-income families access private housing. State or local
governmental entities (housing agencies) administer the HCV Program (often referred to as “Section 8”). Eligibility for a housing voucher is determined based on total annual gross income and family size with eligibility thresholds varying by location. Once approved, individuals or families must find a place to live within a certain price range and then seek approval of that unit from the housing agency. If the apartment meets the agency’s quality and payment standards, the agency contracts with the owner and pays a portion of the rent directly to the owner.22

The present-day impact of the HCV is far-reaching. The program is the nation’s largest rental assistance program and provides subsidies to more than five million people in 2.2 million low-income households.23 According to the Center on Budget and Policy Priorities, “[c]hildren in families that use housing vouchers to move to better neighborhoods are more likely to attend college, less likely to become single parents, and earn more as adults.”24 The HCV is becoming increasingly important as the cost of housing has risen rapidly across the country. According to a 2019 report from the National Low Income Housing Coalition “[i]n no state, metropolitan area, or county in the U.S. can a worker earning the federal or prevailing state minimum wage afford a modest two-bedroom rental home at fair market rent by working a 40-hour work week.”25 With quality housing out of reach for many low-income families, the promise and the benefits of the HCV program are becoming all the more critical.

Although the HCV is a federal program with proven benefits, there is no federal law prohibiting discrimination against those using housing vouchers. Instead, legislation protecting voucher holders from discrimination exists only at the local or state level. Currently, 16 states, including Massachusetts, prohibit discrimination based on source of income.26 In addition, many cities and counties—including Boston, Cambridge, Quincy, and Revere in Massachusetts—have local ordinances prohibiting housing discrimination based on source of income.27 Nationally, only about 50% of voucher holders live in a jurisdiction that protects voucher holders from discrimination.28

The fact that there is no federal protection against housing discrimination based on source of income is important, because studies indicate that individuals seeking rental housing with the aid of a voucher face strong stigma associated with receiving public assistance29 and that many owners will not accept vouchers.30 Without such laws, voucher holders have no legal recourse, but still face the stigma and discrimination. While there is some evidence that living in a jurisdiction with laws against discrimination based on source of income provides individuals with vouchers easier access to rental units, the effectiveness of such laws in combating discrimination depends critically on the knowledge and enforcement of these laws.

Summary of Findings

In this study, we find that, even in the Greater Boston area where it is illegal to discriminate against a person for using a housing voucher, individuals with Section 8 housing vouchers face high levels of discrimination in the rental housing market. We also find that source-of-income discrimination is not simply a proxy for race-based discrimination. The data show that there are high levels of discrimination based on both race and voucher status.

Research on race-based discrimination in the rental housing market spans several decades.32 One recent example is the three-year investigation of real estate brokers in the Long Island area conducted by Newsday, a local New York news organization.33 Newsday’s investigation uncovered disparate treatment of minority testers in the form of steering,34 more stringent conditions on minority home seekers, and refusals to show minority testers (but not White testers) listings until they were pre-qualified.35 Overall, the investigation revealed that “Black testers experienced disparate treatment 49% of the time—compared with 39% for Hispanic and 19% for Asian testers.”36 In this study, we find even higher rates of negative disparate treatment based on race in the Greater Boston area: 71% for Black market-rate (i.e., those without vouchers) apartment seekers.

This study also contributes to a growing recent body of recent research on discrimination based on the use of a housing subsidy.37 Testing uncovered evidence of discrimination based on voucher status in
86% of the tests. In many instances, housing providers screened out voucher holders and ceased all communication with them after learning that the individual intended to use a voucher.

Results indicate that White market-rate testers—meaning White testers not using vouchers—were able to arrange to view apartments 80% of the time. Similarly situated Black market-rate testers seeking to view the same apartments were only able to visit the property 48% of the time. Testers who had vouchers, regardless of their race, were prevented from viewing apartments at very high rates. White voucher holders were able to view rental apartments only 12% of the time. Black voucher holders were able to view apartments they were interested in renting only 18% of the time. In addition, housing providers showed twice as many apartment units to White market-rate testers as they showed to Black market-rate testers, and provided them with better service as measured by a number of different variables. The results also revealed that testers who were offered a site visit by the housing provider received differential treatment at the visit based on race and voucher status.

Similar to the findings from the Newsday investigation, this study demonstrates that real estate brokers play a significant role in purveying discrimination in the rental housing market. Of the 200 testers in this study, 182 had contact exclusively with real estate brokers, and 187 of the testers dealt with a broker at some point in the process of inquiring about the property. The high levels of discrimination that we find in our study often reflected the actions of real estate brokers.

The Housing Discrimination Testing Program (HDT) at Suffolk University Law School and its affiliated law school clinic have been working with individuals facing housing-related legal issues for many years. Based on our past work, we understand that race-based discrimination and voucher-based discrimination are common in the housing market. However, the prevalence and the level of disparate treatment that voucher holders and Black renters experienced are surprising. Our finding that voucher-based discrimination is not a proxy for race-based discrimination underscores the need for the promulgation and stronger enforcement of specific laws protecting individuals from source-of-income discrimination, specifically in the housing market.

“Payment standard” is defined as “[t]he maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).”

“Steering” is the practice of encouraging or discouraging a prospective renter from living in a particular area based on their protected class.
Overview of Study Design

The FHA entitles all people to truthful information about housing. It also prohibits differential treatment based on a protected class. A “protected class” is a category of people who benefit from protection under anti-discrimination laws. Housing discrimination against protected classes is sometimes overt, but often takes the form of subtle behavioral differences that may be difficult to detect or identify. This is because when one person interacts with another, there are limited data to evaluate the nature of the interaction. The “matched pair testing” methodology used in this study, however, allows researchers to evaluate the nature and extent of housing discrimination by comparing data on the interactions of multiple individuals who are similarly situated but for the protected class status (i.e., race and voucher status) with the same housing provider. In this section, we provide a detailed description of the study design that we employed.

Assembling Testers

HDTP recruited testers and assigned 200 individual testers to contact the housing providers of 50 different apartments in the Greater Boston area that were randomly selected from common rental property listing sites from August 2018 to July 2019. Each apartment met the payment standards for the use of a voucher from the Boston Housing Authority. The test coordinator assigned a test group consisting of two matched pairs (i.e., four individuals) to each apartment listing. Each test group consisted of two market-rate testers (one White and one Black) and two testers with vouchers (one White and one Black). All four individuals within a given test group were carefully matched to be as similar as possible except for their race and voucher status. Specifically, the test coordinator created matched pairs who were demographically similar (i.e., the same sex and cisgender, same age, no visible disabilities) and assigned the testers’ personae similar characteristics like income, family size, and credit score. The test coordinator instructed testers to contact housing providers within a short time period of one another and via the same communication method (i.e., call or text). The test coordinator assigned all voucher testers a housing voucher from the same housing authority. The test coordinator interacted individually with all of the testers and did not share with the testers anything about the experiences of others in the same test group. Neither did the test coordinator discuss with the testers if their experiences differed from those of others.

The test coordinator instructed the voucher testers to inform the housing provider that they were using a voucher as early as possible in their interactions with the housing provider (prior to the property visit, if possible). The researchers introduced race from the very beginning of every test by assigning each tester a “race-associated” name based on a previous study that examined name-based racial discrimination in employment practices in the Boston and Chicago labor markets (see Appendix 1 for names used in the study). Names were randomized for each test and they were used repeatedly for all 50 tests. The testers were instructed to provide their name in their very first contact with the housing provider. The researchers limited the scope of the investigation of race in this study to Black and White testers to identify the effect of race from housing vouchers more cleanly. Further research is required to understand the extent of discrimination that Latinx, Asian, and other people of color may also face in the rental housing market when using vouchers.

Testers meticulously recorded the details of their interactions with housing providers in written reports (see Appendix 2). The cumulative nature of the reports provide multiple comparative data points to determine whether testers received truthful information and whether housing providers treated testers differently, including more subtle forms of discrimination that housing advocates commonly refer to as “discrimination with a smile.” Discrimination with a smile describes interactions that appear to be neutral to the protected class renter, but when compared to the treatment of the non-protected class renter, unequal treatment becomes apparent.
HDTTP required the testers to memorialize their interactions with the housing providers as soon as they could after each interaction. Although every tester’s goal was to make an appointment and tour the advertised property, not every tester was given that opportunity. Testers who only had phone and/or email interaction with a housing provider filled out a form with 20 questions and a narrative section. Testers who toured one or more apartments completed forms with 24 questions (including 37 parts) and a narrative section. The detailed forms were designed to help testers recall as much of the interaction with the housing provider as possible. This is important because it allowed for the most accurate comparison of the experiences of each tester. The test coordinator met with each tester after the tester submitted his or her report to review the reports and to inquire about any missing information (i.e., dates and times).

**Site Selection: Rental Ad Scraping, Selection, and Randomization**

Researchers from Analysis Group (AG) scraped listings in the Boston Metro area from a website that advertised rental apartments on a weekly basis from August 2018 to July 2019. The researchers limited listings to one-bedroom apartments with monthly rents under $1,563 per month and studio apartments with monthly rents under $1,378 per month and excluded short-term rentals. AG randomly selected a subset of 50 apartments from the listings in each week and manually verified that the random sample of listings met the criteria for apartment type and price and did not contain duplicates.

AG sent the HDTTP test coordinator its random listings each week. The test coordinator reviewed each individual listing to determine whether the listing was still posted online and that the listing contained a telephone contact number. If the listing was over a week old, the test coordinator called the phone number listed in the advertisement under a blocked number to confirm that the apartment was still available. If the test coordinator was able to confirm the unit was still available, or if the unit had been posted online for less than one week, the test coordinator assigned testers to the listing. If, during the course of the test, the test coordinator learned that the apartment had already been rented prior to the completion of the test, the test coordinator would assign the test group to a new listing using the process described above. In these cases, tester reports and final assessments were based only on the final, active listing for which the testing was completed. The design of the study, therefore, allowed the researchers to approximate the search that an individual with a voucher would conduct to find an apartment in the Greater Boston Area. The properties tested were located in nine cities and 11 neighborhoods of Boston.

**Conversion of Written Reports to Variables for Analysis**

After the completion of all tests, HDTTP provided AG with 200 reports from the 50 test groups (four reports for each test). After an initial review of these reports, AG identified and defined 44 outcome variables of interest. The variables included, for example, whether the testers were invited by the housing provider to visit the housing site, were greeted by the housing provider in a cordial fashion, were asked about their occupation or credit history, were shown different numbers of apartments, or received follow-up communication from the housing provider. Appendix 3 provides a description of the full set of variables.

AG then coded the written information in each test report into a variable form using pre-defined definitions (see Appendix 3). To ensure accuracy and reduce the level of individual bias in this coding process, two members from the AG team independently coded the information in each test. The coders resolved discrepancies through joint discussions, and involved a third member of the team when necessary. This process resulted in a complete dataset of all 200 tests that AG analyzed using statistical methods.
“Market-rate testers” refers to the testers who did not represent that they were looking to rent with the assistance of a housing voucher; rather they represented themselves as prospective tenants who would be themselves responsible for the entirety of the rent.
Findings

The researchers completed two types of analysis for this study. First, AG performed a separate analysis, analyzing each of the variables identified at the outset of the study to determine whether there is statistical evidence of disparate treatment across race and voucher status. Second, HDTP staff analyzed each of the four test reports for each of the 50 tests to assess whether there was evidence of discrimination based on source of income, race, or both. For purposes of discussion, this report will refer to testers as follows: Black market-rate testers (BMR), White market-rate testers (WMR), Black voucher holders (BV), and White voucher holders (WV).

Measurement of Discrimination by Analysis Group

Discrimination could occur at two distinct points in the housing search process. First, housing providers could discriminate against the testers in their initial interactions, prior to the tester even seeing the housing unit. For example, a housing provider could be less likely to respond, more likely to break off contact without explanation (“ghosting”\(^53\)), or less likely to offer a site visit to Black and voucher-holding testers. Second, housing providers could discriminate when testers visit the apartment. Housing providers may deliver a more positive apartment viewing experience to White testers or non-voucher holding testers by, for example, shaking their hand or commenting on positive aspects of the unit or neighborhood. Housing providers could also be more likely to offer the apartment to the tester or follow-up after the apartment showing. This section will discuss whether there is statistical evidence of discrimination at these two points in the apartment search process. Appendix 4 provides the full set of results for all variables analyzed.

Initial Interactions with the Housing Provider

As discussed in the Overview of Study Design section, prior to visiting an apartment, a tester would initiate contact with the housing provider, usually via phone. Receiving a response from the housing provider to arrange a visit to the site represents a critical step, as it sets in motion the rest of the engagement. Figure 1 presents the results of the “contacted” variable by race and voucher status. The error bars in the figure indicate the 90% confidence interval.\(^54\) The results indicate that White testers were significantly more likely to receive a response from the housing provider than Black testers (\(p = 0.019\)).\(^\text{xiv}\) Because testers were assigned race-associated names, testers stating their name in a call or message to a housing provider signaled their race to the providers. Testers typically did not announce their voucher status in this first message if they were leaving a voicemail. Therefore, it is not surprising that contact rates are similar between voucher and market-rate testers at this stage.
The effect of voucher status on the initial interaction between a tester and housing provider becomes more pronounced if the tester receives a response from the housing provider. Results indicate that testers were significantly more likely to be “ghosted” (i.e., suddenly getting no contact from a person without explanation) by the housing provider if they had a housing voucher. **Figure 2** shows that the WV and BV testers were ghosted at a significantly higher rate than their market-rate counterparts ($p < 0.001$ and $p = 0.019$, respectively).

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Figure 3 presents the same data as in Figure 2, but focuses on showing the average impact of voucher status across the two race groups. It shows that the testers with vouchers were ghosted at a significantly higher rate than those without vouchers ($p < 0.001$). This finding makes sense given that testers with vouchers were instructed to inform the housing provider of their voucher status as soon as possible after making the first contact. One would only observe this effect after the tester has an opportunity to interact with the provider.

Analyzed together, the observed differences in contacting and ghosting rates provide strong evidence of discrimination based on race and voucher status in the initial interactions between the tester and the housing provider. Figure 4 presents a comprehensive look at differences in the testers’ initial contact with the housing provider by showing the percentage of testers that the housing provider did not contact or ghosted across the four testing groups. As the figure shows, the housing provider was significantly more likely to either not contact or ghost WV and BMR testers than WMR testers ($p < 0.001$ for both comparisons). However, differences between WV and BV groups and between BMR and BV groups, are not statistically significant at the conventional levels. This finding suggests that the effect of race and voucher status on the initial interaction with the housing provider may not be necessarily additive.

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Opportunity to Visit the Site
If their initial interaction with the housing provider goes well, testers can have the opportunity to visit the site in person. As shown in Figure 5, data from the study show that WMR testers were able to view apartments at a much higher rate than similarly situated BMR testers (80% compared to 48%, \(p = 0.001\)). Most testers who had vouchers, regardless of their race, were not given the opportunity to view apartments. WV testers were able to view rental apartments only 12% of the time, while BV testers were able to view apartments they were interested in renting only 18% of the time. These site visit rates were statistically different from those experienced by WMR and BMR testers, respectively (\(p < 0.001\) and \(p = 0.001\)).
Housing Provider On-Site Behavior

Results from the study also show that testers who were offered a site visit by the housing provider received differential treatment at the visit based on race and voucher status. Although testers recorded a number of different aspects of housing provider’s behavior on site, we focus on presenting data on aspects of the interaction that were associated with statistically significant differences in treatment based on voucher status or race.

Housing providers sometimes informed testers about and/or showed testers multiple units during a site visit. As shown in Figure 6, housing providers told Black and voucher testers about fewer available units than their White and market-rate counterparts. WMR testers were informed that there were more units available than BMR testers were informed on average (1.35 units v. 0.63 units, p < 0.001). Testers with a voucher were told that even fewer units were available, with WV and BV testers being informed of only 0.20 and 0.26 units on average, respectively. Regardless of race group, housing providers informed market-rate testers about more units than they informed voucher testers.

The results on the number of units shown to testers exhibit a similar pattern. As shown in Figure 7, WMR testers were shown, on average, 1.14 units, while BMR testers were shown only 0.54 units. Testers with a voucher were shown fewer units than testers without a voucher: WV and BV testers were shown only 0.12 and 0.24 units, respectively. All differences between four groups were statistically significant at the 95% confidence level, except for the difference between WV and BV testers.
Not only did housing providers show more units to White and market-rate testers, they were also more likely to incentivize these testers to submit a rental application. The results provide evidence of discrimination in several different forms. First, housing providers sometimes offered financial or non-financial incentives to testers during on-site conversations. For example, a housing provider may have mentioned that they were offering the tester a discount on the monthly rent or an amenity such as free parking.

As shown in Figure 8, race was an important determinant of whether housing providers mentioned financial or non-financial incentives to testers. Housing providers were significantly more likely to mention incentives to WMR testers than BMR testers and WV testers than BV testers.
Housing providers also sometimes encouraged testers to apply for the unit by sharing certain positive attributes of the unit or the neighborhood. For example, the provider may comment on the size of the unit or its proximity to public transportation. Figure 9 shows that the percentage of on-site conversations that included positive comments from the housing provider on the unit or neighborhood varied by tester group. Housing providers made a positive comment to 58% of WMR testers compared to only 17% of WV testers. Providers made positive comments to only 33% of BMR testers and 11% of BV testers. Figure 10 demonstrates that these differences were statistically significant along both race and voucher status dimensions.

Interactions between housing providers and testers at the end of the site visit or immediately following the site visit also exhibit discrimination, particularly based on voucher status. As shown in Figure 11 and Figure 12, housing providers in the study were both more likely to offer an application to market-rate testers and more likely to follow up after the site visit with market-rate testers compared to voucher holding testers (p < 0.001 and p = 0.012, respectively). These results indicate that even when individuals with vouchers are able to visit the apartment unit, they are less likely to be offered an application and encouraged to continue seeking the unit.
Measurement of Discrimination by HDTP

For each of the 50 tests conducted, HDTP compared the treatment of the voucher group (Black and White testers assigned a housing voucher) and the market-rate group (Black and White testers who were not assigned a housing voucher) along a number of variables to determine whether there was any evidence of differential treatment. HDTP uses this same process for enforcement testing. The HDTP categorized each individual test as one of the following: (1) showing evidence of discrimination (because of adverse differential treatment); (2) inconclusive; or (3) showing no evidence of discrimination. Differential treatment included whether the housing provider stopped communicating with the tester while continuing to work with testers who were not in the protected class; as well as other factors relating to levels of service such as the number of apartments shown, whether the tester was offered an application, shown amenities, or received follow-up messages from the housing provider about the property.

Three HDTP staff members independently reviewed each test report and resolved any differences of opinion through discussion. In the few instances in which all three HDTP staff members did not agree on a particular determination, an additional staff member reviewed the test evidence and the team used the majority result. Based on these categorizations, the HDTP found discrimination in the form of disparate treatment based on source of income in 86% of the tests and race-based discrimination in 71% of the tests. In a substantial number of tests, WMR was able to view the apartment, but BMR was not able to visit the unit. In addition, WMR testers often received better treatment than BMR testers with respect to the number of apartments shown or offered, financial incentives, and follow up, among other variables.

Testers with a voucher, both Black and White, were unable to view the apartment most of the time. By comparison, WMR testers were able to view 80% of these same apartments. Most commonly, housing providers stopped all communication with testers after they disclosed their voucher status, regardless of race, and no matter how many times or in what form the tester tried to communicate with the housing provider (they were “ghosted”). Around 10% of the time, housing providers explicitly told the tester that the landlord did not accept vouchers. About 20% of the time housing providers told voucher holders that the landlord accepted vouchers; however, over 80% of the time, those same housing providers then discriminated against the voucher holder.
Tester Anecdotes

Although some forms of discrimination uncovered in this study were overt, particularly against testers with vouchers, discrimination often took the form of more subtle differences in customer service. For example, housing providers told WMR testers that more units were available, showed them more units, offered more incentives to rent, and made more positive comments to them about units than they did to BMR testers. Housing providers also followed up more often with and offered more assistance searching for units to WMR testers than to BMR testers. These differences are not apparent to an individual prospective tenant and can only be revealed through analysis of data points generated by the experiences of those seeking housing.

Biased Ghosting

In many cases, discriminatory treatment was blatant and testers were aware of it. In one test, BV introduced himself as “Kareem” in a voicemail message to the housing provider. Having not heard back, the tester called and spoke to the housing provider three days later. At first the housing provider seemed “eager and excited” on the phone and confirmed that the unit was still available. The tester told the housing provider that his name was “Kareem” and that he had called before. The tester felt that the conversation abruptly changed course. The housing provider asked “Kareem” to confirm his phone number and the tester felt rushed off the phone. The tester then introduced his voucher and asked if he could see the unit. The housing provider told the tester he would call the following day to set up a time to view the unit. The housing provider did not call the tester back and did not respond to subsequent voicemails. The BMR tester for this rental listing left three voicemails introducing himself as “Tremayne,” but was not able to speak with the housing provider. The WMR tester (“Brad”) was able to make an appointment to tour the unit. Although the housing provider did not attend the appointment, he called WMR back offering to reschedule. The WV tester was told, after introducing his voucher, that the housing provider would call him back. The WV tester was not able to reach the housing provider again. What these testers experienced was not unusual.

Differences in attitude can make a significant impact on customer service. In a different test, both the White and Black voucher holders observed a shift in the housing provider’s demeanor after mentioning the voucher. The housing provider offered WV two potential appointment times before the tester introduced her voucher in the conversation. After she mentioned her voucher, WV noted that the housing provider “was quiet for a moment and his whole enthusiastic attitude changed and he starting [talking] fast to rush” her off the call. The housing provider told WV to text him to confirm the appointment. WV texted twice and called once over a three-day period (the housing provider’s voicemail box was full so she was unable to leave a message). WV called again the next day and the housing provider said he would check to see if the unit was still available and instructed WV to text him again. WV again followed the housing provider’s instructions and texted him once more but never received a response. Similarly, BV contacted the same housing provider and was offered an appointment. However, after introducing the fact that she had a voucher “the tone changed” and the housing provider asked her to text him and ended the call. The tester did not text the housing provider and had no further contact. BMR and WMR were both able to obtain appointments over the phone, were able to confirm the appointments by text, and both toured the unit.

Unfortunately, housing providers often expressly told testers that they were not welcome to rent the unit despite the illegality of such statements. A realtor told one WV tester “I mean, talking to you, you seem totally normal… I mean, a lot of people with Section 8 aren’t the greatest people… so sometimes people can be prejudicial about that.” The same realtor refused to show BV the unit at the site because she arrived late to the appointment. WMR also arrived late to her appointment but was given a tour. BMR arrived early and received a tour and application.
Discrimination with a Smile

Generally, housing providers engaged in discriminatory practices in ways that were less immediately apparent. Sixteen of the 84 testers who introduced the fact that they had a voucher on the phone prior to the site visit 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, and in 56% of those cases, the housing provider ceased all communication with the testers in spite of significant efforts on the testers’ part to make contact. For example, in one test, the housing provider told BV that he needed to check with the “head office to see if they take housing vouchers.” The housing provider did not respond to the tester’s further attempts to contact him. However, the same housing provider told WV that he owned the unit. This housing provider (the owner) gave WV the phone number of a broker and the broker gave WV a tour of the unit.

Differential Criteria

When analyzing the differences in customer service between testers, other trends appeared in the methodology of discrimination. Housing providers often use different screening questions to avoid showing apartments to voucher holders or testers of color. Black testers, both voucher and market-rate, were often asked more questions about their ability to pay and/or questions about their credit than their White counterparts. A BMR tester told one housing provider that his credit score was 650 and the housing provider responded saying a score of at least 720 was required. Another housing provider affiliated with the same apartment warned WMR to “avoid the question if [the tester’s] credit score was not high enough” and went on to explain that the landlord “set the rent rates based on allowing the ‘right type of people’ to have easy access to” the area. Likewise, in a different test, both BMR and BV were asked about credit, but neither White tester was asked about credit scores. In one test, the housing provider did not ask either of the market-rate testers about credit, but asked the WV about credit after she said she had a voucher. When WV stated her credit score was 680, the housing provider explained he could not show her the unit because “the landlord wants people with scores of 750.” BV introduced her voucher and the housing provider told her that he would check if it were available, but then never replied to her four subsequent voicemails. Similarly, after one BV tester told a housing provider that she had a voucher, he replied that he would call the landlord as the landlord requires credit scores over 700. BV told him her score was over 700, but he still said he would have to call her back and ultimately did not. WV was not able to reach that housing provider again after their initial conversation where she introduced her voucher. This housing provider did not ask about BMR’s or WMR’s credit scores and both were able to tour the unit.

Black testers were also less likely to receive encouragement to move quickly in order to secure the apartment. For example, a housing provider told WMR that he was “not one to push a building” but he always warns people that things move fast.” The housing provider gave the tester his business card and suggested she call or text over the weekend if she decided to apply. BMR reported that the same housing provider said that he “hasn’t really advertised the unit much so there is no current urgency” and suggested that waiting until the following week would be fine. Both testers spoke with the realtor on the same day, WMR toured the unit that day, and BMR toured it the day after WMR. The Black and White voucher testers were not able to tour the unit. Similarly, in a different test the housing provider told WMR that the apartment would be hers as soon as she wanted it and that she was “pretty much automatically accepted.” The same housing provider simply instructed BMR to submit the application if she was interested.

In another test, the housing provider told the WMR at the end of her tour that he wanted to show her an additional unit. He went on to explain that “they don’t advertise that apartment because then they would have to respond to everyone who inquires” and they were looking for “people with quiet lifestyles who work, not CEOs necessarily, but people with good jobs.” He concluded by inviting
WMR to join “a select group” that would tour the unit the following day. The housing provider did not offer this unadvertised unit to the other three testers.

**Outright Refusal**

Many housing providers simply explained to voucher testers that they were less attractive applicants because of the delay or additional effort required to rent to a voucher holder. For example, one property owner told both Black and White voucher holders that he did not want to keep the unit vacant during the inspection process required by the housing authority. BV was simply turned away for this reason. The housing provider gave WV a tour of the unit. However, he told her over the phone and in person that if a market-rate tenant were to apply, he would rent it to them “because the problem with the voucher is that you have to wait for inspections and everything and he didn’t want to be losing money.” Both market-rate testers were able to tour this unit. In another test, the housing provider told BV that the owners would likely give the unit to a market-rate tenant because “with the housing vouchers there is so much work that has to be done, it’s more complicated and there are all kinds of inspections.” BV was not able to tour the unit and neither was WV tester despite her affirmation that she could pay whatever move-in costs the voucher did not cover.

In another test, the voucher testers were turned away by a broker that was aware that the apartment would not pass a Section 8 inspection because it had only one means of egress. This violates the building code and is dangerous to the occupants in case of fire. The broker told BV that there “may be a problem” because Section 8 would require two entrances to the apartment, but that he would ask a friend about it. When BV called back, he said he forgot to call his friend, but that he would, and then stopped communicating with the tester. The same housing provider told WV that he would check into the use of a voucher and call back, but he never did in spite of the tester’s subsequent efforts to contact him. The housing provider made an appointment to show the apartment to WMR, but cancelled the day before because the apartment had rented.

**Steering**

In another case, the broker attempted to steer the voucher testers, and denied them the opportunity to tour the advertised apartment. When BV told the broker she had a voucher, the broker said, “Well, there might be other options that we can look into;” that “you must be getting subsidized, honey;” and that “[w]e’ll take a look at some other apartments.” The broker told WV, “I can give you a call back and we can see what else we can find in the area.” This broker stopped communicating with both voucher testers, but showed the property to both market-rate testers.

Repeatedly, testers who on paper were qualified to rent and had similar incomes (either through receipt of public assistance or annual income) were treated differently and negatively based on their race and voucher status. Whether such discrimination was the result of explicit or implicit biases makes no difference to the illegality of such actions.
Recommendations

This study found alarming levels of discrimination based on race and source of income in the Greater Boston rental housing market - none of which should be occurring because federal, state, and local laws prohibit this behavior. Policy makers should consider the data to develop policies to address the discrimination occurring in our community. Based on our findings and the experiences of testers, we provide suggestions on possible policy initiatives to curb housing discrimination and to increase the ease of use related to vouchers. The COVID-19 crisis has highlighted the importance of removing barriers for people in protected classes to neighborhoods of opportunity. These recommendations are suggested as a starting point for further discussion as to possible policy solutions that limit housing discrimination and its attendant harms and are by no means meant to be exhaustive.

1. **Increase penalties and training for real estate professionals and prohibit them from charging broker’s fees.**

This study demonstrates that real estate brokers play a major role in purveying housing discrimination on behalf of their clients. In the vast majority of the tests that HDTP conducted for this study, the testers interacted with a real estate broker.63 The study demonstrates that many Boston area brokers are screening out qualified applicants based on their protected class status on behalf of their clients. This must change. Policy makers should increase the penalties for discrimination and make it easier to suspend a real estate professional’s license for violating anti-discrimination laws.

Under Massachusetts law, in order to suspend the license of a broker for 60 days for discrimination, the Massachusetts Commission Against Discrimination (MCAD) must notify the Board of Registration of Real Estate Brokers (BRREBS) and Salespeople that it has made a finding that the broker has violated Chapter 151B, the Commonwealth’s anti-discrimination law, in the course of their duties.64 The MCAD must make a second such finding within two years to suspend a broker’s license for 90 days.

The results of this study suggest that many brokers are willing to violate anti-discrimination laws. The requirement that the MCAD make a finding before a broker is referred for discipline is a system that practically ensures there will be no discipline. Many renters do not know they are being discriminated against, and those who do—particularly those with a rental subsidy—typically do not report it.65 They are busy spending their time trying to find an apartment before the period in which they must do so expires, or else lose the voucher. Even where cases are brought against brokers, they are often resolved informally, without a formal finding.66 The legislature should consider changing the cost benefit analysis by making it easier to suspend an offending broker. Brokers should be a force for good in the real estate market, assisting in keeping the playing field level rather than assisting landlords in discriminating.

The HDTP submitted multiple public records requests in an attempt to determine the number of real estate brokers and salespeople in Massachusetts who had their licenses suspended by the BRREBS because they engaged in housing discrimination dating back to January 1, 2017. In January of 2020, the Division of Professional Licensure responded with a list of 67 brokers whose licenses BRREBS suspended. However, as to whether BRREBS suspended any of these brokers for discrimination, the Division replied that “We do not store and maintain our Data in a manner that will allow us to respond to your request.” In February of 2020, the Massachusetts Commission Against Discrimination responded to a request regarding whether they have referred brokers to BRREBS for suspension, by stating that they were not able to find “records of referring any cases to the Board for license revocation pursuant to MGL ch. 112, s. 87AAA.” This study uncovered that brokers are engaging in high levels of discrimination; however, it does not seem that the system designed to discipline them for this behavior is working.
Policy makers should increase fair housing training for brokers and review it to ensure it is of sufficient quality. In Massachusetts, 40 hours of pre-licensing training is required to obtain a Real Estate Broker’s License. Four hours of that training must be related to fair housing. The level of discrimination this study has uncovered demonstrates that either many of those in the industry are ignoring their training or the training is woefully inadequate. As gatekeepers to the housing market in Massachusetts, licensed brokers must understand their responsibilities under fair housing laws. The fair housing training for pre-licensing should be reviewed and assessed with the goal of licensed brokers becoming proficient in their knowledge of fair housing laws. Additionally, Massachusetts should consider requiring real estate professionals to inform clients of their rights as housing seekers. This requirement is being considered in New York state after the three-year Newsday investigation uncovered the ways that real estate professionals were discriminating against housing seekers based on race.\textsuperscript{xv} New York’s proposed rule would require real estate brokers or salespeople to provide their clients with a disclosure of fair housing rights that the client must sign. The broker or salesperson must retain this signed disclosure for three years.\textsuperscript{xvi} The rule would also require brokers to post a similar disclosure conspicuously in their office and on their websites.\textsuperscript{xvii} In addition, fair housing training for brokers must be video recorded and maintained for at least a year so that it is subject to review.\textsuperscript{xviii}

Education is essential and the standards that real estate professionals must follow should be clear. In Massachusetts, the professional standards of practice for real estate brokers specifies the protected classes against which a broker shall not discriminate.\textsuperscript{vii} Source of income (or subsidized housing) is not included in this list. The regulation states that “no broker or salesperson shall discriminate in the provision of services on the basis of age, marital status, gender, sexual preference, race, religion, socioeconomic status or disability.”\textsuperscript{viii} While socioeconomic status might be interpreted to include voucher holders, because other specific protected classes are listed in the regulation, the best practice would be to explicitly include all protected classes, rather than a partial list.\textsuperscript{ix} This limited list might send the wrong message and suggest that a broker must pay attention to discrimination only as to a subset of protected classes.\textsuperscript{x} Furthermore, this list does not even include all federally protected classes under the FHA as it does not list national origin, familial status, or color. The professional standards of practice of real estate brokers and salespeople should include state and federally protected classes.

The last recommendation related to the real estate profession is the prohibition of charging a broker’s fee to a tenant. Such prohibition was recently passed in the State of New York.\textsuperscript{xi} Other states should consider the same. In Greater Boston, real estate brokers have significant control over the real estate market. In this study, brokers were involved in almost all of the test properties. Requiring a broker’s fee up front to be paid by the tenant could effectively screen out lower income renters, such as those with vouchers. There is a shortage of affordable rental housing in high cost metro areas and low-income renters struggle to find housing.\textsuperscript{xi} Removing broker’s fees would remove a barrier to access for low-income tenants and increase their available options.

2. Strengthen anti-discrimination laws and fair housing enforcement and education and increase resources for testing.

Source of income should be a protected class under the Fair Housing Act. More than 2.2 million low-income individuals and families participate in the federal Housing Choice Voucher program.\textsuperscript{xii} Many of these individuals are people of color. They should be protected from discrimination for their participation in the program. It is a waste of our nation’s resources to fund a program and then allow its frustration by letting people discriminate against the program’s participants. On June 26, 2019, U.S. Senator Tim Kane of Virginia reintroduced the Fair Housing Improvement Act of 2019.\textsuperscript{xiii} This Act would make it illegal under the FHA to discriminate based on a person’s use of a housing voucher. This study has identified the incredibly high level of discrimination that people using vouchers face. People should not have to contact ten housing providers in order to see one unit. The barriers that
they face are real and often insurmountable. The Fair Housing Improvement Act should be passed so that housing providers can no longer legally discriminate against voucher holders if discrimination does occur, there must be legal recourse and meaningful penalty. Moreover, states and localities should enact source of income protections under their anti-discrimination laws until Congress acts as suggested above.

One possible avenue for fair housing enforcement would be to fund a legal strike force that would be available to assist voucher holders—who, as research strongly suggests, will face discrimination—by contacting housing providers on their behalf and seeking injunctions in court if necessary. There is an immense need for such services and they could be funded directly through appropriate agencies, or through fellowship programs.

Renting out housing is a business. Landlords should understand their legal obligations as business providers and renters should understand their rights. A national media campaign should be undertaken to educate everyone about rights and responsibilities under the FHA, the level of race discrimination that is occurring throughout the nation, and protections related to voucher-based discrimination in jurisdictions where voucher holders are a protected class. Legal protections do not help people if they are unaware of their rights. Furthermore, awareness must be raised due to the high level of race-based discrimination in the market and the very subtle way in which housing providers perpetuate it. People should not mistakenly think that race discrimination in housing no longer occurs.

Additional resources should be devoted to fair housing testing to detect discrimination. After the NewsDay study, referenced above, the New York State Association of Realtors advocated immediate funding of testing to uncover bias among realtors. While some of the discrimination uncovered in this study was overt, most discrimination is in the form of differential treatment that can only be revealed with testing. This study exposed a significant amount of race-based and voucher-based discrimination in the form of differential treatment. It took over a year to perform the testing and required sending 200 testers to 50 different properties. Testing is resource intensive by its nature. This study shows a significant amount of discrimination is going unchecked in Greater Boston. If it were more likely that any individual potential renter was a tester, it may give housing providers pause and impact the culture. This is particularly true for brokers who make their living in the market. Policy makers should increase funding available for testing and enforcement of fair housing laws.

3. Improve and streamline the system for using vouchers.

This study makes clear how difficult it is for people using vouchers to simply take the first step in the rental process—setting up tours of apartments. Though the priority should be to develop policies to prevent discrimination, it is also worth examining ways to improve the processes relating to vouchers to make these programs more effective and easier to navigate. Policy makers should expand the use of small-area fair market rents (“SAFMRs”) in order to expand the opportunity that voucher holders have to move to higher opportunity areas. SAFMRs set the subsidy amount allowed under the program based upon the average rents in smaller neighborhoods, rather than in a larger metropolitan area. For example, a person in Boston trying to use a voucher in the Beacon Hill neighborhood would receive a higher subsidy than one trying to use a voucher in a less economically advantaged neighborhood, rather than having all vouchers in Boston set at an average rate for the City. This would have the effect of allowing more voucher holders access to higher opportunity neighborhoods, where they are often priced out. This would lead to better outcomes for these families and, to the extent the families were people of color, would increase integration. Of course, as this study suggests, such policy changes will not be effective unless brokers and landlords stop illegally discriminating against renters based on race and voucher status.
In Massachusetts, the federal Housing Choice Voucher Program (formerly known as “Section 8”) and similar state programs allow a voucher holder 120 days to use the voucher to find suitable housing. Under these programs, the public housing authority administering the voucher may grant extensions according to a policy in the appropriate administrative plan for the particular program. Neither federal regulations, state regulations, nor the state administrative plan specifically mentions encountering discrimination as one of the extenuating circumstances for which an extension may be granted. The relevant regulations and administrative plans should specify discrimination as a reason for allowing an extension.

The results of this study underscore how difficult it is to use a voucher in the Greater Boston area. About nine out of 10 times, qualified voucher holders who are interested in viewing a property are denied that opportunity just because they have a voucher. The most effective policy would be to combine the ability to request an extension with resources devoted to allowing voucher holders to pursue enforcement of their fair housing rights, because while granting an extension may give the voucher holder an opportunity to access housing, it does not address the discrimination that makes an extension necessary.

America should no longer ignore and perpetuate the structural inequities that have led to the systematic oppression of communities of color. Our ability to become a cohesive society depends on addressing these historic ills. The COVID-19 crisis and protests against the routinized killing of Black people have again exposed these festering wounds. The discrimination this study has revealed provides valuable data proving the alarming prevalence of housing discrimination based on race and source of income in a community in which the law protects both groups of people. Policy makers should act to counter the discrimination that this study has revealed. This will not only benefit individuals, but will allow us a chance to begin to heal a fractured society.

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**Endnotes**


2. See JOHN YINGER, CLOSED DOORS, OPPORTUNITIES LOST 158 (Russel Sage Foundation 1997) (referring to research that discrimination restricts the access of minority workers to suburban jobs and making the connection between housing discrimination leading to lower educational attainment for minorities having an indirect impact on the labor market).


4. Housing vouchers are documents reflecting a subsidy that is issued by the government to assist very low-income families, the elderly, and disabled people in renting housing in the private market. See Housing Choice Vouchers Fact Sheet, https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/about/fact_sheet (last visited Feb. 26, 2020) [hereinafter HUD Fact Sheet].

5. “Housing provider” refers to the people that advertise and/or show apartments to prospective renters. This term includes owners, real estate agents and brokers, and property managers.

6. The Overview of Study Design section infra has a detailed description of matched pair testing.
11. Id. at 203.
15. Id.
21. “[P]ayment standard” is defined as “[t]he maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).” 24 C.F.R § 982.4 (2015).
22. HUD Fact Sheet, supra note 4.
24. Id.
27. Id. (PRRAC identified local ordinances in 91 cities and counties).
28. Id. at 1.


34. Steering is the practice of encouraging or discouraging a prospective renter from living in a particular area based on their protected class. See Neil C. Bruce, Real Estate Steering and the Fair Housing Act of 1968, 12 TULSA L. J. 758-9 (2013).


36. Id.

37. Accord Voucher Pilot Study supra note 29 at xi.

38. In two of the 50 tests, both the Black and White voucher testers were unable to introduce their voucher status. If those two tests are excluded from the analysis then voucher-based discrimination was present in 45 out of 48 tests (90%).


40. FHA, supra note 12 at § 3604(a).

41. See Black’s Law Dictionary (11th ed. 2019), class. For a list of protected classes, see Endnote 12.

42. “Market-rate testers” refers to the testers who did not represent that they were looking to rent with the assistance of a housing voucher; rather they represented themselves as prospective tenants who would be themselves responsible for the entirety of the rent.


44. Marianne Bertrand & Sendhil Mullainathan, Are Emily and Greg More Employable Than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination, NAT’L BUREAU OF ECON. RESEARCH Appendix Table 1 (July 2003), available at https://www.nber.org/papers/w9873.pdf (examples of “Black” names used are: Aisha, Latonya, Jamal, and Kareem and “White” names included: Anne, Carrie, Brad, and Neil. The full list is in Appendix 1. The names were assigned by the test coordinator and were reused throughout the 50 tests).

45. The only time that the test coordinator did not assign the randomized name was if two similar names were called for (i.e., Latonya and Latoya). This was to avoid confusing the housing provider.

46. Cf. Racial and Ethnic Minorities, supra note 31 (the report is the fourth national study of housing discrimination that measures the incidence and forms of housing discrimination experienced by Black, Latinx, and Asian market-rate renters and homebuyers).
47. Testers either fill out forms after the visit or record audio of the interaction depending on the jurisdiction that the test takes place in and that jurisdiction’s audio recording laws and whether consent is necessary from both parties. See Appendix 2 for test report form templates.


49. These rents represent the amounts associated with the Boston Housing Authority’s payment standards for one-bedroom and studio apartments, effective July 1, 2018. The payment standard is the maximum subsidy the Boston Housing Authority would pay on behalf of family for a unit of a given size. See Appendix 2 for test report form templates.

50. The test coordinator selected advertisements that included a telephone contact number to ensure that all testers initiated contact with the housing provider in the same manner.

51. This was the only scenario where any individual tester contacted more than one housing provider, as the study design called for each tester to complete only one test.

52. The towns that were tested included Arlington, Boston, Brookline, Chelsea, Malden, Medford, Newton, Quincy, and Watertown. Neighborhoods tested in Boston were Allston, Brighton, Chestnut Hill, Dorchester, East Boston, Jamaica Plain, Kenmore, Mission Hill, North End, South Boston, and West Roxbury. (Note that in addition to Massachusetts state law that prohibits discrimination based on public assistance recipiency, Boston and Quincy have local ordinances prohibiting this type of discrimination.)


54. We show the 90% confidence intervals because of the small sample sizes. The confidence interval provides a measure of the uncertainty associated with the estimated parameter and shows the range of likely values for the population parameter.

55. Note also that the denominator for results related to site visits is the number of testers who visited a housing site, rather than the total number of testers, unless otherwise noted.

56. Testers who did not receive a site visit are included in these results as having been told about zero units.

57. Testers who did not receive a site visit are included in these results as having been shown zero units.

58. Only testers who visited the housing site are included in this analysis.

59. Only testers who visited the housing site are included in this analysis.

60. Enforcement testing refers to discrimination tests that are done in contemplation of litigation. HDTP has completed approximately 692 enforcement and research tests between 2012 and the time of this study.


62. The broker is the agent of the landlord, and so, the landlord bears responsibility for their broker’s discriminatory acts when done within the scope of employment. See Zuch v. Hussey, 394 F. Supp. 1028, 1051-52 (1975).

63. MASS. GEN. LAWS ch. 112, § 87AAA (2012).


65. It is the HDTP’s experience that fair housing cases are often settled, especially when the underlying complaint is strong (i.e., when there is test evidence).

66. MASS. GEN. LAWS ch. 112, § 87SS; see MASS.GOV, Apply for a real estate license, https://www.mass.gov/how-to/apply-for-a-real-estate-license (last visited Feb. 28, 2020).

67. See Mass. Div. of Prof. Licensure Board of Reg. of Real Estate Brokers and Salespersons Examination Candidate Info. Bulletin (CIB), PSI Services LLC,
69. MASS. GEN. LAWS ch. 112, § 87XX1/2.
70. Id.
71. 254 MASS. CODE REGS. § 3:00(14)(c)(2020).
72. Id.
73. That the regulation has a broader prohibition against violating the law in Section 3:00(14)(f) does not change the analysis. It was appropriate to spell out the protected classes, but in so doing, all of them should be listed.
74. See endnote 12 supra for full list of federal and state protected classes.
75. NY RPL § 238-a(1)(a); N.Y. Dept. of State, Guidance for Real Estate Professionals Concerning the Statewide Housing Security & Tenant Protection Act of 2019 and the Housing Stability and Tenant Protection Act of 2019, p. 4, FAQ 5.
77. 24 C.F.R. §§ 982.303, 982.54(d)(2); 760 MASS. CODE REGS. § 53.07; Dept. of Housing and Community Dev., Mass. Rental Voucher Program Administrative Plan § 6.4.1 (Aug. 1, 2017); Dept. of Housing and Community Dev., Housing Choice Voucher Administrative Plan § 3.3.5 (Sept. 2014).
79. BOSTON HOUSING AUTH., SECTION 8 ADMIN. PLAN 85 (July 1, 2019).
82. Id.
84. Lisa Damon, Applying Lean Six Sigma Methods to Litigation Practice, PRACTICAL LAW THE JOURNAL 29 (2014).
90. CBPP Fact Sheet, supra note 22.


6 See also, Yancy, Endnote [tk - not putting a number in here because these all need to get fixed.]


9 See Id.

10 Id.


12 Id.


14 The “p” refers to the “p-value” from the statistical test comparing the rates between the two groups. The p-value is the probability of observing a difference between the rates of the two groups equal to or greater than the observed rate, under the assumption that the rates for the two groups are the same.


17 Id.

18 Id.