

## MCRC EXECUTIVE SUMMARY – Flint Water Crisis Report

In January 2016, a series of states of emergency for the city of Flint were declared by the Mayor, the Governor and even the President. These declarations turned the attention of the state and nation to the Flint water crisis. As a result, state, local and federal governments sprang into action. The National Guard was tasked to assist. FEMA<sup>1</sup> sent representatives. Community organizations and nonprofits from throughout the state, and even nationally, responded by volunteering, and sending bottled water. The Governor formed Mission Flint, which brought key members of the Administration together weekly, and the Legislature authorized a supplemental budget. Bottled water and water filters were distributed and residents were provided information in multiple languages. It was all hands on deck. From all accounts, the government was operating the way we would expect it to operate in response to an emergency.

What then, was the problem? The timing. Preceding this flurry of “state of emergency” activity, Flint residents had been reporting heavily discolored and bad tasting water for well over a year.

- **On August 15, and September 5, 2014**, Genesee County issued boil water advisories.
- **October 13, 2014**, GM ceased using the water citing corrosion concerns on its parts.
- **October 14, 2014**, senior staff from the Governor’s office urged a return to the Detroit water system.
- **January 12, 2015**, the State of Michigan provided water coolers and bottled water to its employees in Flint.
- **January 30, 2015**, an increase in legionella was linked to the change in water source.
- **February 25, 2015**, a Flint resident contacted the Environmental Protection Agency (EPA) regarding the extremely high levels of lead in her water.
- **February 26, 2015**, the EPA told water personnel that a corrosion program should be in place.
- **June 24, 2015**, EPA confirms “High Lead Levels in Flint, Michigan.”
- **July 22, 2015**, the Governor’s chief of staff noted that Flint residents did not believe their complaints were being heard.
- **August 27, 2015**, Virginia Tech Professor Marc Edwards reports finding very high lead levels in water.
- **September 24, 2015**, Dr. Mona Hanna-Attisha of Hurley Hospital finds very high lead levels in children.
- **On September 29, 2015**, the Detroit Free Press published an analysis of the blood tests, Genesee County issued a health advisory, and the Governor’s office directed the

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<sup>1</sup> The Federal Emergency Management Agency.

Department of Health & Human Services (DHHS) and the Department of Environmental Quality (DEQ) to consider emergency responses.

- **On October 1, 2015**, three months before the states of emergency were issued, DHHS confirmed Dr. Hanna-Attisha's analysis.
- **On October 16, 2015**, Flint switched back to the Detroit water system.
- **On October 21, 2015**, the Governor created the Flint Water Advisory Task Force to review state, federal and municipal actions, and to offer recommendations – one year after the first boil water advisory had been issued and GM said they could no longer use the water because it was corroding their parts
- **December 14, 2015**, Flint emergency declaration.
- **January 4, 2016**, Genesee County emergency declaration.
- **January 5, 2016**, State of Michigan emergency declaration.
- **January 16, 2016**, U.S. Federal emergency declaration.

The Commission recognizes that there have been numerous articles, hearings, studies, reports and investigations into Flint's water crisis. Many focused on the technical aspects of the water crisis: What anti-corrosive materials should have been added? What about testing for lead in the water? Is the current lead and copper rule sufficient? Others examined the decision-making tree: who made what decisions and when, and what were the effects of those decisions? And of course, the Attorney General began his investigation into potential criminal wrongdoing. In each of these investigations, the focus has been on who should bear the blame, especially relating to decisions made and actions taken in the last two to three years. There are also numerous private lawsuits seeking to find liability and hold parties responsible.

The Michigan Civil Rights Commission (MCRC or Commission) believes that to properly and completely assess the causes of the Flint water crisis, we must look back much further. We believe the underlying issue is historical and systemic, dates back nearly a century, and has at its foundation race and segregation of the Flint community. These historical policies, practices, laws and norms fostered and perpetuated separation of race, wealth and opportunity.

We are not suggesting that those making decisions related to this crisis were racists, or meant to treat Flint any differently because it is a community primarily made up by people of color. Rather, the disparate response is the result of systemic racism that was built into the foundation and growth of Flint, its industry and the suburban area surrounding it. This is revealed through the story of housing, employment, tax base and regionalization which are interconnected in creating the legacy of Flint.

As we explored our premise, we focused on several major areas: implicit bias, the history of segregated housing and education in Flint, and finally, environmental justice and the emergency manager law and how they interconnected to play significant roles leading to the Flint water crisis.

While we almost universally recognize that racial discrimination is wrong, this consensus has not translated into decision-making or policies that reflect those values. What explains this dichotomy? Implicit bias refers to stereotypes or attitudes that operate without a person’s conscious awareness.

Research confirms that individuals experience implicit bias against a broad range of groups that is often based on race, ethnicity, nationality, gender or social status. Multiple studies have established that every one of us has implicit biases and stereotypes, and that these biases unconsciously influence our decision-making, and often lead to inappropriate decisions regarding people who fall into these categories.

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The city of Flint’s long history of segregation in housing and education also plays a role. Historically, Flint’s community of color was long relegated to substandard housing, education, and job opportunities. Initially, the segregation was a result of both private discrimination (restrictive covenants) and government policies (mortgage requirements, school district lines, etc.). Of course, much of this was possible because American jurisprudence at the time was largely based upon the U.S. Supreme Court’s adoption of the “separate but equal” doctrine in *Plessy v Ferguson*.<sup>2</sup>

These policies built upon each other to such an extent that, if you were an African American or an immigrant from certain countries, it was almost impossible for you to buy a home outside a few neighborhoods designated for people of color, or to attend a school that wasn’t overcrowded, let alone one that would prepare you for college. Even industry was complicit: until the end of WWII, jobs for people of color were limited to janitorial positions or the stifling work within the foundries.

We also examine the systems, structures, policies and processes created during the past century that helped shape racialized outcomes in Flint. As Flint grew, many residents left the city for suburban life, but the remaining government policies and private restrictive covenants kept people of color confined to the same three or four neighborhoods within the city limits. By 1970, government policies had officially changed and the written restrictive covenants were expunged. But the legacy of discrimination remained. It has brought the city of Flint to where it now finds itself – with a majority of its residents being people of color, and their complaints, along with those of their white neighbors, largely ignored.

This brings us to the question: Would the Flint water crisis have been allowed to happen in Birmingham, Ann Arbor or East Grand Rapids? We believe the answer is no, and that the vestiges of segregation and discrimination found in Flint made it a unique target. The lack of

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<sup>2</sup> *Plessy v. Ferguson*, 163 US 537 (1896), was controlling until reversed by *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

political clout left the residents with nowhere to turn, no way to have their voices heard. This brings us to the final two areas covered by this report: Environmental Justice and the Emergency Manager Law.

*Environmental Justice* requires that all people and communities receive the equal protection of environmental and public health laws, and should have an equal and meaningful voice in decisions related to their environment. As the Governor's Flint Water Advisory Task Force found, the Flint water crisis is an example of environmental injustice. The people of Flint did not enjoy the equal protection of environmental or public health laws, nor did they have a meaningful voice in the decisions leading up to the Flint Water Crisis. Many argue they had *no* voice.

We believe that if the state of Michigan had an environmental justice plan in place, this crisis could have been mitigated and maybe even prevented. We will never know. Equally, had the emergency manager law focused on the financial health of the city *and* the welfare of its residents, and not just on cost-cutting measures, and/or had it allowed for meaningful involvement of the community when it came to the very basic needs of life, clean water and clean air, this too could have served to mitigate or even prevent the water crisis.

This report is triggered by the Flint Water Crisis, but in many ways is not just about Flint. This report seeks to outline a broader framework to explain why the crisis occurred and to propose recommendations that minimize and safeguard against similar crises in the future. Our report is not meant to assess blame, but to help ensure that such a crisis does not occur in the future and to address shortcomings that continue to persist over time. Briefly, we recommend:

1. The Michigan Civil Rights Commission and Department of Civil Rights must do a better job of responding and listening to the constituencies we represent, and of making their priorities our priorities.
  - a. The Department will develop a mechanism for Department staff to identify and inform the Commission of instances in which the civil rights of a community or constituency are being ignored or adversely affected.
  - b. The Commission will relocate scheduled meetings to affected communities when appropriate.
  - c. The Department and Commission will facilitate communication of concerns even when not adopting them as a priority of their own.
2. Develop a deeper understanding of the roles of structural racialization and implicit bias, and how they affect decision-making throughout all branches of state government, and specifically within state departments and agencies. The Governor's office should invite experts on implicit bias to provide training on implicit bias to the Cabinet and Mission Flint, and require all state departments, including DHHS and DEQ, to do the same for their staff.
3. Provide environmental justice to all people in Michigan.

- a. Write and legislatively adopt a robust environmental justice plan that includes the following components:
    - i. Meaningful public (community) participation,
    - ii. Integration of government decision-making,
    - iii. Interagency cooperation, and
    - iv. A means for the public to request responsive state action, i.e., appeal certain decisions.
  - b. Amend the emergency manager law to provide for local representation and the ability to appeal an adverse decision.
  - c. Acknowledge the cumulative effect of environmental hazards, and make cumulative effect part of the official decision-making process.
  - d. Require a more holistic review of the cost-benefit analysis conducted when assessing and placing potential environmental hazards.
4. Replace or restructure Michigan's emergency manager law.
- a. A law intended to help a community recover from a fiscal emergency must be directed at solving the problem that caused the emergency, and thereby returning the community to sustainable fiscal health.
  - b. Provide emergency managers with regional authority; not all solutions are local because not all problems are local.
  - c. Bifurcate the process of naming an emergency manager and providing special authority or powers.
  - d. A declaration of a fiscal emergency that requires emergency management or other state usurpation of local government powers must include a statement that analyzes the root cause of the emergency and outlines how it will be addressed.
  - e. Locally elected representative government must continue to play some role, and an emergency manager must have direct accountability to an elected official (the Governor).
5. Acknowledge the role race and racism have played in our history, and how it continues to impact our present, in order to adopt policies that consider and address it.
6. Rebuild trust and credibility through the creation of a "Truth and Reconciliation Commission" and the integration of a racial equity framework within state government.
7. Create and implement a form of regional government (or at least regional cooperation) that requires suburbs and the urban cores from which they grew to work collaboratively to solve problems.

The Commission believes that we have answered our initial question, “was race a factor in the Flint Water Crisis?” Our answer is an unreserved and undeniable -- “yes”.

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We do not base our finding on any particular event. It is based on a plethora of events and policies that so racialized the structure of public policy that it systemically produced racially disparate outcomes adversely affecting a community primarily made up of people of color.

Having answered our initial question, we now ask (but leave unanswered), another: If, without racist intent, a systemic problem repeatedly produces different results based on people’s skin color, how long does it take before leaving the system in place is itself racism?

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We do not believe it is possible to remedy the past harms caused by racism, or the present harms caused by its legacy, without consciously and deliberately addressing and eradicating them.

## MCRC RECOMMENDATIONS – Flint Water Crisis Report

Our recommendations seek to take a comprehensive approach to understand why our system creates and recreates spatial separation of wealth and opportunity largely along racial lines. Studies are replete with examples of racially disparate outcomes relating to education, employment, business, housing, and health.

Accordingly, we take a deliberate and inclusive approach moving beyond our comfort zone. In this regard, we offer the following recommendations:

- 1. The Michigan Civil Rights Commission and the Michigan Department of Civil Rights must do a better job of listening to the constituencies we represent and of making their priorities, our priorities.**

Before we make recommendations to others, we must first take an honest look at ourselves. How did we (both the Commission and the Department) respond to this crisis? While we believe we have responded and performed appropriately since the emergency was formally declared, we did not do all we could and should have done prior to that time.

We do not offer excuses (there are none) or explanations for our failure to act sooner. We will not try to determine with the advantage of hindsight exactly what we could or should have done. What we will do, what we must do, is acknowledge that in the earlier stages of this crisis the people of Flint were calling out for help and regretfully we did not answer the call.

Flint residents began objecting to using the Flint River as a water source even before the switch was made. The objections intensified after the change – when the water being delivered to people’s kitchens turned color, smelled awful and tasted repugnant. People took to the streets, petitioned government offices, and appeared in nearly every newspaper, television, radio, and online news source in the state.

It does not matter whether we failed to act because we concluded that because there were also white victims race did not play a role, because we saw the crisis only in economic terms, or because we saw water quality as a scientific issue only. In fact, even if we failed to act because we never heard about the protests in Flint, it would only expose our lack of awareness of an issue that was vitally important to one of the constituencies we are supposed to protect.

We cannot say that the outcome would have changed had we done what we now believe we should have. We will never know. What we do know is that had we done our job, the people of Flint would have known SOMEONE was listening to them and fighting for them. That alone would have been a significant change.

We could have done more sooner. We should have done so, but we did not. Our first recommendations are therefore to ourselves. Additionally, as we hope others reading this will do, we commit ourselves to making the changes recommended.

- a. The Department will develop a mechanism for Department staff to identify and inform the Commission of instances in which the civil rights of a community or constituency are being ignored.**

The primary responsibility of both the Department and Commission is the investigation of complaints brought by individuals and/or which relate to specific conduct by an identified individual or entity. We have also been involved with issues that have statewide implications. The Flint Water Crisis tells us that we have not done enough to proactively identify more localized issues that are the priority of one or more of our constituent communities. We certainly will not be able to address them all, but we should be reviewing our complaints for trends and issues that have broader implications.

The Department has outreach staff that are active in many communities on an ongoing basis, and others who traverse the state to give presentations on civil rights issues. The Department will direct these staff members to regularly inquire of, or survey, those with whom they interface to identify issues that their community currently sees as significant. This information will be presented to the Commission as determined by the Director.

- b. The Commission will relocate scheduled meetings to affected communities when appropriate.**

The Commission schedules meeting dates at the beginning the year, with locations selected over the course of the year. The Commission will use the information provided by the Department to identify concerns and locate meetings in those communities. Concerned members of the public will be invited to address the Commission either during an extended public comment period or a separate hearing.

The Commission may also ask the Department to hold hearings for this purpose on dates when the Commission may not be meeting.

- c. The Department and Commission will facilitate communication of concerns even when not adopting them as a priority of their own.**

Though unable to become actively involved in every issue, the Commission and Department must recognize that we are the voice (sometimes the only voice) for underserved and vulnerable communities who may lack direct access to government. Thus, even when we are not able to fully adopt such concerns as our

own, going forward we will share such concerns that come to us with other government agencies and officials as appropriate.

**2. Develop a deeper understanding of the roles of structural racialization and implicit bias, and how they affect decision making throughout all branches of state government and specifically within all the state departments.**

- a. The Governor's Office should invite experts on the cognitive psychology and neuroscience of implicit bias to provide training to the Cabinet and Mission Flint Action Team and require all state departments, including DEQ and DHHS, to do the same for their staff.**

Unconscious bias is real, it is neurologically driven, it is unavoidable, and without exception every one of us has it. These unconscious biases are created and reinforced by media messages and dominant social narratives about history, politics, power and the economy. By definition, this means that we must be conscious of race if we are to avoid making decisions that are influenced by it. Never stopping to challenge ourselves about whether our unconscious biases are directing our actions means we are accepting that they will do so.

- b. Government at all levels must gain and encourage a better understanding of structural racialization and the role it plays in perpetuating disparate outcomes.**

Pretending we do not see color or race is denying neurological reality – and it is a privilege available only to those of us who are white. Structural racialization consists of the inter-institutional dynamics that produce and reproduce racially disparate outcomes over time without regard to intent. These racially disparate outcomes occur in health, education, income, transportation, housing, and the environment. Historically, these forces perpetuated notions of white supremacy most evident in institutions of slavery and Jim Crow segregation. Today, these same forces continue in different institutional forms to protect and reinforce notions of white privilege. The oppressive and hierarchical nature of these forces, however, remain the same.

Segregation of space plays an important role in understanding structural racialization as demonstrated in the separation of Flint from the remainder of Genesee County. In this context, we must be more aware of the spatialization of race and the racialization of space throughout Michigan. Flint is an example of the disparity in income, wealth creation, health, and access to public services when compared to communities located outside of Flint and yet located within Genesee County.

- c. **Government must recognize that an unfair advantage cannot be corrected simply by refraining from being unfair in the future; policies must be adopted to counteract the continuing harm caused by past racism.**

Local, state and federal governments were actively involved in providing housing opportunities to some and denying them to others. Public and private actions combined to instantly lower the resale value of property purchased by African Americans, while creating conditions where future generations would benefit from the purchases by white Americans. Generations of students were denied equal educational opportunities.

Certainly, there are programs and policies today that disadvantage all the poor or all persons living in decaying urban areas, regardless of their race. However, it is not mere coincidence that these same policies universally have a disparate negative impact on persons of color. Government's failure to do anything to correct the disparity that it helped to create means it continues to perpetuate harms caused by its past racism. Prime examples in Flint were the Floral Park and St. John communities, where the use of urban renewal and highway programs destroyed mostly these black-occupied communities.

### **3. Provide environmental justice to all people in Michigan.**

As discussed earlier, the role of environmental justice in the case of Flint is critically important. The Governor's Task Force Report recognized it and found the existence of environmental injustice in the disparate outcomes faced by Flint residents and the lack of meaningful participation by residents in their government. Testimony received during our hearings bore this out.

- a. **Write and legislatively adopt a robust environmental justice plan that provides (1) meaningful public (community) participation, (2) integration of governmental decision-making, (3) interagency cooperation, and (4) a means for the public to request responsive state action, i.e., to appeal certain decisions.**

In the past, great effort was expended to develop an environmental justice plan for Michigan. Had the 2009 Environmental Justice Plan been adopted and implemented, it may have made the Flint Water Crisis much less likely. The petition process in the 2009 Plan would have allowed Flint residents to elevate their concerns by filing a petition with the Interdepartmental Working Group (IWG). Because the IWG would have included directors of the DEQ and the Department of Health and Human Services as well as the Governor's

environmental policy advisor, there would have been recognition at the highest levels of the problems in Flint. And if the IWG accepted the petition, there would have been an action plan to address the problems. We also recommend that the IWG be expanded to include the Director of the Department of Civil Rights and Michigan's Chief Medical Officer (currently housed in DHHS).

- b. A major component of environmental justice is community participation in decision-making – therefore, Michigan's emergency manager law must be amended to provide for local representation and the possibility to appeal an adverse decision.**

One of the key principles of environmental justice is that those who will be affected by decisions must be a part of the decision-making process. It must be recognized that the Michigan's EM laws, and in particular their application with respect to the city of Flint, are irreconcilably contradictory.

- c. Acknowledge the cumulative effect of environmental hazards, and make cumulative effect part of the official decision-making process.**

The difficulty of quantifying the cumulative effect of environmental hazards is insufficient reason to ignore the fact that the same level of a potentially harmful pollutant will cause greater harm to persons with existing health problems and/or who are already being exposed to numerous other potentially harmful pollutants. The cumulative effect of multiple pollutants must be considered in determining what amounts of each pollutant is permissible.

- d. Require a more holistic review of the cost benefit analysis conducted when assessing and placing potential environmental hazards.**

We recognize that some level of environmental risk and/or harm may be offset by necessity. We also recognize that one must consider whether minimizing potentially harmful emissions may be so costly that it would prevent the availability of something that serves the public interest. It is completely reasonable to conclude that refining oil into gasoline is necessary even though there will be some environmental cost. That said, we must then separate the question of location of such hazards from the question of who will benefit. If the risks are deemed to be in everyone's interests, they should be shouldered equally by everyone. Placing multiple hazards in one community and none in another is the privilege of the powerful, but it is not environmental justice. It is

particularly unjust when those who reap the greatest benefits also bear the least risk of harm.

#### **4. Replace or restructure Michigan's emergency manager law.**

The Commission understands that some sort of state-imposed emergency powers may be necessary when a community faces a fiscal emergency that it is unable to address on its own. However, the present emergency manager law is flawed in a number of ways that violate the principle of representative government, and which ignore the very purpose for the law.

- a. A law intended to help a community recover from a fiscal emergency must also focus on solving the problem that caused the emergency, thereby returning the community to sustainable fiscal health.**

Testimony presented to this Commission described an emergency manager law that is directed only at the short-term goal of balancing a community's books, without consideration for how doing so will affect the community's longer term financial stability. The types of severe budget cuts and asset disposal that result too often have the effect of actually worsening the community's long-term economic stability. New revenue sources cannot be developed by a community if it is unable to attract either new businesses or residents.

In her article, "The New Minimal Cities,"<sup>3</sup> Stanford Law Professor Michelle Wilde Anderson explored the consequences of municipalities facing household poverty, loss of population and physical deterioration ending up in some form of bankruptcy or state receivership. In cutting costs and diverting revenues to debt payments, cities like Flint have taken dramatic austerity measures. She raises an important question: "Is there a point where the city should no longer cut public services and sell public assets, even in the face of unmet obligations to creditors? If so, what is that point?" Professor Anderson focuses on the interests of residents who live in cities like Flint and are affected by such cuts. Effective tools are necessary to manage the decline and allow local units of government, like Flint, to effectively manage the decline and rebuild across economic cycles. Michigan's current EM structure fails to address these issues.

Michigan's present EM structure temporarily replaces city decision makers and managers and with others who are believed to have better experience, training and skills. However, once the community's books are in balance, the former

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<sup>3</sup> Michelle W. Anderson, [The New Minimal Cities](#), 123 *Yale Law Journal* 1118 (2014).

leadership frequently returns without the training required to reach the expertise of those acting in the interim. Part of the role of any emergency usurpation of local power must be to prepare local government to effectively manage and govern communities like Flint.

**b. Provide emergency managers with regional authority; not all solutions are local because not all problems are local.**

Part of the problem with the Flint water system is that the infrastructure was built for a community of 200,000 residents plus substantial commercial industry, over half of which have relocated to the suburbs. Flint residential water rates are high in large part because the system is so oversized and deteriorated that the city must pump two gallons for every one that ultimately reaches a consumer. Fiscal crises like the one resulting in an emergency manager for Flint have their roots in suburban governments and people that took advantage of a city's resources and then left the city to deal with the consequences. When the state appoints an emergency manager to address a fiscal problem that is not being addressed by the people who created it, that emergency power should extend to those who are unwilling to take responsibility.

**c. Bifurcate the process of naming an emergency manager and providing special authority or powers.**

The present emergency manager law replaces local control, but also provides the replacing manager with special powers that local government did not have. This appears to be based upon an illogical assumption that, while the outside manager cannot succeed without the special powers, local government could not succeed even with them.

An unelected appointee should not be brought in if there is a capable elected mayor to give the needed authority to, and special authority should not be given to an appointee automatically. Both steps may be necessary, but the necessity needs to be established separately, not assumed.

**d. A declaration of a fiscal emergency that requires emergency management or other state usurpation of local government powers must include a statement that analyzes the root cause of the emergency and outlines how it will be addressed.**

Simply recognizing the existence of an emergency should not be a basis for replacing local representative government control. The process must begin by

establishing what caused the fiscal emergency, and then determining how it can be addressed. Emergency management cannot be a one-size-fits-all solution. It must in each instance be tailored to address the cause and not only the emergency itself.

- e. **Locally-elected representative government must continue to play some role, and an emergency manager must have direct accountability to an elected official (the Governor).**

The Commission recommends that the replacement for the current emergency manager law must include a process for appealing significant EM decisions. One option would be to allow a majority of an existing elected council to appeal a decision to the Governor. While this may not ultimately change many of an emergency manager's decisions, it would increase the level of attention a challenged matter receives. A decision would not only more likely receive careful reflection by the emergency manager who made it, it would more likely draw media attention. Even more important, it would make the Governor accountable, something that would add an element of caution to big decisions.

- 5. **Acknowledge the role race and racism have played in our history and how it continues to impact our present, in order to adopt policies that consider and address it.**

- a. **Reject the idea that our society has or should become “colorblind”, which perpetuates the status quo by ignoring or overlooking the impact of decisions made within a racialized system, as well as the implicit biases that assert themselves if we do not consciously recognize them.**

In both the private and public spheres, the concepts of equality and colorblindness have been falsely equated. This has been deliberate and/or strategic in many instances; colorblindness has also been benignly pursued by those who want to believe in the myth that it represents. Because our subconscious brain function makes it impossible to actually be colorblind, pretending or fooling ourselves into believing that we are colorblind means accepting and acting on our perceptions of color. Perhaps even more contradictory is that collectively and intentionally acting without recognizing color AFTER having previously done the opposite strategically rewards the very conduct the concept of colorblindness now recognizes as evil.

According to Eduardo Bonilla-Silva, a sociology professor at Duke University, colorblindness represents modern-day bigotry or the common manifestation of the new racism. In his book, *White Supremacy and Racism in the Post-Civil Rights*

*Era*, Bonilla-Silva argues that racism has become more subtle since the end of segregation. Professor Bonilla-Silva argues that the whites view the 1960s as the end of racism, but in truth, the events of the 1960s and 70s produced an alteration of the order.

That alteration upended the rhetoric of the civil rights struggle, Bonilla-Silva said, so that historically-oppressed groups would seem to be the perpetrators of discrimination, not its victims. An example is Rev. Martin Luther King, Jr.'s quote from the 1963 March on Washington where he stated "I believe that people should be judged by the content of their character." However, people then eliminate the history and contemporary practice of discrimination while playing the morality tale.

The well-intentioned argument in favor of colorblindness is that it is unjust to allow considerations of color to seep into public policy or personal decision-making. However, we saw in Flint that past public policy had profoundly discriminatory results. It can be argued that the prior policies were themselves colorblind, but this line of thinking simply proves the fallacy of the concept that colorblindness is a good thing.

In an individual, "colorblindness" may or may not be well-intended. Until a person recognizes that, like everyone else, they have unconscious or implicit biases, they may well believe otherwise. However, once a person becomes aware of the universality of implicit biases, continuing to pretend to be "colorblind" is strategic racism.

In public policy, the reality of past racism is that its harm is every bit as persistent as its existence is undisputable. If enacting legislation that will perpetuate the harm caused by past racism, or that will have a disparately negative affect on people of color, is considered "colorblind" – "colorblind" legislation is strategic racism.

## **6. Rebuild Trust and Credibility:**

### **a. Create a "Truth and Reconciliation Commission."**

The city of Flint and the residents have faced numerous challenges arising from the uncovering of toxic lead in the drinking water. A few examples include dependency on bottled water for the basic daily necessities of life, health-related problems and government's repeated failure to hear the voices of the residents. A common theme heard from the residents was the loss of trust they have in government and others. To

build a viable and vibrant community there must be mutual trust between residents and government. For Flint's municipal water supply to remain sustainable, public trust must be rebuilt between residents and regulatory agencies. Without it, recovery and long-term sustainable efforts will be hampered and face possible derailment. Mayor Weaver at the January 11<sup>th</sup> Flint Water Town Hall admitted, "We sure don't trust." Amen!

The Commission recommends the development and formation of a Truth and Reconciliation Commission, following a two-step process: (1) a Convening Panel to be properly assembled and trained, and (2) the Convening Panel to be vested with writing a mandate and charge for a Truth and Reconciliation Commission, and then interview and select commissioners.

We recognize that examples of successful Truth and Reconciliation Commissions in the U.S. are virtually impossible to find. However, this does not mean that Flint cannot be a guiding example of what such a commission could accomplish. In the few cases we identified, one hallmark of successful Truth and Reconciliation Commissions (TRC) has been the inclusion of a convening panel, composed of residents who, by the nature of their role in households and small community groups, are well trusted within the community. A "council of elders" model for creating a convening panel has been studied and implemented successfully in First Nations TRC processes. By deliberately inserting a mechanism for involving trusted community members in the selection of commissioners, residents are more likely to be engaged in the Truth and Reconciliation Commission process with meaningful involvement and power in the decision making process.

The Convening Panel should be provided with resources regarding the creation of TRC-type commissions and the role of similar commissions in rebuilding trust within communities. Following a prescribed timeline, the Convening Panel would prepare a mandate for a Truth and Reconciliation Commission, create an interview process, and select the Commissioners. One approach would be for the Truth and Reconciliation Commission to be accountable to the Convening Panel throughout the process, and through this Panel, to the residents of Flint. The final product of the Truth and Reconciliation Commission would be a report, written for the residents of Flint and delivered to the Convening Panel. This report would serve to increase the community voice and address specific concerns identified by residents.

We recognize that trust is built over time by following through with the promises one makes. Likewise, credibility — the quality or power of inspiring belief — grows in much the same way. The principles of trust and credibility are tightly linked and build on each other. In the case of Flint, we recognize this process will take time and will be painfully slow.

In the case of the Flint water crisis, the Commission recognizes that at all levels of government there was a failure to listen to the voices of the residents and safeguard the residents. Others, whether in business, philanthropy, or government also failed to speak up and act. Residents have been harmed and their faith in government and other institutions deeply shaken and in many cases, lost. But it is time to begin finding ways to rebuild the trust and credibility to grow and rebuild the great city of Flint. We recommend that the leaders of Flint will take up this recommendation and charge forward.

In creating a Convening Panel, we believe there are civic and community leaders from different parts of Flint and Genesee County who have the standing and respect in the community to help move this process forward. The creation of a convening panel can serve as an important step toward creating a Truth and Reconciliation Commission that can play a key role in revitalizing the community.

**b. Build a Racial Equity Framework.**

To minimize the risk of another Flint water crisis, we must pledge to eliminate racial inequities in our communities. This means developing a collective impact approach firmly grounded in inclusion and equity. Government at all levels can play a key role in fostering and building collaborations for achieving racial equity, centering community and leveraging institutional partnerships. Racial disparities are too often sustained by structures and systems that repeat patterns of exclusion. State, regional and local governmental units have the ability to implement policy changes that can drive systemic change.

We encourage Flint, Genesee County and our state government to review different models and identify best practices, tools and resources to address racial inequities. One such initiative is GARE, Government Alliance on Race & Equity, which is developing a nationwide network of governmental units focusing on these inequities. The goal is not to just eliminate the gap between whites and people of color, but to increase success for all groups. Racial equity develops goals and outcomes that can result in improvements for all groups, but the strategies are targeted based on the needs of a particular group. Systems that are failing communities of color are actually failing all of us. Targeted universalism, or eliminating the gaps, increases our collective success while being cost effective.

GARE and similar initiatives and networks offer a framework for government to focus not only on individual programs, but also capacity-building strategies to reduce inequities and the development and implementation of corresponding policies and programs. Examples of such strategies could include:

- **Use a racial equity framework:** Use of a racial equity framework that clearly articulates racial equity, implicit and explicit bias, and individual, institutional and structural racism.
- **Build organizational capacity:** Governmental units need to be committed to the breadth and depth of institutional transformation so that impacts are sustainable. To foster sustainable change, our infrastructures must be changed by developing racial equity experts and teams throughout local and regional government.
- **Implement racial equity tools:** Racial inequities are not random; they have been created and sustained over time. Tools must be used to change the policies, programs, and practices that are perpetuating inequities. New policies and programs must also be developed with a racial equity tool.
- **Be data-driven:** Measurement must take place at two levels – first, to measure the success of specific programmatic and policy changes, and second, to develop baselines, set goals and measure progress towards goals. Use of data in this manner is necessary for accountability.
- **Partner with other institutions and communities:** The work of local and regional government on racial equity is necessary, but it is not sufficient. To achieve racial equity in the community, local and regional government needs to work in partnership with communities and other institutions to achieve meaningful results.
- **Operate with urgency and accountability:** Professor John Kotter of Harvard Business School, a world-renowned writer on change, is often quoted as saying that to bring about change, there first must be a sense of urgency established. When change is a priority and urgency is felt, change is embraced and can take place quickly. Building in institutional accountability mechanisms via a clear plan of action will allow accountability. Collectively, we all must create greater urgency and public will to achieve racial equity.

**7. Create and implement a form of regional government (or at least regional cooperation) that would require suburbs and the urban cores from which they grew to work collaboratively to solve problems.**

Attempts to establish regional forms of government in the past 30-plus years have failed in Flint as well as other parts of the country. The results have been mixed and overall efforts at direct consolidation have proven futile. In recent years, U.S. local government entities have often formed "councils of governments", "metropolitan regional councils", or "associations of governments". These organizations serve as regional planning agencies and as forums for debating issues of regional importance, but are generally powerless relative to their individual members. Yet if there is a community in a need of a comprehensive approach to address the challenges faced, it is the city of Flint and Genesee County.

The city of Flint and Genesee County is an example of how municipal fragmentation perpetuates separate communities that are not only racially segregated but where there are clear separation of wealth and opportunity. An example was the decline in infrastructure as evidenced in Flint's water treatment plan and the appointment of an emergency manager in 2011.

The Commission supports Sadler and Highsmith's proposal (as outlined in their recent article "Rethinking Tiebout: The Contribution of Political Fragmentation and Racial/Economic Segregation to the Flint Water Crisis") to create a hybrid form of regional government referred to as federated regionalism. Specifically, the federated regional form of government is "a regional approach that preserves political and cultural status within communities or cities, while sharing regional resources and responsibilities and balanced regional policymaking." The key is to offer a comprehensive approach where the strengths of the city of Flint combined with the resources and opportunities located in the outlining communities in Genesee County are fully leveraged. The current form of local governance in today's world is simply not working and does not address the many problems and challenges faced by certain communities.

We acknowledge that changes in the laws will be necessary and we call on government at all levels to bring about these changes. This will result in profound but necessary changes to address the inequities that currently exist in Michigan while offering a new form of government that can work to resolve the remaining imbalances in education, economic and community development, health, and transportation.