



2022

FAIR LENDING AUDIT REPORT

AN INVESTIGATION TO DETERMINE THE
EXTENT TO WHICH WOMEN EXPERIENCE
DISCRIMINATION IN THE HOME PURCHASE
LOAN MARKET BASED ON RACE, NATIONAL
ORIGIN, GENDER, AND FAMILIAL STATUS

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FORWARD

The Fair Housing Act of 1968 makes it illegal to discriminate on the basis of race, color, religion, familial status, national origin, disability, or sex (including gender, gender identity, and sexual orientation) at any stage of the mortgage process. Yet, research shows that access to a home mortgage differs significantly for members of protected classes.

Black mortgage applicants in the United States are twice as likely as white applicants to have their loan applications denied by lenders. Lack of access to credit significantly contributes to the racial wealth and homeownership gap, which is greater now than it was in the 1960s when race discrimination in lending was legally sanctioned. In 2021, 75% of white (non-Latinx) adults in the United States owned homes, compared to only 45% of Black adults and 50% of Latinx adults.

Additionally, in the last decade, the Department of Housing and Urban Development has seen an increase in complaints alleging gender and familial status discrimination by borrowers on maternity leave. In many of these cases, complainants alleged that lenders denied or delayed loans to working women because they were pregnant or on maternity leave or required women to end their maternity leave and return to work in order to be approved for a home purchase loan.

In 2021, FHANC conducted a series of fair housing investigations in which fair housing testers posed as potential borrowers on fully paid maternity leave to determine whether lenders would require them to return to work before closing on a home purchase loan, which is discriminatory based on gender and familial status. In 2022, FHANC expanded on that investigative work by conducting match-paired tests using white and Black or Latina testers to determine whether lenders are more likely to discriminate against women on maternity leave if they are Black or Latinx.

This investigation was carried out by FHANC's Investigation Coordinators, Ursula Lindsey, Maria Callahan and Quinn McFeeters, under the supervision of Supervising Attorney, Julia Howard-Gibbon. Ms. Howard-Gibbon analyzed the investigations and prepared this audit report, under the supervision of Executive Director, Caroline Peattie. Those responsible for this report hope the results and recommendations contained herein will assist FHANC in furthering its mission to ensure equal housing opportunity and educate the community on fair lending issues.

EXECUTIVE SUMMARY

This report presents results of a testing audit investigation that was conducted by Fair Housing Advocates of Northern California (FHANC) to determine the extent to which women on maternity leave experience discrimination in the lending market based on race, national origin, gender, and familial status.

FHANC conducted a total of ten phone investigations (twenty test parts) within Marin, Sonoma, and Solano Counties. For each investigation, two match-paired testers – one white and one Black or Latina – called the selected lender posing as a prospective loan applicant. Each tester asked if she could apply for a loan using her full salary given that she was on paid maternity leave but would not be returning to work until after the desired closing date.

FHANC then analyzed each test to determine whether the lender stated a policy or made a comment that was discriminatory against mothers on maternity leave, which would constitute evidence of gender and familial status discrimination. FHANC also reviewed each test to determine whether the white tester was treated more favorably than the Black tester or the Latina tester, which would constitute race or national origin discrimination.

Of the ten match-paired tests conducted, 60% showed at least some evidence of discrimination based on race, national origin, gender, and/or familial status. Of the three counties where investigations took place, lenders in Sonoma County were the most discriminatory. 100% of the three tests in Sonoma County revealed at least some evidence of discrimination.

80% of the five investigations conducted in which the protected tester was a Black woman revealed at least some evidence of race discrimination. This result is striking. Existing data already shows that Black borrowers are less likely to be approved for mortgage loans than white borrowers and the results of this audit suggest that discrimination likely plays a role in that disparity.

INTRODUCTION

This report details the results and subsequent recommendations following a testing audit investigation that was conducted by Fair Housing Advocates of Northern California (FHANC) to determine the extent to which women on maternity leave experience discrimination in the lending market in Marin, Sonoma and Solano Counties based on race, national origin, gender, and familial status.

FAIR HOUSING ADVOCATES OF NORTHERN CALIFORNIA

FHANC is a private nonprofit organization dedicated to assisting individuals experiencing housing discrimination and educating the community, including tenants, homeowners, housing providers, lenders, and government employees, as to their rights and responsibilities under federal and state fair housing and fair lending laws. The mission of FHANC is to ensure equal housing and lending opportunity and to educate the community on the value of diversity in the areas it serves.

FHANC provides free comprehensive fair housing counseling services to individuals alleging housing discrimination in Marin County, Sonoma County (except Petaluma), and Solano County (except Vacaville). FHANC also provides other services, such as foreclosure prevention counseling and trainings to housing providers, in other neighboring counties, and provides counseling, testing and enforcement services related to appraisal discrimination in Alameda County.

FHANC also recruits, trains and employs fair housing testers in order to investigate claims of housing discrimination and to assist in conducting systemic investigations, such as the one described in this report.

For more than 20 years, FHANC has conducted multiple telephone, in-person, and email audits in several Bay Area counties designed to measure the extent of discrimination in housing against members of protected classes, particularly ethnic and racial minorities. Historically, the results of these audits suggest that unlawful discrimination based on race, national origin, gender and familial status continues to be pervasive.

FAIR LENDING AUDITS

A. WHAT IS A FAIR LENDING AUDIT?

A fair lending audit is a way to assess lenders' compliance or non-compliance with federal and state fair housing laws. It is a controlled measurement of the difference in quality, quantity, and content of information and services afforded to borrowers by lenders. An audit differs from complaint-based testing in that it gives a broad overview of lender behavior in a given market during a certain time period. Fair housing agencies routinely conduct audits as an educational and enforcement tool.

B. AUDIT GOALS

1. To identify instances of differential treatment and/or policies that discriminate against mortgage borrowers based on gender, familial status, race and/or national origin.
2. To conduct additional investigations of lenders where test results indicate potential discrimination or suggest that further investigation could yield stronger evidence of discrimination.
3. To bring minor violations to the attention of lenders in order to increase awareness of the potential consequences of engaging in discriminatory practices and prevent future transgressions.
4. To file enforcement actions (lawsuits or administrative complaints) in cases with strong evidence of differential treatment or discrimination.
5. To increase awareness by lenders of the difficulties women, parents, Black, and Latinx applicants experience in obtaining mortgage loans.
6. To make members of protected classes aware of discriminatory practices they may experience and the services provided by FHANC to assist people in securing fair housing/ lending rights.
7. To offer training to lenders on fair lending laws and practices in order to forestall future discrimination.

C. LENDING AUDIT DEFINITIONS

1. **Testing** – an investigative tool used to gather evidence of potential housing discrimination that involves one or more testers and is generally covert in nature.
2. **Test** – an investigation of a particular lender, involving one or more testers/ test parts.
3. **Investigation** (multiple meanings) – one test targeting a single lender with one or more test parts; a series of tests targeting a single lender; OR an audit of multiple lenders in a target geographic region.
4. **Test Part** – a contact or series of contacts by a single tester/profile with a target lender (e.g.: a match-paired test consists of two test parts).
5. **Complaint Test** – a test conducted to corroborate (or refute) existing evidence of discriminatory practices, including: reports from applicants of their experiences with a particular lender; a discriminatory policy publicized by a lender; or the results of a prior test or tests.
6. **Fair Lending Audit** – a controlled way to assess compliance with fair lending laws by using testers to determine how people with protected characteristics are treated in the borrowing process in a given market.
7. **Single-Part Test** – a test that involves only one tester; usually used to determine whether a discriminatory policy exists.
8. **Match-paired Test** – a two-part test that involves two similarly matched testers posing as comparably qualified borrowers; used to detect differences in service, information, or treatment.
9. **Control Tester** – a tester whose profile does not include the protected characteristic(s) being investigated.
10. **Protected Tester** – a tester whose profile includes one or more protected characteristic being investigated.
11. **Tester Profile** – the characteristics and backstory assigned to a tester prior to conducting a test, which may include an alias, financial characteristics (such as income and credit information), an address, employment, a spouse, and/or one or more protected characteristic.

LEGAL BACKGROUND

The Fair Housing Act prohibits discrimination in home mortgage transactions on the basis of race, color, religion, sex (including gender, gender identity, and sexual orientation), national origin, familial status, and disability.

Denying a loan or offering inferior terms, conditions, privileges or services to a person because of their membership in a protected class violates fair housing and fair lending laws. Additionally, the denial of a mortgage loan because an applicant is pregnant or on maternity leave is a form of gender and familial status discrimination.

A lender may not assume that a woman will not return to work after childbirth. A woman on maternity leave who intends to return to work is considered to be on “temporary leave” and must be treated as if she is still employed.

If a woman tells the lender that she intends to return to work, the lender may ask the borrower’s employer to verify her intended return date and whether the borrower has the right to return to work after the temporary leave period is over, however, the lender may not require her to return to work early and thereafter earn a specified number of paychecks before her loan may be approved or closed.

If she is not receiving income or if her income is reduced while she is on leave, the lender must consider her pre-leave income as long as she intends to return to work before the first mortgage payment is due. If the borrower will not return to work as of the first mortgage payment date, the lender must use the borrower’s temporary leave income (if any) plus any available liquid financial reserves. A lender must inquire as to whether the applicant has other resources to close the gap between her reduced income while on leave and her post-leave salary.

AUDIT METHODOLOGY

A. OVERVIEW

Investigations coordinators conducted a total of ten match-paired phone investigations (twenty test parts) within the target geographic area. Each tester called a selected lender posing as a prospective borrower and stated that she was interested in securing a mortgage loan but was on paid maternity leave and would not return to work until after the prospective home sale date.

For each investigation, the investigations coordinator selected two testers and created two separate profiles – a “protected tester” and a “control tester” – to carry out each test part. Five of the matched pairs included a Black female tester as the protected tester and a white non-Latinx female tester (hereinafter “white tester”) as the control tester. The remaining five matched pairs included a Latina tester as the protected tester and a female white tester as the control tester.

B. GEOGRAPHIC AREA

All tests were conducted at lending institutions with brick-and-mortar branches located in Marin County, Sonoma County, and/or Solano County.

C. SAMPLING TECHNIQUES

Investigations coordinators selected lenders to test for potential fair lending violations by conducting redlining analyses of lenders with similar market shares in the target geographic areas in order to determine which lenders were likely underserving borrowers of color as compared to their peers. Lenders who received a significantly lesser percentage of loan applications from Black and/or Latinx borrowers compared to white borrowers within the same Reinvestment Act assessment area were identified as potential targets for lending investigations. Investigations coordinators then narrowed the list of potential targets to identify ten lenders with branch locations in the geographic areas that had at least one mortgage loan officer on site. FHANC identified three loan officers at branches in Sonoma County, three loan officers at branches in Solano County, and four loan officers at branches in Marin County.

D. RECRUITMENT, SCREENING, AND TRAINING OF TESTERS

1. Tester Training

All testers received fair housing training and training in investigations procedures. All testers also received specialized training in mortgage loans and lending investigations in order to be able to competently speak about applying for a mortgage loan with loan officers and to understand the financial aspects of their profiles.

2. Practice Test

Each tester conducted a practice test prior to the audit. Practice tests were designed to be as similar as possible to the tests that would be conducted as part of the audit. FHANC used the results and lessons learned from coordinating practice tests to hone instructions and methodologies for actual audit tests to follow.

3. Tester Selection

Investigations coordinators selected testers with voices clearly identifiable as Black or Latinx as protected testers and testers with voices clearly identifiable as white non-Latinx as control testers. None of the testers selected had obvious disabilities so as not to introduce additional protected characteristics that were not the subject of the audit.

E. INVESTIGATION PROCEDURES

1. Property Selection

For each investigation, the investigations coordinator used Zillow.com, Redfin.com or some other home purchase listing website to identify a property currently for sale in the target geographic area that the tester could tell the lender they were interested in purchasing. All properties selected were single-family homes with publicly advertised open houses.

2. Tester Selection

For each investigation, the investigations coordinator assigned two testers – one Latina or Black tester as the protected tester and one white tester as the control tester. Each tester was matched to their counterpart as closely as possible in age, gender and temperament.

3. Tester Profiles

For each investigation, the investigations coordinator created a profile for each of the two match-paired testers. Each tester was given an alias to emphasize the tester's race and/or ethnicity as either Black, Latina or white. The matched profiles were designed to avoid any indication of difference in protected class characteristics other than race or ethnicity. All of the tester profiles included a newborn baby and a male spouse. None of the profiles included a disability or any other children.

All profiles included information about the tester's employment, including the date that their maternity leave started and the date they were scheduled to return to work. Profiles also included detailed information about the tester's financial characteristics, such as income, debt, and credit scores. Every profile included a total household employment income that was high enough to cover the estimated monthly housing payment, a 12% down payment, and estimated closing costs. However, tester incomes were never so high as to potentially influence the lender to want to lend to them despite any potential bias. The tester's spouse's income was never set high enough that he would qualify for the loan on his own.

Matched profiles had roughly equivalent financial credentials, including similar household incomes and similar employment histories. However, the protected profiles had slightly higher incomes and slightly more stable employment histories than their control counterparts. Both testers were instructed to express nearly identical lending needs, such as the desire to close escrow prior to returning to work from maternity leave.

Each profile included an email address that testers could provide to the lender if asked. The email accounts were created and managed by the investigations coordinators. The email address assigned to each tester corresponded with the tester's alias in order to further indicate the tester's race and/or ethnicity.

4. Test Assignments

For each investigation, the investigations coordinator created a test assignment for each paired tester, which included instructions for conducting the test and the tester's profile. Assignments also included a copy of the sale listing for the property the tester was to indicate to the lender that they were interested in purchasing as well as the date that the seller would be receiving offers.

5. Pre-briefs

Prior to starting each test, testers reviewed their test assignments and pre-briefed with the investigations coordinator to discuss any questions or concerns about their assignment.

6. Conducting Tests

All investigations were conducted via phone, however, some tests also included follow-up communications with the lender via text message and/or email.

Both match-paired testers were instructed to contact the same loan officer at the same branch of the lending institution that was being tested. The protected tester was instructed to conduct the first test part and the control tester was instructed to conduct the second test part; usually about one week apart so as not to raise suspicion that it was a test.

If either tester reached an answering machine, she was instructed to leave a message stating her name, phone number, and her interest in obtaining pre-approval for a home mortgage loan. Testers were instructed not to include any other information about their profile in voicemail messages other than their name and phone number.

If either tester reached a loan officer, she was instructed to introduce herself and say she was calling because she wanted to get pre-approved for a mortgage so that she could put an offer on a house the following week. Testers were instructed to inquire about the pre-approval process and requirements. If a tester was asked any questions about herself by the loan officer, she was instructed to answer according to her profile.

After receiving information about the pre-approval process, testers were instructed to disclose that they were on paid maternity leave and explain that they hoped to close escrow prior to returning to work. They were instructed to ask whether the loan officer anticipated any issues with the tester's stated timeline and whether the maternity leave would delay the loan application.

While testers were instructed to provide their profile contact information to the lender if asked, they were instructed not submit any loan applications or share any documentation with the loan officer.

7. Debriefs

Shortly after each test, the tester was instructed to call the investigations coordinator to provide a debrief of the test. Testers provided a description of what happened during the test and discussed any issues or concerns that may have arisen. If the investigations coordinator determined that additional information was needed, the tester was instructed to call the loan officer back to ask follow-up questions or, in some cases, the investigations coordinator emailed the loan officer from the tester's email address posing as the tester.

8. Test Reports and Narratives

After each test, the tester completed a Report Form in which she documented the information gathered during the test, including the name and title of the person she spoke to, the name of the branch, the closing cost and timeline estimates provided by the lender, plus any other information that the loan officer may have provided or sought from the tester (e.g.: the tester's income, date of return to work, employment, spouse's financial information, family size, etc.). In addition to the Report Form, each tester also submitted a narrative description of what happened during the test, including all interactions with the loan officer.

AUDIT ANALYSIS

A. ANALYSIS PROCESS

For each investigation, FHANC compared the Report Forms, narratives, and follow-up emails/text messages for each test part to assess whether matched testers received similar or different treatment from each other. FHANC also reviewed the experiences of the control and protected testers to determine whether there was evidence that the lender had any discriminatory policies or practices related to maternity leave (indicating gender and/or familial status discrimination) and whether the loan officer made any discriminatory statements related to gender, familial status, race, ethnicity, or any other protected class.

B. DIFFERENTIAL TREATMENT

When analyzing match-paired tests for evidence of differential treatment, FHANC considered multiple factors, including but not limited to the following:

- The lender's willingness and/or enthusiasm to engage with the protected tester versus the control tester;
- Whether the lender offered different terms and/or conditions (including different loan products) to the protected tester versus the control tester;
- Whether the lender followed up with either tester after the initial phone call;
- How the housing provider responded (or failed to respond) to initial contact or subsequent contacts by testers and/or investigations coordinators;
- Information provided to each tester regarding applicant qualifications, eligibility, or internal policies; and
- The lender's comments and/or general treatment of testers indicating encouragement or discouragement related to obtaining a loan.

C. CLASSIFICATIONS BASED ON STRENGTH OF EVIDENCE

FHANC analyzed every test for gender and familial status discrimination. For tests where the protected tester was Black, FHANC also analyzed the test for race discrimination. For tests where the protected tester was Latinx, FHANC also analyzed the test for national origin discrimination.

For each protected class category, tests were classified as either: 1) showing no significant evidence of discrimination, 2) revealing some or potential evidence of discrimination, or 3) showing clear evidence of discrimination.

1. Clear Discrimination

For the purposes of this report, clear evidence of discrimination refers to clear violations of the Fair Housing Act (FHA), the Fair Employment and Housing Act (FEHA), and/or the Equal Credit Opportunity Act (ECOA), including but not limited to:

- Having a policy of requiring a woman on maternity leave (even if unpaid) to return to work in order to qualify for a mortgage or to delay the loan closing until after the woman returns to work;
- Having a policy of requiring a woman who is receiving sufficient income to qualify for a loan while on maternity leave (ie: paid leave) to return to work before the first mortgage payment is due;
- Refusing to consider a woman's employment income for a mortgage loan because she is on maternity leave despite her assertion that she will return to work and can provide verification;
- Offering inferior terms, conditions, privileges or services to a person because of her race, national origin, gender, familial status, or other protected class;
- Suggesting that a borrower consider purchasing a home in a neighborhood that would be more suitable because of her race, national origin, gender, familial status, or other protected class;
- Making discriminatory statements regarding a person's race, national origin, gender, familial status, or other protected class;
- Discouraging a person from applying for a loan because of her race, national origin, gender, familial status or other protected class;
- Stating a preference for certain loan applicants based on their race, national origin, gender, familial status or other protected class; OR
- Stating or implying that a borrower's application would likely be denied because of her membership in a protected class or a characteristic associated with a protect class, such as being on paid maternity leave.

2. Some/ Potential Discrimination

For the purposes of this report, some/ potential evidence of discrimination refers to some, but not clear, evidence of a discriminatory policy or statutory violation that does not materially affect the housing transaction or other less significant types of discriminatory policies/ practices, such as:

- Responding to an inquiry from a white tester after failing to respond to an inquiry from a Black or Latina tester;
- Causing delays in the mortgage process by failing to answer questions related to maternity leave policies, providing confusing or unclear answers to such questions, and/or deferring such questions to another person who is unavailable;
- Refusing to provide information about whether the lender would consider an applicant's income while on paid maternity leave or whether an applicant's leave would delay the loan process;
- Making negative comments about a lender's obligation to consider paid maternity leave as income, such as comments suggesting that women are unlikely to return to work full time after childbirth; OR
- Making assumptions that: a woman is not receiving her full salary when she states that she is on paid maternity leave, or that she will not return to work after her leave, or that she does not have sufficient other resources to cover the difference between her reduced income while on leave and her post-leave income.

3. No Discrimination

For the purposes of this report, no significant evidence of discrimination refers to tests where:

- A. The lender did not make discriminatory statements regarding race, national origin, gender, familial status, or any other protected class;
- B. The lender did not make any statements indicating the existence of a discriminatory practice or policy based on race, national origin, gender, familial status, or other protected class; AND
- C. Both testers received meaningfully similar information and treatment by the lender.

AUDIT RESULTS

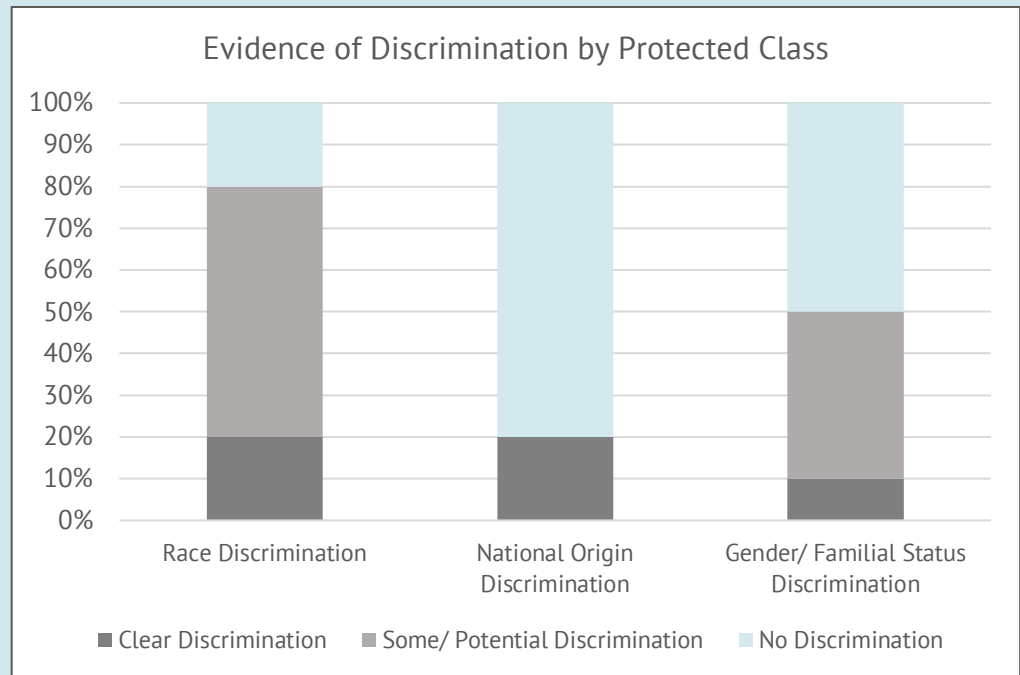
A. RACE AND GENDER/ FAMILIAL STATUS TESTS

Test #	Lender / Bank Branch City	Protected Tester Profile	Control Tester Profile	Evidence of Gender / Familial Status Discrimination	Evidence of Race Discrimination
L2122-01	Vallejo, Solano County	Black female on maternity leave	White female on maternity leave	Some/Potential Discrimination	Some/Potential Discrimination
L2122-02	Santa Rosa, Sonoma County	Black female on maternity leave	White female on maternity leave	Clear Discrimination	Clear Discrimination
L2223-03	Mill Valley, Marin County	Black female on maternity leave	White female on maternity leave	Some/Potential Discrimination	Some/Potential Discrimination
L2223-04	San Rafael, Marin County	Black female on maternity leave	White female on maternity leave	Some/Potential Discrimination	Some/Potential Discrimination
L2223-05	Vacaville, Solano County	Black female on maternity leave	White female on maternity leave	No Discrimination	No Discrimination

B. NATIONAL ORIGIN AND GENDER/ FAMILIAL STATUS TESTS

Test Number	Lender / Bank Branch City	Protected Tester Profile	Control Tester Profile	Evidence of Gender / Familial Status Discrimination	Evidence of National Origin Discrimination
L2223-06	Larkspur, Marin County	Latina female on maternity leave	white female on maternity leave	No Discrimination	No Discrimination
L2223-07	San Rafael, Marin County	Latina female on maternity leave	white female on maternity leave	No Discrimination	No Discrimination
L2223-08	Vacaville, Solano County	Latina female on maternity leave	white female on maternity leave	No Discrimination	No Discrimination
L2223-09	Petaluma, Sonoma County	Latina female on maternity leave	white female on maternity leave	Some/ Potential Discrimination	No Discrimination
L2223-10	Santa Rosa, Sonoma County	Latina female on maternity leave	white female on maternity leave	No Discrimination	Clear Discrimination

C. RESULTS BY PROTECTED CLASS



Of the ten match-paired tests conducted, six (60%) revealed at least some evidence of discrimination based on race, national origin, and/or gender/ familial status. Half (50%) revealed evidence of gender/ familial status discrimination and half (50%) revealed evidence of race or national origin discrimination. Four (40%) revealed no evidence of discrimination.

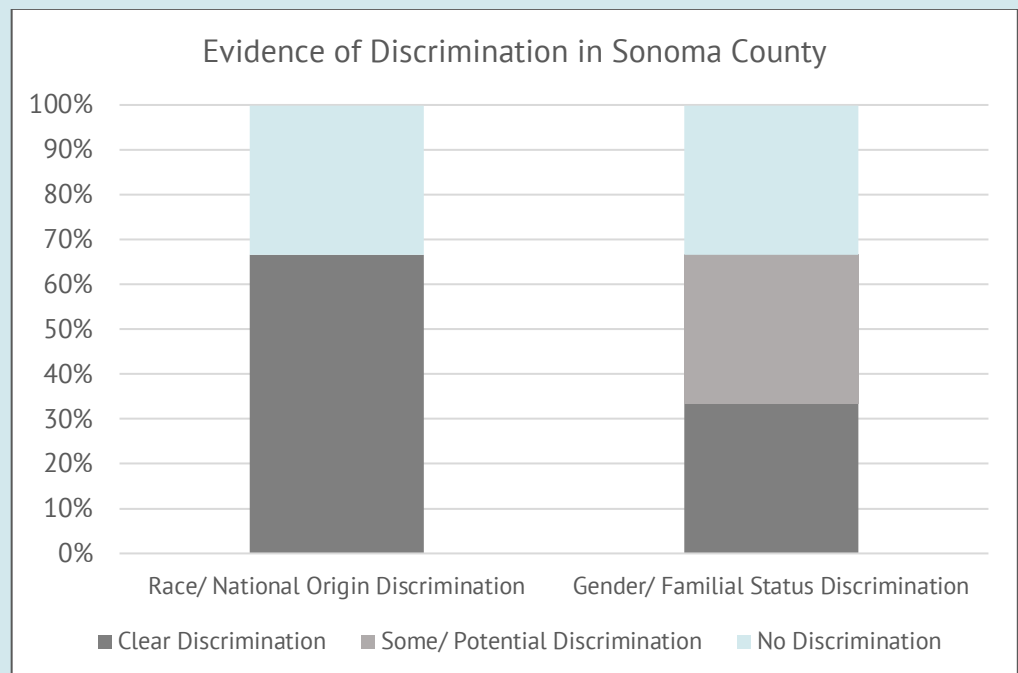
Of the five investigations conducted in which the protected tester was a Black woman, four (80%) revealed at least some evidence of race discrimination; one of which also revealed evidence of gender/ familial status discrimination. Of the five investigations conducted in which the protected tester was a Latina, one (20%) revealed clear evidence of national origin discrimination and another revealed some/ potential evidence of gender/ familial status discrimination.

Evidence of Discrimination	# of Tests	% of Tests
Evidence of Race Discrimination	4 / 5	80%
Evidence of National Origin Discrimination	1 / 5	20%
Evidence of Gender/ Familial Status Discrimination	5 / 10	50%
Evidence of Race, National Origin, Gender, and/or Familial Status Discrimination	6 / 10	60%
No Significant Evidence of Discrimination	4 / 10	40%

D. RESULTS BY GEOGRAPHIC AREA

While all ten of the lending institutions that were tested as part of this audit have multiple locations (some across the country), FHANC selected specific branches and loan officers located within its target geographic area to target for match-paired investigations. FHANC tested three loan officers/ lenders in Sonoma County, three in Solano County, and four in Marin County.

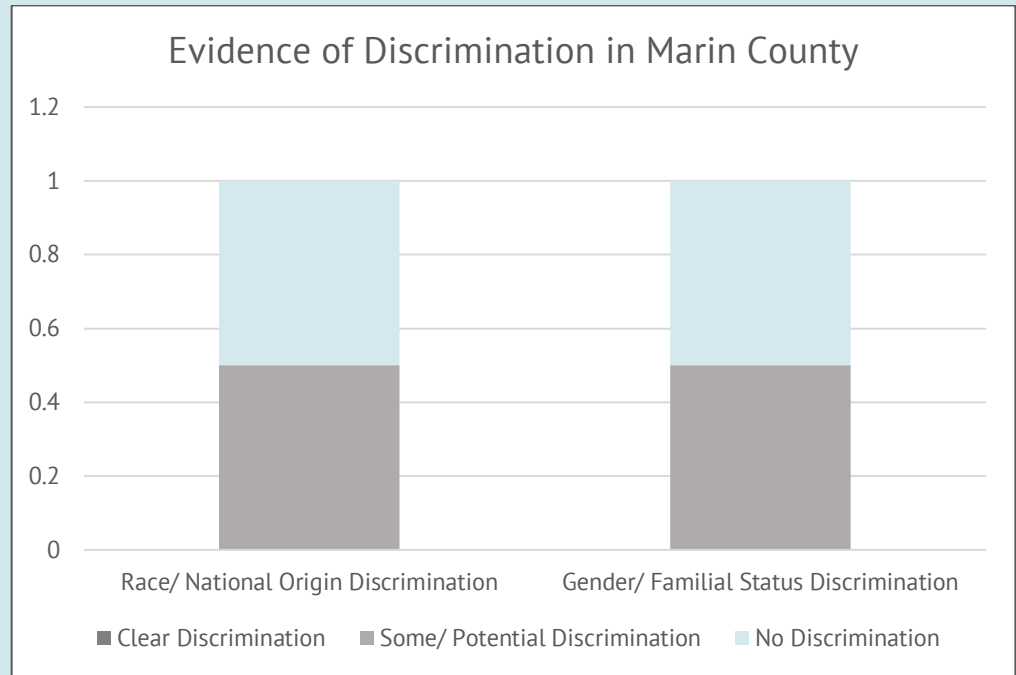
1. Sonoma County



Of the three match-paired tests conducted in Sonoma County, all three revealed some evidence of discrimination. One revealed clear evidence of both race and gender/ familial status discrimination, one revealed some/potential evidence of gender/ familial status discrimination, and one revealed clear evidence of national origin discrimination.

Evidence of Discrimination in Sonoma County	# of Tests	% of Tests
Evidence of Race or National Origin Discrimination	2 / 3	67%
Evidence of Gender/ Familial Status Discrimination	2 / 3	67%
Evidence of Race, National Origin, Gender, and/or Familial Status Discrimination	3 / 3	100%
No Significant Evidence of Discrimination	0 / 3	0%

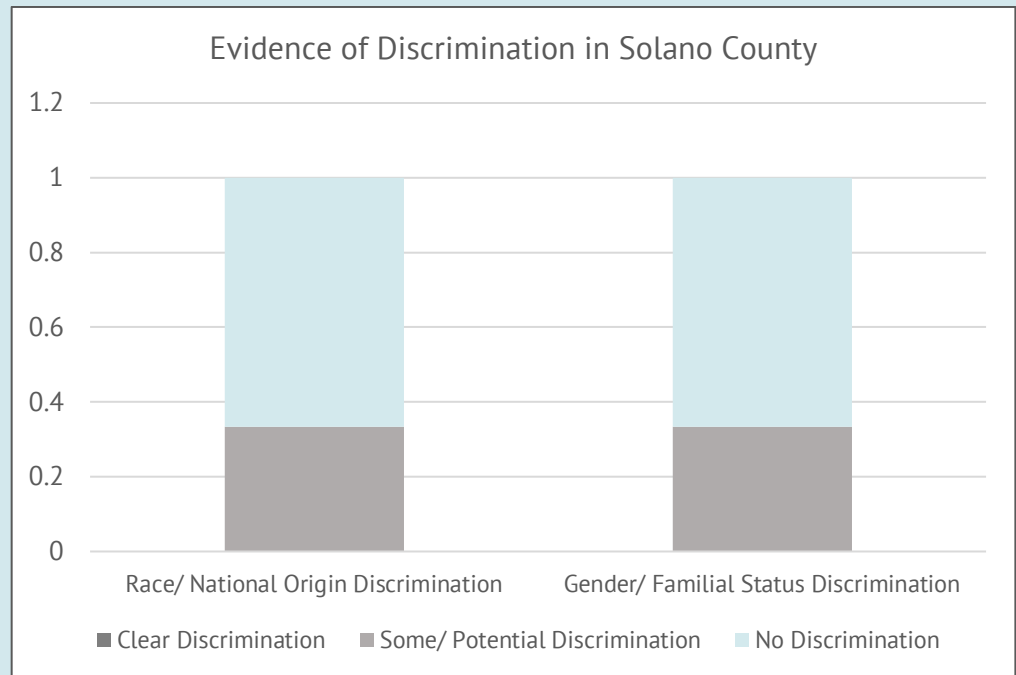
2. Marin County



Of the four match-paired tests conducted in Marin County, two revealed some/ potential evidence of race and gender/ familial status discrimination and the other two revealed no evidence of discrimination.

Evidence of Discrimination in Marin County	# of Tests	% of Tests
Evidence of Race or National Origin Discrimination	2 / 4	50%
Evidence of Gender/ Familial Status Discrimination	2 / 4	50%
Evidence of Race, National Origin, Gender, and/or Familial Status Discrimination	2 / 4	50%
No Significant Evidence of Discrimination	2 / 4	50%

3. Solano County



Of the three match-paired tests conducted in Solano County, one revealed some/ potential evidence of race, gender, and familial status discrimination while the other two revealed no evidence of discrimination.

Evidence of Discrimination in Solano County	# of Tests	% of Tests
Evidence of Race or National Origin Discrimination	1 / 3	33%
Evidence of Gender/ Familial Status Discrimination	1 / 3	33%
Evidence of Race, National Origin, Gender, and/or Familial Status Discrimination	1 / 3	33%
No Significant Evidence of Discrimination	2 / 3	67%

CONCLUSIONS

Of the ten match-paired tests conducted, 60% showed at least some evidence of discrimination based on race, national origin, gender, and/or familial status. What is even more concerning is that this is likely just the tip of the iceberg because these types of tests only examine lender behavior at the pre-application stage and therefore do not identify the full scope of potentially discriminatory conduct.

Additionally, even when FHANC determined that a test revealed no significant evidence of discrimination, lenders may still have still engaged in problematic behavior that could have been detrimental to an actual applicant. For instance, in some tests the lender informed both testers that they could make the loan work but spent more time explaining the process to the white tester or took more time to ask the white tester questions giving the white tester a slight edge over the Black tester in deciding which lender to work with. In other cases, lenders provided answers based on incorrect assumptions they made about the tester's situation that in a real-world situation could have resulted in delaying the process or incentivizing the applicant not to apply with that lender when in fact her application would likely have been approved.

Of the three match-paired tests conducted in Sonoma County, 100% showed at least some evidence of discrimination. While less discrimination was revealed in Marin and Solano Counties, at least one test in all three counties revealed some evidence of race or national origin discrimination and gender/ familial status discrimination.

Half of all the tests conducted revealed at least some evidence of race or national origin discrimination, 40% of which were based on clear evidence. Strikingly, 80% of the five match-paired tests conducted in which the protected tester was a Black woman revealed at least some evidence of race discrimination. Existing data already shows that Black and Latinx borrowers are less likely to be approved for mortgage loans than white borrowers. While some of the disparity in loan denials can be attributed to lower credit scores and higher leverage resulting in algorithmic denials for Black and Latinx borrowers, the results of this audit suggest that discrimination likely plays a role in that disparity as well.

LIMITATIONS & LESSONS LEARNED

A. PRE-APPLICATION TESTING UNDERESTIMATES THE DEGREE OF DISCRIMINATION IN THE LENDING PROCESS

By virtue of its very design and purpose, this audit does not identify the full scope of discriminatory conduct. This audit sought to measure only the degree of discrimination an individual could encounter at the pre-application stage. Because testers did not submit loan applications, this audit cannot identify lenders who dispense information freely but discriminate later in the loan process. This suggests the need to perform follow-up testing, especially in those instances where initial tests suggest differential treatment.

B. DIFFICULTIES ANALYZING VAGUE LENDER RESPONSES

There were a number of tests in which lenders provided answers based on their own misunderstanding of the tester's question or based on incorrect assumptions about the tester's situation that resulted in confusing or inconsistent responses that made it more difficult to analyze results.

For example, many lenders assumed the tester was receiving disability pay, which is typically less than an employee's full salary, while on leave despite the tester's statement that she was on paid leave. In those cases, the lender often explained a policy for calculating income that would be discriminatory if the applicant's income had not changed while on leave but would likely not be discriminatory if she were receiving less than their full pay. However, even in those cases, lenders are required to inquire about any other available resources that the applicant may have that could close the gap between her reduced pay and her full salary while she is on leave. Since none of the lenders in this audit did so, we considered those tests to be potentially discriminatory. However, if it had been clear that the lender understood that the tester was receiving her full pay while on leave, such a response would have been considered clearly discriminatory.

RECOMMENDATIONS

1. **Disseminate audit results** to Marin County, Sonoma County, and Solano County officials, the general public, media, and advocacy groups as an important educational tool.
2. **Retest lenders** where there was an indication of differential treatment or a discriminatory policy and take enforcement action when necessary.
3. **Offer fair housing and fair lending training** to lenders. The audit points out the need for continuous training in fair housing laws for lenders, with an emphasis on maternity leave policies.
4. **Work with lenders** to ensure that they are following fair lending laws and that they understand the laws. Send notices to lenders where testing showed at least some evidence of differential treatment or a discriminatory policy. Notices should inform lenders of their obligation not to discriminate on the basis of race, national origin, gender, familial status or any other protected class.
5. **Conduct additional audits.** Because discrimination is so often subtle or cloaked as helpful suggestions, it may go undetected. Comparative studies such as this one are the best way to bring such practices to light.
6. **Spread the word to potential targets.** Work with other agencies serving Black and Latinx communities to inform their clients of their fair lending rights and FHANC's available services.