



The Insular Cases and the Unincorporated Territory Doctrine and their Effects on the Civil Rights of Residents of Puerto Rico

Memorandum on Access to Federal Programs and the Role of Race in the Relationship Between the Federal Government and Puerto Rico

Puerto Rico Advisory Committee to the United States Commission on Civil Rights
January 2026

I. Introduction

The Puerto Rico Advisory Committee hosted three virtual briefings on March 6, 13, and 14, 2025 to hear testimony on the access that residents of Puerto Rico have to federal programs and the role of race in the relationship between the federal government and Puerto Rico. These briefings were part of the Committee's larger study on the Insular Cases and the Doctrine of the Unincorporated Territory and its effects on the civil rights of Puerto Rican residents.¹ This memorandum follows three others that have been published as part of the study and is the last in this series.² The

¹ Meeting records and transcripts can be found in Appendix A and B.

Public hearing before the Puerto Rico Advisory Committee to the United States Commission on Civil Rights United States, March 6, 2025, (virtual hearing), Transcript (hereinafter "Transcript 6").

Public Hearing before the Puerto Rico Advisory Committee to the United States Commission on Civil Rights, March 13, 2025, (virtual hearing), Transcript (hereinafter "Transcript 7").

Public Hearing before the Puerto Rico Advisory Committee to the United States Commission on Civil Rights, March 14, 2025, (virtual hearing), Transcript (hereinafter "Transcript 8").

² Puerto Rico Advisory Committee to the United States Commission on Civil Rights. "The Insular Cases and the Unincorporated Territory Doctrine and Their Effects on the Civil Rights of Residents of Puerto Rico." February 2024. United States Commission on Civil Rights. https://www.usccr.gov/files/2024-02/english_pr-ac_memo-1.pdf (accessed February 12, 2024).

Puerto Rico Advisory Committee to the United States Commission on Civil Rights. "The Insular Cases and the Unincorporated Territory Doctrine and Their Effects on the Civil Rights of Residents of Puerto Rico – Part II, Economic Perspectives." November 2024. United States Commission on Civil Rights.

https://www.usccr.gov/files/2024-11/english_pr-ac-memo-2.pdf (accessed November 22, 2024).

Puerto Rico Advisory Committee to the United States Commission on Civil Rights. "The Insular Cases and the Unincorporated Territory Doctrine and Their Effects on the Civil Rights of Residents of Puerto Rico – Part III, Federal Voting Rights." March 2025. United States Commission on Civil Rights. <https://www.usccr.gov/files/2025-03/english-pr-memo-3.pdf> (accessed September 30, 2025).

Committee plans to issue a final report with recommendations developed by committee members by the end of their term.

This memorandum shares the key findings identified in the testimony as described directly by the panelists and includes external sources where necessary. It begins with an overview, then highlights notable points raised by panelists throughout the findings. The Committee heard testimony on this subtopic from various legal and organizational perspectives and attempted to understand Puerto Rico's unique situation within the sociopolitical context of the United States based on the testimony received. The Committee would like to note that this memorandum primarily reflects information received through testimony as of March 2025 and does not address the various policy changes at the federal level that have occurred throughout 2025.

II. Overview

Limited Access to Federal Programs

The Committee received testimony indicating that the fact that Puerto Rico is a U.S. territory does not justify unequal treatment in the access to federal programs.³ Javier Balmaceda, Senior Policy Analyst at the Center on Budget & Policy Priorities, highlighted that federal programs are not allocated in a uniform manner across the U.S. territories and there is no territory that has full access to the entire safety net.⁴

U.S. citizens in Puerto Rico are deprived of public benefits for simply living in the U.S. territory whereas benefits such as Supplemental Security Income (SSI) are available to citizens regardless of what state they live in.⁵ This refusal on behalf of Congress to extend full federal benefits to the territories comes at a significant cost to the health and welfare of these American citizens.⁶ This divide in access to resources between Puerto Ricans who live in the contiguous states and those who live on the island is stark and has a direct effect on the livelihoods of individuals.⁷ Panelist Yomaira Figueroa-Vásquez, Director of CENTRO, the Center for Puerto Rican Studies at the City University of New York, shared the example of her mother, who has lived and worked in the mainland United States for over 50 years, but would not be able to return to Puerto Rico to retire

³ Balmaceda Testimony, Transcript 7, p. 18.

⁴ Ibid.

⁵ Andrew Hammond. “Territorial Exceptionalism and the American Welfare State.” Vol. 119, Issue 8. Michigan Law Review, p. 1639. 2021. doi: <https://doi.org/10.36644/mlr.119.8.territorial>; See also: Acevedo, Nicole. “Family who lost federal benefits for living in Puerto Rico looks to Supreme Court.” NBC News.

<https://www.nbcnews.com/news/latino/family-lost-federal-benefits-living-puerto-rico-looks-supreme-court-rcna4682> (accessed May 12, 2025).

⁶ Brief for the Public Benefits Scholars as Amicus Curiae, p. 19, *United States v. Vaeollo Madero*, 596 U.S. 159 (2022).

⁷ Figueroa-Vásquez Testimony, Transcript 8, p. 22-23.

comfortably, as she would lose access to the benefits she currently receives.⁸ Dr. Figueroa-Vásquez described this inability to return home due to federal legislative impediments as “a question of forced depopulation for our folks who have to leave because they will not get the same level of support and resources in Puerto Rico that they will if they leave to the United States...then we have not only an aging population in Puerto Rico, but more and more depopulation in Puerto Rico.”⁹

Arguments in Favor of Limited Access

A common argument used to justify why Puerto Rico is excluded from certain federal programs is that residents on the island do not pay federal income taxes and therefore cannot fully participate in these programs.¹⁰ As this Committee studied in its second memorandum on Economic Perspectives published in November 2024, Puerto Ricans do contribute through other federal taxes such as those required by the Federal Insurance Contributions Act (FICA), taxes on Social Insurance and Medicare, and the Federal Unemployment Tax Act (FUTA).¹¹ Employers are required to withhold, report, and pay employment taxes on wages paid.¹² Additionally, Puerto Rico’s contributions to the Federal Treasury are comparable to those of certain states such as Alaska and Vermont.¹³

Discretion of Congress in decision-making and allocation of funds

Panelist Jeffrey Farrow, a Government Policy Advisor who previously worked as an advisor on and coordinator of policies regarding Puerto Rico and the other territories in the Carter as well as the Clinton White Houses and in the U.S. House of Representatives in between those Administrations, shared that in 1980, the Supreme Court of the United States ruled that Puerto Rico could be treated differently from the states regarding federal programs so long as there is a rational basis for its actions.¹⁴ Based on his direct experience, the application of rational basis can be very subjective.¹⁵ Congress has continued to make clear that not paying federal taxes equally is

⁸ Figueroa-Vásquez Testimony, Transcript 8, p. 22-23.

⁹ Figueroa-Vásquez Testimony, Transcript 8, p. 23.

¹⁰ Balmaceda Testimony, Transcript 7, p. 18.

¹¹ Internal Revenue Service. “Topic no. 903, U.S. employment tax in Puerto Rico.” Tax Topics, Internal Revenue Service. Date of most recent review or update: February 29, 2024. <https://www.irs.gov/taxtopics/tc903> (accessed on April 1, 2024); *See also:* Puerto Rico Advisory Committee to the United States Commission on Civil Rights. “Los Casos Insulares y la Doctrina del Territorio No Incorporado y sus efectos en los derechos civiles de los residentes de Puerto Rico”. February 2024. United States Commission on Civil Rights. https://www.usccr.gov/files/2024-11/english_pr-ac-memo-2.pdf (accessed on May 12, 2025).

¹² Ibid.

¹³ Internal Revenue Service. “SOI Tax Stats – Gross collections by type of tax and state – IRS Data Book Table 5, 2023 Gross collection, by type of tax and state and fiscal year.” <https://www.irs.gov/statistics/soi-tax-stats-gross-collections-by-type-of-tax-and-state-irs-data-book-table-5> (accessed May 19, 2025).

¹⁴ *Harris v. Rosario*, 446 U.S. 651 (1980); *See also:* Farrow Testimony, Transcript 6, p. 4.

¹⁵ Farrow Testimony, Transcript 6, p. 14-15.

a rational basis.¹⁶ Panelist testimony indicates there is a belief that recipients of assistance in Puerto Rico would draw in more benefits than they contribute.¹⁷ Mr. Farrow shared the example of speaking with government leaders who believed it was not beneficial to provide parity in benefits to Puerto Rico because a greater proportion of residents there would receive assistance compared to the residents in the states.¹⁸

This treatment appears to be unique to the territories, as highlighted in *United State v. Vaello Madero*, a case in which the Supreme Court determined that Congress is not constitutionally required to apply Supplemental Security Income benefits to Puerto Rico due to its broad authority over the territories based on the Territory Clause and where it is noted that the decision “should not be read to imply that Congress may exclude residents of individual States from benefits programs.”¹⁹ Mainon Schwartz, a Legislative Attorney at the Congressional Research Service shared with the Committee that “there is something particular about the territorial status that gives Congress broader authority to draw distinctions...that constitutional basis for that authority doesn't exist when it comes to treating states differently from one another.”²⁰ Mr. Farrow mentioned that during his time working in federal government, he was part of discussions where decisions on funding for the territories were made and he shared that the allocated funding was usually “leftover” from what was distributed in the states and was then divided among the territories.²¹ Mr. Farrow stated “if the territories are treated differently than one another, Puerto Rico tends to be treated worse because it's so much larger and has so much greater need.”²²

III. Preliminary Findings

Finding I – There is an Urgency in the Lack of Federal Program Equity in Puerto Rico

According to the U.S. Census Bureau, a critical number of residents of Puerto Rico, approximately 40%, are living in poverty.²³ This is more than double the 18.9% poverty rate in Louisiana, the highest of any state.²⁴ The poverty rate in Puerto Rico is nearly four times greater than the national poverty rate in the U.S., which stands at 11.1%, which underlines the need for social welfare

¹⁶ Farrow Testimony, Transcript 6, p. 4.

¹⁷ Hammond Written Testimony, p. 5.

¹⁸ Farrow Testimony, Transcript 6, p. 5-6.

¹⁹ *United States v. Vaello Madero*, 596 U.S.159; *See also:* U.S. Const. Art. IV, § 3; *See also:* Schwartz Testimony, Transcript 6, p. 12.

²⁰ Schwartz Testimony, Transcript 6, p. 12.

²¹ Farrow Testimony, Transcript 6, p. 15.

²² *Ibid.*

²³ U.S. Census Bureau. “Quick Facts – Puerto Rico.” <https://www.census.gov/quickfacts/fact/table/PR/PST045224> (accessed May 20, 2025).

²⁴ U.S. Census Bureau. “Quick Facts – Puerto Rico.” <https://www.census.gov/quickfacts/fact/table/PR/PST045224> (accessed May 20, 2025); *See also:* U.S. Census Bureau. “Quick Facts – Louisiana.” <https://www.census.gov/quickfacts/fact/table/LA/PST045223> (accessed May 20, 2025); *See also:* Balmaceda Testimony, Transcript 7, p. 8.

resources in Puerto Rico.²⁵ As emphasized by Javier Balmaceda, Senior Policy Analyst at the Center on Budget and Policy Priorities, “Puerto Rico also has experienced a devastating series of natural and man-made disasters over the past 20 years or so that have greatly exacerbated hardship, including a prolonged economic recession, massive outmigration bankruptcy, hurricanes, earthquakes, and more recently, the Covid-19 pandemic.”²⁶ Puerto Rico has also exhibited higher unemployment rates and weaker public infrastructure when compared to the rest of the United States.²⁷

Panelists believe that there is no legal or economic argument preventing the government from providing full access to the safety net in Puerto Rico and that doing so would result in bringing poverty levels down immediately.²⁸ The testimony urges for such actions to be taken sooner rather than later, as full implementation of programs would be a multi-year process that includes statutory changes, regulation development, program design, planning phases, training for administrative staff, testing and rollouts.²⁹ For example, a 2022 U.S. Department of Agriculture report estimated that it can take approximately ten years for the full implementation of the Supplemental Nutrition Assistance Program in Puerto Rico.³⁰

This Finding focuses on the testimony received by the Committee which emphasized programs where there is partial or no parity, specifically: Medicaid, Supplemental Security Income, Veterans’ benefits, and nutrition assistance. Furthermore, while outside the scope of the study, the Committee notes that there are certain programs – including but not limited to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the Child Nutrition Programs including the National School Lunch Program and Summer Electronic Benefits Transfer, and the Children’s Health Insurance Program, among other programs, where Puerto Rico has full parity.³¹ The Committee did not cover such programs in this study.

²⁵ U.S. Census Bureau. “Poverty in the United States: 2023.”

<https://www.census.gov/library/publications/2024/demo/p60-283.html> (accessed May 20, 2025).

²⁶ Balmaceda Testimony, Transcript 7, p. 8.

²⁷ Andrew Hammond. “Territorial Exceptionalism and the American Welfare State.” Vol. 119, Issue 8.

Michigan Law Review, p. 1661. 2021. doi: <https://doi.org/10.36644/mlr.119.8.territorial>

²⁸ Balmaceda Testimony, Transcript 7, p. 18.

²⁹ Balmaceda Testimony, Transcript 7, p. 10.

³⁰ Ibid; *See also*: U.S. Department of Agriculture. “Research Summary: Update to Feasibility Study of Implementing USDA’s Supplemental Nutrition Assistance Program (SNAP) in Puerto Rico (Summary).” USDA Food and Nutrition Service. July 2022. <https://fns-prod.azureedge.us/sites/default/files/resource-files/PRSNAP-Feasibility-Summary.pdf> (accessed May 20, 2025).

³¹ Balmaceda Testimony, Transcript 7, p. 9; *See also*: U.S. Department of Agriculture. “WIC Program Contacts.” USDA Food and Nutrition Service. <https://www.fns.usda.gov/wic/program-contacts> (accessed May 23, 2025); *See also*: U.S. Department of Agriculture. “FNS Contacts.” USDA Food and Nutrition Service.

https://www.fns.usda.gov/fns-contacts?sort_bef_combine=title_fulltext_ASC&f%5B0%5D=fns_contact_related_programs%3A39&f%5B1%5D=fns_contact_state%3A277 (accessed May 23, 2025); *See also*: Departamento de la Familia ADSEF. “Summer Pandemic EBT.” Gobierno de Puerto Rico. <https://serviciosenlinea.adsef.pr.gov/programas/summer-pandemic-ebt.html> (accessed May 23, 2025); *See also*: Andrew Hammond, Ariel Jurow Kleiman, Gabriel Scheffler. “The Future of Anti-Poverty Legislation.” The Georgetown Law Journal. Vol. 112:349, p. 361.

Examples of Successful Implementation of Federal Programs

The Committee heard testimony supporting Puerto Rico's full and equitable inclusion as a recipient of federal programs. Mr. Balmaceda shared the example of how the expansion of the Child Tax Credit (CTC) and the Earned Income Tax Credit (EITC) in Puerto Rico after the passage of the American Rescue Plan Act of 2021 (ARPA) led to transformational outcomes for residents.³² The expansion of the CTC drastically reduced Puerto Rico's child poverty rate from 55% to 39% in 2021 alone.³³ As the Committee noted in its first memorandum published in 2024, under ARPA, the CTC had a \$1.78 billion impact on the economy and a 16% increase in the average family income.³⁴ Additionally, ARPA extended an annual federal supplement of approximately \$600 million to complement the local EITC program, signifying the first time federal funds were allocated to Puerto Rico since the establishment of the EITC in 1975.³⁵ It was projected that these changes to the EITC would help more than 125,000 people rise above the federal poverty line.³⁶

Expected 2027 Lapse in Federal Funding for Medicaid

Despite these positive outcomes, a major concern facing the future of federal benefits in Puerto Rico is that the current package of federal funding allotted to the island's Medicaid program is expected to lapse. Although the Consolidated Appropriations Act of 2023 provided Puerto Rico with the highest ever annual allotments awarded to the territory, it is a 5-year funding package that will expire in 2027.³⁷ Among other benefits, the package extends certain adjustments to federal Medicaid payments to the U.S. territories.³⁸ According to the testimony, it is estimated that this increased funding provides approximately \$3 billion on average, per year, for Medicaid in Puerto

³² 117 P.L. 2. (2021); *See also:* Balmaceda Testimony, Transcript 7, p. 9.

³³ Balmaceda Testimony, Transcript 7, p. 9; *See also:* Maria Enchaitegui et al., "The Child Tax Credit in Puerto Rico: Impacts on Poverty and the Lives of Families," Instituto del Desarrollo de la Juventud, December 2022, https://cdn.prod.website-files.com/60f311e9e2e57d523d28bba2/63daae156a73f956790a4e30_EN-CTC2022-20230123.pdf.

³⁴ Puerto Rico Advisory Committee to the United States Commission on Civil Rights. "The Insular Cases and the Doctrine of Unincorporated Territory and Their Effects on the Civil Rights of Puerto Rico Residents." February 2024. United States Commission on Civil Rights. https://www.usccr.gov/files/2024-02/spanish_pr-ac_memo-1.pdf (accessed on February 12, 2024).

³⁵ H.R. 1319, 117th Cong. (2021); *See also:* Internal Revenue Service. "Celebrating 50 years of Earned Income Tax Credit." Earned Income Tax Credit & Other Refundable Credits. Page Last Reviewed or Updated April 10, 2025. <https://www.eitc.irs.gov/eitc-central/50-years-of-earned-income-tax-credit> (accessed May 22, 2025); *See also:* Balmaceda Testimony, Transcript 7, p. 9; *See also:* Daniel Santamaría et al., "Federal Contribution to Puerto Rico's Earned Income Tax Credit Program: Progress, Challenges, and Opportunities," Espacios Abiertos, April 5, 2024 https://drive.google.com/file/d/1UEywCnPxJrwHVMHwyBpxmBs_OqbDY0nG/view.

³⁶ Balmaceda Testimony, Transcript 7, p. 9; Daniel Santamaría et al., "Federal Contribution to Puerto Rico's Earned Income Tax Credit Program: Progress, Challenges, and Opportunities," Espacios Abiertos, April 5, 2024 https://drive.google.com/file/d/1UEywCnPxJrwHVMHwyBpxmBs_OqbDY0nG/view.

³⁷ Consolidated Appropriations Act, 2023, P.L. 117-328, section 5101; *See also:* Balmaceda Testimony, Transcript 7, p. 9-10.

³⁸ Consolidated Appropriations Act, 2023, P.L. 117-328, section 5101.

Rico, while the statutory amount typically stands at approximately \$400 million.³⁹ A lapse in this funding would be catastrophic and Puerto Rico would not be able to make up the difference.⁴⁰

Federal Programs as Described in the Testimony

Medicaid

Medicaid is a joint federal-state program that finances the delivery of medical services to low-income individuals.⁴¹ The Committee heard testimony about how the U.S. territories receive federal funding for Medicaid differently than in the states.⁴² Panelist Alison Mitchell, Specialist in Health Care Financing at the Congressional Research Service, explained to the Committee that Medicaid funding to the territories has changed over time. Funding was initially open-ended for the territories when Medicaid was first established in 1965 and was later capped at specific amounts codified in law for each territory from starting in fiscal year 1968 through fiscal year 1994.⁴³ Starting in fiscal year 1995, the funding was determined by each territory's prior year funding, increased by the change in the medical component for the consumer price index (CPIU).⁴⁴

Over time, the U.S. territories have tended to exhaust their federal funding amounts on an annual basis until the Patient Protection and Affordable Care Act of 2010 provided significant additional federal funding for the territories that has been consistent since it was implemented in 2011.⁴⁵ Current Medicaid funding for Puerto Rico, as established by the Consolidated Appropriations Act of 2023, is set at specific capped amounts until fiscal year 2027.⁴⁶ This is in contrast to the other territories, where funding is dependent on a review of funding from the prior year.⁴⁷ Puerto Rico can also receive additional federal Medicaid funding if it meets certain conditions related to Medicaid physician payment rates and program integrity in addition to the Enhance Allotment Program which can be used to provide prescription drug coverage for low-income Medicare beneficiaries.⁴⁸ Despite this, the capped funding does not allow for federal matching funds for all medical assistance provided to eligible residents in Puerto Rico as in the states.⁴⁹

³⁹ Balmaceda Testimony, Transcript 7, p. 15.

⁴⁰ Balmaceda Testimony, Transcript 7, p. 15, 9-10.

⁴¹ Mitchell Testimony, Transcript 6, p. 7.

⁴² *Committee Note:* In addition to funding differences between the states and territories, Medicaid rules apply differently among the territories themselves as well. Please see the written testimony submitted by Alison Mitchell (Appendix C) for additional information on Section 1902J waivers applied in American Samoa and Guam.

⁴³ Mitchell Testimony, Transcript 6, p. 7-8; *See also:* Mitchell Written Testimony, p. 1.

⁴⁴ Mitchell Testimony, Transcript 6, p. 7-8.

⁴⁵ Patient Protection and Affordable Care Act of 2010, Pub L. 111-148, 124 Stat. 119 (codified as 42 U.S.C. Ch. 157); *See also:* Mitchell Testimony, Transcript 6, p. 8; *See also:* Mitchell Written Testimony, p. 2.

⁴⁶ Consolidated Appropriations Act, 2023, 117 P.L. 328 §5101. 117th Cong. (2021-2022); *See also:* Mitchell Written Testimony, p. 3.

⁴⁷ Mitchell Testimony, Transcript 6, p. 8.

⁴⁸ 42 C.F.R. § 438.6(c), special contract provisions related to payment; *See also,* Mitchell Written Testimony, p. 4-5.

⁴⁹ Andrew Hammond. “Territorial Exceptionalism and the American Welfare State.” Vol. 119, Issue 8.

Michigan Law Review, p. 1667. 2021. doi: <https://doi.org/10.36644/mlr.119.8.territorial>

Panelists indicated that the lack of open-ended funding in the territories leads to inadequate health services and enhances vulnerability if healthcare needs increase due to emergencies.⁵⁰ Furthermore, Puerto Rico's Medicaid program cannot cover certain services such as care in nursing homes, home health services and the full range of benefits for children.⁵¹ If Medicaid were to ever be fully implemented in Puerto Rico, it is likely that a lengthy implementation timeline would be needed as the island would need to gradually develop a large amount of physical infrastructure to provide mandatory Medicaid services, such as long-term care.⁵²

Federal Medicaid expenditures are determined at the state level annually by the federal medical assistance percentage rate (FMAP rate), which can range from 50% to 83%, and depends on each state's per capita income.⁵³ As panelist Alison Mitchell explained,

“States with a higher per capita income have a lower FMAP or federal matching rate, and states with a lower per capita income have a higher FMAP or federal matching rate. And this amount is set in statute...for a state that has a 50% FMAP, how that operates is that the state pays a dollar in most Medicaid expenditures and they can draw down 50 cents from the federal government.”⁵⁴

Notably, per capita income data is reported by the U.S. Department of Commerce's Bureau of Economic Analysis, which is not collected in the territories.⁵⁵ If the formula used in the states to determine the FMAP rate was applied in the territories, it is likely that the rates would be higher than in the states.⁵⁶

According to panelist Alison Mitchell, for most of Medicaid's history, the FMAP rate has fluctuated in the territories between 50% to 55%, although it has increased since fiscal year 2020 as a result of various laws.⁵⁷ The FMAP rate currently stands at 83% for American Samoa, the Northern Mariana Islands, Guam, and the U.S. Virgin Islands, and at 76% for Puerto Rico.⁵⁸ This increased FMAP rate, along with the funding allocated through the Consolidated Appropriations Act of 2023, has allowed Puerto Rico's Medicaid program to provide Hepatitis C drug coverage, increase reimbursement rates to specialty and primary care providers and hospitals, and increase coverage by expanding Medicaid eligibility in the territory.⁵⁹

⁵⁰ Cruz Testimony, Transcript 7, p. 12; *See also:* Balmaceda Testimony, Transcript 7, p. 8.

⁵¹ Balmaceda Testimony, Transcript 7, p. 10.

⁵² Balmaceda Testimony, Transcript 7, p. 10.

⁵³ Congressional Research Service. “Medicaid's Federal Medical Assistance Percentage (FMAP).” CRS Report R43847. <https://www.congress.gov/crs-product/R43847> (accessed June 2, 2025); *See also:* Mitchell Written Testimony, p. 3.

⁵⁴ Mitchell Testimony, Transcript 6, p. 8-9.

⁵⁵ Mitchell Written Testimony, p. 3.

⁵⁶ *Ibid.*

⁵⁷ Mitchell Written Testimony, p. 3.

⁵⁸ Congressional Research Service. “Medicaid Financing for the Territories.” Updated June 22, 2023.

https://www.congress.gov/crs_external_products/IF/PDF/IF11012/IF11012.11.pdf (accessed December 11, 2025).

⁵⁹ Consolidated Appropriations Act, 2023, H.R. 2617 §5101. 117th Cong. (2021-2022); *See also:* Balmaceda Written Testimony, p. 4.

Starting in fiscal year 2028, funding is expected to decrease significantly to amounts comparable to those prior to 2010.⁶⁰ The FMAP rate in Puerto Rico will return to 55% if no legislative action is taken at the time the current funding expires in fiscal year 2027.⁶¹ The current FMAP rates in Puerto Rico through fiscal year 2027 are as follows:

- \$3.275 billion for FY2023;
- \$3.325 billion for FY2024,
- \$3.475 billion for FY2025,
- \$3.645 billion for FY2026, and
- \$3.825 billion for FY2027.⁶²

Supplemental Security Income⁶³

Supplemental Security Income (SSI) is a federal program that provides monthly payments to people with disabilities and older adults who have little or no income or resources.⁶⁴ The program represents the notion that people with disabilities are entitled to lead dignified lives no matter where they live.⁶⁵ Recipients must be residents of the United States in order to be eligible for SSI benefits.⁶⁶ For the purposes of the statute that establishes SSI, the United States is defined in a geographical sense as including the 50 states and the District of Columbia and does not include the U.S. territories except for the Northern Mariana Islands.⁶⁷

The Aid to the Aged, Blind, or Disabled (AABD) program, which predates SSI, is available to eligible residents in Puerto Rico, Guam, and the U.S. Virgin Islands, although its benefit amounts are smaller than SSI and the program requirements vary.⁶⁸ For example, the average monthly AABD benefit in Puerto Rico is less than \$100, compared to the over \$500 eligible recipients receive under SSI.⁶⁹ Like the Medicaid program, Puerto Rico receives capped federal funding for

⁶⁰ Mitchell Written Testimony, p. 3.

⁶¹ Ibid.

⁶² Mitchell Written Testimony, p. 4.

⁶³ For additional testimony on challenges related to the lack of access to SSI, please see Preliminary Finding V in the Puerto Rico Advisory Committee Memorandum “The Insular Cases and the Doctrine of the Unincorporated Territory and its Effects on the Civil Rights of the Residents of Puerto Rico Overview Memorandum – Part I,” p. 15-22, https://www.usccr.gov/files/2024-02/english_pr-ac_memo-1.pdf (accessed June 5, 2025).

⁶⁴ Social Security. “Supplemental Security Income (SSI).” <https://www.ssa.gov/ssi> (accessed June 5, 2025).

⁶⁵ Brief for the Public Benefits Scholars as Amicus Curiae, p. 2, *United States v. Vaello Madero*, 596 U.S. 159 (2022).

⁶⁶ 42 U.S.C §1382c(a)(1)(B)(i); *See also:* Schwartz Written Testimony, p. 1.

⁶⁷ 42 U.S. Code §1382c(e); *See also:* Schwartz Written Testimony, p. 1; *See also:* Brief for the Public Benefits Scholars as Amicus Curiae, p. 5, *United States v. Vaello Madero*, 596 U.S. 159 (2022).

⁶⁸ Social Security Office of the Chief Actuary Letter to Puerto Rico Senator William E. Villafañe Ramos. November 8, 2024. Social Security Administration https://www.ssa.gov/oact/solvency/VillafaneRamos_20241108.pdf (accessed June 5, 2024); Balmaceda Testimony, Transcript 7, p. 8, 24; Farrow Testimony, Transcript 6, p. 5; Brief for the Public Benefits Scholars as Amicus Curiae, p. 5, *United States v. Vaello Madero*, 596 U.S. 159 (2022).

⁶⁹ Brief for the Public Benefits Scholars as Amicus Curiae, p. 5, *United States v. Vaello Madero*, 596 U.S. 159 (2022).

AABD, which limits the services it can provides when compared to the states.⁷⁰ According to panelists, this lesser quantity of services provided, combined with the lack of SSI benefits in Puerto Rico “deprive low-income, elderly, and disabled individuals of necessary support.”⁷¹

In 2022, the Supreme Court of the United States decided to not extend SSI benefits to Puerto Rico in the *United States v. Vaello-Madero* case.⁷² Written testimony submitted by Mainon Schwartz of the Congressional Research Services explains the basis for the case:

“While living in New York, José Luis Vaello-Madero became eligible for, and began receiving, SSI disability benefits. He later moved to Puerto Rico, where he continued to receive SSI payments.

When the Social Security Administration became aware of Vaello-Madero’s continued receipt of SSI payments, it sued Vaello-Madero to recover the payments he received while living in Puerto Rico on the grounds that Puerto Rico residents are ineligible to receive SSI benefits. In response, Vaello-Madero argued that excluding Puerto Rico residents from SSI eligibility was unconstitutional — specifically, that it violated his Fifth Amendment right to equal protection under the law.”⁷³

Despite the District Court and Court of Appeals agreeing with Mr. Vaello Madero, the Supreme Court used the rational basis test to determine that Congress was not required to extend SSI to Puerto Rico.⁷⁴ In addition to invoking Congress’ discretion over the territories through the Territory Clause, the Supreme Court highlighted that the fact that residents of Puerto Rico are exempt from federal income, gift, estate, and excise taxes provides a rational basis for treating them differently than residents of the states for purposes of SSI.⁷⁵ Furthermore, the Court stated that extending SSI to Puerto Rico could lead to “far-reaching consequences” such as Congress needing to extend other federal benefit programs to the territories, resulting in the possibility of federal taxes – and a significantly increased financial burden – being imposed on Puerto Rico.⁷⁶

Panelist Jeffrey Farrow spoke to the Committee about his experience in hearing arguments that used Puerto Rico’s tax status and the fear of heightened costs to deny the extension of SSI to Puerto Rico. He shared with the Committee that the chairman of the Finance Committee in the Senate blocked SSI because “income that U.S. companies received

⁷⁰ Center on Budget and Policy Priorities. “Policy Basics: Aid to the Aged, Blind, and Disabled.” Updated January 15, 2021. <https://www.cbpp.org/research/social-security/policy-basics-aid-to-the-aged-blind-and-disabled> (accessed June 5, 2024).

⁷¹ Cruz Testimony, Transcript 7, p. 12.

⁷² *United States v. Vaello Madero*, 596 U.S. 159 (2022).

⁷³ *United States v. Vaello Madero*, 596 U.S. 159 (2022); *See also:* Schwartz Written Testimony, p. 3.

⁷⁴ *United States v. Vaello Madero*, 596 U.S. 159 (2022); *See also:* Schwartz Written Testimony, p. 4.

⁷⁵ *United States v. Vaello Madero*, 596 U.S. 159 (2022); *See also:* U.S. Const. art. IV, § 3.

⁷⁶ *United States v. Vaello Madero*, 596 U.S. 159 (2022).

through Puerto Rico was exempt from federal taxes.”⁷⁷ Additionally, he shared that the Bush Administration had seriously considered extending SSI to Guam but stopped short of doing so because it “would have buttressed the case for extending it to Puerto Rico. And the [Office of Management and Budget] felt the cost would be too great to extend it to Puerto Rico.”⁷⁸

In written materials submitted to the Committee, Andrew Hammond, Professor of Law at the Indiana University Maurer School of Law, stated that basing the decision on Puerto Rico’s exclusion from federal taxes is:

“a confused justification for excluding any group of Americans from SSI. As a means-tested program, SSI’s eligibility rules are not based on past or future federal tax payments. SSI is a program that only kicks in when an applicant has been shown to have insufficient work history to qualify for Social Security Disability Insurance and has little or no income. The idea that Congress could use a logic of contributory insurance to justify a noncontributory (i.e., means-tested) program is odd.”⁷⁹

Professor Hammond further wrote about how no other group of Americans are excluded from programs because they do not pay income taxes and that it is “highly unlikely that many Americans who receive SNAP, SSI, or Medicare Part D have any federal income tax liability.”⁸⁰

The Nutrition Assistance Program and Food Sovereignty in Puerto Rico

Since 1982, the Nutrition Assistance Program (NAP) offers financial assistance to over 1 million eligible low-income households in Puerto Rico to help fulfill their nutrition needs.⁸¹ Previous to NAP, the Supplemental Nutrition Assistance Program (SNAP) that currently operates in the states was also available in Puerto Rico from 1974 to 1981.⁸² Puerto Rico was removed from the national food assistance program as a result of the Omnibus Budget Reconciliation Act of 1981.⁸³ In

⁷⁷ Farrow Testimony, Transcript 6, p. 5.

⁷⁸ Ibid.

⁷⁹ Andrew Hammond. “Territorial Exceptionalism and the American Welfare State.” Vol. 119, Issue 8. Michigan Law Review, p. 1683. 2021. doi: <https://doi.org/10.36644/mlr.119.8.territorial>

⁸⁰ Ibid.

⁸¹ USDA Food and Nutrition Service. “Summary of Nutrition Assistance Program – Puerto Rico (NAP).” <https://fns-prod.azureedge.us/sites/default/files/resource-files/Puerto-Rico-NAP-Summary.pdf> (accessed June 10, 2025); *See also:* Departamento de la Familia. “Programa de Asistencia Nutricional – PAN.” Administración de Desarrollo Socioeconómico de la Familia <https://serviciosenlinea.adsef.pr.gov/adsefdigital/Pdf/PAN%20Requisitos.pdf> (accessed June 10, 2025); *See also:* Balmaceda Testimony, Transcript 7, p. 8.

⁸² USDA Food and Nutrition Service. “Summary of Nutrition Assistance Program – Puerto Rico (NAP).” <https://fns-prod.azureedge.us/sites/default/files/resource-files/Puerto-Rico-NAP-Summary.pdf> (accessed June 10, 2025); *See also:* Balmaceda Testimony, Transcript 7, p. 24.

⁸³ Andrew Hammond. “Territorial Exceptionalism and the American Welfare State.” Vol. 119, Issue 8. Michigan Law Review, p. 1683. 2021. doi: <https://doi.org/10.36644/mlr.119.8.territorial>; *See also:* Balmaceda Testimony, Transcript 7, p. 24; *See also:* Farrow Testimony, Transcript 6, p. 5.

addition to Puerto Rico, NAP also operated in American Samoa and the Northern Mariana Islands.⁸⁴

NAP is administered by the local government agency Administration for Socioeconomic Development of Family which designs its own program rules that are approved by the U.S. Department of Agriculture Food and Nutrition Service.⁸⁵ The NAP program is funded through a federal block grant which pays for 100 percent of benefits and 50 percent of administrative costs.⁸⁶ Due to the limited funding through the block grant, there is increased NAP participation and decreased benefits.⁸⁷ As a result, the U.S. territories that manage NAP tend to “impose stricter eligibility requirements and confer reduced benefit amounts.”⁸⁸ NAP differs from SNAP in that the general income limits and benefit levels are lower, although there are incentives to purchase from local markets in Puerto Rico and there is a 20 percent increased benefit amount for elderly recipients.⁸⁹

Panelists highlighted that when Puerto Rico transitioned from SNAP to NAP, participation rates fell dramatically from 60 percent to 30 percent due to the limited funding and inability to assist the same number of people.⁹⁰ Professor Hammond indicated in his written testimony that “the families that do receive assistance get less than their mainland counterparts: A family of three in the lower 48 can receive up to \$535 in food assistance while that same family in Puerto Rico can receive only \$315. The average benefit is even smaller - just \$149.51.”⁹¹

In response to the ongoing nutritional needs in Puerto Rico, panelist Roberto Cruz, Managing Attorney at Latino Justice PRLDEF, focused his testimony not only on the importance of securing parity in nutritional assistance but in achieving food sovereignty. He explained that “the island imports approximately 85% of its food, making it highly vulnerable to supply chain disruptions and price fluctuations.”⁹² This reliance on outside food sources keeps Puerto Rico from becoming self-sustainable, which would be especially vital in the aftermaths of natural disasters, as was seen

⁸⁴ Andrew Hammond. “Territorial Exceptionalism and the American Welfare State.” Vol. 119, Issue 8. Michigan Law Review, p. 1683. 2021. doi: <https://doi.org/10.36644/mlr.119.8.territorial>.

⁸⁵ USDA Food and Nutrition Service. “Summary of Nutrition Assistance Program – Puerto Rico (NAP).” <https://fns-prod.azureedge.us/sites/default/files/resource-files/Puerto-Rico-NAP-Summary.pdf> (accessed June 10, 2025).

⁸⁶ USDA Food and Nutrition Service. “Summary of Nutrition Assistance Program – Puerto Rico (NAP).” <https://fns-prod.azureedge.us/sites/default/files/resource-files/Puerto-Rico-NAP-Summary.pdf> (accessed June 10, 2025); *See also:* Hammond Written Testimony p. 3.

⁸⁷ *Ibid.*

⁸⁸ Hammond Written Testimony p. 3.

⁸⁹ USDA Food and Nutrition Service. “Summary of Nutrition Assistance Program – Puerto Rico (NAP).” <https://fns-prod.azureedge.us/sites/default/files/resource-files/Puerto-Rico-NAP-Summary.pdf> (accessed June 10, 2025).

⁹⁰ Brief for the Public Benefits Scholars as Amicus Curiae, p. 20-21, *United States v. Vaejollo Madero*, 596 U.S. 159 (2022); *See also:* Hammond Written Testimony p. 4.

⁹¹ Hammond Written Testimony p. 4.

⁹² Cruz Testimony, Transcript 7, p. 12.

after Hurricane Maria.⁹³ As Mr. Cruz explained, “the lack of a robust local agricultural system resulted in thousands of Puerto Ricans going hungry as ships could not dock at the storm-battered ports. Today, Puerto Rico is vulnerable still in the face of the climate and geopolitical events that disrupt its food supply chain.”⁹⁴

Mr. Cruz brought forth a proposed solution of redirecting USDA agricultural funds to incentivize local food production within Puerto Rico.⁹⁵ This could be done in a culturally competent way that directly aids farmers, community land trusts and other partners and could assist in a potential transition back to the SNAP program.⁹⁶ Mr. Cruz suggested that the funds be designed as a way to incentivize the local economy and be provided directly to farmers and business owners who are likely to invest in the community as this would be an effective strategy in strengthening the local economy.⁹⁷

Resources for Veterans

Healthcare

One of the populations that is greatly affected by the inequitable access to federal programs is U.S. veterans residing in Puerto Rico, where there is a population of over 73,000 veterans and only one Department of Veterans Affairs medical center and eight outpatient clinics.⁹⁸ Mr. Alex Ortiz,⁹⁹ a Veterans Policy Analyst and Member of the Advisory Committee on Outlying Areas and Freely Associated States under the Department of Veterans Affairs, focused his testimony on the implications of limited access to benefits for veterans and highlighted the issues they face in relation to healthcare.

In addition to being excluded from Supplemental Security Income like other residents of Puerto Rico, Mr. Ortiz estimated based on his analysis that there are approximately 36,000 veterans who do not receive disability compensation, resulting in a loss of \$134 million worth of benefits, per month.¹⁰⁰

The effects of inequitable access to federal programs extend beyond monthly benefits for veterans and impact various aspects of the healthcare system, including the infrastructure of healthcare facilities. Mr. Ortiz shared the example of the efforts to build a Fisher House at the San Juan

⁹³ Cruz Testimony, Transcript 7, p. 12.

⁹⁴ Ibid.

⁹⁵ Cruz Testimony, Transcript 7, p. 12-13.

⁹⁶ Ibid.

⁹⁷ Cruz Testimony, Transcript 7, p. 17.

⁹⁸ United States Government Accountability Office. “Veterans Affairs: Actions Needed to Improve Access to Care in the U.S. Territories and Freely Associated States.” May 2024, GAO-24-106364, p. 6, 10.

<https://www.gao.gov/assets/gao-24-106364.pdf> (accessed June 20, 2025).

⁹⁹ Mr. Ortiz also served as a panelist at the Puerto Rico Advisory Committee’s inaugural briefing in May 2023. The memorandum and associated briefing records based on testimony received at that briefing can be found here:

https://www.usccr.gov/files/2024-02/english_pr-ac_memo-1.pdf.

¹⁰⁰ Ortiz Testimony, Transcript 7, p. 5, 17.

Department of Veterans Affairs Medical Center.¹⁰¹ There are dozens of Fisher Houses throughout the country and even internationally that offer accommodations to military families while their loved ones are hospitalized.¹⁰² Mr. Ortiz explained that although funding for the project had been approved, it did not advance as scheduled.¹⁰³ Similarly, funding that had been approved by Congress for Department of Veterans Affairs hospital and clinic repairs and improvements in Puerto Rico after Hurricanes Maria and Irma in 2017 were substantially delayed, leaving buildings in a vulnerable state for extended periods of time.¹⁰⁴

Additionally, a 2024 U.S. Government Accountability Office report highlighted how veterans in Puerto Rico have faced challenges in being reimbursed for travel to medical appointments in the mainland and that the Veterans Health Administration had not sufficiently addressed access to care in the U.S. territories.¹⁰⁵ The Department of Veteran Affairs provides reimbursements to qualifying veterans for medical appointments.¹⁰⁶ Although Puerto Rico is listed in the definition of the United States for purposes of geographic qualifications for the travel benefit, 51% of veterans in Puerto Rico were not eligible for travel reimbursement because they were seeking care for services that did not meet the required criteria.¹⁰⁷ This results in veterans themselves being responsible for their travel costs for needed care.¹⁰⁸

Oftentimes, veterans in Puerto Rico must travel outside the island for healthcare services due to the lack of subspecialties and advanced treatment facilities at the San Juan Department of Veterans Affairs Medical Center in comparison other such centers on the mainland.¹⁰⁹ Mr. Ortiz noted: “There is no Department of Veterans Affairs Trauma Center on the island and only recently was a full service inpatient psychiatric unit in Puerto Rico inaugurated, and that had its own shortcomings.”¹¹⁰ This deficiency in specialized services, as described below by Mr. Ortiz, has also led to a “brain drain” of physicians who have left Puerto Rico:

¹⁰¹ Ortiz Testimony, Transcript 7, p. 4.

¹⁰² Fisher House. “Fisher House Directory.”

<file:///C:/Users/vmoreno/Downloads/CURRENT%20Fisher%20House%20Foundation%20Directory.pdf> (accessed June 20, 2025); See also: Fisher House. “About.” <https://fisherhouse.org/about/> (accessed June 20, 2025).

¹⁰³ Ortiz Testimony, Transcript 7, p. 4.

¹⁰⁴ Ibid.

¹⁰⁵ United States Government Accountability Office. “Veterans Affairs: Actions Needed to Improve Access to Care in the U.S. Territories and Freely Associated States.” May 2024, GAO-24-106364, p. 15.

<https://www.gao.gov/assets/gao-24-106364.pdf> (accessed June 20, 2025); See also: Ortiz Testimony, Transcript 7, p. 5.

¹⁰⁶ 38 U.S.C. §111(b).

¹⁰⁷ 38 C.F.R. §70.2; See also: 38 U.S.C. §111(b); See also: United States Government Accountability Office. “Veterans Affairs: Actions Needed to Improve Access to Care in the U.S. Territories and Freely Associated States.” May 2024, GAO-24-106364, p. 20. <https://www.gao.gov/assets/gao-24-106364.pdf> (accessed June 20, 2025).

¹⁰⁸ United States Government Accountability Office. “Veterans Affairs: Actions Needed to Improve Access to Care in the U.S. Territories and Freely Associated States.” May 2024, GAO-24-106364, p. 20.

<https://www.gao.gov/assets/gao-24-106364.pdf> (accessed June 20, 2025).

¹⁰⁹ Ortiz Testimony, Transcript 7, p. 4-5.

¹¹⁰ Ibid.

“Certain care, for example, specialized surgery, some cancer treatment, spinal cord injury rehabilitation, and bariatric surgeries which have been risen in the amounts that are being done every year often cannot be performed on the island. The Department of Veterans Affairs has tried to bridge these gaps by contracting private sector providers in Puerto Rico throughout community care programs, but there are too many significant hurdles. Puerto Rico has suffered the general exodus of healthcare professionals in recent years because physicians are getting paid more on the mainland and have less issues to deal with, leaving critical shortages of specialists such as neurologists, oncologists, and orthopedic surgeons at the VA hospital.”¹¹¹

Mr. Ortiz further described a dire situation in the healthcare system in Puerto Rico, in which providers typically complain about “slow reimbursements and bureaucratic hassles, outdated forms, and having to deal with electronic system that Department of Veterans Affairs usually doesn't train them in order to be able to participate.”¹¹² This environment has also negatively affected the acquisition of needed medical equipment. For example, the VA Medical Center in San Juan lags behind other VA medical centers in receiving new medical services and devices.¹¹³ Certain services, such as cardiac device monitoring services, have had a delay of up to 10 years.¹¹⁴ There have been vendors for such services that have built their systems only for the continental U.S. and have had to adjust their system to include Puerto Rico after intervention from the VA's Strategic Acquisition Center.¹¹⁵ Similar contractual issues have occurred for acquiring equipment such as scopes for medical procedures such as colonoscopies.¹¹⁶ This, along with delayed reimbursements and outdated technology, has created a challenging environment for a smaller network of specialists available to treat veterans on the island. According to Mr. Ortiz, “Puerto Rico continues to face that significant obstacles further hindering veterans access to timely and quality medical care. Veterans should never be forced to navigate complex jurisdictional mazes solely because of their place of residence.”¹¹⁷

¹¹¹ Ortiz Testimony, Transcript 7, p. 5.

¹¹² Ibid.

¹¹³ Ortiz Testimony, Transcript 7, p. 6; *See also:* United States Government Accountability Office. “Veterans Affairs: Actions Needed to Improve Access to Care in the U.S. Territories and Freely Associated States.” May 2024, GAO-24-106364, p. 27. <https://www.gao.gov/assets/gao-24-106364.pdf> (accessed June 20, 2025).

¹¹⁴ Ibid.

¹¹⁵ Ortiz Testimony, Transcript 7, p. 4, 5; *See also:* United States Government Accountability Office. “Veterans Affairs: Actions Needed to Improve Access to Care in the U.S. Territories and Freely Associated States.” May 2024, GAO-24-106364, p. 28. <https://www.gao.gov/assets/gao-24-106364.pdf> (accessed June 20, 2025).

¹¹⁶ Ortiz Testimony, Transcript 7, p. 6; *See also:* United States Government Accountability Office. “Veterans Affairs: Actions Needed to Improve Access to Care in the U.S. Territories and Freely Associated States.” May 2024, GAO-24-106364, p. 28. <https://www.gao.gov/assets/gao-24-106364.pdf> (accessed June 20, 2025).

¹¹⁷ Ortiz Testimony, Transcript 7, p. 6-7.

Other Barriers that Hinder Full Benefits for Veterans

Mr. Ortiz provided various examples in which a lack of awareness of federal programs and procedures as well as staffing in key positions has led to limited awareness and distribution of the full scope of benefits available to veterans.

The Need for Increased Participation and Awareness

Despite a lack of prioritization at the federal level, Mr. Ortiz believes more can be done at the local level for Puerto Rico to be more vocal in federal affairs and educate professionals across different sectors on the impact of federal laws. For example, in Mr. Ortiz's opinion, the U.S. Department of Veterans Affairs' Intergovernmental Affairs unit is underutilized as a resource by the government of Puerto Rico. If there were increased engagement, Puerto Rico can amplify its decision-making role in matters related to territorial laws affecting veterans.¹¹⁸ Furthermore, Mr. Ortiz shared the example of how many attorneys and certified public accountants in Puerto Rico were not aware of the benefits that could be derived from the Haven Act of 2019, which excludes certain veterans' benefits as monthly income as defined by the Bankruptcy Code.¹¹⁹ This lack of awareness has caused confusion on which income is considered taxable or not taxable and is an area that demonstrates the need for more education on the impact of federal laws on the island.¹²⁰

Administrative Hurdles

Veterans in Puerto Rico also face various administrative hurdles to accessing benefits such as language barriers and, in some instances, their place of residence being designated as foreign. Many veterans in Puerto Rico who are monolingual Spanish speakers - especially those who served in Vietnam and did not have a choice in being drafted - face access issues since only some, but not all, U.S. Department of Veterans Affairs communications are sent in Spanish.¹²¹

Furthermore, the Veteran Readiness and Employment Manual (M28C), which establishes procedures for VA counselors on veterans benefits, lists several jurisdictions considered as foreign where other countries need to coordinate services for claimants.¹²² As part of this list, the islands of Culebra and Vieques, which are part of Puerto Rico, are considered foreign.¹²³ The list also

¹¹⁸ Ortiz Testimony, Transcript 7, p. 6-7.

¹¹⁹ 116 P.L. 52(2019), HAVEN Act; *See also:* Ortiz Testimony, Transcript 7, p. 20.

¹²⁰ Ortiz Testimony, Transcript 7, p. 20.

¹²¹ Ortiz Testimony, Transcript 7, p. 14; *See also:* U.S. Department of Veterans Affairs. "Asistencia y recursos del VA en español." <https://www.va.gov/asistencia-y-recursos-en-espanol/> (accessed June 30, 2025).

¹²² U.S. Department of Veterans Affairs. "M28C.V.C.1 Foreign Cases, Chapter 1, Section 1.02 Jurisdiction for Foreign Cases." https://knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000146267/M28CIA1-Veteran-Readiness-and-Employment-Manual (accessed June 30, 2025).

¹²³ U.S. Department of Veterans Affairs. "M28C.V.C.1 Foreign Cases, Chapter 1, Section 1.02 Jurisdiction for Foreign Cases." https://knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000146267/M28CIA1-Veteran-Readiness-and-Employment-Manual (accessed June 30, 2025).

includes the U.S. Virgin Islands.¹²⁴ Mr. Ortiz stated that he and other advocates have spent years trying to obtain a response from the VA on why these islands are considered a foreign nation. This is an example of why he believes that Congressional action on ending the Insular Cases and deciding whether Puerto Rico will be an incorporated territory can be pivotal for the parity of veterans in Puerto Rico.¹²⁵

Despite these inconsistencies, there are positive examples in which the federal government has provided resources to veterans in Puerto Rico. The Veterans Small Business Enhancement Act of 2018 allowed veterans who own small businesses to access a surplus of federal property through the Federal Surplus Personal Property Donation Program at General Services Administration. However, Freedom of Information Act requests must be submitted to obtain needed information, a requirement which is likely to be an administrative challenge for some qualifying veterans.¹²⁶

Lack of Needed Veteran-Serving Professionals

Key staffing is needed in areas that veterans interface with regarding their benefits and professional development. For example, veterans in Puerto Rico face increased legal hurdles in appealing U.S. Department of Veterans Affairs decisions and asserting their rights in other matters unique to this population since, as of 2023, there were only fourteen attorneys throughout the entire island who had accreditation to practice before the U.S. Court of Appeals for Veterans Claims, which reviews benefits-related decisions.¹²⁷

Another example of a field where more veteran-serving professionals are needed is higher education. As part of the Veteran Readiness and Employment program under the U.S. Department of Veterans Affairs, VetSuccess on Campus (VSOC) Counselors are available on college campuses throughout the country to aid veterans in their transition to college life.¹²⁸ VSOC Counselors provide guidance to veterans on the most efficient ways to use their benefits to achieve their educational goals.¹²⁹ Puerto Rico does not have such a counselor available on the island.¹³⁰ According to Mr. Ortiz, there are over 14,000 veterans in Puerto Rico with the post-September 11th GI Bill, and having at least one VSOC Counselor would be beneficial not only to the students but

¹²⁴ U.S. Department of Veterans Affairs. “M28C.V.C.1 Foreign Cases, Chapter 1, Section 1.02 Jurisdiction for Foreign Cases.” https://knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/55440000146267/M28CIA1-Veteran-Readiness-and-Employment-Manual (accessed June 30, 2025).

¹²⁵ Ortiz Testimony, Transcript 7, p. 19-20.

¹²⁶ Ortiz Testimony, Transcript 7, p. 7.

¹²⁷ Ibid.

¹²⁸ U.S. Department of Veterans Affairs. “Veteran Readiness and Employment (VR&E), VetSuccess on Campus.” <https://www.benefits.va.gov/vocrehab/vsoc.asp> (accessed July 1, 2025).

¹²⁹ Ortiz Testimony, Transcript 7, p. 25; *See also:* U.S. Department of Veterans Affairs. “Veteran Readiness and Employment (VR&E)¹²⁵ VetSuccess on Campus.” <https://www.benefits.va.gov/vocrehab/vsoc.asp> (accessed July 1, 2025).

¹³⁰ Ibid.

to the local economy.¹³¹ Mr. Ortiz shared about his own experience in making the most of his GI benefits after speaking with a VSOC Counselor:

"I used all of my GI bill benefits when I went to college in Arizona back in 2014. I used all three years of it. A new law passed that said, ""You know what? If you are a disabled veteran with a rated disability of 10% or more, you could have applied for vocational rehabilitation, and now we need to refund you that GI bill money, all 36 months of it, and everything else you spent, and now we're going to move you to this program, and this program will rehabilitate you until you meet your goal.""
For me, that goal was to become an attorney. So they not only gave me three years back of those benefits, but they also paid for me to finish my bachelor's degree and all three years, plus all the books, everything I need to pass the bar exam.

So after I pass my bar exam and I've already used eight years of entitlement because of a court decision, now I have an additional three years of benefits that the monetary value of those three years is over \$150,000 that could stay here in Puerto Rico, simply because I talked to a VSOC counselor that was able to tell me how to do that. So if we can get one of those VSOC counselors on the island and have Congress give us priority because we have all these other issues as a territory, because we don't have access, because all the materials are in English, because we're highly discriminated on it, because all the textbooks are local to here for law schools..."¹³²

Mr. Ortiz believes that having a VSOC Counselor in Puerto Rico who can speak to the VA about the unique challenges students face on the island can be a first step in federal agencies establishing evidence for Congress about the parity issues in Puerto Rico.¹³³ This can complement the efforts of advocates and make a stronger case for change.¹³⁴

Finding II – The Committee Found that Racial Formation in Puerto Rico has been Complex and has Faced Challenging in Accuracy Through Data Collection

Shifting of Racial Categories Over Time

The Committee sought to incorporate an analysis of the role of race in Puerto Rico and in its relationship with the federal government. As part of this effort, the Committee invited expert panelists to speak on the subject. Dr. Yomaira Figueroa-Vásquez, Director of the Center for Puerto Rican Studies at Hunter College at the City University of New York, and Dr. Carlos Vargas-Ramos,

¹³¹ Ortiz Testimony, Transcript 7, p. 25.

¹³² Ortiz Testimony, Transcript 7, p. 25-26.

¹³³ Ortiz Testimony, Transcript 7, p. 26.

¹³⁴ Ibid.

Director of Public Policy, Media Relations and Development at the City University of New York, co-led an in-depth presentation before the Committee on this subject area.

The Committee heard about how the United States has changed racial classifications in Puerto Rico over time, especially for Afro-Puerto Rican populations, and how the inaccuracies of these categorizations have complicated the official record of race in Puerto Rico. Dr. Figueroa-Vásquez shared about her lived experience in speaking with her grandfather about the Census when she was a child. While her family identified simply as Puerto Rican, Dr. Figueroa-Vásquez spoke about an analysis she conducted of her family history in which Census records showed how the Afro-Puerto Rican population was shifted towards whiteness over time:

“In 1910, my great-grandparents noted as Negros are shown to have four children, which each are shown as mulatos. And again, the question of how two Negros can make four mulatos is quite interesting in the racial category of mestizaje. But these same people in the census of 1920, 1930, 1940 and 1950, continue to change the racial categorizations. They become mulatos in the 1920s. By the 1930s and '40s, they are considered *de color* [of color]. And then what we see telegraphed years later in death certificates and other documents, these very same populations of people who are Black and Afro descendant, descendants of enslaved people, are categorized as white, particularly in the death certificates.”¹³⁵

According to historical Census records, the percent of White individuals in Puerto Rico grew by nearly 28 percent, from 48 percent to 75.8 percent from 1802 through 2010:

¹³⁵ Figueroa-Vásquez Testimony, Transcript 8, p. 5.

Table 1. Historical Population Counts for Puerto Rico 1802-2010.

Census Year	Total Population	Per cent White	Per cent Non-White
1802	163,192	48	52
1812	183,014	46.8	53.2
1820	230,622	44.4	55.6
1827	302,672	49.7	50.3
1830	323,838	50.1	49.9
1836	357,086	52.9	47.1
1860	583,308	51.5	48.5
1877	731,648	56.3	43.7
1887	798,565	59.5	40.5
1897	890,911	64.3	35.7
1899	953,243	61.8	38.2
1910	1,118,012	65.5	34.5
1920	1,299,809	73	27
1930	1,543,013	74.3	25.7
1940	1,869,255	76.5	23.5
1950	2,210,703	79.7	20.3
2000	3,808,610	80.5	19.5
2010	3,725,789	75.8	24.2

Sources: For 1802 to 1899 data, U.S. War Department (1900), p. 57; for 1910 to 2010 decennial data, U.S. Bureau of the Census.

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Dr. Vargas-Ramos shared that the proportion of the population in Puerto Rico that identified as White on the Census for the years 2000 (80.5 percent) and 2010 (75.8 percent), as shown in Table 1 above, is larger than the proportion of people who identified as White throughout the United States.¹³⁷ In comparison, the White population in the U.S. was 75 percent of the total population and in 2010 it comprised 72 percent of the population.¹³⁸

The panelists spoke about how the increase of White identity in Puerto Rico stood in opposition to the one-drop rule in the mainland United States, in which any level of relation to Black ancestry would tie the individual to that racial category.¹³⁹ Additionally, Puerto Rico is also a jurisdiction with a strong history of *mestizaje* as a result of Spanish colonial rule. As explained by Dr. Figueroa-

¹³⁶ Figueroa-Vásquez Testimony, *March 14, 2025, Web Briefing*, supplemental slides, slide 9.

¹³⁷ Vargas-Ramos Testimony, Transcript 8, p. 9.

¹³⁸ Vargas-Ramos Testimony, Transcript 8, p. 9-10; See also: U.S. Census Bureau. “The White Population: 2010.” 2010 Census Briefs. September 2011.

<https://www.census.gov/content/dam/Census/library/publications/2011/dec/c2010br-05.pdf> (accessed July 24, 2025).

¹³⁹ Figueroa-Vásquez Testimony, Transcript 8, p. 5-6.

Vásquez, this “racial framework is a vigorous form of racial mixing, promoted as part of a nation-building project and it was one that was asking folks to move towards whiteness.”¹⁴⁰ During the Spanish rule, White individuals occupied the highest ranks in society while the bottom of the social scale was an enslaved population equated with individuals of African origin and their descendants.¹⁴¹ This practice of *Blanqueamiento* [whitening] is described by Dr. Vargas-Ramos as “a social escape route over the generations for disparaged racial groups.”¹⁴²

Dr. Vargas-Ramos explained that since the U.S. government began conducting the Census in 1890, U.S. Census enumerators tended to record more individuals as White than there really were in the community and that this was done to conform with U.S. specifications of racial categories.¹⁴³ Puerto Ricans did not have authority on how racial categories were recorded. Enumerators used their own discretion to mark responses to the racial category question in Puerto Rico based on their observations until the 2000 decennial survey, the first time the question was placed on the questionnaire and that residents had an opportunity to respond directly.¹⁴⁴ Since then, significant shifts have occurred. Regarding the category of “some other race,” approximately between one quarter and one third of the population have selected this category although based on data from 2019 – 2023, the White identification decreased under 50 percent and the selection of two or more racial categories increased to 37 percent.¹⁴⁵

The panelists shared that it is common for the Office of Management and Budget (OMB) to modify responses to the Census questionnaire to have them be compatible with their overall reporting standards.¹⁴⁶ This is consistently seen in the case of Latinos, one of the groups most likely to select the response “some other race” in regards to the racial identity question.¹⁴⁷ Dr. Vargas-Ramos shared that the Census Bureau updated its methodology for modifying responses to questions on race for the 2020 Census, which may have influenced patterns in the data.¹⁴⁸

¹⁴⁰ Figueroa-Vásquez Testimony, Transcript 8, p. 6.

¹⁴¹ Vargas-Ramos Testimony, Transcript 8, p. 9-10.

¹⁴² Vargas-Ramos Testimony, Transcript 8, p. 8-9.

¹⁴³ Vargas-Ramos Testimony, Transcript 8, p. 6-7.

¹⁴⁴ Vargas-Ramos Testimony, Transcript 8, p. 9; *See also:* CUNY Written Testimony, p. 5; *See also:* Christenson, Matthew. “Puerto Rico Census 2000 Responses to the Race and Ethnicity Questions - FINAL REPORT.” U.S. Census Bureau. July 14, 2003. <https://estadisticas.pr/files/BibliotecaVirtual/estadisticas/biblioteca/USCB/B12.pdf> (accessed July 24, 2025).

¹⁴⁵ Vargas-Ramos Testimony, Transcript 8, p. 8-9.

¹⁴⁶ Vargas-Ramos Testimony, Transcript 8, p. 9; *See also:* As stated in CUNY Written Testimony, footnote 17, “[b]ecause of needs to have census data comparable with reporting the reporting categories used by state and local agencies and for compiling other administrative data used in producing population estimates and projections, the Census Bureau developed a procedure to assign an OMB race to those who reported Some Other Race.” (Modified Race Summary File Methodology. U.S. Census Bureau, Population Division). Updated: 07/05/2012. <https://www2.census.gov/programs-surveys/popest/technical-documentation/methodology/modified-race-summary-file-method/mrsf2010.pdf>

¹⁴⁷ Vargas-Ramos Testimony, Transcript 8, p. 9.

¹⁴⁸ Ibid; *See also:* U.S. Census Bureau. “2020 Modified Age & Race Census File Methodology Statement.” <https://www2.census.gov/programs-surveys/popest/technical-documentation/methodology/modified-race-summary-file-method/marc2020-imprace-us.pdf> (accessed July 24, 2025).

Differences in the Understanding of Race in Puerto Rico as Compared to the Rest of the U.S.

The presence of Puerto Ricans in the mainland United States is now larger than the population living on the island itself due to a combination of factors, including economic need.¹⁴⁹ They now comprise the second-largest Hispanic origin population on the mainland.¹⁵⁰ This is relevant because Puerto Ricans have a unique migratory pattern in the U.S. that differs from every other Hispanic origin population group and migrant group in the country.¹⁵¹ Dr. Figueroa-Vásquez described Puerto Rico as an anomaly when thinking about Hispanics and migration due to the ability to move back and forth and the growth of the Puerto Rican population in the mainland. Based on these factors, she believes there is an opportunity for the U.S. to approach Puerto Rico differently in a way that perhaps may not be replicated elsewhere in the country.¹⁵²

Additionally, Dr. Figueroa-Vásquez shared that many of the migrants from Puerto Rico to the mainland come from rural, mountainous regions of the island and have brought with them specific aspects of the culture and language that have persisted in the Puerto Rican diaspora, despite communities moving beyond these customs on the island.¹⁵³ While she describes these cultural characteristics as very important marks of the time periods when people migrated, they have also had the potential to “other” the population in the diaspora as they might face racism in the mainland and express outdated cultural norms when visiting Puerto Rico.¹⁵⁴ This can raise the question of who is “more” Puerto Rican, although Dr. Figueroa-Vásquez stated that this tension has decreased since the large out-migration that occurred after Hurricane María.¹⁵⁵

Panelists spoke about how Puerto Ricans can *code-switch* depending on the context they are in both in the mainland United States and in Puerto Rico.¹⁵⁶ Dr. Figueroa-Vásquez stated:

“We have an ability to do this as do millions of Puerto Ricans who are living in the United States, this ability to manage through these different racial formations and also sociopolitical and economic structures that we have to inhabit and often move in between.”¹⁵⁷ This is significant because the mainland United States and Puerto

¹⁴⁹ Figueroa-Vásquez Testimony, Transcript 8, p. 20; *See also:* Cohn, D’Vera, Patten, Eileen, and Lopez, Mark Hugo. “Puerto Rican Population Declines on Island, Grows on U.S. Mainland.” Pew Research Center. August 11, 2014. <https://www.pewresearch.org/race-and-ethnicity/2014/08/11/puerto-rican-population-declines-on-island-grows-on-u-s-mainland/> (accessed July 24, 2025).

¹⁵⁰ Cohn, D’Vera, Patten, Eileen, and Lopez, Mark Hugo. “Puerto Rican Population Declines on Island, Grows on U.S. Mainland.” Pew Research Center. August 11, 2014. <https://www.pewresearch.org/race-and-ethnicity/2014/08/11/puerto-rican-population-declines-on-island-grows-on-u-s-mainland/> (accessed July 24, 2025).

¹⁵¹ Figueroa-Vásquez Testimony, Transcript 8, p. 20.

¹⁵² Figueroa-Vásquez Testimony, Transcript 8, p. 14.

¹⁵³ Figueroa-Vásquez Testimony, Transcript 8, p. 21.

¹⁵⁴ Figueroa-Vásquez Testimony, Transcript 8, p. 22.

¹⁵⁵ Figueroa-Vásquez Testimony, Transcript 8, p. 22; *See also:* Schachter, Jason y Bruce, Antonio. “Estimating Puerto Rico’s Population After Hurricane María.” United States Census Bureau. August 19, 2020.

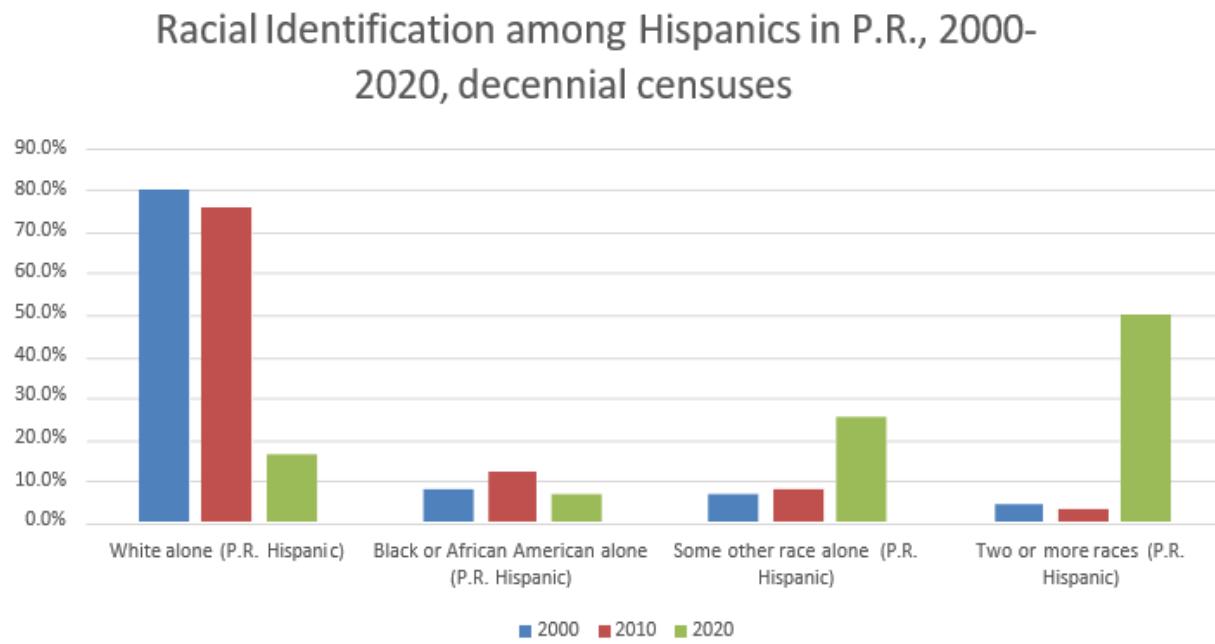
<https://www.census.gov/library/stories/2020/08/estimating-puerto-rico-population-after-hurricane-maria.html> (accessed October 26, 2023).

¹⁵⁶ Figueroa-Vásquez Testimony, Transcript 8, p. 19.

¹⁵⁷ Ibid.

Rico each have their own views on racial formation. The United States has historically held a dichotomous perspective which has broadened due to diversity in immigration since 1965, while Puerto Rico has not had a strict binary system.¹⁵⁸ In Puerto Rico, mixed race is more normalized and accepted than in the mainland.¹⁵⁹ For example, someone who may be of African descent but whose bloodline has been mixed over time may not identify as Black, but they are likely to be labeled as such in the mainland U.S. despite these nuances.¹⁶⁰

Despite these demographic shifts over time and the broad acceptance of mixed race in Puerto Rico, the majority of Census responses from Puerto Ricans on the island and in the diaspora have, up until recently, demonstrated a preference towards White identity.¹⁶¹ The figure below shows how the decennial census results on racial identification between 2000 and 2020 from Hispanics in Puerto Rico predominantly selected the “White alone” racial category in 2000 and 2010:



This aligns with the American Community Survey results of racial identification among Puerto Ricans in the United States between 2013 and 2023:

¹⁵⁸ Vargas-Ramos Testimony, Transcript 8, p. 20.

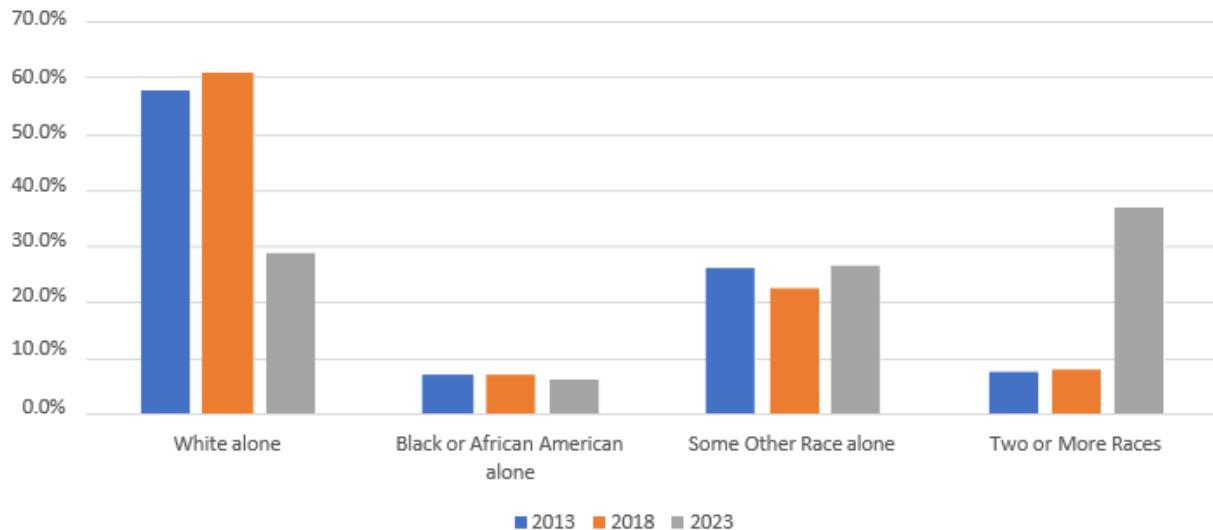
¹⁵⁹ Figueroa-Vásquez Testimony, Transcript 8, p. 21.

¹⁶⁰ Figueroa-Vásquez Testimony, Transcript 8, p. 20.

¹⁶¹ Vargas-Ramos Testimony, Transcript 8, p. 25-26.

¹⁶² Vargas-Ramos Testimony, March 14, 2025, Web Briefing, supplemental slides, slide 12.

Racial Identification, Puerto Ricans in the U.S. 2009-2023, ACS 5-yr estimates (PUMS)



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However, as shown in the figures above, the most recent data demonstrate a significant drop in the “White alone” category and an increase in the “Two or More Races” category.¹⁶⁴ According to the panelists, the increase in the “Two or More Races” category is a new phenomenon.¹⁶⁵ Although more research is needed, they believe this is a result of administrative manipulation and not necessarily a change of attitude among Puerto Ricans, especially since there is a problematic pattern of non-response to Census Bureau questionnaires.¹⁶⁶ Regarding these fluctuations, Dr. Vargas-Ramos commented the following: “This variability in racial identification among residents of Puerto Rico underscored the questionable reliability and therefore validity of U.S. and sanctioned racial categories to analyze material differences among Puerto Ricans, both in Puerto Rico and in the United States, as well as other Hispanics in the United States.”¹⁶⁷

The panelists also pointed out that the low response rates for the “Black or African American alone” category are likely due to Puerto Rican’s conception of Black identity as one limited to Black individuals who are English-speaking or are African American only, not Afro-descendant.¹⁶⁸ This may lead Puerto Ricans to select other categories and speaks to the limitations caused by racial categories that are created from Anglo perspectives.¹⁶⁹

¹⁶³ Vargas-Ramos Testimony, *March 14, 2025, Web Briefing*, supplemental slides, slide 14.

¹⁶⁴ Vargas-Ramos Testimony, *March 14, 2025, Web Briefing*, supplemental slides, slide 12; *See also:* Vargas-Ramos Testimony, *March 14, 2025, Web Briefing*, supplemental slides, slide 14.

¹⁶⁵ Vargas-Ramos Testimony, Transcript 8, p. 26.

¹⁶⁶ *Ibid.*

¹⁶⁷ Vargas-Ramos Testimony, Transcript 8, p. 8.

¹⁶⁸ Figueroa-Vásquez Testimony, Transcript 8, p. 26.

¹⁶⁹ Figueroa-Vásquez Testimony, Transcript 8, p. 26.

Issues with U.S. Government Data Collection of the Population in Puerto Rico

According to the panelists, a major challenge to better understanding the population in Puerto Rico is the lack of data collection, specifically aggregated data, of racial categories in the context of areas including discrimination, femicide, employment, the prison system, housing, education, and so on.¹⁷⁰ One of the causes of this has been the reliance on government-based data tools which are based on the United States' approach to social and racial classifications.¹⁷¹ In Dr. Figueroa-Vásquez's words, these instruments are "insufficient, invalid, and unreliable in Puerto Rico."¹⁷² The lack of vernacular or locale-specific racial terminology that captures the contextual racial formation among Puerto Ricans contributes to the distrust in these results.¹⁷³

By maintaining the same standards of racial and ethnic data collection in Puerto Rico as in the mainland United States, it is difficult to capture distinctions and different treatment among Puerto Rico residents themselves.¹⁷⁴ In addition to the differential treatment already experienced by Puerto Rico in regards to the administrations of federal programs due to its unincorporated status that has been highlighted earlier in this memorandum, the Committee heard that the uniform application of federal administrative rules and procedures may actually limit the equal protection under the law and civil rights of Puerto Rico residents.¹⁷⁵ For example, Dr. Vargas-Ramos shared how employees in Puerto Rico must complete an Equal Employment Opportunity form where they must select either ethnicity or race for their self-identification, and not both.¹⁷⁶ If an Afro-descendant Puerto Rican employee who presents as Black is discriminated against, it is difficult for them to submit a racial discrimination claim since 99% of the population identify as Hispanic, and the nuances of their race will not be evident in the data collection.¹⁷⁷

The use of a blanket term such as "Hispanic" also impedes a detailed understanding of the various voting patterns among Puerto Ricans. Dr. Figueroa-Vásquez commented the following on this matter:

"We're actually not capturing the complexity and the nuances within the "Hispanic" vote, in particular within the Puerto Rican context. What does a White Puerto Rican or a mixed race Puerto Rican or an Afro-Puerto Rican, what are their votes? What are their concerns, right? So I think the lack of this kind of nuanced data then leads to the kind of taking up of an entire community under these umbrella terms that

¹⁷⁰ Figueroa-Vásquez Testimony, Transcript 8, p. 6.

¹⁷¹ Figueroa-Vásquez Testimony, Transcript 8, p. 6-7.

¹⁷² Ibid.

¹⁷³ Vargas-Ramos Testimony, Transcript 8, p. 8.

¹⁷⁴ Vargas-Ramos Testimony, Transcript 8, p. 7.

¹⁷⁵ Ibid.

¹⁷⁶ Vargas-Ramos Testimony, Transcript 8, p. 7-8.

¹⁷⁷ Ibid.

actually don't serve to get a deeper sense of what's happening on the ground in communities and in the society as a whole.”¹⁷⁸

Since the patterns of racial formation in Puerto Rico are so distinct from the rest of the U.S., the uniform application of federal administrative rules and procedures can have counterproductive results.¹⁷⁹

The Exclusion of Puerto Rico in Various U.S. Government Data Collection Tools

A 2016 report by the Congressional Task Force on Economic Growth in Puerto Rico listed nearly thirty Census Bureau programs and surveys that do not include Puerto Rico, such as the National Health Interview Survey, the Small Area Income and Poverty Estimates, the Survey of Income and Program Participation.¹⁸⁰ Besides the U.S. Census Bureau, the Bureau of Labor Statistics also excludes Puerto Rico from its monthly current population survey. According to the panelists, this lack of data has a direct effect on policy, as little to no data leads to inefficient or no policymaking which contributes to the continued neglect of the U.S. Territories on behalf of the federal government.¹⁸¹ Dr. Vargas-Ramos stated: “the U.S. Government Accountability Office has indicated that data gaps affect Puerto Rico in particular fashion. Puerto Rico has more population and housing units than 22 states of the union. To ignore statistically and policy-wise this large population does not make good government sense.”¹⁸²

The panelists indicated that the other U.S. territories also experience inconsistency with data collection.¹⁸³ This gap in data on the territories has a direct effect on federal policymaking regarding these jurisdictions. The panelists cited a 2024 report from the U.S. Government Accountability Office (GAO) that highlights the negative effects of these data gaps which include “gaps in coverage, disparities and lags in reporting, and different mechanisms for measuring data quality.”¹⁸⁴ Territories are also treated differently across federal agencies and the efforts to collect data are limited and uncoordinated.¹⁸⁵

In the case of Puerto Rico, the GAO found that the island is covered in 1 of 52 data products of the National Agricultural Statistical Service and 4 of 21 data products of the Bureau of Labor

¹⁷⁸ Figueroa-Vásquez Testimony, Transcript 8, p. 13.

¹⁷⁹ CUNY Written Testimony, p. 5.

¹⁸⁰ Vargas-Ramos Testimony, Transcript 8, p. 11; *See also:* Congressional Task Force on Economic Growth in Puerto Rico. “Report to the House and Senate, 114th Congress.” December 20, 2016.

<https://www.finance.senate.gov/imo/media/doc/Bipartisan%20Congressional%20Task%20Force%20on%20Economic%20Growth%20in%20Puerto%20Rico%20Releases%20Final%20Report.pdf> (accessed July 15, 2025).

¹⁸¹ Vargas-Ramos Testimony, Transcript 8, p. 11.

¹⁸² Ibid.

¹⁸³ Vargas-Ramos Testimony, Transcript 8, p. 11-12.

¹⁸⁴ Vargas-Ramos Testimony, Transcript 8, p. 11-12; *See also:* U.S. Government Accountability Office. “U.S. Territories: Coordinated Federal Approach Needed to Better Address Data Gaps.” GAO-24-106574. May 9, 2024, p. 6 <https://www.gao.gov/assets/870/869103.pdf> (accessed August 13, 2025).

¹⁸⁵ U.S. Government Accountability Office. “U.S. Territories: Coordinated Federal Approach Needed to Better Address Data Gaps.” GAO-24-106574. May 9, 2024, p. 1 <https://www.gao.gov/assets/870/869103.pdf> (accessed August 13, 2025).

Statistics.¹⁸⁶ Furthermore, Puerto Rico's exclusion from the Current Population Survey complicates the local government's ability to address the labor-force needs of populations such as veterans and individuals with disabilities.¹⁸⁷ For example, in a separate report, the GAO indicated that the Department of Veterans Affairs' model to estimate the veteran population, known as Vet Pop, is inaccurate for the territories.¹⁸⁸ This model is used to allocate resources and likely undercounted the veteran population in Puerto Rico.¹⁸⁹ This can lead to fewer clinics, staff, and needed services.¹⁹⁰

Another example includes the Department of Veterans Affairs Veterans Population Survey, which is comprised of a combination of census data and internal dates, to provide official information on the veteran population.¹⁹¹ The issue is that, since Puerto Rico is excluded from several census surveys, an accurate picture of the Puerto Rico veteran population cannot be provided. Mr. Ortiz shared that while efforts have been made to carry out surveys at the local level by the Ombudsman's Office for Veteran Affairs in Puerto Rico, barriers such as cost and engagement have not produced the appropriate data.¹⁹²

Dr. Vargas-Ramos stated that he has heard from colleagues in agencies in Puerto Rico that the U.S. Congress, as the entity responsible for Puerto Rico and the allocation of federal funds, is not allocating sufficient funds to include Puerto Rico in many of the programs it currently does not have access to.¹⁹³ Nothing is preventing the U.S. Congress from treating Puerto Rico equal to or better than a U.S. state such as including them in various statistical programs and providing the assistance and funding needed to provide good government policymaking.¹⁹⁴

¹⁸⁶ Vargas-Ramos Testimony, Transcript 8, p. 11-12; *See also:* U.S. Government Accountability Office. "U.S. Territories: Coordinated Federal Approach Needed to Better Address Data Gaps." GAO-24-106574. May 9, 2024, p. 6 <https://www.gao.gov/assets/870/869103.pdf> (accessed August 13, 2025).

¹⁸⁷ U.S. Government Accountability Office. "U.S. Territories: Coordinated Federal Approach Needed to Better Address Data Gaps." GAO-24-106574. May 9, 2024, p. 10 <https://www.gao.gov/assets/870/869103.pdf> (accessed August 13, 2025).

¹⁸⁸ Ortiz Testimony, Transcript 7, p. 4; *See also:* U.S. Government Accountability Office. "Veterans Affairs: Actions Needed to Improve Access to Care in the U.S." GAO-24-106364. May 2024, p. 11. <https://www.gao.gov/assets/gao-24-106364.pdf> (accessed June 20, 2025).

¹⁸⁹ Ibid.

¹⁹⁰ Ortiz Testimony, Transcript 7, p. 4.

¹⁹¹ Ortiz Testimony, Transcript 7, p. 23; *See also:* U.S. Department of Veterans Affairs. "National Center for Veterans Analysis and Statistics." Last Updated: March 26, 2025. https://www.va.gov/vetdata/Veteran_Population.asp (accessed September 25, 2025).

¹⁹² Ortiz Testimony, Transcript 7, p. 23.

¹⁹³ Vargas-Ramos Testimony, Transcript 8, p. 11-14.

¹⁹⁴ Vargas-Ramos Testimony, Transcript 8, p. 15-16.

Finding III – There is a Deficit of Political Will to Make Change and Knowledge of the Issues in Puerto Rico Among Elected Officials at the Federal Level

Lack of Political Will at the Federal Level on Taking Action on Parity in Puerto Rico

The Committee heard testimony about how the federal government has made a political choice in limiting access to benefits in Puerto Rico, which has resulted in an ad hoc and arbitrary application of funding and resources.¹⁹⁵ Panelists pointed out that unlike residents of the states and tribal reservations who have received public benefits based on need, the federal government has argued that cost and the lack of federal income tax paid in Puerto Rico are reasons to not allocate benefits.¹⁹⁶ As stated by Professor Andrew Hammond in a brief submitted as part of the *U.S. v. Vaello Madero* case, “Means-tested programs, like SSI, aim to extend benefits based on need, not tax contributions.”¹⁹⁷ Furthermore, due to the fact that SSI eligibility requires certain income limitations, the argument about not paying federal income tax can also be applied to many recipients in the fifty states.¹⁹⁸ In referencing the U.S. Supreme Court decision in the *U.S. v. Vaello Madero* case, panelist Mainon Schwartz stated: “It may be important to note that while this decision underscores that the Constitution does not prohibit Congress from treating Puerto Rico differently so long as it remains a territory, it is also true that nothing obligates Congress to treat Puerto Rico differently.”¹⁹⁹

Panelist Jeffrey Farrow argued that Puerto Rico needs to make a “more compelling petition” to the federal government on its status in order to garner action.²⁰⁰ He described a law that was approved by Congress as part of an appropriations package in 2014 that would permit a federal supported plebiscite.²⁰¹ The language in the appropriations reads as follows:

“\$2,500,000 is for objective, nonpartisan voter education about, and a plebiscite on, options that would resolve Puerto Rico’s future political status, which shall be provided to the State Elections Commission of Puerto Rico.”²⁰²

Mr. Farrow explained that such a plebiscite would need to include options that do not conflict with the Constitution and basic laws and policies of the U.S.²⁰³ Unlike other plebiscites held in Puerto Rico, he stated that this would be considered a federal plebiscite that can put pressure on Congress

¹⁹⁵ Balmaceda Testimony, Transcript 7, p. 8-9; *See also:* Farrow Testimony, Transcript 6, p. 4, 6.

¹⁹⁶ Brief for the Public Benefits Scholars as Amicus Curiae, p. 22-23, *United States v. Vaello Madero*, 596 U.S. 159 (2022); *See also:* Farrow Testimony, Transcript 6, p. 6.

¹⁹⁷ Brief for the Public Benefits Scholars as Amicus Curiae, p. 24, *United States v. Vaello Madero*, 596 U.S. 159 (2022).

¹⁹⁸ *United States v. Vaello-Madero*, 596 U.S. 159 (2022); *See also:* Schwartz Written Testimony, p. 3.

¹⁹⁹ Schwartz Testimony, Transcript 6, p. 10.

²⁰⁰ Farrow Testimony, Transcript 6, p. 11.

²⁰¹ Farrow Testimony, Transcript 6, p. 13.

²⁰² Consolidated Appropriations Act, 2014: P.L. 113-76, 128 Stat. 61, January 17, 2014; *See also:* Farrow Testimony, Transcript 6, p. 13.

²⁰³ Farrow Testimony, Transcript 6, p. 13.

to respect its results.²⁰⁴ In addition to these appropriations, panelists also indicated that Congress has the option to do a joint resolution to incorporate Puerto Rico on its own initiative.²⁰⁵

The U.S. Congress' Limited Awareness on Issues Facing Puerto Rico

Another barrier preventing federal action on Puerto Rico is what panelists described as the limited awareness among members of Congress on issues affecting the island. The onus of advocating for progress on these issues tends to fall on those who identify directly with Puerto Rico. On this, panelist Vargas-Ramos stated the following:

"Evidently, there is only one federal official elected from Puerto Rico, which is the resident commissioner. Any other 'pressure' that is put on the U.S. Congress comes from members of Congress already elected in Congress from other states, many of them, most of them Puerto Ricans themselves, or descendants of Puerto Ricans who have been elected to Congress. They tend to be the ones who advocate for Puerto Rico most often.

So in that sense, the political participation of Puerto Ricans in the United States through the representatives in Congress is one avenue to direct the attention of the U.S. Congress to what is happening in Puerto Rico. And you have seen that increasingly in the United States Congress, however it is only five members of Congress and their access to perhaps colleagues where they can create coalitions of members of Congress to advance the interest of Puerto Rico."²⁰⁶

Due to this finite reach among policymakers, it has been difficult to amass sustained congressional attention and laws often either do not include Puerto Rico or treat it as an afterthought.²⁰⁷

Panelist Alex Ortiz illustrated this challenge in sharing an example of how Puerto Rico's Resident Commissioner, a non-voting member of Congress, needs to rely on colleagues to highlight the ongoing differential treatment faced by residents. Mr. Ortiz explained:

"In early 2023, Puerto Rico's Resident Commissioner introduced bills to address some of these disparities. One to include Puerto Rico's Supplemental Social Security Income. Another to improve TRICARE healthcare program for veterans and active-duty military on the island. But those proposals highlight that such inequities have been allowed to persist for years. With no voting representatives,

²⁰⁴ Farrow Testimony, Transcript 6, p. 13, 16.

²⁰⁵ Farrow Testimony, Transcript 6, p. 18; *See also:* Schwartz Testimony, Transcript 6, p. 18.

²⁰⁶ Vargas-Ramos Testimony, Transcript 8, p. 16.

²⁰⁷ Ortiz Testimony, Transcript 7, p. 3.

Puerto Rico has only had to rely on sporadic Senate or House members to voice veterans concerns on the islands. As I testify in other forums, Congress often legislates without specialized knowledge of Puerto Rico resulting in differential treatment of island veterans in many of the programs that we have available to us. The consequence is a legal framework full of holes and exceptions that disadvantage veterans who reside on the island. Because of the unequal laws and underrepresentation, veterans who reside on the island experience significant funding shortfalls.”²⁰⁸

According to Professor Hammond, this lack of political representation in our national government has left Americans in the U.S. Territories especially vulnerable to federal experimentation, disregard, and outright cuts.²⁰⁹ This challenge is not only associated with the unequal distribution of benefits to residents of Puerto Rico but also affects the way Puerto Ricans are understood more broadly, both on the island and in the states. Panelist Dr. Figueroa-Vázquez urged that there needs to be more capacity building about Puerto Rico, Puerto Ricans, the Puerto Rican condition, and Puerto Rico's relationship with the United States among elected officials, including basic knowledge around the U.S. citizenship of Puerto Ricans.²¹⁰

IV. Recommendations from Panelists

Throughout the testimony received, the Committee heard different perspectives on how these issues can be improved. Although these ideas are not recommendations formulated by the Committee, it is important to integrate them into this document to present the options highlighted by panelists. In this memorandum, the Committee does not take a stance on the content of these recommendations and will submit its own recommendations in the final report.

Insular Cases

- "We believe that a strong declaration by the three branches of government expressly stating that these cases were decided wrongly, and that a new interpretation should be given to the relationship between Puerto Rico and the United States should be included. I still believe because of our experience with some of the cases in the U.S. Supreme Court, that we would need Congress to help us to set aside some of the rulings in the Insular Cases."²¹¹

²⁰⁸ Supplemental Security Income Equality Act, H.R. 256, 118th Cong. (2023-2024); *See also:* TRICARE Equality Act, H.R. 254, 118th Cong. (2023-2024); *See also:* Ortiz Testimony, Transcript 7, p. 3.

²⁰⁹ Hammond Territorial Exceptionalism p. 1664.

²¹⁰ Figueroa-Vázquez Testimony, Transcript 8, p. 16-17.

²¹¹ Cruz Testimony, Transcript 7, p. 19.

Parity in Federal Benefits

- “Efforts should be directed to Congress and the White House...because the courts are not going to provide the relief that people might want. And as I've tried to explain, the only reliable way of obtaining equal treatment and programs is to become a permanent part of the United States. That's a decision that ultimately rests with the Congress and the President. But the United States has democratic traditions and believes that if Puerto Rico wants to become a permanent part of the United States, it should petition for that.”²¹²
- “Congress is the one that needs to act. So we call on Congress to include language in the farm bill that reprograms all USDA agricultural programming and grant funding to be strictly devoted to local farms, community agricultural trust, and the University of Puerto Rico as part of the transition from the NAP block grant that we are currently receiving, to SNAP. These programs need to be conducted in Puerto Rican Spanish to make sure that we guarantee that all farmers are able to access the benefits they are entitled to in a culturally competent manner.”²¹³

²¹² Farrow Testimony, Transcript 6, p. 11.

²¹³ Cruz Testimony, Transcript 7, p. 13.

Conclusion

This memorandum was approved by a vote of members present resulting in 7 in favor and 0 opposed at a meeting of the Committee held on December 3, 2025.

Appendix

Documents related to the Committee's study of this topic can be consulted at the following link:

<https://usccr.app.box.com/folder/249382622004?s=fukc86iegef918ivu53td5rc6uyxpl8e>

- A. Agendas, minutes and presentation slides
- B. Transcripts
- C. Written testimony and sources submitted by panelists
- D. Committee Member Statements

Puerto Rico Advisory Committee to the United States Commission on Civil Rights

Term: January 21, 2022, to January 20, 2026

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Ramon Barquin, Vice-Chair, San Juan

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