

April 27, 2017

**BY ELECTRONIC MAIL**

Insurance Commissioner Dave Jones  
California Department of Insurance  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814

Re: Race Discrimination by Auto Insurance Companies

Dear Commissioner Jones:

As advocates for transportation justice across California, we were disturbed to learn, by way of a newly published study of auto insurance premiums in California and three other states by journalists at ProPublica, that “some major insurers charge minority neighborhoods as much as 30 percent more than other areas with similar accident costs.”

We write to ask that you immediately open an investigation to determine what action is necessary to ensure that every insurance company in California is complying with California insurance law and with state and federal civil rights protections.

As you know, transportation is a major determinant of access to opportunity and economic mobility. Yet a long history of inequality that continues today treats people and communities of color unfairly, both in providing fewer benefits, and imposing higher costs and burdens on them. Transportation justice, which our groups are committed to achieving, requires affordable, accessible, sustainable, clean, efficient, and safe transportation options that provide the greatest mobility benefits and other benefits to our most vulnerable residents, while not subjecting them to unequal harms.

Our vision for transportation justice is consistent with the insurance anti-discrimination laws that California voters enacted nearly thirty years ago as part of Proposition 103. That measure, as you know, prohibits auto insurers from redlining, including charging premiums that are not closely related to risk.

Utilizing a standard profile for a hypothetical motorist, ProPublica compared the premium that auto insurance companies would charge the motorist in a minority neighborhood with the premium in other neighborhoods. ProPublica then used available data to project the risk in those zip codes. ProPublica “found that some insurers were charging statistically significantly higher premiums in predominantly minority zip codes, on average, than in similarly risky non-minority zip codes.”<sup>1</sup>

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<sup>1</sup> <https://www.propublica.org/article/minority-neighborhoods-higher-car-insurance-premiums-white-areas-same-risk>. Following a critique by the industry of its methodology, ProPublica responded (<https://www.propublica.org/article/the-car-insurance-industry-attacks-our-story-our-response>), stating that “Our methodology was developed over more than a year and reviewed by a variety of independent experts in the field (including academics, statisticians and former regulators),

The ProPublica findings concerning California are particularly troubling, because Proposition 103 expressly prohibits auto insurance companies from basing premiums on zip codes, instead requiring that they be based primarily upon a motorist's driving safety record; the number of miles the motorist drives annually; and the number of years of driving experience the motorist has had.

Noting that "California is the most highly regulated insurance market in the U.S.," ProPublica nevertheless determined that a number of insurance companies doing business in California are overcharging some motorists by 10% or more *simply because they live in a minority neighborhood*.

Of course, ProPublica's findings are not the last word on this matter. As ProPublica explains, it was forced to employ statistical analyses and make projections because insurance companies do not make available to the public data on premiums and losses for every zip code in California.

Upon your request, however, insurers must make that data available to you, as California's elected Insurance Commissioner. The data that is available so far suggests the strong possibility that these discriminatory practices are taking place under your watch, and merit a full investigation and appropriate remedial action. Proposition 103 provides your agency with the full power and authority to do that.

In particular, to the extent that there is uncertainty based on a lack of data, you are fully empowered, and indeed obliged, to convene a public hearing, obtain the necessary data from each insurance company, determine whether any laws have been violated, and seek penalties from companies violating the law.

We urge you to act immediately to protect people of color throughout California from yet another racially-discriminatory practice that is the very picture of transportation injustice: It serves to limit the access of so many residents to opportunity based on race, while unjustly enriching unscrupulous corporations as they participate in the extraction of wealth from communities of color.

Very truly yours,

Richard Marcantonio, Managing Attorney  
PUBLIC ADVOCATES INC.

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whose feedback we incorporated. We were transparent with the Insurance Information Institute and with the firm the trade group hired, providing all our data and even our code to ensure they could fairly respond. We would welcome the same transparency in return. While the industry criticizes ProPublica and Consumer Reports for not using company-specific data, such as individual insurers' losses in each zip code, it does not make this information available. If the industry would release it, we would welcome the opportunity to take a look and continue the conversation."

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