

Current Conditions of Voting Rights Discrimination

Florida

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OVERSIGHT OF THE VOTING RIGHTS ACT: POTENTIAL LEGISLATIVE
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FLORIDA

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EXECUTIVE SUMMARY

The State of Florida is known for many things: year-round sunshine, scenic beaches, and world-class tourism. Unfortunately, the state has also developed a reputation for running a tragically flawed and often discriminatory election system. In combination with increasingly competitive political campaigns in one of the most racially diverse electorates in the country, the policies and practices of the state pose a grave threat to the full enjoyment of the right to vote. This report catalogues some of the most significant episodes of Florida's failures to comply with the law, which have become more pronounced since the Supreme Court's decision in *Shelby County v. Holder* – which limited the enforcement of the Voting Rights Act.

Since 2013, the State has remained among the leaders in the country in crafting laws and policies with a sweeping negative effect on the right to vote. The state has enacted legislation that has forced multiple changes to its election system – most of which have reduced or eliminated the ability of voters to exercise their right to vote. The most significant examples include limits on the ability of groups to register new voters, narrowing the opportunity for returning citizens to renew their right to vote (despite a widely supported constitutional amendment to create this right), and undue burdens on the ability of voters to access ballots using the mail (an especially heightened challenge during the pandemic election of 2020).

Without the fulsome preclearance review afforded by the Voting Rights Act, these issues cannot not be addressed meaningfully until long after these new state policies are in place and a lawsuit receives a full hearing. Turning to traditional courtroom remedies for protection, citizens face a process that requires significantly more resources and tends not to yield immediate results. Meanwhile, the election cycles in Florida continue to move in the absence of these significant protections of the right to vote. The result has been a story of Florida elections that fall quite short of the standard of free and fair, which cries out for new federal legislation that can adequately secure the voting rights of every citizen.

INTRODUCTION

This report provides a summary and assessment of voting rights matters in the State of Florida, emphasizing events during the period since the U.S. Supreme Court's announcement of *Shelby County v. Holder*.¹ This key 2013 decision effectively dismantled the well-established administrative enforcement provisions of the Voting Rights Act that afforded fulsome protections against new state and local laws with the purpose or effect of retrogression of the enjoyment of the franchise.² The purpose of this report is to catalogue the impact of this decision in the state and to offer guidance about a renewed oversight system.

¹ 570 U.S. 529 (2013).

² Throughout this document, reference to two specific provisions of the original Voting Rights Act will be referenced. The traditional civil rights litigation remedy is contained in Section 2 of the Act, prevents the use of district lines that deny minority voters an equal opportunity “to participate in the political process and to elect representatives of their choice.” Section 2 is applicable to both intentional and unintended unfair electoral processes and policies with demonstrable discriminatory effects. Courts apply a test determine whether “districts are drawn in a manner that takes decisive political power away from a cohesive minority bloc otherwise at risk for

Since 2013, the political and social impact on Florida communities wrought by this major shift in the law was among the most significant in the country. The booming population in Florida is near the top in the nation in terms of its absolute numbers and its levels of racial and ethnic diversity.³ At the same time, this population has confronted some of the most severe efforts at the state and local levels to curtail electoral opportunity for both racial and language minority communities. In a state well-known for close, competitive contests, the multiple efforts to limit access to voting has grave implications for election outcomes and the public's confidence in the process.

This report starts with a description of Florida's changing demographics and then proceeds to a short recitation of the structure and history of the Voting Rights Act, viewed by many as the crown jewel legislation in the civil rights revolution. While there has been a consistent trend toward expanding the VRA since 1965, with regard to the law's geographic reach and in the substantive depth of its coverage, the most recent era of constitutional jurisprudence from the U.S. Supreme Court has adopted a more skeptical approach to the law's application. The 2013 decision *Shelby County v. Holder* marks the clearest and most stark illustration of this new positioning under the Roberts Court.

In the next section, the report turns to a review of the existing evidence in Florida's record on voting rights that supported Congress's bi-partisan reauthorization of temporary provisions of the Act in 2006. The attention then moves to compare that historical record to the landscape for voting rights in Florida since 2013, after the Supreme Court's decision in *Shelby County*. This shift is noteworthy because it provides insight about the extent of Florida's many failures to respect and expand the hard-won rights of voters since the elimination of robust federal protections.

Sadly, the state has developed a very sobering, disturbing pattern of legislation and policymaking that reveals both an inattention to protecting these hard won rights and, in some cases, a renewed effort to reverse many of the important civil rights gains for voters of color. Along the way, this report offers examples from some of the most significant civil rights cases that have been documented both in the judiciary and in the public discourse.

Taken together, the picture that emerges of Florida is a state that has yet to embrace the core lessons that VRA enforcement embodies. Without a renewed legislative answer to these ongoing concerns, the likelihood that these concerns will linger or worsen is quite palpable. The rights of minority voters and the maintenance of a free and fair election system remain at high risk.

I. DEMOGRAPHICS

discrimination.” The administrative remedy known as preclearance prohibits changes in law with the purpose or effect of abridging the right to vote, and it is contained in Section 5 of the Act. In select jurisdictions (which were defined using a formula contained in Section 4), the provision freezes changes in election practices or procedures in areas across the country which had well-documented records of race discrimination in politics. New procedures were subject to review by the United States Attorney General or in the United States District Court for the District of Columbia.

³ Florida's population now exceeds 21 million people. See U.S. Census, “2020 Population and Housing State Data” <https://www.census.gov/library/visualizations/interactive/2020-population-and-housing-state-data.html>. Further, the fastest growing metro region in the country during the last decade was Florida's retirement community The Villages. Joseph Ax, “New U.S. Census Data Shows White Population Shrank for First Time” Reuters (Aug. 12, 2021).

Florida is one of the most racially diverse states in country, with approximately 45% of its population belonging to communities of color.⁴ About a quarter of the state population of more than 21 million is categorized by the U.S. Census as Hispanic while African Americans represent about 15% of the population.⁵ At the same time, the population of Florida is among the oldest in the country; the state well-exceeds the national average of its share of persons who are more than 60 years old.⁶ The combination of the so-called Baby Boomer and Silent generations amount to more than 40% of all Floridians.

Despite its relatively older and whiter population (both which are in decline at the national level), Florida continues to lead among all states in terms of its rapid rate of growth.⁷ The state has gained congressional seats in each redistricting cycle since the 1965 Voting Rights Act became law, including after the most recent Census brought its total number of U.S. House seats to 28.⁸ Of the pre-Census delegation of Florida's existing Congressional districts, minority political opportunity has led to the election of preferred candidates in a total of nine districts. They include four African American and five Hispanic officials.⁹ These gains are due in no small part to the enforcement of the Voting Rights Act, which has led to the establishment of election districts that provide opportunity to these communities.

At the state policymaking level, the representation of communities of color in Florida is also noteworthy, again owing to the sound enforcement of the Voting Rights Act. Officeholding among people of color in the state legislature approaches or hits the mark of proportionality with the population among communities of color.¹⁰ Republicans are the majority party in both legislative chambers, and its caucus has members from both the African American and Hispanic delegations. While African American members are roughly in line with their share of the population, Hispanic members are slightly underrepresented.

Out of the 120 members of the Florida House of Representatives, a total of 21 African American members represent districts (thirteen of these seats are held by Black women, according to the Center for American Women and Politics)¹¹ while Hispanic members of that same body are slightly underrepresented relative to their population at fifteen in number.¹² In the 40-member Florida Senate, six African Americans (one of whom is a woman) and five Hispanic members

⁴ See U.S. Census, "2020 Population and Housing State Data: Florida." <https://www.census.gov/library/visualizations/interactive/2020-population-and-housing-state-data.html>

⁵ Id. Note that the term "Hispanic" is a term employed by the U.S. Census and generally refers to a community that utilizes the term Latino/a or Latinx. For consistency, Hispanic will be applied throughout this document. And while African American and Black are used interchangeably here; Florida's population contains a significant community of residents of Haitian descent. Sections of this document that focus on this population will specify Haitian or Haitian-American.

⁶ Id. The median age in the state is 42.4, which is 10% higher than the national average of 38.5.

⁷ Bobby Caina Calvan, "Florida Population Boom Boosts Its National Political Clout," <https://apnews.com/article/electoral-college-census-2020-florida-government-and-politics-070dc93ae969a6f4ffa0518f33aa9ef9> (April 26, 2021).

⁸ U.S. Census, 2020 Census: Apportionment of the U.S. House of Representatives, <https://www.census.gov/library/visualizations/2021/dec/2020-apportionment-map.html> (April 26, 2021).

⁹ See Florida House on Capitol Hill, Congressional Delegation from Florida, <https://www.floridahousedc.org/congressional-delegation/>.

¹⁰ See Center for Youth Political Participation: The Florida Legislature, <https://cypp.rutgers.edu/florida/>.

¹¹ Id.

¹² Id.

currently serve. Additionally, the current Lieutenant Governor, Jeanette Nunez, is the first person of Cuban ancestry to hold this office.¹³

Florida's Regions

One way of understanding the political landscape within Florida is to divide the state into three different geographic regions. The profile of each region represents the breadth of the state and the distinct communities and issues that predominate. Starting in the north, the area of Florida's Panhandle region (defined expansively to include the cities of Tampa, Tallahassee, and Jacksonville) is perhaps the most like its Deep South neighbors in Alabama and Georgia.¹⁴ While the region's population is growing at a higher than average rate than the rest of the country, these Florida counties tend to be more rural and not as densely populated as the rest of the state.¹⁵ This area tends to include Florida's most politically conservative election districts, and these county populations are also among the least racially diverse. African American people account for much of the region's diversity, particularly in Duval and Leon Counties (both with major city centers).¹⁶ Northern Florida continues to grow, but not at the same high-octane pace as other regions.

Florida's central region along its I-4 corridor includes some of the fastest growing towns and cities in the state. The dynamics in the tourist mecca that is Orlando, a hub in this rapidly growing region, reflect its more competitive trend in politics. With bell-weather counties like Hillsborough, the outcomes of most statewide contests often hinge on the level of turnout and the preferences of the voters who cast ballots in the central region. Much of the growth in the middle of the state has been due to both in-migration of Americans living elsewhere (including Puerto Rico) as well as the resettling of people immigrating from countries in South and Central America.¹⁷ Insofar as many of the latter group pursue citizenship through naturalization, the regional growth here is even more pronounced than elsewhere. Communities of these new Americans include large numbers of native Spanish speakers, and they have been critical in supporting the region's economic and political evolution.¹⁸

Finally, the largest population centers of the state can be found in the far south region of Florida, where Miami/Dade County is located.¹⁹ Along with the neighboring Palm Beach and Broward Counties, Miami Dade has long been a population hub and a political powerhouse both in the region and the state. Miami not only represents an international site of economic development but also (and relatedly) a unique crossroads for racial and ethnic culture. In addition to the well-documented presence and influence of the nation's largest community of Cuban-American

¹³ Florida Governor's Office, About Jeanette Nunez, <https://www.flgov.com/lieutenant-governor-jeanette-nunez/>.

¹⁴ See Florida Times Union Opinion, Voters reshape the political landscape in northeast Florida, <https://www.jacksonville.com/news/politics/2016-08-30/story/voters-reshape-political-landscape-northeast-florida> (August 30, 2016).

¹⁵ Daniel Weigel, Laura Tierny, "The Six Political States of Florida", <https://www.washingtonpost.com/graphics/2020/politics/florida-political-geography/> (Sept. 8, 2020).

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Anthony Man, "2020 is Over, but South Florida Top Political Developments Will Reverberate Long Into the Future," <https://www.sun-sentinel.com/news/politics/elections/fl-ne-2020-political-stories-future-impact-20210102-igccvwqlarfz3bl77j6azbcf64-story.html> (Jan. 2, 2021).

people in Little Havana, the area also includes significant numbers of Floridians who are of Haitian descent.²⁰

Both these communities add complex dimensions to the politics that prevail in the southern portion of the state. The region is also marked by the influx of the so-called snowbirds, including people who have permanently relocated to southern Florida from states in the northeast following retirement. As in Central Florida, this southern region often sees competitive elections because of the divergent politics of its constituent communities. However, it generally tends to bend relatively closer to the conservative end of the spectrum where statewide elections are concerned.

II. HISTORY OF VOTING DISCRIMINATION IN FLORIDA

Since its coverage under the special provisions of the VRA in 1975, Florida has been part of a federal enforcement regime designed to protect “language minority groups” against discriminatory practices and procedures in the election system.²¹ The application of Section 5 to Florida and states mostly in the southwest focused on assuring that election information was accessible to voters whose primary language was not English.

In light of large numbers of naturalized citizens along with the presence of several groups of American citizens educated in schools where English did not predominate, Congress recognized the discriminatory effects of mandating English as the sole language used in official communications about the election process. Accordingly, the law targeted areas of the country where such communities represented more than five percent of a jurisdiction’s voting age population.²² In these locations, language-accessible materials (including ballots, announcements, and educational materials) are required to assure that these voters can participate meaningfully in the political process.

The intention behind strengthening the promise of the franchise to all Americans reflects the same spirit as the original enactment of the Voting Rights Act, which focused on ending discriminatory election rules that limited African American political activity in the Deep South. As the Senate concluded in 1975:

The focus of the proposed legislation, in this regard, is to insure that the Act’s special temporary remedies are applicable to states and political subdivisions where (i) there has been evidenced a generally low voting turnout or registration rate and (ii) significant concentrations of minorities with native languages other than English reside. The provisions of S. 1279 accomplish this goal by expanding the definition of ‘test or device’ to include the conduct of English only elections where large numbers of language minority persons live. *In these newly covered areas, where severe voting discrimination was documented, S. 1279 would, for ten years, mandate bilingual elections, make applicable the Section 5 preclearance provisions, and authorize the appointment of Federal examiners and observers by the Attorney General.*²³

Five out of the 67 counties in Florida were identified by the U.S. Justice Department to qualify for Section 5 protections based on the size of their language minority populations – Collier,

²⁰ Id.

²¹ Act of Aug. 6, 1975, Pub. L. No. 94-73, 89 Stat. 400 (1975).

²² Id.

²³ S. REP. NO. 94-295, at 9 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 774, 775.

Hardee, Hendry, Hillsborough, and Monroe.²⁴ The designation was based on a legislative record showing that the level of voter registration and participation in these counties during the 1972 presidential election along with the use of English literacy tests for qualification were indicators of the type of language discrimination Congress sought to address.²⁵ As “covered jurisdictions,” subsequent proposed changes in law or practice that would affect voting in these counties (including any statewide changes) required federal review and permission before they could be enforced.²⁶

Though temporary in nature, the designations endured over decades with each legislative renewal of the VRA’s special provisions. Congress extended the same coverage designations both in 1982 and again in 2006, leaving the original details of its targeting formula in place.²⁷ While allowing the opportunity for all covered jurisdictions to bail out of the system upon a sustained showing of improved voter participation and affirmative efforts to include language minorities in the political system, Congress also concluded that its sustained effort to maintain local compliance with U.S. Constitution (particularly in light of examples of continued state evasion and non-compliance) remained necessary.

Following Congress’ bipartisan reauthorization of the Act in 2006, the first in which Republicans controlled all phases of the legislative process, the U.S. Supreme Court heard a challenge to the constitutionality of Section 5 in *NAMUDNO v. Holder*.²⁸ In that case, a special purpose utility district questioned the applicability of the preclearance requirement to the jurisdiction’s proposed change to elections. The Court dismissed this challenge, but its opinion included decidedly tepid views about the operation of Section 5 that raised serious doubts about the legitimacy of its coverage provision framework. The Court interpreted the provision in a manner that avoided serious constitutional questions, but it also opened the door to a subsequent challenge on the renewed provision.

The *NAMUDNO* decision’s invitation to review the law was met only years later, when the Court heard *Shelby County*. There, an Alabama county raised the direct question about whether the law ought to be upheld for continued enforcement. Notwithstanding its vintage and respect in prior cases, the Court found that the 2006 authorization was no longer viable insofar as the legislative findings of discriminatory behavior did not support the scope of the coverage area. Even while Alabama and many of its 67 covered counties had committed preclearance violations in recent years, the Court majority viewed the lack of more recent data on discriminatory conduct as a problem because the design of the federal law treated states differently in the enforcement scheme without sufficient cause.²⁹

The legal theory animating this decision appealed to the notion that states are entitled to equal dignity and treatment, a principle which the challenged statute apparently failed to respect by continuing to target states that had offended the Constitution in 1965.³⁰ Evidence of improved

²⁴ Voting Rights Act Amendments of 1975, 40 Fed. Reg. 43,746 (Sept. 23, 1975) (designating Hardee, Hillsborough and Monroe); Voting Rights Act Amendments of 1975, 41 Fed. Reg. 34,329 (Aug. 13, 1976) (designating Collier and Hendry).

²⁵ Voting Rights Act Amendments of 1975, 41 Fed. Reg. 34,329.

²⁶ *Id.*

²⁷ See Kareem Crayton and Jane Junn, *Five Justices, Section 4 & Three Ways Forward in Voting Rights*, 9 DUKE J. OF CONST. LAW & PUB. POL. 113, (2013).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

levels of registration and voting (both likely products of the VRA’s enforcement) in these states raised questions about maintaining the same coverage framework decades later. While the Court did not object to Congress’ inherent authority to vindicate the right to vote through legislation (which would have departed from well-established law dating back to the start of the 20th Century), the decision called for a more searching quantum of present evidence to support an oversight system that distinguishes some states from others for special enforcement.

A. Pre-2006 Discrimination in Florida

The report on Florida offered in support of the 2006 VRA renewal provides a very comprehensive record of voting rights activity in the state that established a strong case for prolonged federal oversight.³¹ The 2006 report describes three different categories of activity in Florida – (1) state reapportionment decisions and policies that were subject to preclearance objections by the Justice Department, (2) preclearance objections lodged against Florida’s election administration policies, and (3) a series of non-objection activity in the state that is linked to racial discrimination. A brief review of the pertinent findings from that report follows:

Florida was found to have violated Section 5 of the VRA in drawing legislative district maps on multiple occasions, dating back to the 1990s.³² In 1992, the Department of Justice lodged a preclearance objection due to the state’s failure to create state senate districts that accounted for minority political opportunity in Hillsborough County. The objection specifically noted that the state’s apparent intention behind designing its preferred districts was “protecting white incumbents.”³³

In the 2000 cycle, Florida again faced a DOJ objection based on the way the state configured districts for its House of Representatives. The core of the legal problem this time was the state’s lack of attention to the interests of Hispanic voters living in Collier County.³⁴ In the preclearance objections entered during both these redistricting cycles, the federal action led to the state’s decision to create new minority opportunity districts, which improved political representation for voters of color.

With respect to election administration matters, the 2006 report cited Florida’s record of receiving multiple federal preclearance objections based on issues associated with its handling of ballot access policies. The first federal objection was interposed on a proposed statewide change that would have limited a voter’s ability to request assistance while marking a ballot at the polling place.³⁵ The policy explicitly violated federal laws that protect against language discrimination. The Department concluded that this proposed change would have the effect of impeding the ability of voters who desired language assistance.³⁶

The second objection struck various statutory changes contained in Florida’s 1998 election reform package, which was ostensibly aimed at deterring voter fraud. In its assessment of the bill, the DOJ concluded that the proposed changes would more severely disadvantage language minority voters – particularly those who might choose to cast absentee ballots compared to in-

³¹ See JoNel Newman, “Voting Rights In Florida 1982-2006.,” www.RenewtheVRA.org. (Mar., 2006).

³² *Id.* at 9.

³³ *Id.* at 9-10.

³⁴ *Id.* at 11.

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³⁶

person voting. The likely negative impact of this policy on communities of color compared to other voters was sufficient to trigger the objection.

Finally, the report noted instances where no formal federal objection issued against Florida, but the jurisdiction unilaterally altered course due to preliminary questions raised by DOJ. In these cases of “compromised compliance” with federal directives, additional inquiries from the Department about the likely impact of the law highlighted matters that Florida officials might have ignored otherwise as they weighed the benefits and costs of these policies and practices. This dialogue between federal and state officials proved effective in multiple cases, including a proposed absentee ballot change in 1998 (a law that was rescinded after DOJ references to concerns lodged by third parties who would be adversely affected by the proposal).

Even in cases where preclearance was ultimately granted, as with measures reforming Florida’s election process after the now historic 2000 Presidential election, the exchanges with local officials led the state to formally embrace specific interpretations of the law. Where Florida agreed to apply the law in a manner that would avoid further legal queries, the impact of federal enforcement leveraged administrative decisions that might otherwise have required lengthy adjudication. In all, the non-objection activity involving Florida produced significant evidence that oversight and engagement made a significant difference in the protection of the franchise for minority voters.

As the 2006 report described it:

This process often provides the public with its only opportunity to review and comment on the new law’s fairness to minorities. On some occasions, this “second look” occasioned by the Section 5 review process has resulted in substantive changes that protect minority voting rights without the necessity of a Department of Justice objection.³⁷

While these examples were largely covered in the press and not formally adjudicated, they build the context of the political environment that prevails in many Florida elections. The presence of sustained racial appeals in campaigns and governance, the examples of sustained racially polarized voting, and instances of election intimidation described in the report are all closely connected to the circumstantial factors that carry great weight in the analysis of whether a certain policy operates in practice as illegal vote dilution or denial.

The conclusion of the report on pre-*Shelby County* Florida conveys the very cautionary note that rightly spurred Congress to action in 2006. Just as with the well-known controversies involving the contested presidential election of 2000, the damage to public’s confidence in a functioning election system was the most disturbing consequence of the many discriminatory policies and practices found in the state. The writers of the 2006 report noted the danger of removing the key protection that prevented many of these laws from taking effect:

The lingering effects of Florida’s recent – and nationally prominent – voting failures have eroded confidence in Florida’s electoral system, particularly among its minority voters. While Section 5 is not a panacea, maintaining a framework of federal scrutiny for Florida’s voting changes is important in regaining and retaining public confidence in the system. It is also vital in ensuring that voting changes are scrutinized for their fairness to minority voters. Sections 203 and 4(f)(4) continue to be essential to guarantee an

³⁷ 2006 Report, at 15.

opportunity for meaningful participation in the electoral process by Florida's language minorities.³⁸

B. Post *Shelby County* Landscape in Florida

The world of elections since *Shelby County* has resurrected many of the legal and practical challenges that minority voters faced before 1965, with state and local decisions showing very little if any regard for the likely effects of new policies on communities with history of marginalization and exclusion. Indeed, there is some evidence in some cases that the negative effects are not simply a collateral effect but the intended result of these new policies.

On the heels of the Supreme Court's decision, for example, Florida officials have enacted a flurry of new election law policies—often in the face of express objections from minority communities. Many of these changes in law, including annexations and regulations that reverse longstanding improvements in the election system that would have been challenged under the preclearance regime.

The widespread trend of legislating to roll back voting rights gains has presented heightened concerns for the civil rights bar as well. With fewer points of leverage to encourage local officials to adopt more equitable policies, civil rights groups and other fair elections advocates have been pressed to file substantially larger numbers of lawsuits, often with little chance of halting the application of unlawful policies before an impending election. Further, plaintiffs now must expend resources to conduct full-scale expert analyses that demonstrate the disparate racial effects of these new laws in court.

The political effect of these changes should not be underestimated; even when a policy is subsequently declared invalid by a court, election results remain unaffected. Accordingly, the incentive exists for actors to adopt future policies that can shift election outcomes. In a state with several political contests decided by slim margins, even relatively minor shifts in policy can make the difference between a preferred candidate winning and losing a campaign. Assuring free and fair elections is of paramount importance, but the developments since 2013 have raised serious concerns about the commitment to the principle.

The effect of *Shelby County v. Holder* was most immediately apparent in litigation that was pending against voter suppression in Florida at the time the decision issued. In *Mi Familia Vota Education Fund, et al. v. Detzner*, No. 8:12-cv-1294 (M.D. Fla. filed June 8, 2012), plaintiffs had sought injunctive relief against a purge of voters whose citizenship could not be verified using inaccurate procedures and demonstrably incomplete information maintained by the Florida Department of Highway Safety and Motor Vehicles. See *Mi Familia Vota Education Fund, et al. v. Detzner*, No.8:12-cv-1294, Complaint at 2 (M.D. Fla. June 8, 2012). The state had failed to preclear the procedure under Section 5, and in 2012, the District Court denied a motion to dismiss, rejecting Florida's argument that the state as a whole could not be enjoined when only five counties were subject to VRA preclearance requirements. See *Mi Familia Vota Education Fund, et al. v. Detzner*, No. 8:12-cv-1294 (M.D. Fla. Sept. 18, 2012).

However, less than a month after the Supreme Court's decision in *Shelby County*, the District Court dismissed the action with prejudice in its entirety, denying plaintiffs' request not to dismiss claims that did not rely on the preclearance coverage formula. See *Mi Familia Vota*

³⁸ Id. at 37.

Education Fund, et al. v. Detzner.³⁹ The policy was immune from further preclearance review, leaving affected communities to turn to the slower, more expensive traditional litigation remedies to address these concerns.

The Florida legislature has also demonstrated a commitment to evade compliance with constitutional limits on election law, only pausing in the face of direct orders from the courts. In *League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363 (Fla. 2015), the Florida Supreme Court affirmed that the Florida legislature had violated a Florida Constitutional Amendment that prohibited partisan gerrymandering. The Court stated succinctly, “partisan gerrymanders are incompatible with democratic principles” and “voters should choose their representatives, not the other way around.” *Id.* at 370 (quoting *Ariz. State Legis. v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 791, 824 (2015) (alterations by quoting court)). As the trial court found, and the Florida Supreme Court affirmed, a group of partisan political consultants “conspire[d] to manipulate and influence the redistricting process” by submitting comments and maps through strawmen “that would favor the Republican Party,” and the legislature “cooperate[d] and collaborat[ed]” with that plan. *Id.* at 376–77. The Florida Supreme Court ordered that eight districts be redrawn. *Id.* at 416.

In the post-*Shelby County* regime of voting rights legislation, the federal judiciary has also considered multiple cases involving ballot access from Florida. In *Madera v. Detzner*, for example, the district court considered whether Florida officials must provide Spanish-language ballots and assistance to Puerto Rican voters who wish to vote, but who are not educated primarily in English.⁴⁰ The district court ruled that, under the Voting Rights Act of 1965, Florida officials must do so. Specifically, the legislation requires non-English ballots for citizens educated in American schools in a language other than English—a category that includes Spanish-speaking voters educated in Puerto Rican schools. The district court granted in part the plaintiffs’ motion for a preliminary injunction in that counties must provide signage, sample facsimile ballots, and notice in Spanish on their websites.⁴¹

In *League of Women Voters of Florida, Inc. v. Detzner*, the Northern District of Florida granted a preliminary injunction and invalidated an Opinion issued by Florida Secretary of State Kenneth Detzner that categorically barred early voting on any university or college campus and, therefore, violated the U.S. Constitution.⁴² The district court ruled that all the elements for preliminary injunction were met and also noted that the Opinion would result in roadblocks to younger voters exercising their right to vote, which would not serve the public interest⁴³.

³⁹ No. 8:12-cv-1294 (M.D. Fla. July 24, 2013).

⁴⁰ 325 F. Supp. 3d 1269 (N.D. Fla. 2018).

⁴¹ The district court denied in part the motion for preliminary injunction insofar as the counties were not required to provide official Spanish-language ballots and other relief requested by plaintiffs in the 2018 mid-term election, which the court deemed infeasible at the late juncture at which the preliminary injunction was sought. *Madera*, 325 F. Supp. 3d at 1284. After the 2018 election, the court granted additional preliminary injunctive relief requiring Spanish-language official ballots and other voting materials and assistance in Spanish. Order, 2019 WL 2077037 (May 10, 2019).

⁴² 314 F. Supp. 3d 1205 (N.D. Fla. 2018).

⁴³ *Id.* at 1224-25

In *Democratic Executive Committee of Florida v. Detzner*, the Northern District court considered “whether Florida’s law that allowed county election officials to reject vote-by-mail and provisional ballots for mismatched signatures—with no standards, an illusory process to cure, and no process to challenge the rejection—passe[d] constitutional muster.”⁴⁴ The district court ruled that, while it was decidedly not ordering county canvassing boards to count (sight unseen) every mismatched vote, it was directing county supervisors of elections to allow those voters who should have had an opportunity to cure their ballots to cure their vote-by-mail and provision ballots immediately – before the second official results were fully counted.⁴⁵

Finding that the Florida law did not pass constitutional muster, the district court granted plaintiffs’ motion for preliminary injunction in that case, providing limited relief for a limited number of affected voters. *See also Dem. Exec. Comm. Of Fla. v. Lee*, 915 F.3d 1312 (11th Cir. 2019) (denying a motion for emergency stay of the district court’s order providing the plaintiffs, who had cast votes by mail, with a 48-hour period to cure a signature mismatch so that their votes could be timely counted in an election).⁴⁶

⁴⁴ 347 F. Supp. 3d 1017, 1022 (N.D. Fla. 2018).

⁴⁵ *Id.* at 1032.

⁴⁶ In *Democratic Executive Committee of Florida*, 915 F.3d at 1315 (which automatically substituted Laurel M. Lee as Florida’s Secretary of State for Ken Detzner, who was Florida’s Secretary of State during the district court’s review), the Eleventh Circuit court considered Florida’s practice of counting vote-by-mail ballots only after verifying that the voter’s signature provided with the ballot matches the voter’s signature in the state’s records. The court explained:

Although this practice is designed to prevent fraud, signature mismatches occur for a variety of reasons—including purely innocent ones. And Florida’s lack of standards or formal training requirements for those who assess the signatures as mismatched can also contribute to false positives for signature mismatches. So the fact that a Florida election official may decide a voter’s signature provided with her ballot does not match her signature in the state’s records does not necessarily mean her vote is fraudulent and should not be counted.

But Florida’s election code allows for just that. Because of the way Florida has scheduled its election process, some voters who submit a vote-by-mail ballot by the stated deadline are not notified about a signature mismatch until after it is too late to demonstrate their eligibility to vote. As a result, their votes do not count, and they are disenfranchised.

Dem. Exec. Comm. of Fla., 915 F.3d at 1315. The district court entered an order providing the plaintiffs with a 48-hour period to cure signature mismatches. The defendants, the National Republican Senatorial Committee (“NRSC”), the Florida Secretary of State and the Florida Attorney General, appealed the district court’s order and the NRSC sought an emergency stay of the order. *Id.* The Eleventh Circuit majority opinion denied the NRSC’s motion to stay the order. *Id.* The defendants appeal was later deemed moot, as the state laws had changed; specifically, S.B. 7066 was signed into law in June 2019 and provided for formal signature-match training and also provided that rejected mail-in votes and provisional votes may be

The Brennan Center for Justice operates a dynamic website, the “Voting Rights Litigation Tracker”, which aggregates all active and recently disposed litigation in both state and federal courts pertaining to voters’ ability to cast their ballots.⁴⁷ The Brennan Center website tracks these recent cases, describes the basis for the challenges, and monitors the case status. In 2020, for example, cases were filed in connection with vote-by-mail postal services delivery practices that adversely impact the delivery of election mail, vote-by-mail ballot distribution with prepaid postage, voter registration deadline extensions, etc.

3. Other Disenfranchising Methods: Felony Disqualification Policy

While the text of the 14th Amendment appears to limit the ability to disqualify a citizen from voting to cases involving insurrection, the U.S. Supreme Court has interpreted the provision to generally uphold state provisions that deny the ballot to persons convicted of various classes felonies. Exceptions apply in cases where a state has adopted an arbitrary and capricious method of categorizing crimes that would disqualify a voter. Additionally, the federal judiciary has dismissed various voting rights challenges to state provisions that highlight the well-documented racial disparities that are linked to who is charged and convicted of disqualifying offenses.

In *Johnson v. Governor of State of Florida*, plaintiffs filed a class action against the Florida Clemency Board on behalf of all Florida citizens who had been convicted of a felony and had completed all terms of their incarceration, probation, and parole, but who were barred from voting under Florida’s felon disenfranchisement law.⁴⁸

The action relied on the Fourteenth Amendment Equal Protection Clause and Section 2 of the Voting Rights Act of 1965 to challenge Florida’s felon disenfranchisement law. The action relied on the Fourteenth Amendment Equal Protection Clause and Section 2 of the Voting Rights Act of 1965 to challenge Florida’s felon disenfranchisement law. In a mixed opinion, the Eleventh Circuit court majority found that the plaintiffs failed to demonstrate that a facially-neutral law (i.e., the state’s disenfranchisement law) was adopted with the intent to discriminate against a racial group in violation of the Equal Protection Clause. In turn, the court majority reasoned that Section 2 of the Voting Rights Act of 1965—which permits challenges to voting qualifications—did not apply to Florida’s felon disenfranchisement law.

In response to these developments, activists in several states have launched campaigns to reduce or eliminate the impact of these laws through new legislation. In a bi-partisan manner, these campaigns have highlighted the importance of offering people who have completed their incarceration period a second chance to participate in the full exercise of citizenship. This effort

cured until 5:00 pm on the second day after the election. *Dem. Exec. Comm. of Fla. v. Nat’l Republican Senatorial Comm.*, 950 F.3d 790, 793 (11th Cir. 2020).

⁴⁷ *Voting Rights Litigation Tracker 2020*, Brennan Center for Justice, <https://www.brennancenter.org/our-work/court-cases/voting-rights-litigation-tracker-2020#Florida> (May 28, 2021); *Voting Rights Litigation Tracker 2021*, Brennan Center for Justice, <https://www.brennancenter.org/our-work/research-reports/voting-rights-litigation-tracker-2021#florida> (June 9, 2021).

⁴⁸ 405 F.3d 1214 (11th Cir. 2005).

has resulted in a more limited application of disqualification laws in most states, leaving only 11 that impose disqualification beyond the person's actual service of incarceration or supervised release.

Florida, which permanently disqualified persons based on a felony conviction unless the Clemency Board issues a pardon, has the distinction among Section 5 jurisdictions of reversing course through a public ballot measure. In 2018, more than 65% of the electorate agreed to approve Amendment 4 to Florida's Constitution. The recently enacted provision directs state authorities to restore the rights of large classes of persons once their criminal convictions had been resolved. The potential impact on increasing opportunity for voter participation is difficult to overstate. Between 2010 and 2016, the number of disenfranchised Floridians grew by nearly 150,000 people to an estimated 1,686,000 in total and, in 2016, more than one in five of Florida's Black voting-age population was disenfranchised. The passage of Amendment 4 resulted in the automatic restoration of voting rights to as many as 1.4 million of these Floridians.

Providing assistance to these "returning citizens" was a particular accomplishment in light of the snail-paced efforts by the state's clemency board to even consider applications for readmission. Under the prior system, an applicant needed to complete a series of steps even to be eligible for an individualized review for rights restoration. Worse yet, the reviewing body scheduled its sessions very sparingly, contributing to a severe backlog of tens of thousands of pending cases. And even when the clemency panel convened to conduct a review, an applicant under the prior system was very unlikely to receive a favorable result. The frequency of the panel's positive ruling on case, according to one review of its record was less than 10% of the time.

Amendment 4 set out to make this process more transparent and efficient by creating a categorical eligibility upon return from the corrections system to become a voter. However, the state legislature next adopted statutes that seriously curtail the impact of the new provision. On June 28, 2019, Gov. Ron DeSantis signed [Senate Bill 7066](#), which "**prohibited returning citizens from voting** unless they pay off all legal financial obligations (LFOs) imposed by a court pursuant to a felony conviction, including LFOs converted to civil obligations, even if they cannot afford to pay." Even if the formal sentence of the applicant were completed, these fines and fees needed to be resolved completely before becoming eligible for rights restoration.

For people emerging from a period of unemployment, an additional requirement to repay hundreds to thousands of dollars as a prerequisite for restoration would effectively bar them from the ballot box. According to one report on the limiting provision, the legislation to limit Amendment 4 applied to approximately 80% of all returning citizens, who owe some sort of fee related to their past conviction, meaning the legislation would qualify as the greatest single disenfranchisement measure in the state's history. An analysis by the Tampa Bay Times/Miami Herald and ProPublica also noted the major dampening effect associated with measure; it found that at least 31,400 people with felony convictions have registered to vote since Amendment 4 took effect, well below what supporters of the amendment had hoped. About half of them were Black."

Perhaps the most pernicious aspect of this measure is that Florida lacks any unified system that allows a person to track their outstanding fines and fees. By the state's own admission, the

records are not organized in a manner that even permits officials to definitively state who owes fees or how much those fees might be. As one report noted:

The law may affect as many as seven hundred and seventy thousand Florida residents, about half of whom are Black. In many cases, the totals came to thousands of dollars. The burden was not just large but uncertain: state officials testified that they had no way of knowing how much money felons owe, or whether they have paid; those calculations would take six years or so to complete.

Unsurprisingly, the implementation of Amendment 4 in Florida also has not been without further challenge. In *Jones v. Governor of Florida*, the Eleventh Circuit court considered whether the financial condition read into Amendment 4 in 2019 violated the U.S. Constitution.⁴⁹ Specifically, the amendment effectively restored the voting rights of convicted felons on the condition that they complete all the terms of their criminal sentences, including imprisonment, probation, and payment of any fines, fees, costs, and restitution.⁵⁰ The plaintiffs argued that (i) the financial requirement embedded in the amendment violated the Equal Protection Clause of the Fourteenth Amendment as applied to felons who cannot afford to pay the requirement amounts, and that it imposes a tax on voting in violation of the Twenty-Fourth Amendment; (ii) the laws governing felon re-enfranchisement and voter fraud are void for vagueness; and (iii) Florida has denied felons procedural due process by adopting requirements that make it difficult to determine whether they are eligible to vote. *Id.* In a mixed opinion, the majority rejected each of the plaintiffs' challenges.⁵¹

4. Vote By Mail Policy

Florida has been on the leading edge of permitting voters to participate prior to Election Day. An increasing number of states have moved toward increasing access to the franchise through absentee mail balloting, in which the voter writes, calls, or goes online to request an absentee ballot from their local election authority. In some places, voters need an excuse for the absentee ballot such as being sick or out of the state on Election Day. Elsewhere, voters can obtain an absentee ballot without stating any reason or the state takes the affirmative step of mailing absentee ballots to all registered voters. These systems are generally referred to as No-Excuse Absentee balloting or Voting by Mail (VBM).

In the systems that do not employ universal balloting, the voters usually are asked to provide their name and address to an elections officer. Upon receipt of the voter's request for a mailed ballot, local election authorities send a ballot to the voter at the home address and provides one security envelope for the ballot that keeps the vote choice private and another

⁴⁹ 975 F.3d 1016 (11th Cir. 2020).

⁵⁰ *Id.* at 1025.

⁵¹ But see *Jones v. Governor of Florida*, 950 F.3d 795 (11th Cir. 2020) (affirming the district court's preliminary injunction enjoining the defendants from preventing the plaintiffs from voting based solely on their genuine inability to pay legal financial obligations).

envelope into which the sealed ballot is placed. The voter signs the outside of the second envelope to certify he or she is a registered voter.

Once the ballot is completed and returned by the voter, local election authorities check the name of the voter to make sure the person is registered to vote and is casting a ballot from the address registered with the election authority. When those facts have been confirmed in a certification review, officials then remove and separate the sealed ballot from the outside envelope containing the voter signature to preserve the confidentiality of the voter's preferences. On Election Day, states count the mail ballots and add the results to the votes of those individuals who cast their ballots in person.

Mail balloting as a policy has gained popularity among voters who tend to prefer avoiding waits in line at the polling place to cast ballots and value the option of deciding to vote at their convenience in the period leading to election day. Fifty-nine percent of respondents in one poll support holding elections by mail. And there are great benefits to government as well, since the reform saves time and resources for managing polling places, not to mention the protection of the public health during a major pandemic. The growing use of mail ballots shows how substantially the election environment has changed in recent years and why voters should pay close attention to voting reforms in their particular states.

Notwithstanding evidence that the policy of voting by mail on its own carries a partisan advantage, some states including Florida have implemented changes in the system that tend to burden communities of color more than others. Nearly a third of Floridians cast their ballots by mail instead of in-person voting on Election Day. However, Florida also rejects an excessive number of VBM ballots compared to other states.⁵² Rejection rates increased in the 2018 General Election, despite the introduction of opportunities to cure rejected ballots. More than one out of every 100 VBM ballots was ultimately rejected – 32,176 ballots went uncounted. To put this into perspective, Florida's 2018 Gubernatorial race was decided by 32,463 votes.

Analysis from the 2016 and 2018 elections illustrates that voting by mail in Florida is neither reliable in execution, nor equitable from a racial fairness perspective.⁵³ Tens of thousands of voters see their VBM ballots rejected each election based on unreliable judgments that they do not meet a signature match standard. In the flawed process of "signature matching", the decision depends upon an untrained person's assessment that a reviewed signed document does not sufficiently resemble signature from the voter that was submitted digitally when the voter originally registered.

⁵² For charts showing the voting methods of large, mid-size and rural, and small counties, *see infra* Appendices A.1, A.2, and A.3, p. 64 - 66.

⁵³ For charts showing the VBM performance of large, mid-size and rural, and small counties, *see infra* Appendices B.1, B.2, and B.3, p. 67 - 69.

An advisory report summarizing the problems with the system described the concerns in this way:

Signature matching is the primary form of authentication for mail in ballots. Election officer workers with decision making authority regarding signature matches are often untrained, and many potentially legal votes are discarded. Mail in ballot rejections due to signature mismatch may have a determinative effect on close elections. Passage of SB7066 provided for standardized signature matching training by the Secretary of State to elections supervisors and canvassing board members. People's signatures change over time, and may not be a reliable form of identification.⁵⁴

The Legislature attempted to improve this arbitrary review system by allowing voters to “cure” rejected ballots by affidavit. Of course, the success of any ability to cure depends upon notice, which has been substantially limited both by the ability of state officers to track and report these issues in a timely way along with the well-documented problems of on-time delivery with the postal system. Not surprisingly then, in 2018, the rejection rate of VBM ballots has increased. And there are significant differences in remedying a ballot issue when one considers race. For example, the current cure rate of ballots in the most populous areas of South Florida -- across Broward, Palm Beach, and Miami-Dade, is 43.7% among Black voters, 48.4% for Hispanic voters and 65.67% among white voters.”⁵⁵

As experts reports have amply illustrated, there is a heightened risk of having a VBM ballot rejected based upon age⁵⁶, race⁵⁷ and county.⁵⁸ Black voters, who are already more skeptical of voting by mail, have seen their mailed ballots rejected twice as often as their white neighbors. Young voters, between 18 and 21 years old, saw their mailed ballots rejected 2.5 times as often as other voters. Even uniformed service members stationed away from home, who have additional legal protections, saw their mailed ballots rejected more than three times as often as others voting by mail.⁵⁹ While these disparities continued from 2016 to 2018, rejection rates increased for every demographic.

⁵⁴ *Voting Rights and Voter Disenfranchisement in Florida*, FLA. ADVISORY COMM. (Oct. 2020), <https://www.usccr.gov/files/2020-10-06-FL-Voting-Rights-Advisory-Memo.pdf>, at 11.

⁵⁵ Black and Hispanic voters more likely to have ballots rejected, SOUTH FLORIDA SUN-SENTINEL (October 28, 2020, 6:54 PM), <https://www.sun-sentinel.com/news/politics/elections/fl-ne-across-florida-black-brown-spoiled-ballots-high-rate-20201028-r4smpp3iljalfptxeer2717kca-story.html>

⁵⁶ For charts showing the VBM by age of large, mid-size and rural, and small counties, *see infra* Appendices C.1, C.2, and C.3, p. 70 - 72.

⁵⁷ For charts showing the VBM by race of large, mid-size and rural, and small counties, *see infra* Appendices D.1, D.2, and D.3, p. 73 - 75.

⁵⁸ For a chart showing the VBM by age, race and county, *see infra* Appendix E, p. 76.

⁵⁹ For a chart showing the VBM rejection by ballot delivery (2018), *see infra* Appendix F, p. 77.

III. Post 2020 Voting Rights Bills in Florida

In early May 2021, Governor DeSantis approved and signed Florida Senate Bill SB 90, making multiple changes to the State's election laws. Many of these provisions track some of the most repressive measures in states where the outcome of statewide races (including the presidential contest) had margins smaller than 1% of all ballots cast. The purported reason for Florida's activity was to assure that elections remain secure and free from corruption, but the overwhelming assessment of observers is that the effect of these laws curtail legitimate efforts to support voter participation in the political process. In response to the bill, numerous nonprofit and civil rights and advocacy organizations have filed lawsuits attacking various aspects of the law. Challenged provisions include:

- i. *The Secure Drop Box Restriction.* While the use of secure drop boxes in the November 2020 General Election was a core element of an efficiently run election, SB 90 restricts the use of secure drop boxes for early return mail ballots. *E.g.*, SB 90 prohibits election supervisors from operating drop boxes on the Sunday before election day, unless they elect to have early voting on that Sunday or to divert staff to monitoring drop boxes at Supervisors of Elections ("SOE") offices during the critical final preparations for election day – a restriction that would diminish programs such as "Souls to the Polls" campaigns on the Sunday before Election Day to encourage people to drop their ballots in secure drop boxes after Sunday church services. SB 90 also requires all secure drop boxes to be monitored in person by an employee of the supervisor's office, which will limit severely the number of drop boxes available to voters due to the costs of continuously staffing drop boxes. *See* Complaint at 53-58, *Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201, Complaint at 53-58 (N.D. Fla. May 17, 2021). SB 90 outright prohibits the use of drop boxes outside early voting hours except, in effect, at a single location per county in most counties. *See League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 36-37 (N.D. Fla. May 6, 2021). The plaintiffs in *Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187, (N.D. Fla. May 6, 2021) explain that these restrictions will disproportionately affect Black and Latino voters and voters with disabilities. *Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187, Complaint at 39-40 (N.D. Fla. May 6, 2021).
- ii. *The Voter Registration Disclaimer.* SB 90 requires third-party voter registration organizations to inform registrants that their registrations may not arrive on time to enable them to vote – a disclaimer intended to have chilling effect on third-party voter registration organizations. The voter registration efforts are important to reaching historically disenfranchised voters, including those in the Black and Latino communities, and helping them exercise their right to vote. SB 90 imposes a series of other changes that will impair the ability of organizations to register new voters. *See Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201, Complaint at 59-61 (N.D. Fla. May 17,

2021). In addition, the disclaimer constitutes compels political speech by voter registration organizations and undermines their private speech and associational activity. *See Harriet Tubman Freedom Fighters Corp. et al. v. Lee et al.*, No. 4:21-cv-242, Complaint at 1-2, 31-40 (N.D. Fla. June 14, 2021); *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 62-64 (N.D. Fla. May 6, 2021). Plaintiffs in *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, (N.D. Fla. May 6, 2021) allege, “The likely purpose, and ultimate effect, of the [Disclaimer] will be to discourage Floridians to register to vote with [voter-registration] organizations.” *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 48-51 (N.D. Fla. May 6, 2021).

- iii. *The Vote-By-Mail Application Restriction.* SB 90 imposes new requirements on voters applying for a vote-by-mail ballot. Both the voter seeking a vote-by-mail ballot and anyone making a request for such a ballot on behalf of a voter must provide a Florida driver’s license number, their Florida identification card number, or the last four digits of the voter’s and the requestor’s social security number. SB 90 also requires Supervisors of Elections to verify the information matches the county’s voter registration records and expressly bars SOEs from providing vote-by-mail ballots unless the requirements are satisfied. Plaintiffs state that there is no evidence of fraud or abuse from voters using vote-by-mail ballots and no evidence of individuals impersonating other voters via such ballots, and the new restrictions set forth by SB 90 are unnecessary and will lead to arbitrary rejection of mail ballot requests. Plaintiffs reason that many voters in Florida lack the specified documents and others will be barred from obtaining a vote-by-mail ballot because (e.g., years later) they cannot remember the document they used when registering to vote. Finally, tens of thousands of voters across Florida lack photo identifications or social security numbers, and these voters are disproportionately from the Black and Latino communities. *See Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201, Complaint at 61-66 (N.D. Fla. May 17, 2021).
- iv. *The Vote-by-Mail Repeat Request Requirements.* SB 90 created a requirement that all voters make new requests for vote-by-mail ballots every general election cycle, changing rules that have been in effect since 2007. This imposes significant burdens both on voters and voter-registration organizations, and on the election officials that must process the registrations, and legislative testimony suggested many voters would be unaware their vote-by-mail requests had expired until it was too late. *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 43-45 (N.D. Fla. May 6, 2021). *See also Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187, Complaint at 44-45 (N.D. Fla. May 6, 2021).
- v. *The Line Warming Restriction.* The term “Line Warming” refers to efforts to support and encourage voters who must wait in extended lines to continue to remain in line –

including providing food, water, chairs, umbrellas and other services (e.g., offering language assistance). Florida law bars “solicitation” of voters within 150 feet of a voting place.⁶⁰ SB 90 expanded the definition of soliciting or solicitation to include “engaging in any activity with the intent to influence or effect of influencing a voter.” *See Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201, Complaint at 67 (N.D. Fla. May 17, 2021) (citing Fla. Stat. Ann. § 102.031(4)(b) (West 2021)). The plaintiffs argue that nothing in the law restricts the term “influencing a voter” to influencing *how* a voter votes, i.e., the provision would effectively bar activities to support or encourage voters to remain in line to exercise their right to vote. The plaintiffs also explain that the Line Warming Restriction will impact Black and Latino voters disproportionately because these voters historically have had longer wait times than other precincts and that churches and community organizations supporting these voters traditionally provide support to voters waiting in line. *See Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201, Complaint at 66-69 (N.D. Fla. May 17, 2021); *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, (N.D. Fla. May 6, 2021); *Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187, Complaint at 45-51 (N.D. Fla. May 6, 2021).

- vi. *Volunteer Assistance Ban.* SB 90 makes it a crime even for unpaid volunteers⁶¹ to return more than two vote-by-mail ballots to the voter’s county to be counted, with narrow exceptions for immediate family members. *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 40-42 (N.D. Fla. May 6, 2021). The plaintiffs in *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186 (N.D. Fla. May 6, 2021) explain that this criminalizes widespread forms of assistance that are essential to senior voters, voters with disabilities, and voters for whom returning ballots during business hours is difficult, and that communities of color in Florida have historically depended on community and volunteer-based ballot collection efforts. *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 42-43 (N.D. Fla. May 6, 2021). *See also Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187, Complaint at 42-43 (N.D. Fla. May 6, 2021) (“Third-party ballot return is especially important for Black and Latino voters, who are less likely to have access to a vehicle and less likely to be able to secure time off work . . . [and] also important for

⁶⁰ Prior to SB 90, solicitation was the act of “seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph [exempting exit polling]; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item.” *See Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201, Complaint at 67 (N.D. Fla. May 17, 2021) (citing Fla. Stat. § 102.031(4)(b) (2020)).

⁶¹ Existing law had made it a crime to return more than two ballots in exchange for “a pecuniary or other benefit.” Fla. Stat. § 104.0616. *See Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187 (N.D. Fla. May 6, 2021); *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 40-42 (N.D. Fla. May 6, 2021).

voters with disabilities, who are more likely to have difficulty returning their ballot on their own.”).

The plaintiffs in the class action *Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201 (N.D. Fla. May 17, 2021) allege that the legislation violates the U.S. constitution and the Voting Rights Act of 1965⁶² through provisions that “individually and cumulatively, make voting more burdensome, particularly for Black, Latino, and disabled voters.” *Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201, Complaint at 9 (N.D. Fla. May 17, 2021). The plaintiffs in *Florida Rising Together* request, *inter alia*, the court to issue a declaratory judgment that the Secure Drop Box Restriction, the Vote-By-Mail Application Restriction, the Line Warming Restriction, and the Voter Registration Disclaimer violate the Voting Rights Act of 1965 and the U.S. Constitution, and enjoin their enforcement. *See Florida Rising Together et al. v. Lee et al.*, No. 4:21-cv-201, Complaint at 90 (N.D. Fla. May 17, 2021).

The plaintiffs in *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, (N.D. Fla. May 6, 2021) allege that the legislation will “make it more difficult for certain types of voters to participate in the state’s elections . . . such as Florida’s senior voters, youngest voters, and minority voters.” *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 8 N.D. Fla. (May 6, 2021). They request, *inter alia*, that the court issue declaratory judgment that the Secure Drop Box Restriction, Voter Registration Disclaimer, Vote-by-Mail Repeat Request Requirement, Line Warming Restriction, and Volunteer Assistance Ban violate the U.S. Constitution, and that the court enjoin their enforcement. *League of Women Voters of Fla., Inc. et al. v. Lee et al.*, No. 4:21-cv-186, Complaint at 51-68 (N.D. Fla. May 6, 2021).

The plaintiffs in *Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187 (N.D. Fla. May 6, 2021) allege that each of these provisions “places undue burdens on the right to vote” and “the brunt of the harm will be borne by Black voters, Latino voters, elderly voters, and voters with disabilities.” *Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187, Complaint at 10 (N.D. Fla. May 6, 2021). They request, *inter alia*, that the court issue declaratory judgment that the Secure Drop box Restriction, Vote-by-Mail Repeat Request Requirement, Line Warming Restriction, and Volunteer Assistance Ban violate the Voting Rights Act of 1965, the Americans with Disabilities Act, and the U.S. Constitution, and enjoin their enforcement. *Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187, Complaint at 82-84 (N.D. Fla. May 6, 2021). Furthermore, the plaintiffs request an order retaining jurisdiction under Section 3(c) of the Voting Rights Act to require Florida seek preclearance by the court for future changes to voting laws. *Fla. State Conf. of the NAACP et al. v. Lee et al.*, No. 4:21-cv-187, Complaint at 83-84 (N.D. Fla. May 6, 2021).

⁶² The Voting Rights Act of 1965 is codified under 52 U.S.C. §§ 10301-10314, 10501-10508, and 10701-10702 (formerly 42 U.S.C. 1973 to 1973bb).

The plaintiffs in *Harriet Tubman Freedom Fighters Corp. et al. v. Lee et al.*, No. 4:21-cv-242 (N.D. Fla. June 14, 2021) allege that the legislation violates the U.S. Constitution, and they request, *inter alia*, that the court issue a declaratory judgment declaring the Voter Registration Disclaimer violates the U.S. Constitution and enjoin enforcement of the provision. Complaint at 1-2, *Harriet Tubman Freedom Fighters Corp. et al. v. Lee*, No. 4:21-cv-242 (N.D. Fla. June 14, 2021).

IV. Florida’s Record of Racialized Campaigns

In assessing the need for remedies under the Voting Rights Act, information about the behavior of actors in political campaigns can be a relevant consideration in the determining the need for voting rights remedies. Courts usually examine how elected officials, election administrators, candidates and others conduct themselves, particularly where candidates of color are involved, as a window into the systemic racial disparities that are born of racial bias in the the jurisdictions political process. These activities can help chart the existence of widespread discrimination that often works to activate racialized behavior in politics like racially polarized voting. Legal analysis focuses on these matters because they can work together to limit or deny the ability of minority communities to participate meaningfully.⁶³

Under Section 2 of the VRA, this concept is captured in the totality of circumstances test, in which courts are called to consider multiple elements in a community related to history, economics, and sociology and how they might contribute to a finding of racial vote dilution. The Court has recently demanded attention to link these findings to racial bias in the political process. Although the legislative record supporting the test named nine factors courts should use in judging dilution cases, based to some degree upon earlier court findings, its report did not indicate how much weight to assign any single factor. Rather the Senate Report and the language of section 2 indicates that courts consider the "totality of the circumstances" and flexibly use those factors to determine a section 2 violation.⁶⁴

In practice, courts have accorded significant weight to testimony that reveals racial appeals to voters by public and private actors, race-based candidate attacks, and voter intimidation.⁶⁵ As it is more directed to campaign activity, this type of evidence can more clearly demonstrate that the political environment in a jurisdiction is untenably fraught for minority voters and the candidates they prefer. Accordingly, indicators of race discrimination

⁶³ See *Thornburg v. Gingles*, 478 U.S. 30 (1986).

⁶⁴ Section 2 was amended by Congress in 1982 to establish an “effects” test to determine violations of the Act instead of the traditional requirement that plaintiffs prove that the voting practice was enacted for a discriminatory purpose. Voting Rights Act of 1982, Pub. L. No. 97-205 § 3, 96 Stat. 134 (1982); S. REP. NO. 97-417 (1982).

⁶⁵ See *Gingles* at 85.

and animus expressed during political campaigns are critical elements in deciding if a challenged rule or procedure operates in a dilutive manner.

Florida has been a focal point for several egregious examples of race-based campaigning language and tactics since *Shelby County*. These instances have been well-documented in the press, and they involve actors and campaigns at the federal, state and local levels. Taken as a whole, they cannot be readily dismissed as isolated. Rather, this brand of behavior has been sustained in part because they have proven to be effective tactics that resonate with a large share of voters. A brief review of some of the Florida-specific cases follows.

One cannot engage in this analysis without focusing on the unprecedented ways in which the campaign of the 45th President of the United States targeted racial messages and comments, especially toward immigrant communities and African Americans. His base of operations during the presidency was in southern Florida, and his campaign strategy largely hinged on the ability to boost turnout in rural and suburban counties to win the electoral votes of that state.⁶⁶

One readily recalls the fact that Donald Trump was an early and frequent promoter of the so-called “birther” conspiracy about his predecessor in the office, Barack Obama. Trump’s emergence as a political contender for the White House in 2016 is partly due to his public statements that fueled a demonstrably false narrative that Barack Obama was not a natural-born citizen and thus not lawfully entitled to serve as president.⁶⁷ Never had such an outlandish claim been lodged against a sitting president, and the argument’s debut to raise questions about the loyalties and intentions of the nation’s first African American president was not coincidental.

The decidedly xenophobic tone of these attacks on Obama was a prelude to the core rhetoric of Trump’s 2016 presidential campaign, which began with the candidate’s wide ranging speech warning of the dangers of immigration reform (a policy advanced by the Obama administration through the DREAM Act). Trump in his official campaign launch announcement stated that Mexico wasn’t sending its best people to immigrate. Instead, they were “rapists and murderers” in gangs that were crossing the border in record numbers to threaten American citizens (an assertion later categorized as false by the Washington Post).⁶⁸

⁶⁶ See Andrew Pantaz, “Trump’s Winning Florida Strategy: Forget The Cities, Show Me The Suburbs.” <https://www.jacksonville.com/news/2016-11-09/trump-s-winning-florida-strategy-forget-cities-show-me-suburbs> (Nov. 9, 2016).

⁶⁷ See Alana Abramson, “How Trump Perpetuated the Birther Movement for Years,” <https://abcnews.go.com/Politics/donald-trump-perpetuated-birther-movement-years/story?id=42138176> (Sept. 16, 2016). Note that during his re-election campaign in 2020, Donald Trump advanced a similar theory against then candidate Kamala Harris (who is African American and South Asian), See “Trump stokes 'birther' conspiracy theory about Kamala Harris.” <https://www.bbc.com/news/world-us-canada-53774289> (Aug. 14, 2020).

⁶⁸ See Michelle Ye Hee Lee “Donald Trump’s False Comments Connecting Mexican Immigrants and Crime,” Washington Post (July 8, 2015).

The race-baiting tactics continued during the Trump team’s term in the White House, and the tactic was directed at Florida politicians of color. Following the fatal attack on U.S. soldiers in Niger, the President and his staff became enmeshed in a dispute about whether his comments during a call to a grieving family were inappropriate. In a phone conversation with the widow of the lone black member of the ill-fated military unit, President Trump was alleged to have forgotten the name of the fallen soldier and also stated that the soldier “knew what he signed up for, but I guess it still hurts.”⁶⁹ This shocking account of a presidential consolation call was offered to the public by Representative Frederica Wilson, a black Florida Congresswoman who was present with the widow during the phone call in question.

The President not only disputed the Congresswoman’s story, but he launched a broadside attack on her veracity and character in the dispute. He first described the Congresswoman as “wacky” in a tweet that also maintained he had a perfectly respectful conversation with the family of the fallen soldier.⁷⁰ He further suggested that Congresswoman was not being truthful because she could not even have heard his exchange with the widow. Next, the White House Chief of Staff John Kelly took to the White House Press Room to lob a series of false attacks about the Congresswoman’s own statements during prior speeches in her Florida district.⁷¹ The apparent intention was to raise questions about her veracity and character related to the president’s call.

None of the allegations from the Chief of Staff about the Congresswoman’s prior statements were true, which several news outlets quickly reported based on their contemporaneous records of the Congresswoman’s speeches.⁷² Neither the president nor any other officer in the White House ever acknowledged the falsity of these statements or apologized for the very personal nature of the attacks. Yet despite the silence on the matter, the incident fits a troubling pattern of the White House targeting black women elected officials not simply for their viewpoints but their very existence. Representative Wilson’s case joins those of Representative Maxine Waters and then Senator Kamala Harris as examples of the White House style of attack that extends beyond the political to the personal.

A. 2018 Florida Governor’s Race

The 2018 campaign for Florida governor revealed perhaps some of the most brazen examples of race-baiting in campaigns in Florida. The Republican candidate for governor, Congressman Ron DeSantis was President Trump’s preferred choice as the party’s nominee; the endorsement helped him defeat a series of other conservative candidates. His African American opponent, Tallahassee Mayor Andrew Gillum, emerged from a contested Democratic primary as the

⁶⁹ Marc Caputo, “Trump is Messing with the Wrong Woman,” Politico (Oct. 20, 2017).

⁷⁰ Id.

⁷¹ Id.

⁷² See, e.g., Eric Garcia, “Wilson on Kelly Criticism: ‘He Can’t Lie on Me’” Roll Call (Oct. 20, 2017); “Fact-checking the John Kelly-Frederica Wilson Controversy” CBS News, (Oct. 21, 2017).

surprise leader in a crowded field.⁷³ Whether focusing on the principal candidates or on independent organizations in the general election campaign, one would be hard pressed to find more blatant examples of racial invective launched during a campaign.⁷⁴

As an organization, the DeSantis campaign made several appearances that bought the candidate in close connection with racist groups and controversial figures. For example, he participated as a featured speaker at a convention hosted by David Horwitz, an individual who was well-known for peddling racist conspiracy theories in the media.⁷⁵ Records also showed that Horwitz was a major donor to the DeSantis campaign.⁷⁶ Upon questioning about the apparent association, DeSantis denied knowledge about any of Horwitz's views but refused to return the campaign donation, noting: "How the hell am I supposed to know everybody's views?"⁷⁷

For his own part, though, DeSantis made very racially insensitive comments during this campaign that also bear mention. The attacks on his opponent sounded in themes very familiar to those who study racially charged campaigns. For example, DeSantis described Gillum as "an articulate spokesman for those far-left views."⁷⁸ He then warned Florida voters not to "monkey this up" on Election Day, invoking a not so subtle racist epithet to his black opponent: "The last thing we need to do is monkey this up by trying to embrace a socialist agenda with huge tax increases and bankrupting the state." The attacks went beyond legitimate questions about the mayor's handling of policy and to troubling asserted connections between his race and his fitness for the job.

The third-party campaign activity was replete with even more explicitly racist appeals meant to favor DeSantis over Gillum. In two distinct waves, a group called the Road to Power funded robocalls to Florida voters, referring to Gillum as a "negro" and a "monkey." The group has been categorized as running "right wing extremist website" by the Anti-Defamation League. The peculiar echo to DeSantis' own comments invoking the term "monkey" bears some mention here. The trope is long associated with African Americans and even if not coordinated, reinforces offensive stereotypes that can shape voter attitudes.

In response to these invectives, Gillum questioned whether the pattern of behavior associated with the DeSantis campaign was merely happenstance or something more. In one

⁷³ Aric Chokey, Campaign Cash in Florida's 2018 Race for Governor Sun-Sentinal www.projects.sun-sentinal.com (Nov. 7, 2018).

⁷⁴ Dylan Scott, How Racist Robocalls and an FBI Inquiry are Shaking up the Florida Governors Race" Vox (Nov. 6, 2018).

⁷⁵ Beth Reinhard and Emma Brown, "GOP Candidate for Fla. Governor Spoke at Racially Charged Events," Washington Post Sept, 9, 2018).

⁷⁶ Id.

⁷⁷ Elizabeth Koh, Five Takeaways from Andrew Gillum and Ron DeSantis' Final Gubernatorial Debate" Miami Herald (Oct. 15, 2018)

⁷⁸ Julia Jacobs, "DeSantis Warns Florida Not to 'Monkey This Up' and Many Hear a Racist Dog Whistle." NY Times (Aug. 29, 2018).

debate, in response to protests from DeSantis about the suggestion that he associated with racists was unfair, Gillum offered: “I’m not saying that you’re a racist. I just know that people who are racists believe that you are a racist.”

The reliance on racially incendiary appeals and tactics in Florida has not been limited to high profile candidates and campaigns. In the 2018 race, for example, Kathy Gibson, a GOP leader in Orange County, claimed that her social media account had been hacked when observers found racist presentations there of candidate Andrew Gillum, including the patently false claims that Gillum was planning a move as Governor to issue a mandate forcing all Floridians pay black people reparations on account of slavery.⁷⁹ During the same election cycle, a far more base and overt tactic from the race-baiting playbook was deployed in a campaign at the local level. A black candidate for Palm Bay’s City Council confronted news that his campaign signs had been vandalized with the racial epithet “No N****s.”⁸⁰

The use of Facebook and other social media platforms are becoming the preferred method of spreading racist smears, particularly with the ability to customize messaging for subgroups. Their widespread deployment in the 2020 election targeting different Floridians has taken the robocall strategy to a more elaborate level.⁸¹ This time, the target audience was Latino/Hispanic voters, specifically those with Cuban and Central American ancestry. The messaging focused on the allegation that socialist policies are rampant among the Democratic party and invoked the name of billionaire philanthropist George Soros to stoke fears about government takeovers by non-white, non-Christian interests. These messages carried special resonance among communities with a recent history of living under repressive socialist regimes.⁸² More to the point, however, the ads developed some of the same Deep State arguments associated with the Q Anon conspiracy theory and accused the Biden campaign of delivering a government run by Jews and blacks.

CONCLUSION

The aforementioned episodes paint a very clear picture of serious shortcomings in the State of Florida and its management of a voting system that continually fails its citizens. Without the fulsome preclearance review afforded by the Voting Rights Act, these issues cannot not be addressed meaningfully until long after these new state policies are in place and a lawsuit receives a full hearing. Turning to traditional courtroom remedies for protection, citizens face a process that requires significantly more resources and tends not to yield immediate results.

⁷⁹ Steven Lemongello, “Ron DeSantis Demands Orange GOP Official Resign Over Charged Post on Andrew Gillum” *Orlando Sentinel* (Sep. 4, 2018).

⁸⁰ Rick Neale, “Racial Slur Painted on Palm Bay City Council Candidate’s Campaign Yard Sign,” *Florida Today*, (Aug. 10, 2018).

⁸¹ Sabrina Rodriguez and Marc Caputo, “‘This is F-ing Crazy’ Florida Latinos Swamped by Wild Conspiracy Theories,” *Politico* (Sept. 14, 2020).

⁸² *Id.*

Meanwhile, the election cycles in Florida continue to move in the absence of these significant protections of the right to vote. The result has been a story of Florida elections that fall quite short of the standard of free and fair, which cries out for new federal legislation that can adequately secure the voting rights of every citizen.

APPENDIX A.1: VOTING METHOD IN LARGE COUNTIES IN FLORIDA⁸³

Large Counties

County	Registered	Turnout	Voting Method		
			Mailed	Early	Election Day
Brevard	422,606	67.3%	31.8%	28.2%	40.0%
Broward	1,175,328	60.9%	26.7%	41.8%	31.5%
Collier	213,664	73.5%	37.9%	32.1%	29.9%
Duval	607,386	61.2%	16.9%	43.1%	40.0%
Escambia	212,987	64.6%	26.5%	29.9%	43.6%
Hillsborough	857,266	63.6%	35.5%	32.8%	31.7%
Lake	236,078	65.6%	21.3%	35.8%	42.9%
Lee	446,273	66.2%	50.9%	23.1%	26.0%
Leon	213,195	61.8%	19.4%	39.8%	40.9%
Manatee	245,088	64.3%	41.9%	21.0%	37.2%
Marion	243,088	56.9%	27.5%	27.8%	44.7%
Miami-Dade	1,428,856	53.7%	33.2%	37.1%	29.7%
Orange	798,373	60.0%	29.3%	37.1%	33.7%
Osceola	218,754	53.1%	37.8%	30.1%	32.1%
Palm Beach	933,572	63.9%	26.3%	29.3%	44.4%
Pasco	351,949	60.6%	32.3%	26.5%	41.1%
Pinellas	666,876	65.9%	54.9%	12.5%	32.5%
Polk	417,217	59.3%	32.4%	22.0%	45.6%
Sarasota	318,384	67.0%	38.7%	27.6%	33.7%
Seminole	303,668	66.2%	27.7%	39.5%	32.8%
St. Lucie	203,131	61.7%	31.0%	33.4%	35.6%
Volusia	382,408	60.4%	34.5%	27.5%	38.0%

⁸³ *Let Florida Vote: Coronavirus is only the newest barrier to voting in Florida*, ACLU OF FLA., at 71 (Apr. 23, 2020), [aclu of florida report - let florida vote.pdf \(aclufl.org\)](https://www.aclufl.org/sites/default/files/2020-04/let_florida_vote.pdf).

APPENDIX A.2: VOTING METHOD IN MID-SIZE & RURAL COUNTIES IN FLORIDA⁸⁴

Mid-Size & Rural Counties

County	Registered	Turnout	Voting Method		
			Mailed	Early	Election Day
Alachua	180,934	64.2%	27.1%	35.2%	37.7%
Bay	120,851	52.9%	18.4%	62.6%	18.9%
Charlotte	134,545	65.3%	39.2%	34.2%	26.6%
Citrus	109,388	65.4%	36.2%	28.2%	35.5%
Clay	153,119	61.4%	21.5%	39.8%	38.7%
Flagler	82,611	71.0%	27.4%	43.0%	29.5%
Hernando	133,853	67.8%	41.5%	21.0%	37.4%
Indian River	113,426	57.5%	34.2%	31.8%	34.0%
Martin	114,132	67.9%	35.3%	30.5%	34.1%
Okaloosa	135,563	62.5%	21.9%	37.4%	40.7%
Santa Rosa	132,357	57.6%	19.7%	35.8%	44.4%
St. Johns	187,125	70.4%	22.7%	41.8%	35.6%
Sumter	96,497	77.7%	31.0%	50.1%	18.9%

⁸⁴ *Id.*

APPENDIX A.3: VOTING METHOD IN SMALL COUNTIES IN FLORIDA⁸⁵

Small Counties

County	Registered	Turnout	Voting Method		
			Mailed	Early	Election Day
Baker	15,108	70.2%	15.9%	43.8%	40.3%
Bradford	16,317	64.9%	27.6%	26.0%	46.4%
Calhoun	8,695	53.6%	18.6%	36.2%	45.3%
Columbia	40,375	62.0%	23.1%	42.2%	34.8%
DeSoto	16,735	60.6%	23.8%	32.6%	43.6%
Dixie	9,670	62.9%	29.2%	25.6%	45.2%
Franklin	7,783	68.5%	28.1%	32.8%	39.1%
Gadsden	29,450	63.2%	17.6%	42.8%	39.7%
Gilchrist	11,751	57.1%	23.9%	24.3%	51.9%
Glades	6,784	58.3%	23.8%	16.9%	59.3%
Gulf	10,198	59.4%	20.4%	56.1%	23.4%
Hamilton	7,727	52.8%	26.0%	26.3%	47.7%
Hardee	12,239	50.5%	14.4%	38.4%	47.1%
Hendry	17,773	60.8%	19.7%	41.6%	38.7%
Highlands	59,272	61.5%	29.0%	31.5%	39.5%
Holmes	10,751	66.1%	25.6%	24.3%	50.2%
Jackson	27,996	75.6%	21.9%	52.8%	25.4%
Jefferson	9,791	65.5%	17.7%	32.9%	49.4%
Lafayette	4,356	66.2%	18.1%	29.9%	52.0%
Levy	27,859	62.6%	31.7%	20.0%	48.3%
Liberty	4,374	64.8%	16.0%	34.5%	49.5%
Madison	11,840	67.3%	15.4%	42.9%	41.7%
Monroe	53,869	68.8%	35.7%	26.6%	37.7%
Nassau	66,798	65.6%	25.0%	39.3%	35.7%
Okeechobee	20,552	55.3%	21.6%	35.9%	42.5%
Putnam	47,218	60.0%	20.6%	33.1%	46.3%
Suwannee	25,813	62.1%	25.2%	28.9%	45.8%
Taylor	12,142	65.8%	26.8%	28.5%	44.7%
Union	7,396	66.3%	18.0%	33.1%	48.9%
Wakulla	20,810	68.8%	20.6%	37.1%	42.3%
Walton	50,263	60.8%	19.9%	35.6%	44.5%
Washington	15,817	57.7%	22.9%	30.9%	46.1%

Notes

Bottom 25% in each size category highlighted for percent of votes mailed and cast early, while top 25% highlighted for percent of votes cast on election day. Percent of ballots cast calculated from Fla. Dept. of State, Division of Elections, 2018 General Election Reports: [Early Voting and Vote by Mail Report](#) and [Official Results, Voter Turnout](#).

⁸⁵ *Id.* at 72.

APPENDIX B.1: VBM PERFORMANCE IN LARGE COUNTIES IN FLORIDA⁸⁶

Large Counties

County	Mailed Ballots	Percent Mailed	Rejected Ballots	Rejection Rate
Brevard	91,538	31.8%	730	0.8
Broward	199,379	26.7%	5,471	2.74
Collier	60,258	37.9%	428	0.71
Duval	65,554	16.9%	878	1.34
Escambia	35,362	26.5%	580	1.64
Hillsborough	190,205	35.5%	1,713	0.9
Lake	34,322	21.3%	777	2.26
Lee	150,919	50.9%	1,262	0.84
Leon	27,675	19.4%	72	0.26
Manatee	70,644	41.9%	386	0.55
Marion	43,617	27.5%	86	0.2
Miami-Dade	276,123	33.2%	6,404	2.32
Orange	141,079	29.3%	1641	1.16
Osceola	45,472	37.8%	482	1.06
Palm Beach	161,095	26.3%	2193	1.36
Pasco	70,560	32.3%	365	0.52
Pinellas	241,005	54.9%	288	0.12
Polk	81,192	32.4%	340	0.42
Sarasota	83,088	38.7%	131	0.16
Seminole	57,796	27.7%	1,217	2.11
St. Lucie	40,074	31.0%	678	1.69
Volusia	81,546	34.5%	1,960	2.4

⁸⁶ *Let Florida Vote: Coronavirus is only the newest barrier to voting in Florida*, ACLU OF FLA., at 73 (Apr. 23, 2020), [aclu of florida report - let florida vote.pdf \(aclufl.org\)](https://www.aclufl.org/let-florida-vote-report).

APPENDIX B.2: VBM PERFORMANCE IN MID-SIZE & RURAL COUNTIES IN FLORIDA⁸⁷

Mid-Size & Rural Counties

County	Mailed Ballots	Percent Mailed	Rejected Ballots	Rejection Rate
Alachua	32,121	27.1%	736	2.29
Bay	12,306	18.4%	373	3.03
Charlotte	34,954	39.2%	155	0.44
Citrus	26,260	36.2%	275	1.05
Clay	20,661	21.5%	119	0.58
Flagler	14,830	27.4%	246	1.66
Hernando	34,462	41.5%	140	0.41
Indian River	25,931	34.2%	140	0.54
Martin	28,030	35.3%	67	0.24
Okaloosa	18,919	21.9%	373	1.97
Santa Rosa	15,410	19.7%	291	1.89
St. Johns	29,974	22.7%	99	0.33
Sumter	23,736	31.0%	157	0.66

⁸⁷ *Id.*

APPENDIX B.3: VBM PERFORMANCE IN SMALL & RURAL COUNTIES IN FLORIDA⁸⁸

Small & Rural Counties

County	Mailed Ballots	Percent Mailed	Rejected Ballots	Rejection Rate
Baker	1,675	15.9%	0	0
Bradford	2,946	27.6%	17	0.58
Calhoun	849	18.6%	13	1.53
Columbia	5,905	23.1%	117	1.98
DeSoto	2,141	23.8%	1	0.05
Dixie	1,749	29.2%	22	1.26
Franklin	1,566	28.1%	10	0.64
Gadsden	3,580	17.6%	31	0.87
Gilchrist	1,790	23.9%	24	1.34
Glades	929	23.8%	4	0.43
Gulf	1,264	20.4%	40	3.16
Hamilton	1,198	26.0%	0	0
Hardee	937	14.4%	3	0.32
Hendry	1,804	19.7%	15	0.83
Highlands	11,892	29.0%	79	0.66
Holmes	1,757	25.6%	9	0.51
Jackson	3,534	21.9%	7	0.2
Jefferson	1,309	17.7%	0	0
Lafayette	537	18.1%	11	2.05
Levy	5,549	31.7%	62	1.12
Liberty	442	16.0%	3	0.68
Madison	1,214	15.4%	33	2.72
Monroe	13,531	35.7%	357	2.64
Nassau	11,006	25.0%	16	0.15
Okeechobee	2,457	21.6%	30	1.22
Putnam	5,925	20.6%	68	1.15
Suwannee	4,074	25.2%	9	0.22
Taylor	2,150	26.8%	15	0.7
Union	880	18.0%	1	0.11
Wakulla	2,983	20.6%	36	1.21
Walton	6,201	19.9%	110	1.77
Washington	2,115	22.9%	37	1.75

Notes

Best performing counties highlighted in blue, with worst performing highlighting red. Percent of ballots cast calculated from Fla. Dept. of State, Division of Elections, 2018 General Election Reports: [Early Voting and Vote by Mail Report](#) and [Official Results, Voter Turnout](#). Vote-by-mail analysis of Florida Voter File, January 2019, 2018 General Election, performed by Dr. Daniel A. Smith and Anna Baringer, *University of Florida*.

⁸⁸ *Id.* at 74.

APPENDIX C.1: VBM BY AGE IN LARGE COUNTIES IN FLORIDA⁸⁹

Large Counties

County	VBM Ballots Cast						Rejection Rate					
	18-21	22-25	26-29	30-44	45-64	65+	18-21	22-25	26-29	30-44	45-64	65+
Brevard	1,664	1,845	2,094	8,710	30,860	46,365	4.39	3.52	2.15	1.76	0.70	0.39
Broward	5,676	6,450	6,708	28,630	71,076	80,839	10.34	6.50	5.59	3.42	2.33	1.80
Collier	1,022	952	869	3,684	15,575	38,156	5.87	4.41	2.65	1.52	0.65	0.38
Duval	1,541	1,957	2,475	10,263	21,594	27,724	7.07	4.24	3.52	2.75	0.98	0.38
Escambia	605	829	1,164	5,424	11,258	16,082	6.61	4.70	4.64	4.33	1.17	0.50
Hillsborough	4,729	6,125	7,102	32,693	68,356	71,200	4.72	3.04	2.59	1.36	0.63	0.34
Lake	550	612	663	3,035	9,733	19,729	7.82	7.19	6.64	4.48	2.38	1.41
Lee	1,809	2,186	2,370	12,023	44,894	87,637	4.26	4.39	2.95	2.21	0.83	0.43
Leon	1,135	1,621	1,586	4,599	7,930	10,804	0.70	0.62	0.76	0.30	0.16	0.14
Manatee	1,062	1,152	1,225	5,901	22,346	38,958	2.26	1.39	1.14	0.86	0.60	0.38
Marion	522	645	624	2,641	10,939	28,246	-	0.47	0.48	0.49	0.25	0.14
Miami-Dade	6,981	9,079	10,186	41,441	90,326	118,110	8.44	6.25	5.42	3.19	2.01	1.32
Orange	4,225	5,491	6,307	25,942	51,669	47,445	4.09	3.33	2.55	1.43	0.87	0.65
Osceola	1,194	1,410	1,569	7,514	17,649	16,136	1.34	2.13	1.72	1.17	1.06	0.83
Palm Beach	4,132	4,488	4,398	17,188	45,895	84,994	5.78	4.37	3.52	2.01	1.16	0.85
Pasco	1,146	1,244	1,419	8,114	23,194	35,443	3.32	2.89	1.41	0.91	0.40	0.29
Pinellas	3,754	4,993	5,957	27,473	86,956	111,872	0.69	0.38	0.44	0.19	0.10	0.07
Polk	1,304	1,482	1,834	8,409	25,251	42,912	2.45	1.48	1.58	0.78	0.42	0.20
Sarasota	1,203	1,146	1,173	4,956	20,707	53,903	0.42	1.22	0.60	0.54	0.15	0.09
Seminole	1,587	1,937	2,116	9,017	20,422	22,717	6.81	5.94	6.10	3.32	1.71	0.96
St. Lucie	625	701	795	3,969	12,308	21,676	6.56	5.42	5.53	3.43	1.90	0.85
Volusia	1,204	1,506	1,650	7,264	25,754	44,168	7.97	8.57	7.03	4.90	2.49	1.41

⁸⁹ *Let Florida Vote: Coronavirus is only the newest barrier to voting in Florida*, ACLU OF FLA., at 75 (Apr. 23, 2020), [aclu of florida report - let florida vote.pdf \(aclufla.org\)](https://www.aclufla.org/wp-content/uploads/2020/04/let-florida-vote.pdf).

APPENDIX C.2: VBM BY AGE IN MID-SIZE & RURAL COUNTIES IN FLORIDA⁹⁰

Mid-Size & Rural Counties

County	VBM Ballots Cast						Rejection Rate					
	18-21	22-25	26-29	30-44	45-64	65+	18-21	22-25	26-29	30-44	45-64	65+
Alachua	1,094	1,696	1,613	5,301	9,379	13,038	7.40	7.02	5.08	3.41	1.80	0.80
Flagler	214	249	312	1,585	3,948	5,998	7.48	7.63	6.41	5.11	3.17	1.87
Citrus	301	342	335	1,487	9,465	23,024	3.99	2.05	0.90	1.48	0.45	0.30
Clay	270	254	274	1,329	7,031	17,102	4.81	3.15	3.65	3.01	1.45	0.60
Okaloosa	530	485	506	2,661	7,407	9,072	3.58	2.06	2.37	0.98	0.31	0.32
Bay	197	227	221	1,006	4,208	8,971	7.61	11.01	5.43	5.67	1.81	0.68
Santa Rosa	489	565	591	2,710	10,534	19,573	2.45	1.95	1.86	0.70	0.45	0.20
Charlotte	419	441	390	1,684	6,821	16,176	6.44	3.40	3.08	1.31	0.35	0.25
Hernando	614	513	446	2,007	7,810	16,640	0.49	0.78	0.45	0.35	0.29	0.17
Indian River	415	475	681	3,819	5,988	7,541	6.99	5.26	4.26	3.67	1.72	0.62
Martin	377	393	552	2,871	5,236	5,981	11.14	8.91	4.35	3.59	1.15	0.45
St. Johns	1,110	872	712	4,305	9,905	13,070	1.35	0.80	1.40	0.53	0.19	0.19
Sumter	59	87	84	517	3,702	19,287	5.08	4.60	1.19	2.71	0.81	0.54

⁹⁰ *Id.*

APPENDIX C.3: VBM PERFORMANCE IN SMALL COUNTIES IN FLORIDA⁹¹

Small Counties

County	VBM Ballots Cast						Rejection Rate					
	18-21	22-25	26-29	30-44	45-64	65+	18-21	22-25	26-29	30-44	45-64	65+
Baker	41	38	38	224	548	786	-	-	-	-	-	-
Bradford	58	62	71	336	934	1,485	-	-	-	-	-	-
Calhoun	27	24	31	92	246	429	-	-	-	-	-	-
Columbia	97	114	139	540	1,973	3,042	-	8.77	-	2.96	2.23	1.18
DeSoto	28	37	47	151	565	1,313	-	-	-	-	-	-
Dixie	26	20	31	166	581	925	-	-	-	-	-	1.08
Franklin	21	30	27	100	483	905	-	-	-	-	-	-
Gadsden	71	77	103	415	1,149	1,765	-	-	-	-	1.04	-
Gilchrist	39	40	56	174	638	843	-	-	-	-	-	-
Glades	20	23	19	67	274	526	-	-	-	-	-	-
Gulf	24	18	26	100	402	694	-	-	-	-	4.23	1.87
Hamilton	21	20	21	121	426	589	-	-	-	-	-	-
Hardee	24	37	28	87	257	504	-	-	-	-	-	-
Hendry	56	42	53	184	611	858	-	-	-	-	-	-
Highlands	149	166	148	633	2,811	7,985	6.71	6.02	-	-	0.82	0.28
Holmes	24	44	31	187	615	856	-	-	-	-	-	-
Jackson	85	76	77	337	1,094	1,865	-	-	-	-	-	-
Jefferson	29	36	35	122	405	682	-	-	-	-	-	-
Lafayette	16	18	18	62	139	284	-	-	-	-	-	-
Levy	74	97	112	458	1,821	2,987	-	-	-	3.06	0.93	0.70
Liberty	15	11	11	59	134	212	-	-	-	-	-	-
Madison	19	35	41	113	369	637	-	-	-	-	2.71	2.04
Monroe	203	278	286	1,516	4,915	6,333	9.36	7.19	11.54	5.01	1.95	1.78
Nassau	197	190	217	1,176	3,588	5,638	-	-	-	-	-	-
Okeechobee	40	50	39	209	798	1,321	-	-	-	-	-	0.91
Putnam	62	87	104	477	1,860	3,335	-	-	-	-	1.18	0.69
Suwannee	78	74	79	314	1,267	2,262	-	-	-	-	-	-
Taylor	26	51	54	177	734	1,108	-	-	-	-	-	-
Union	18	30	35	135	315	347	-	-	-	-	-	-
Wakulla	64	77	89	403	1,023	1,327	-	-	-	-	1.08	-
Walton	124	108	108	633	2,195	3,033	9.68	-	-	3.00	1.59	0.92
Washington	40	61	55	209	718	1,032	-	-	-	-	1.81	-

Notes

Rates not calculated for categories with fewer than 10 rejected ballots. Largest age disparities, comparing age group to all older voters, highlighted in red. Vote-by-mail analysis of Florida Voter File, January 2019, 2018 General Election, performed by Dr. Daniel A. Smith and Anna Baringer, *University of Florida*.

⁹¹ *Id.* at 76.

APPENDIX D.1: VBM BY RACE IN LARGE COUNTIES IN FLORIDA⁹²

Large Counties

County	VBM Ballots Cast				Rejected Ballots				Rejection Rate		
	Black	Hispanic	White	Other	Black	Hispanic	White	Other	Black	Hispanic	White
Brevard	5,788	3,895	77,591	4,264	72	60	526	72	1.24	1.54	0.68
Broward	38,453	34,345	110,170	16,411	1,098	1,076	2,683	614	2.86	3.13	2.44
Collier	790	2,940	54,787	1,741	31	41	339	17	3.92	1.39	0.62
Duval	12,046	2,622	46,276	4,610	220	40	509	109	1.83	1.53	1.10
Escambia	4,997	580	27,768	2,017	113	12	408	47	2.26	2.07	1.47
Hillsborough	21,763	23,956	130,802	13,684	286	293	926	208	1.31	1.22	0.71
Lake	2,315	2,045	28,352	1,610	80	89	538	70	3.46	4.35	1.90
Lee	4,362	7,445	133,899	5,213	92	127	975	68	2.11	1.71	0.73
Leon	6,011	845	19,302	1,517	24	7	35	6	0.40	-	0.18
Manatee	2,859	2,350	62,783	2,652	39	33	292	22	1.36	1.40	0.47
Marion	2,953	2,055	37,174	1,435	12	13	56	5	0.41	0.63	0.15
Miami-Dade	33,366	169,761	57,224	15,772	968	3,738	1,164	534	2.90	2.20	2.03
Orange	19,378	27,390	80,345	13,966	294	461	636	250	1.52	1.68	0.79
Osceola	3,270	17,307	21,611	3,284	53	248	129	52	1.62	1.43	0.60
Palm Beach	16,822	12,579	120,824	10,870	357	249	1,387	200	2.12	1.98	1.15
Pasco	2,605	4,394	60,145	3,416	25	58	255	27	0.96	1.32	0.42
Pinellas	15,055	8,158	206,227	11,565	32	18	213	25	0.21	0.22	0.10
Polk	7,654	6,366	63,483	3,689	55	59	184	42	0.72	0.93	0.29
Sarasota	1,571	1,817	75,924	3,776	8	6	104	13	-	-	0.14
Seminole	3,731	5,757	43,619	4,689	116	165	788	148	3.11	2.87	1.81
St. Lucie	5,275	2,833	30,095	1,871	106	76	450	46	2.01	2.68	1.50
Volusia	4,215	4,088	69,904	3,339	187	205	1,424	144	4.44	5.01	2.04

⁹² *Let Florida Vote: Coronavirus is only the newest barrier to voting in Florida*, ACLU of FLA., at 77 (April 23, 2020), [aclu of florida report - let florida vote.pdf \(aclufla.org\)](https://www.aclufla.org/wp-content/uploads/2020/04/let-florida-vote.pdf).

APPENDIX D.2: VBM BY RACE IN MID-SIZE & RURAL COUNTIES IN FLORIDA⁹³

Mid-Size & Rural Counties

County	VBM Ballots Cast				Rejected Ballots				Rejection Rate		
	Black	Hispanic	White	Other	Black	Hispanic	White	Other	Black	Hispanic	White
Alachua	4,255	1,444	24,101	2,321	126	62	443	105	2.96	4.29	1.84
Flagler	1,058	656	12,286	830	29	23	170	24	2.74	3.51	1.38
Citrus	452	492	24,386	930	6	5	245	19	-	-	1.00
Clay	1,501	864	17,108	1,188	13	10	85	11	0.87	1.16	0.50
Okaloosa	1,248	554	15,794	1,323	34	19	277	43	2.72	3.43	1.75
Bay	1,008	205	10,576	517	46	10	292	25	4.56	4.88	2.76
Santa Rosa	643	324	13,640	803	16	12	240	23	2.49	3.70	1.76
Charlotte	967	765	32,066	1,156	9	10	130	6	-	1.31	0.41
Hernando	1,245	1,850	30,218	1,149	11	19	102	8	0.88	1.03	0.34
Indian River	990	773	23,254	914	8	4	121	7	-	-	0.52
Martin	627	719	25,944	740	3	4	56	4	-	-	0.22
St. Johns	1,140	866	26,585	1,383	5	5	83	6	-	-	0.31
Sumter	494	277	22,377	588	4	4	145	4	-	-	0.65

⁹³ *Id.*

APPENDIX D.3: VBM BY AGE IN SMALL & RURAL COUNTIES IN FLORIDA⁹⁴

Small Counties

County	VBM Ballots Cast				Rejected Ballots				Rejection Rate		
	Black	Hispanic	White	Other	Black	Hispanic	White	Other	Black	Hispanic	White
Baker	140	7	1,487	41	-	-	-	-	-	-	-
DeSoto	148	88	1,875	30	-	-	1	-	-	-	-
Franklin	123	8	1,421	14	1	-	8	1	-	-	-
Gadsden	2,058	35	1,390	97	25	1	5	-	1.21	-	-
Glades	29	32	841	27	-	-	4	-	-	-	-
Hamilton	262	12	902	22	-	-	-	-	-	-	-
Hardee	42	82	788	25	1	2	-	-	-	-	-
Hendry	183	275	1,284	62	1	4	9	1	-	-	-
Holmes	21	7	1,691	38	-	-	9	-	-	-	-
Jackson	697	28	2,713	96	1	-	6	-	-	-	-
Jefferson	366	12	910	21	-	-	-	-	-	-	-
Lafayette	5	8	519	5	1	-	9	1	-	-	-
Liberty	40	-	391	11	-	-	3	-	-	-	-
Suwannee	277	51	3,653	93	1	-	8	-	-	-	-
Union	69	8	793	10	-	-	1	-	-	-	-
Monroe	296	1,299	11,467	69	7	28	311	11	-	2.16	2.71
Highlands	599	752	10,193	348	14	9	49	7	2.34	-	0.48
Madison	373	10	797	34	17	-	15	1	4.56	-	1.88
Columbia	688	128	4,931	158	23	5	85	4	3.34	-	1.72
Bradford	256	18	2,585	87	-	-	15	2	-	-	0.58
Calhoun	82	9	735	23	1	1	11	-	-	-	1.50
Dixie	38	7	1,664	40	-	-	22	-	-	-	1.32
Gilchrist	17	26	1,711	36	2	1	19	2	-	-	1.11
Gulf	140	5	1,095	24	6	-	32	2	-	-	2.92
Levy	245	115	5,072	117	5	1	55	1	-	-	1.08
Nassau	530	158	9,932	386	1	-	14	1	-	-	0.14
Okeechobee	109	139	2,132	77	3	5	22	-	-	-	1.03
Putnam	582	129	5,048	166	9	4	53	2	-	-	1.05
Taylor	285	13	1,804	48	3	-	12	-	-	-	0.67
Wakulla	271	37	2,604	71	7	-	25	4	-	-	0.96
Walton	171	89	5,716	225	3	3	97	7	-	-	1.70
Washington	205	13	1,835	62	3	-	30	4	-	-	1.63

Notes

Largest racial disparities highlighted in red. Vote-by-mail analysis of Florida Voter File, January 2019, 2018 General Election, performed by Dr. Daniel A. Smith and Anna Baringer, *University of Florida*.

⁹⁴ *Id.* at 78.

APPENDIX E: VBM BY RACE, AGE, AND COUNTY⁹⁵

Appendix B: State Table: How Floridians Vote

Demographic Race	Mailed	Early	Election Da
American Indian or Alaskan Native	32.0%	30.1%	37.9%
Asian Or Pacific Islander	34.5%	32.0%	33.5%
Black, Not Hispanic	21.9%	44.9%	33.2%
Hispanic	31.4%	31.6%	37.0%
Multi-racial	27.0%	34.8%	38.1%
Other	28.5%	35.0%	36.5%
White, Not Hispanic	34.1%	30.5%	35.4%
Unknown Race	26.9%	33.3%	39.8%
Age			
18-21	20.4%	32.6%	47.1%
22-25	22.5%	30.0%	47.5%
26-29	21.6%	29.6%	48.7%
30-44	21.4%	31.8%	46.8%
45-65	27.6%	35.9%	36.5%
65 or older	45.6%	30.1%	24.3%
Sex			
Female	32.9%	32.2%	34.9%
Male	30.2%	33.7%	36.1%
Unknown Gender	44.8%	52.8%	2.3%

Notes

Figures calculated from analysis of Florida Voter File, January 2019 extract, 2018 General Election.

⁹⁵ *Let Florida Vote: Coronavirus is only the newest barrier to voting in Florida*, ACLU OF FLA., at 70 (Apr. 23, 2020), https://www.aclufl.org/sites/default/files/field_documents/aclu_of_florida_report_-_let_florida_vote.pdf.

Figure 8
 UOCAVA VBM Rejection by Ballot Delivery (2018)

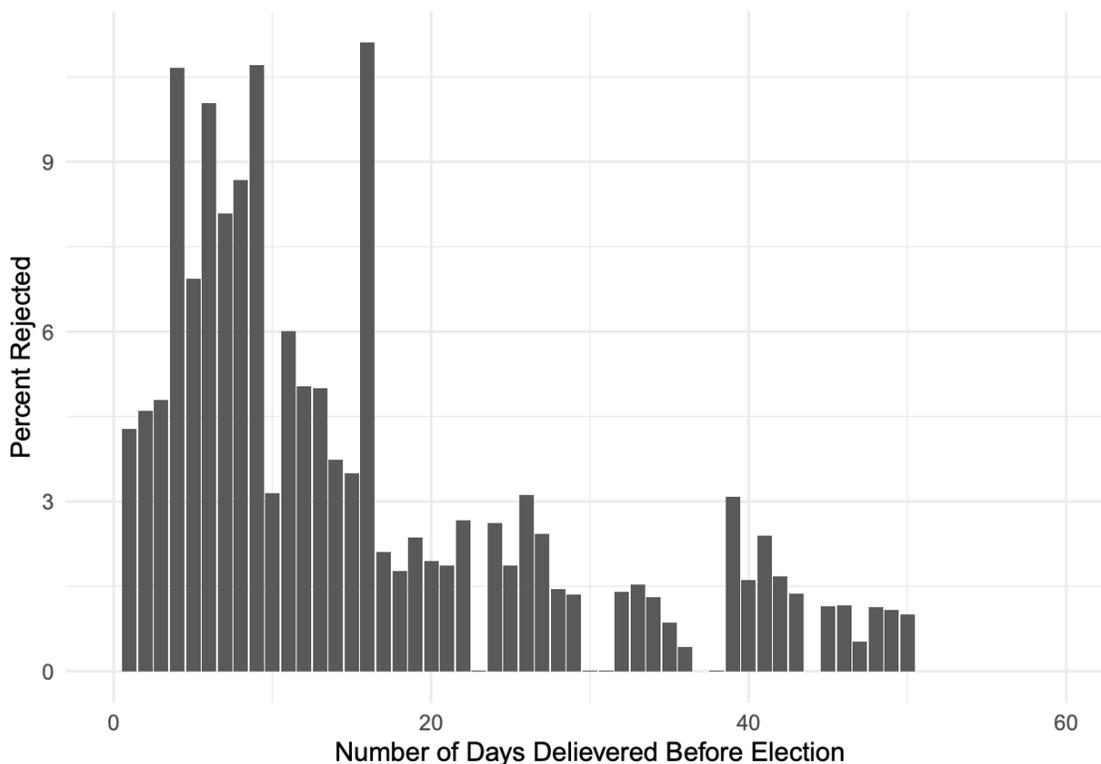


Table 7
 Military/Overseas Vote-by-Mail Rejection, 2018 General Election

Group	Accepted VBM	Rejected VBM	Total VBM	VBM Rejection Rate
All Overseas	22,015	378	22,393	1.7
Military Overseas	3,443	61	3,504	1.7
Civilian Overseas	18,572	317	18,889	1.7
Domestic Military	35,540	1,545	37,085	4.2
Military or Overseas	57,555	1,923	59,478	3.2

⁹⁶ *Id.* at 66.

APPENDIX G.1: EARLY VOTING ACCESS IN LARGE COUNTIES IN FLORIDA⁹⁷

Large Counties

County	Early Voting Access				Early Voting Performance	
	Locations	Days	Total Hours	Voters per Hour	Early Votes	Percent Early
Brevard	9	8	666	635	80,050	28.2%
Broward	21	14	3,528	333	299,154	41.8%
Collier	9	10	810	264	50,483	32.1%
Duval	20	14	2,250	270	164,682	43.1%
Escambia	9	13	1,170	182	39,052	29.9%
Hillsborough	20	14	3,360	255	172,818	32.8%
Lake	10	13	1,040	227	55,972	35.8%
Lee	10	13	1,040	429	67,760	23.1%
Leon	9	14	1,008	212	56,121	39.9%
Manatee	5	11	550	446	34,567	21.0%
Marion	9	10	900	270	43,445	27.8%
Miami-Dade	28	14	4,704	304	302,068	37.1%
Orange	16	14	2,240	356	177,643	37.1%
Osceola	6	10	600	365	34,936	30.1%
Palm Beach	14	14	2,352	397	174,427	29.3%
Pasco	11	11	1,452	242	56,634	26.5%
Pinellas	5	14	840	794	54,988	12.5%
Polk	9	11	891	468	54,412	22.0%
Sarasota	6	13	780	408	58,903	27.6%
Seminole	7	14	1,176	258	79,437	39.5%
St. Lucie	5	14	560	363	41,887	33.4%
Volusia	5	9	540	708	63,541	27.5%

⁹⁷ *Let Florida Vote: Coronavirus is only the newest barrier to voting in Florida*, ACLU OF FLA., at 79 (Apr. 23, 2020), [aclu of florida report - let florida vote.pdf \(aclufl.org\)](https://www.aclufla.org/wp-content/uploads/2020/04/let-florida-vote.pdf),

APPENDIX G.2: EARLY VOTING ACCESS IN MID-SIZE & RURAL COUNTIES IN FLORIDA⁹⁸

Mid-Size & Rural Counties

County	Early Voting Access			Voters per Hour	Early Voting Performance	
	Locations	Days	Total Hours		Early Votes	Percent Early
Alachua	6	13	702	258	40,882	35.2%
Bay	6	9	648	186	40,015	62.6%
Charlotte	3	14	504	267	30,103	34.2%
Citrus	4	9	288	380	20,181	28.2%
Clay	6	9	540	284	37,410	39.8%
Flagler	3	13	312	265	22,941	43.0%
Hernando	4	11	352	380	17,137	21.0%
Indian River	3	13	312	364	23,844	31.8%
Martin	7	8	504	226	24,001	30.5%
Okaloosa	5	13	650	209	31,660	37.4%
Santa Rosa	4	13	520	255	27,316	35.8%
St. Johns	7	11	770	243	55,011	41.8%
Sumter	6	12	648	149	37,562	50.1%

⁹⁸ *Id.*

APPENDIX G.3: EARLY VOTING ACCESS IN SMALL & RURAL COUNTIES IN FLORIDA⁹⁹

Small Counties

County	Early Voting Access				Early Voting Performance	
	Locations	Days	Total Hours	Voters per Hour	Early Votes	Percent Early
Baker	1	10	100	151	4,646	43.8%
Bradford	1	14	126	130	2,751	26.0%
Calhoun	1	14	132	66	1,685	36.2%
Columbia	2	8	144	280	10,565	42.2%
DeSoto	1	13	104	161	2,936	32.6%
Dixie	1	9	88	110	1,500	25.6%
Franklin	2	9	180	43	1,811	32.8%
Gadsden	4	14	488	60	8,622	42.8%
Gilchrist	1	8	78	151	1,800	24.3%
Glades	1	8	64	106	653	16.9%
Gulf	2	9	216	47	3,339	56.1%
Hamilton	1	8	64	121	1,207	26.3%
Hardee	1	10	80	153	2,483	38.4%
Hendry	2	13	228	78	3,729	41.6%
Highlands	3	10	240	247	12,639	31.5%
Holmes	1	8	71	151	1,662	24.3%
Jackson	3	9	243	115	8,504	52.8%
Jefferson	1	13	104	94	2,433	32.9%
Lafayette	1	8	64	68	853	29.9%
Levy	1	13	130	214	3,443	20.0%
Liberty	1	13	104	42	945	34.5%
Madison	4	8	266	45	3,295	42.9%
Monroe	5	13	520	104	9,748	26.6%
Nassau	4	9	288	232	17,210	39.3%
Okeechobee	1	13	104	198	4,074	35.9%
Putnam	3	10	270	175	9,373	33.1%
Suwannee	3	9	216	120	4,635	28.9%
Taylor	1	13	156	78	2,280	28.5%
Union	1	8	78	95	1,623	33.1%
Wakulla	1	8	80	260	5,303	37.1%
Walton	4	8	256	196	10,889	35.6%

Notes

Best performing counties highlighted in blue, with worst performing highlighted in red. Early voting hours and locations from Fla. Dept. of State, Division of Elections, 2018 General Election Early Voting Locations and Times Report. Percent of ballots cast calculated from Fla. Dept. of State, Division of Elections, 2018 General Election Reports: Early Voting and Official Results, Voter Turnout.

⁹⁹ *Id.* at 80.

APPENDIX H.1: POLLING PLACE ACCESSIBILITY IN LARGE COUNTIES IN FLORIDA¹⁰⁰

Large Counties

County	Polling Location Type			Precinct Size		
	Precincts	Private	Religious	Public	Average	Largest
Brevard	171	12%	47%	40%	2,639	10,409
Broward	576	30%	14%	57%	2,044	8,775
Collier	59	36%	36%	29%	3,695	6,877
Duval	198	18%	55%	27%	3,057	8,390
Escambia	79	22%	52%	27%	2,700	6,879
Hillsborough	390	18%	54%	28%	2,211	7,640
Lake	102	47%	37%	16%	2,309	8,668
Lee	125	17%	65%	18%	3,555	9,424
Leon	161	14%	61%	24%	1,385	7,705
Manatee	70	36%	50%	14%	3,501	7,626
Marion	125	39%	41%	20%	1,943	5,334
Miami-Dade	783	10%	21%	68%	1,876	7,473
Orange	247	24%	52%	24%	3,250	6,840
Osceola	95	17%	15%	68%	2,588	10,687
Palm Beach	872	28%	22%	50%	1,185	3,808
Pasco	113	56%	27%	17%	3,188	9,596
Pinellas	300	22%	45%	33%	2,228	6,414
Polk	167	22%	61%	17%	2,489	7,984
Sarasota	99	25%	53%	22%	3,211	11,096
Seminole	80	15%	59%	26%	3,796	7,940
St. Lucie	66	33%	33%	33%	3,168	11,508
Volusia	125	14%	48%	38%	3,048	6,391

¹⁰⁰ *Let Florida Vote: Coronavirus is only the newest barrier to voting in Florida*, ACLU OF FLA., at 81 (Apr. 23, 2020), [aclu of florida report - let florida vote.pdf \(aclufl.org\)](https://www.aclufl.org/report-let-florida-vote).

APPENDIX H.2: POLLING PLACE ACCESSIBILITY IN MID-SIZE & RURAL COUNTIES IN FLORIDA¹⁰¹

Mid-Size & Rural Counties

County	Polling Location Type				Precinct Size	
	Precincts	Private	Religious	Public	Average	Largest
Alachua	63	14%	49%	37%	2,889	7,266
Bay	44	14%	50%	36%	2,747	5,801
Charlotte	79	27%	18%	56%	2,002	5,785
Citrus	31	42%	39%	19%	3,554	8,710
Clay	47	30%	47%	23%	3,247	8,597
Flagler	23	13%	22%	65%	3,269	5,700
Hernando	39	31%	62%	8%	4,167	8,646
Indian River	38	26%	55%	18%	3,150	13,415
Martin	30	10%	40%	50%	3,790	6,054
Okaloosa	52	15%	69%	15%	2,609	9,038
Santa Rosa	41	12%	56%	32%	3,225	11,413
St. Johns	46	20%	39%	41%	4,045	10,411
Sumter	26	12%	12%	77%	3,730	7,528

¹⁰¹ *Id.*

APPENDIX H.3: POLLING PLACE ACCESSIBILITY IN SMALL COUNTIES IN FLORIDA¹⁰²

Small Counties

County	Polling Location Type				Precinct Size	
	Precincts	Private	Religious	Public	Average	Largest
Baker	9	11%	22%	22%	1,678	3,242
Bradford	14	29%	71%	0%	1,165	1,754
Calhoun	11	36%	0%	64%	588	1,411
Columbia	26	35%	0%	65%	1,838	5,511
DeSoto	15	7%	67%	27%	1,116	2,781
Dixie	10	30%	0%	60%	969	2,697
Franklin	8	25%	25%	50%	976	1,685
Gadsden	26	23%	54%	23%	1,189	2,688
Gilchrist	10	10%	0%	90%	1,171	1,722
Glades	13	15%	0%	85%	524	1,280
Gulf	9	0%	11%	89%	1,078	1,907
Hamilton	8	0%	13%	88%	963	1,555
Hardee	12	8%	50%	42%	1,019	2,223
Hendry	10	40%	20%	40%	1,775	3,890
Highlands	26	35%	31%	35%	2,381	5,709
Holmes	8	38%	13%	13%	1,334	2,314
Jackson	14	29%	21%	50%	1,994	3,401
Jefferson	15	27%	60%	13%	631	1,035
Lafayette	5	0%	0%	100%	864	1,100
Levy	13	15%	31%	38%	2,143	3,510
Liberty	8	13%	0%	50%	541	1,000
Madison	11	9%	9%	82%	1,075	2,255
Monroe	34	35%	24%	41%	1,613	3,103
Nassau	15	0%	40%	60%	4,435	6,392
Okeechobee	11	36%	45%	18%	1,843	3,357
Putnam	35	29%	26%	46%	1,346	3,013
Suwannee	16	44%	25%	31%	1,612	2,246
Taylor	14	7%	21%	71%	857	1,368
Union	11	55%	9%	36%	593	1,496
Wakulla	12	42%	0%	58%	1,717	5,289
Walton	22	32%	36%	32%	2,406	9,721
Washington	17	18%	12%	71%	1,307	3,701

Notes

Multiple precincts may vote at a shared polling place. Counties in the top 25% of their size category for largest precinct size highlighted in red.

Analysis of Fla. Voter File, January 2019, 2018 General Election, precinct addresses as published by the Fla. Dept. of State, Division of Elections and property parcel data from the Fla. Dept. of Revenue, performed by Proxeme, LLC.

¹⁰² *Id.* at 88.

APPENDIX I: STATEWIDE VBM REJECTION RATES CAST BY AGE COHORTS¹⁰³

Table 1
Vote-by-Mail Ballots and Age, 2018 General Election

Age	Accepted VBM	Rejected VBM	Total VBM	VBM Rejection Rate
18-21	52,597	2,978	55,575	5.4
22-25	63,794	2,727	66,521	4.1
26-29	70,736	2,494	73,230	3.4
30-44	313,441	6,708	320,149	2.1
45-64	850,765	9,249	860,014	1.1
65-104	1,288,220	8,277	1,296,497	0.6
Total	2,639,553	32,433	2,671,986	1.2

Table 2
Vote-by-Mail Ballots and Age, 2016 General Election

Age	Accepted VBM	Rejected VBM	Total VBM	VBM Rejection Rate
18-21	71,374	2,984	74,358	4.0
22-25	82,667	2,980	85,647	3.5
26-29	93,736	2,883	96,619	2.8
30-44	312,904	5,030	317,934	1.7
45-64	793,996	5,897	799,893	0.8
65-104	1,015,405	5,088	1,020,493	0.5
Total	2,713,053	27,707	2,740,760	1.0

Table 3
Vote-by-Mail Ballots and Age, 2012 General Election

Age	Accepted VBM	Rejected VBM	Total VBM	VBM Rejection Rate
18-21	67,491	2,941	70,432	4.2
22-25	57,903	2,094	59,997	3.5
26-29	93,736	2,883	96,619	3.0
30-44	312,904	5,030	317,934	1.6
45-64	793,996	5,897	799,893	0.7
65-104	1,015,405	5,088	1,020,493	0.5
Total	2,341,435	23,933	2,365,368	1.0

¹⁰³ Dr. Daniel A. Smith & Anna Baringer, *ACLU Florida: Report on Vote-by-Mail Ballots in the 2018 General Election*, ACLU OF FLA., at 54 (Nov. 21, 2018), https://www.aclufll.org/sites/default/files/aclu_florida_report_on_vote-by-mail_ballots_in_the_2018.pdf.

APPENDIX J: STATEWIDE RATES OF REJECTION VBM BALLOTS BY RACE & ETHNICITY¹⁰⁴

Table 4
Vote-by-Mail Ballots by Race and Ethnicity, 2018 General Election

Race/Ethnicity	Accepted VBM	Rejected VBM	Total VBM	VBM Rejection Rate
Black	235,541	4,713	240,254	1.9
Hispanic	349,592	7,325	356,917	2.1
White	1,909,279	17,340	1,926,619	0.9
Other	145,141	3,055	148,196	2.1
Total	2,639,553	32,433	2,671,986	1.2

Table 5
Vote-by-Mail Ballots by Race and Ethnicity, 2016 General Election

Race/Ethnicity	Accepted VBM	Rejected VBM	Total VBM	VBM Rejection Rate
Black	240,094	4,683	244,777	1.9
Hispanic	375,345	6,696	382,041	1.8
White	1,950,770	13,558	1,964,328	0.7
Other	146,844	2,770	149,614	1.8
Total	2,713,053	27,707	2,740,760	1.0

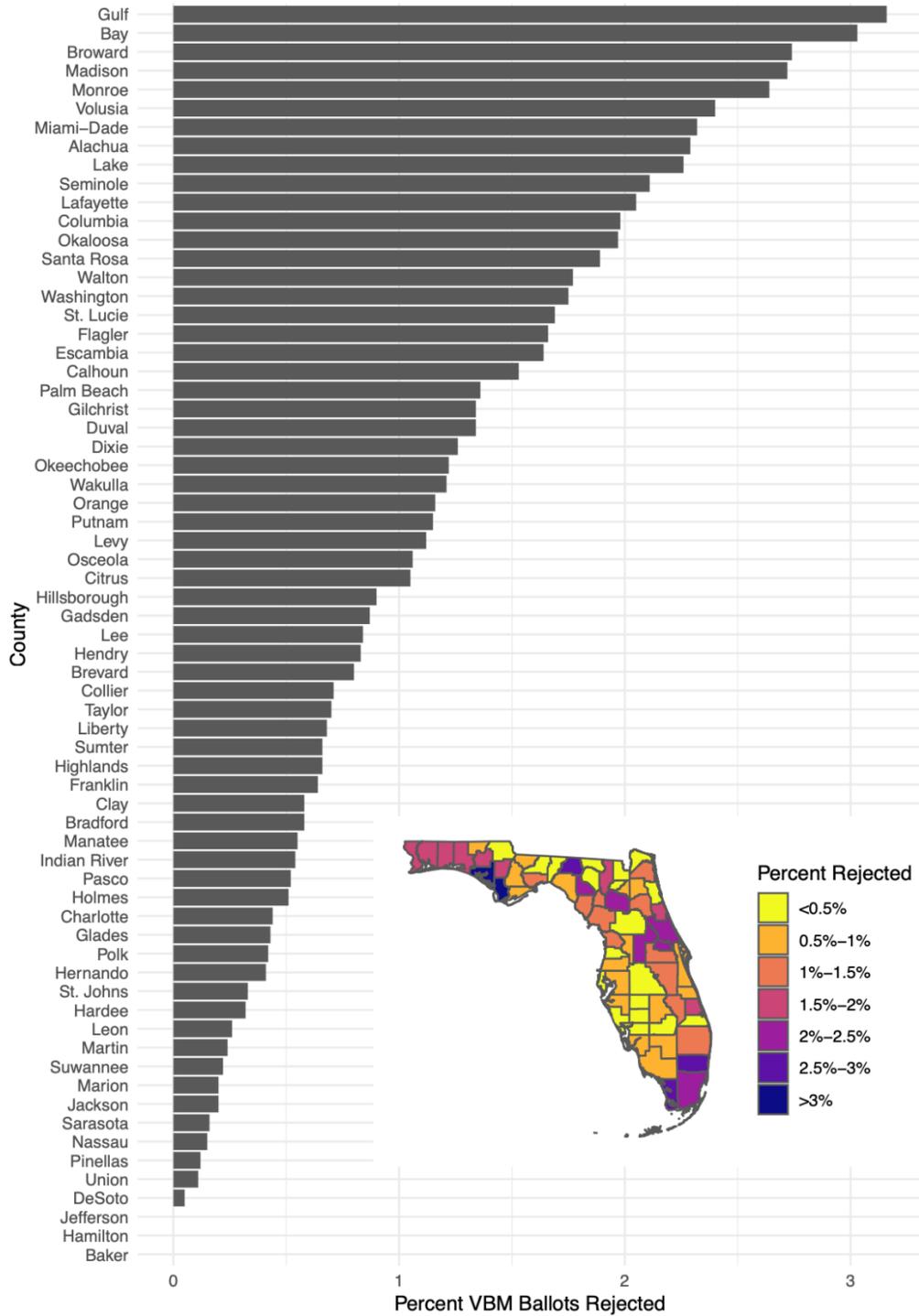
Table 6
Vote-by-Mail Ballots by Race and Ethnicity, 2012 General Election

Race/Ethnicity	Accepted VBM	Rejected VBM	Total VBM	VBM Rejection Rate
Black	219,325	3,358	222,683	1.5
Hispanic	250,750	3,310	254,060	1.3
White	1,761,034	15,204	1,776,238	0.9
Other	110,326	2,061	112,387	1.8
Total	2,341,435	23,933	2,365,368	1.0

¹⁰⁴ *Id.* at 56.

APPENDIX K: VBM BALLOT REJECTION RATE BY COUNTY¹⁰⁵

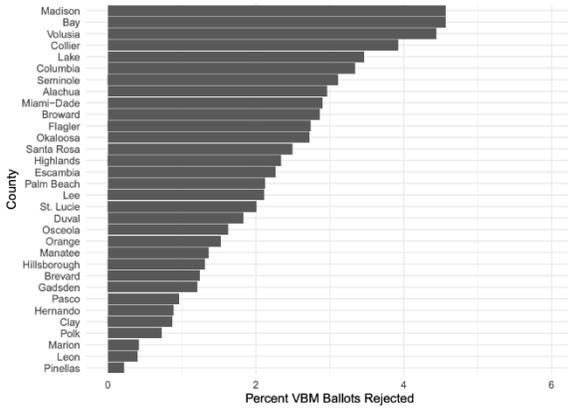
Figure 1
VBM Ballot Rejection Rate by County (2018)



¹⁰⁵ *Id.* at 58.

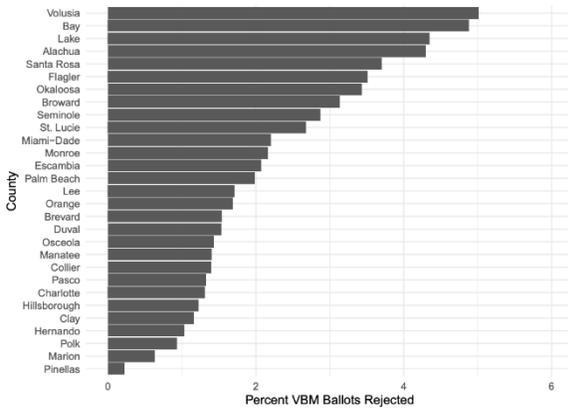
APPENDIX L: VBM REJECTION RATE OF BLACK AND HISPANIC VOTERS BY COUNTY¹⁰⁶

Figure 2
VBM Rejection Rate of Black Voters by County (2018)



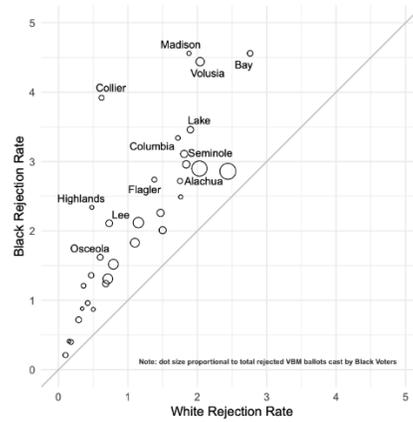
Note: Excludes counties with less than 10 rejected VBM ballots cast by Black voters.

Figure 3
VBM Rejection Rate of Hispanic Voters by County (2018)



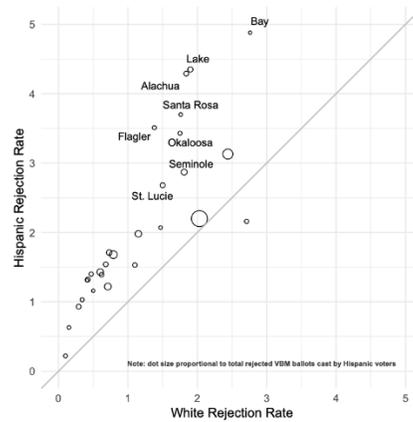
Note: Excludes counties with less than 10 rejected VBM ballots cast by Hispanic voters.

Figure 4
Percent of Rejected VBM Ballots Cast by White and Black Voters, by County (2018)



Note: Excludes counties with less than 10 rejected VBM ballots cast by Black voters.

Figure 5
Percent of Rejected VBM Ballots Cast by White and Hispanic Voters, by County (2018)

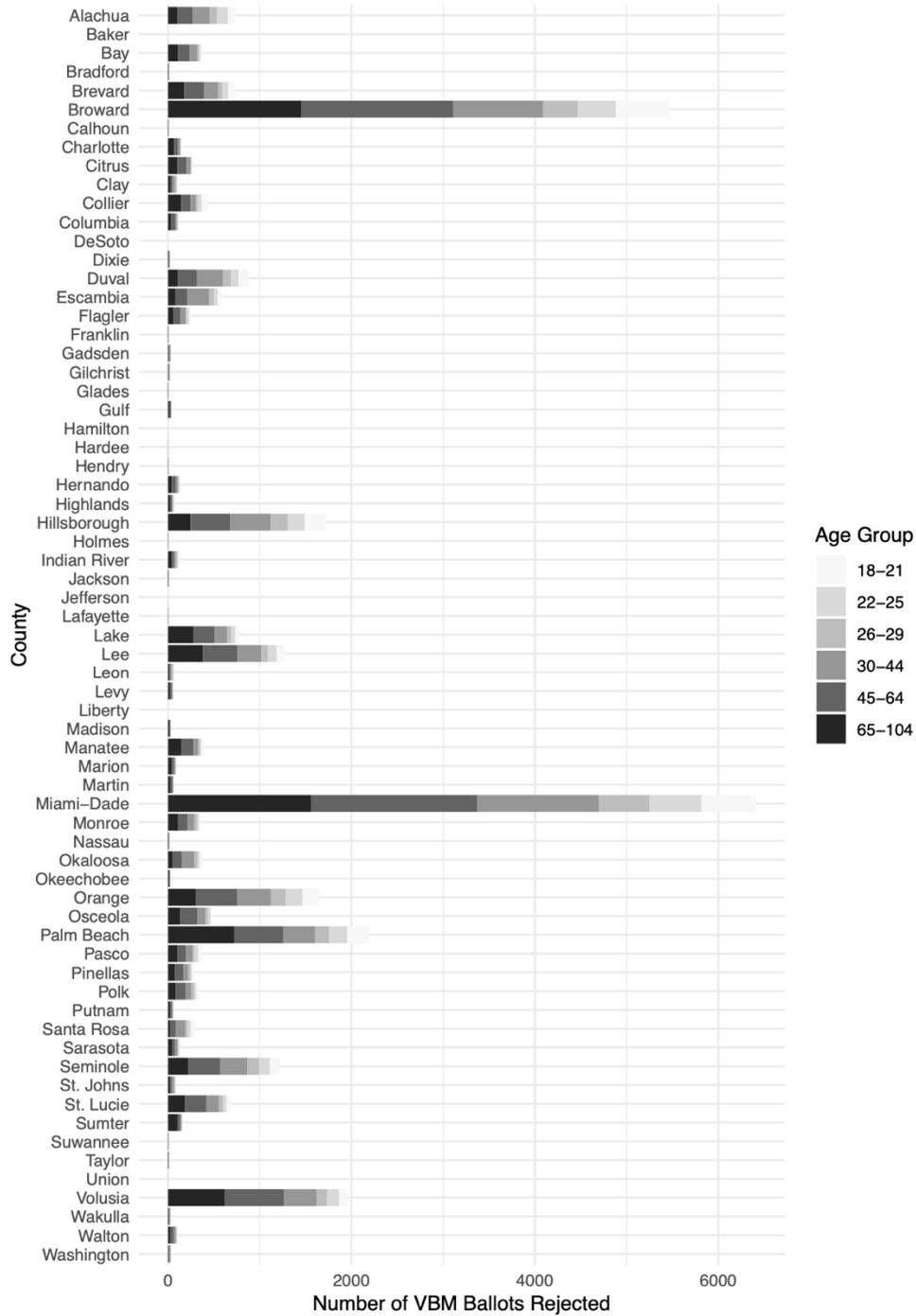


Note: Excludes counties with less than 10 rejected VBM ballots cast by Hispanic voters.

¹⁰⁶ *Id.* at 60–61.

APPENDIX M: VBM REJECTION RATE BY COUNTY AND AGE¹⁰⁷

Figure 6
VBM Rejection Rate by County, by Age (2018)

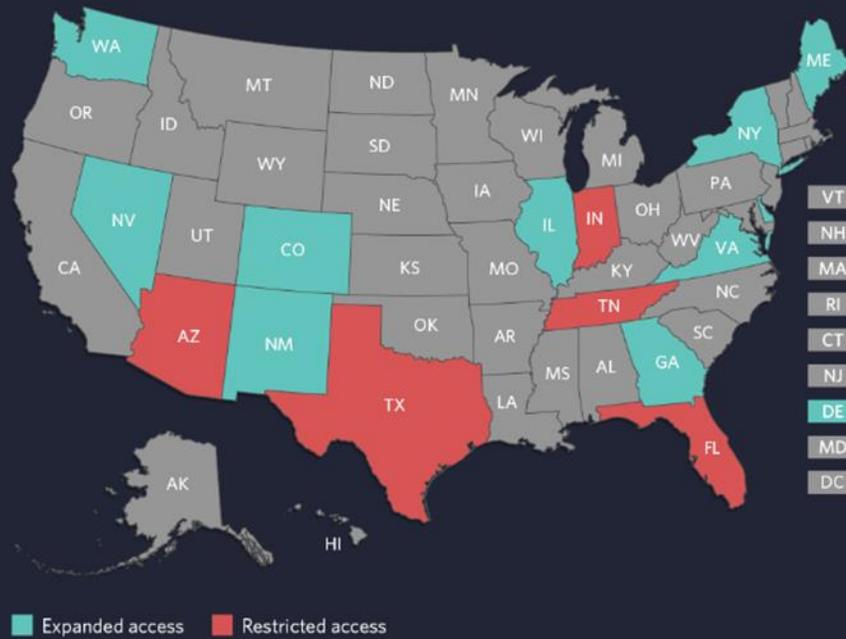


¹⁰⁷ *Id.* at 63.

APPENDIX N: NEW VOTING ACCESS LAWS

New Voting Access Laws

Republican-led legislatures in five states restricted voting access in the name of election integrity this year. At the same time, however, 10 states expanded voting access, focusing on early voting, automatic voter registration and the restoration of voting rights for the formerly incarcerated.



Source: The Brennan Center for Justice at New York University School of Law

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APPENDIX O: NEW VOTING ACCESS LAWS

Max Flugrath @MaxFlugrath · Jun 16
Florida's new voter **suppression law** is so needless & overreaching that our elections officials don't understand it.

Here's all you need to understand:

In 2020, more Democrats than Republicans voted by mail, so the GOP changed the rules.

Steve Bousquet @stevebousquet · Jun 16
 Changes to Florida's vote-by-mail system spur a flurry of questions from county election supervisors at state conference in Tampa.



1 3 13

Florida Rising @FLRising · 17h
 "Gov. DeSantis won't say 2020 election was rigged, but laments 'very shady' elements"

Hey @GovRonDeSantis, you know what's shady? You passing a voting **suppression law** after praising the elections in **Florida** last November.

bit.ly/3gzY1B7 #FlaPol #SB90



Gov. DeSantis won't say 2020 election was rigged, but laments 'very sh... DeSantis aired grievances over ballot harvesting and 'Zuckerbucks.'

floridapolitics.com

2 5

Donna Marie Smith @LiteraryLattes · Jun 16
 Cf. @GovRonDeSantis and most of the #FloridaMen in the state legislature. Just some of their most egregious laws concocted this past month: voter **suppression law**, anti-trans **law**, school prayer **law**, sending FL **law** enforcement to protect Texas' border. #Florida

Mother Jones @MotherJones · Jun 16
 The most radical Republicans aren't in Congress. They're in the statehouses. bit.ly/3gFVjoF

3

Nikki Fried @NikkiFried · Jun 16
 In 2020: **Florida** Democrats outperformed Republicans in vote-by-mail.
 In 2021: **Florida** Republicans passed a voter **suppression law** that even confuses elections experts.

Steve Bousquet @stevebousquet · Jun 16
 Changes to Florida's vote-by-mail system spur a flurry of questions from county election supervisors at state conference in Tampa.



76 452 1.2K

Robert Reich @RBReich · Jun 18
 So let me get this straight: Republicans have introduced 389 voter **suppression bills** in 48 states on an entirely partisan basis, but the For the People Act is being stripped down in the name of "bipartisanship"?

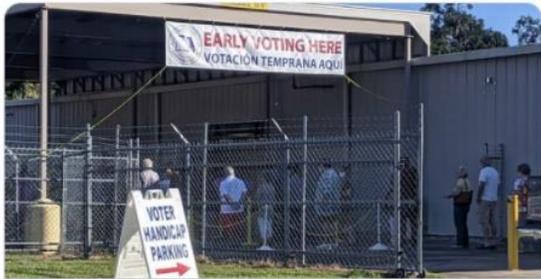
526 6.1K 19.2K

Marilynn Dietz @DietzMarilynn · Jun 18
 Voter **suppression** had already been signed into **law** in **Florida**

1 1 1

Daniel Kurz @daniel_kurz · Jun 20
 Under #Florida's new voter **suppression law**, citizens will have to request to #VoteByMail every yr.

Inconvenient. Onerous. Unacceptable.

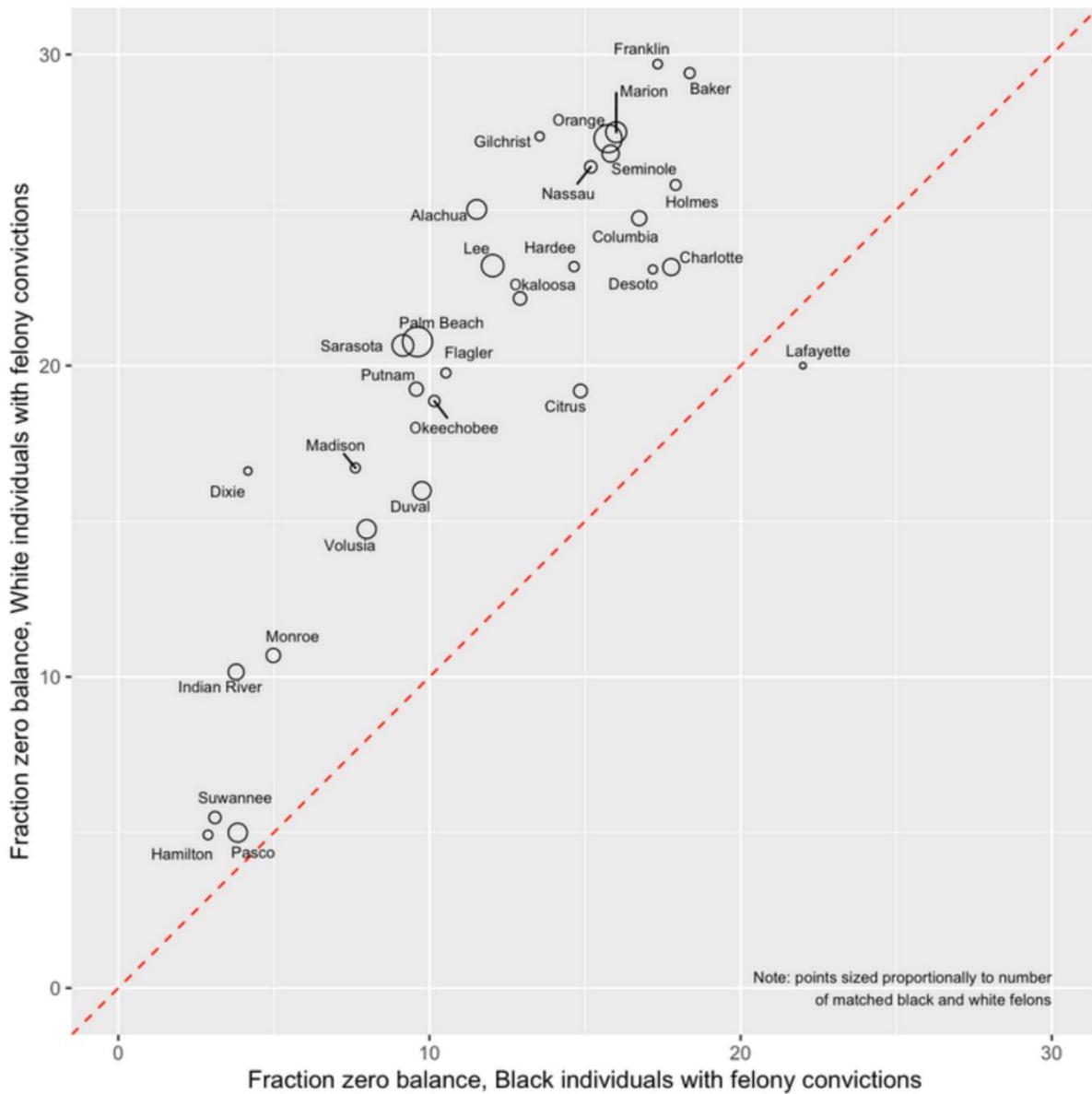


Marion County Supervisor of Elections breaks down new election laws i... The Marion County Supervisor of Elections is trying to help residents understand a collection of new election laws passed in the state of ...

ocala-news.com

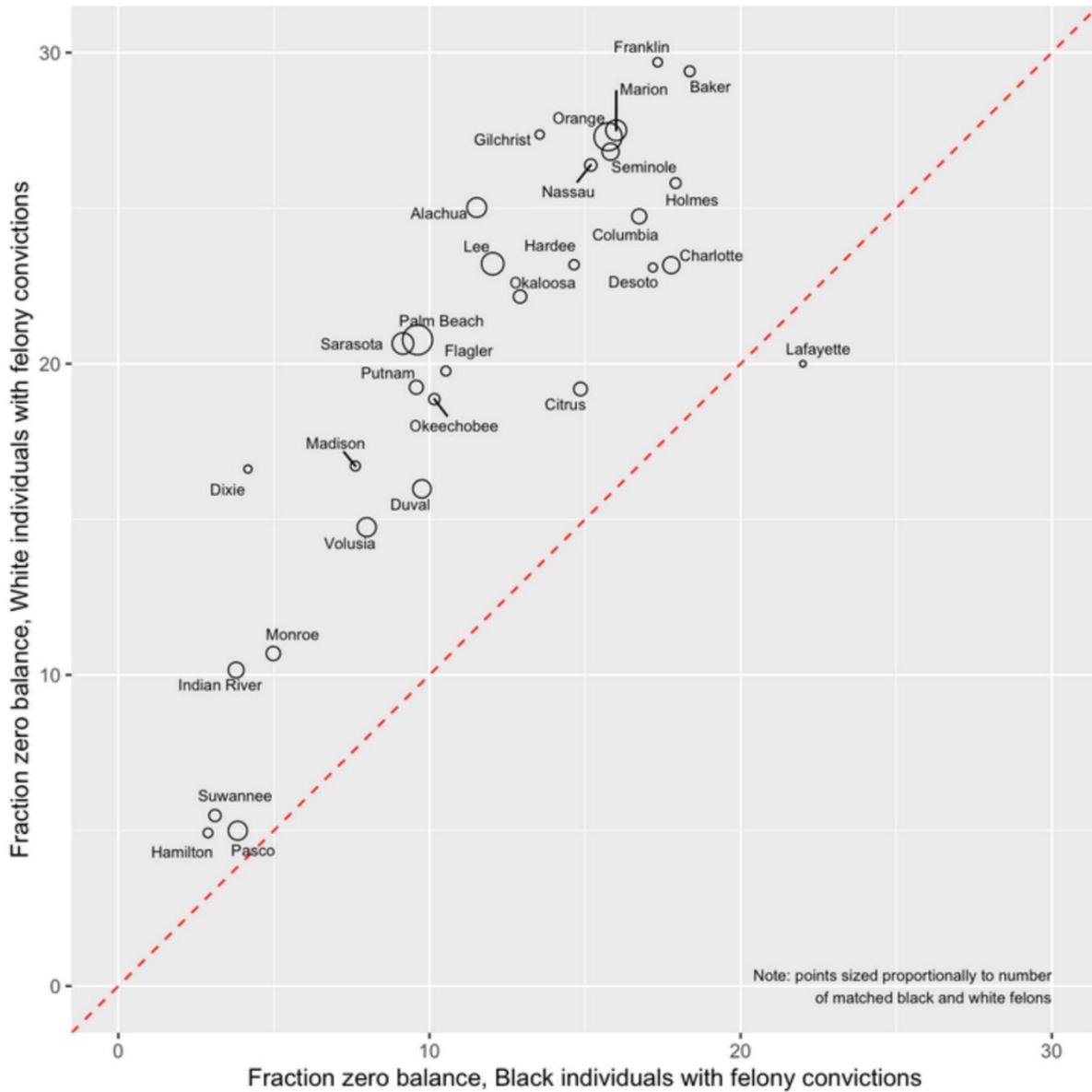
2

Figure 1: Fraction of Black and White Individuals in the 48 Counties with Estimates of \$0 LFOs Owed who are *not in* the FDC’s OBIS Database, by County



¹⁰⁸ Expert Report by Professor Daniel A. Smith, Ph.D. at 31, ECF 98-3 (Aug. 2, 2019) [hereinafter Smith Expert. Rep.], *Jones v. DeSantis*, 410 F. Supp. 3d 1284 (N.D. Fla. 2019) (No. 4:19-cv-300), https://www.brennancenter.org/sites/default/files/events/98-3%20Memo%20Ex%20A%20Dan%20Smith%20Rep_.pdf.

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¹⁰⁹ Expert Report by Professor Daniel A. Smith, Ph.D. at 31, ECF 98-3 (Aug. 2, 2019) [hereinafter Smith Expert. Rep.], *Jones v. DeSantis*, 410 F. Supp. 3d 1284 (N.D. Fla. 2019) (No. 4:19-cv-300), https://www.brennancenter.org/sites/default/files/events/98-3%20Memo%20Ex%20A%20Dan%20Smith%20Rep_.pdf.

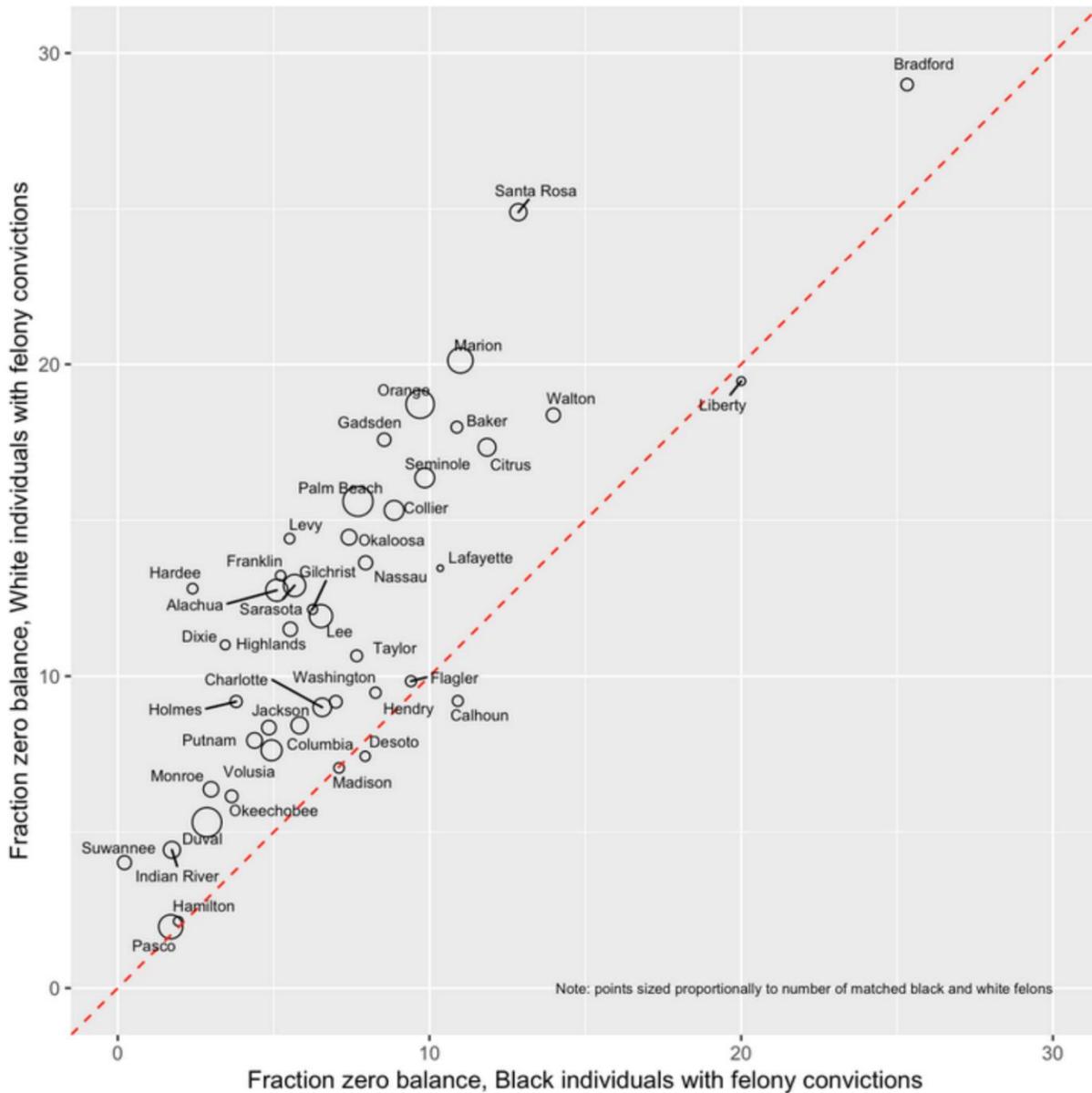
Appendix Q: Estimates of Balance Due of Eligible Persons with Felony Convictions, *not in* FDC’s OBIS Database, across 48 Florida Counties, by Race¹¹⁰

Table 1:
Estimates of Balance Due of Eligible Persons with Felony Convictions,
not in FDC’s OBIS Database, across 48 Florida Counties, by Race

	Balance due, All		Balance due, Black		Balance due, White	
	Count	%	Count	%	Count	%
\$0	52,861	20.4	11,501	13.5	39,262	23.6
Up to \$100	14,819	5.7	3,756	4.4	10,638	6.4
Up to \$250	10,387	4.0	3,157	3.7	6,946	4.2
Up to \$500	30,153	11.6	10,456	12.3	18,853	11.3
Up to \$1,000	60,720	23.4	21,816	25.7	37,142	22.3
Up to \$5,000	79,722	30.8	30,506	35.9	47,223	28.4
Up to \$10,000	5,794	2.2	2,312	2.7	3,339	2.0
> \$10,000	4,482	1.7	1,406	1.7	2,941	1.8
Total	258,938	100.0	84,910	100.0	166,344	100.0

¹¹⁰ *Id.* at 33.

Figure 2: Fraction of Black and White Individuals in the 48 Counties with Estimates of \$0 LFOs Owed who are *in* the FDC’s OBIS Database, by County



¹¹¹ *Id.* at 37.

Appendix S: Estimates of Balance Due of Eligible Persons with Felony Convictions, *in* the FDC’s OBIS Database, across 48 Florida Counties, by Race¹¹²

Table 2:
Estimates of Balance Due of Eligible Persons with Felony Convictions,
in the FDC’s OBIS Database, across 48 Florida Counties, by Race

	Balance due, All		Balance due, Black		Balance due, White	
	Count	%	Count	%	Count	%
\$0	13,247	11.4	3,511	8.0	9,678	13.5
Up to \$100	5,143	4.4	1,687	3.8	3,446	4.8
Up to \$250	3,527	3.0	1,334	3.0	2,182	3.0
Up to \$500	10,585	9.1	4,135	9.4	6,401	8.9
Up to \$1,000	25,452	21.9	10,477	23.8	14,858	20.7
Up to \$5,000	47,463	40.8	19,219	43.6	28,011	39.1
Up to \$10,000	4,893	4.2	1,963	4.5	2,908	4.1
> \$10,000	6,008	5.2	1,745	4.0	4,198	5.9
Total	116,318	100.0	44,071	100.0	71,682	100.0

¹¹² *Id.* at 40.

Appendix T: LFOs Balance Due of Eligible Persons with Felony Convictions, FDC, and County Data (and Combined)¹¹³

**Table 1:
LFOs Balance Due of Eligible Persons with Felony Convictions,
FDC and County Data (and Combined)**

	FDC		County		FDC + County	
	Count	%	Count	%	Count	%
Owe \$0.00 LFOs	25,752	11.1%	200,567	26.1%	226,319	22.6%
Owe >\$0.00 LFOs	207,021	88.9%	567,469	73.9%	774,490	77.4%
Total	232,773	100.0%	768,036	100.0%	1,000,809	100.0%

¹¹³ Second Supplemental Expert Report by Professor Daniel A. Smith, Ph.D. at 15 (Mar. 2, 2020) [hereinafter Smith Second Supp. Expert. Rep.], *Jones v. DeSantis*, 410 F. Supp. 3d 1284 (N.D. Fla. 2019) (No. 4:19-cv-300), <https://www.brennancenter.org/sites/default/files/2020-05/Smith%20Second%20Supplemental%20Report.pdf>.

**Table 2:
Estimates of LFOs Balance Due of Eligible Persons with Felony Convictions,
FDC and County Data (and Combined), by Race**

<i>White</i>	FDC		County		FDC + County	
	Count	%	Count	%	Count	%
Owe \$0.00 LFOs	17,523	13.5%	131,694	29.7%	149,217	26.0%
Owe >\$0.00 LFOs	112,714	86.5%	311,662	70.3%	424,376	74.0%
Total	130,237	100.0%	443,356	100.0%	573,593	100.0%
<i>Black</i>	FDC		County		FDC + County	
	Count	%	Count	%	Count	%
Owe \$0.00 LFOs	8,125	8.0%	64,245	21.0%	72,370	17.8%
Owe >\$0.00 LFOs	93,351	92.0%	241,171	79.0%	334,522	82.2%
Total	101,476	100.0%	305,416	100.0%	406,892	100.0%

¹¹⁴ *Id.* at 17.

Table 3:
Combined LFOs Balance Due of Eligible Persons with Felony Convictions
(FDC and County Control/Supervision), by Race

LFOs Owed	Balance due, All		Balance due, <i>Black</i>		Balance due, <i>White</i>	
	Count	%	Count	%	Count	%
\$0	226,319	22.6%	72,370	17.8%	149,217	26.0%
Up to \$100	47,318	4.7%	16,072	3.9%	30,315	5.3%
Up to \$250	34,102	3.4%	12,880	3.2%	20,537	3.6%
Up to \$500	82,818	8.3%	33,750	8.3%	47,353	8.3%
Up to \$1,000	152,089	15.2%	60,826	14.9%	87,320	15.2%
Up to \$5,000	279,778	28.0%	119,168	29.3%	154,574	26.9%
Up to \$10,000	32,207	3.2%	13,652	3.4%	17,493	3.0%
> \$10,000	146,178	14.6%	78,174	19.2%	66,784	11.6%
Total	1,000,809	100.0%	406,892	100.0%	573,593	100.0%

¹¹⁵ *Id.* at 18–19.

**Table 4:
LFOs Balance Due of Eligible Persons with Felony Convictions who
are *Not* in FDC’s OBIS Database, by Race**

LFOs Owed	Balance due, All		Balance due, <i>Black</i>		Balance due, <i>White</i>	
	Count	%	Count	%	Count	%
\$0	200,567	26.1%	64,245	21.0%	131,694	29.7%
Up to \$100	38,314	5.0%	12,661	4.1%	24,758	5.6%
Up to \$250	26,912	3.5%	9,780	3.2%	16,463	3.7%
Up to \$500	63,824	8.3%	25,306	8.3%	36,877	8.3%
Up to \$1,000	113,769	14.8%	43,659	14.3%	66,362	15.0%
Up to \$5,000	174,750	22.8%	69,651	22.8%	99,545	22.5%
Up to \$10,000	16,967	2.2%	6,471	2.1%	9,477	2.1%
> \$10,000	132,933	17.3%	73,643	24.1%	58,180	13.1%
Total	768,036	100.0%	305,416	100.0%	443,356	100.0%

¹¹⁶ *Id.* at 20.

**Table 5:
LFOs Balance Due of Eligible Persons with Felony Convictions
who are *in* FDC’s OBIS Database, by Race**

LFOs Owed	Balance due, All		Balance due, <i>Black</i>		Balance due, <i>White</i>	
	Count	%	Count	%	Count	%
\$0	25,752	11.1%	8,125	8.0%	17,523	13.5%
Up to \$100	9,004	3.9%	3,411	3.4%	5,557	4.3%
Up to \$250	7,190	3.1%	3,100	3.1%	4,074	3.1%
Up to \$500	18,994	8.2%	8,444	8.3%	10,476	8.0%
Up to \$1,000	38,320	16.5%	17,167	16.9%	20,958	16.1%
Up to \$5,000	105,028	45.1%	49,517	48.8%	55,029	42.3%
Up to \$10,000	15,240	6.5%	7,181	7.1%	8,016	6.2%
> \$10,000	13,245	5.7%	4,531	4.5%	8,604	6.6%
Total	232,773	100.0%	101,476	100.0%	130,237	100.0%

¹¹⁷ *Id.* at 23.

Table 6:
**Escambia County, LFOs Balance Due of Otherwise Eligible Persons
 with Felony Convictions Represented by a *Public Defender*, by Race**

LFOs Owed	Balance due, All		Balance due, <i>Black</i>		Balance due, <i>White</i>	
	Count	%	Count	%	Count	%
\$0	4,557	34.7%	1,906	30.3%	2,525	39.1%
Up to \$100	683	5.2%	257	4.1%	416	6.5%
Up to \$250	612	4.7%	242	3.9%	345	5.4%
Up to \$500	1,362	10.4%	669	10.6%	652	10.1%
Up to \$1,000	3,806	29.0%	1,939	30.9%	1,726	26.7%
Up to \$5,000	2,059	15.7%	1,258	20.0%	766	11.9%
Up to \$10,000	29	0.2%	12	0.2%	17	0.3%
> \$10,000	10	0.08%	3	0.05%	7	0.11%
Total	13,118	100.00%	6,286	100.00%	6,454	100.00%

¹¹⁸ *Id.* at 31.

Appendix Z: Escambia County, LFOs Balance Due of Otherwise Eligible Persons with Felony Convictions Represented *Not* by a *Public Defender*, by Race¹¹⁹

**Table 7:
Escambia County, LFOs Balance Due of Otherwise Eligible Persons
with Felony Convictions *Not* Represented by a *Public Defender*, by Race**

LFOs Owed	Balance due, All		Balance due, <i>Black</i>		Balance due, <i>White</i>	
	Count	%	Count	%	Count	%
\$0	2,831	56.4%	836	45.9%	1,886	62.7%
Up to \$100	261	5.2%	81	4.4%	174	5.8%
Up to \$250	186	3.7%	80	4.4%	104	3.5%
Up to \$500	447	8.9%	185	10.1%	241	8.0%
Up to \$1,000	731	14.6%	325	17.8%	368	12.2%
Up to \$5,000	537	10.7%	305	16.7%	221	7.3%
Up to \$10,000	14	0.3%	7	0.4%	5	0.2%
> \$10,000	16	0.3%	4	0.2%	11	0.4%
Total	5,023	100.0%	1,823	100.0%	3,010	100.0%

¹¹⁹ Second Supplemental Expert Report by Professor Daniel A. Smith, Ph.D. at 31–32 (Mar. 2, 2020) [hereinafter Smith Second Supp. Expert. Rep.], *Jones v. DeSantis*, 410 F. Supp. 3d 1284 (N.D. Fla. 2019) (No. 4:19-cv-300), <https://www.brennancenter.org/sites/default/files/2020-05/Smith%20Second%20Supplemental%20Report.pdf>.

Appendix AA: Lake County, LFOs Balance Due of Otherwise Eligible Persons with Felony Convictions
 Represented by a *Public Defender*, by Race¹²⁰

Table 8:
**Lake County, LFOs Balance Due of Otherwise Eligible Persons with
 Felony Convictions Represented by a *Public Defender*, by Race**

LFOs Owed	Balance due, All		Balance due, <i>Black</i>		Balance due, <i>White</i>	
	Count	%	Count	%	Count	%
\$0	4,317	28.7%	1,336	32.5%	2,777	34.7%
Up to \$100	295	2.0%	89	2.2%	182	2.3%
Up to \$250	92	0.6%	23	0.6%	48	0.6%
Up to \$500	363	2.4%	112	2.7%	219	2.7%
Up to \$1,000	1,354	9.0%	407	9.9%	751	9.4%
Up to \$5,000	6,174	41.1%	1,754	42.6%	3,202	40.0%
Up to \$10,000	1,255	8.4%	210	5.1%	401	5.0%
> \$10,000	1,167	7.8%	183	4.4%	428	5.3%
Total	15,017	100.0%	4,114	100.0%	8,008	100.0%

¹²⁰ *Id.* at 33–34.

Table 9:
Lake County, LFOs Balance Due of Otherwise Eligible Persons with Felony Convictions *Not* Represented by a *Public Defender*, by Race

LFOs Owed	Balance due, All		Balance due, Black		Balance due, White	
	Count	%	Count	%	Count	%
\$0	2,139	35.6%	470	31.3%	1,465	43.0%
Up to \$100	226	3.8%	45	3.0%	169	5.0%
Up to \$250	127	2.1%	28	1.9%	85	2.5%
Up to \$500	305	5.1%	82	5.5%	175	5.1%
Up to \$1,000	678	11.3%	186	12.4%	327	9.6%
Up to \$5,000	1,640	27.3%	510	33.9%	814	23.9%
Up to \$10,000	378	6.3%	91	6.1%	155	4.6%
> \$10,000	521	8.7%	92	6.1%	216	6.3%
Total	6,014	100.0%	1,504	100.0%	3,406	100.0%

¹²¹ *Id.* at 34.

APPENDIX CC: FELON RE-ENFRANCHISEMENT

Jake M. Grumbach @JakeMGrumbach · May 24, 2020

A huge victory against the **Florida** legislature's move to roll back **felon reenfranchisement**.

All the more bittersweet given the increasing rarity of judicial wins on voting rights.

ACLU @ACLU · May 24, 2020

VICTORY: A court just ruled that Florida's attempt to disenfranchise hundreds of thousands of Floridians is an illegal poll tax. Floridians who owe costs and fees can now register and cast their ballots.



5 13

Gwen Graham @GwenGraham · Jul 15, 2020

"Florida urges US Supreme Court to keep stay on felon voting"

The @FloridaGOP really, really, really believes in voter suppression.



Florida urges US Supreme Court to keep stay on felon voting
TALLAHASSEE, Fla. (AP) — The state of Florida is urging the U.S. Supreme Court to reject a bid by voting rights advocates to lift a stay o...

28 182 312

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South Florida Sun Sentinel @SunSentinel · Jul 16, 2020

US Supreme Court declines to hear **Florida felon voting** rights case, blocking access to 2020 election. It's a major setback to restoring **voting** rights for potentially 600,000 ex-felons in **Florida**. bit.ly/30ix3Q9



5 8 5

Connor Sheets @ConnorASheets · Jul 16, 2020

While **felon voting** rights in **Florida** are back in the national news, I feel compelled to note that Alabama restored the franchise to thousands of felons burdened by fines and fees back in 2017, before it emerged as a major issue in **Florida**. A quick thread 1/

11 91 179

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Scott Fabricant, MD PhD @safabric · Jul 16, 2020

Y'all almost forgot the court is Republican when it counts.

POLITICO: Supreme Court allows limits on **felon voting** in **Florida**.



Supreme Court allows limits on felon voting in Florida
Decision could have implications for November presidential election.

1

APPENDIX CC: FELON RE-ENFRANCHISEMENT (continued)

ABC News Politics @ABCPolitics · Jul 24, 2020

More Than A Vote, the **voting** rights group founded by LeBron James and other star athletes, is joining the fight over **felon voting** rights playing out in **Florida**.



LeBron James' new nonprofit commits to pay fines for former felons lo... Florida's GOP-led legislature imposed hurdles despite voters' decision in 2018.

abcnews.go.com

3 13 66

The Associated Press @AP · Aug 16, 2020

Voter registration difficulties related to the coronavirus pandemic and a dispute over fines and fees has left **Florida's** 2018 **felon voting** law falling short of expectations. By @terrysten.



Virus, fees hinder drive to register Florida felons to vote
FORT LAUDERDALE, Fla. (AP) — When Floridians overwhelmingly approved a measure allowing most felons to vote after completing the...

apnews.com

15 99 142

Lawrence Mower @lmower3 · Oct 7, 2020

When Langston showed me these maps a few weeks ago, it stopped me cold.

On the left is where Amendment 4 has had the biggest impact. On the right is **Florida's** enslaved population in 1860.

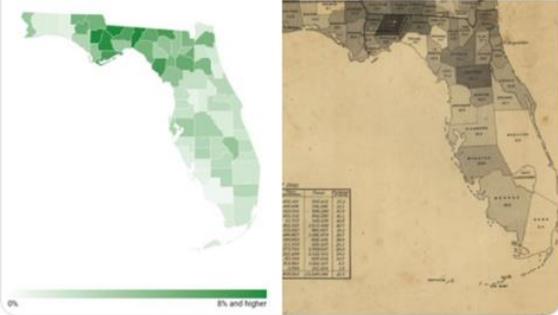
It shouldn't be surprising: FL's **felon voting** ban was meant to keep Black men from **voting**.

Langston Taylor @langstonitaylor · Oct 7, 2020

We've known since the start of this that the ban on felons voting was originally designed to keep Black people off the voter rolls.

Here's the percent of all new voters since the law passed who were once incarcerated. And here's the enslaved population in 1860.

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15 189 261

Brennan Center @BrennanCenter · Oct 16, 2020

The **Florida** Division of Elections has announced plans to remove people with past criminal convictions who owe legal financial obligations such as court fees and fines from **Florida's** voter rolls. We submitted this letter with @ACLU @ACLUFL @NAACP_LDF.



Statement on Florida Officials' Plans to Remove People with Past Convi...
Attorneys from Florida Amendment 4 lawsuit denounce decision to remove people with criminal convictions from the voter rolls

brennancenter.org

2 40 62

cgbute05 @n1mbus05 · Oct 16, 2020

This is infuriating. We **Florida** voters overwhelmingly voted to restore **felon voting** rights. And **Florida** Republican have worked to overturn the will of the voters ever since.

1 1

MSNBC @MSNBC · Oct 21, 2020

Former **felon** and law school graduate, Angel Sanchez, is fighting to restore **voting** rights for ex-felons in **Florida**.

"Actions have consequences, but in a democracy the consequences should never be tampering with someone's right to vote."



TO RESTORE VOTING RIGHTS TO ALL EX-FELONS IN FL

0.07 | 13.4K views

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