

# VOTING RIGHTS AND ELECTION ADMINISTRATION IN FLORIDA

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## HEARING BEFORE THE SUBCOMMITTEE ON ELECTIONS COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES ONE HUNDRED SIXTEENTH CONGRESS FIRST SESSION

MAY 6, 2019

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## VOTING RIGHTS AND ELECTION ADMINISTRATION IN FLORIDA

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MONDAY, MAY 6, 2019

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ELECTIONS,  
COMMITTEE ON HOUSE ADMINISTRATION,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 10:00 a.m., at 115 South Andrews Avenue, Fort Lauderdale, Florida, Hon. Marcia L. Fudge (Chair of the Subcommittee) presiding.

Present: Representatives Fudge, Butterfield, Aguilar, and Loudermilk.

Also Present: Representatives Hastings, Deutch, Wasserman Schultz, and Wilson.

Staff Present: Peter Whippy, Communications Director; Mannal Haddad, Press Secretary; Eddie Flaherty, Chief Clerk; Sean Jones, Legislative Clerk; Khalil Abboud, Deputy Staff Director; Sarah Nasta, Counsel—Elections; David Tucker, Parliamentarian; Vivian Piereschi, Ms. Wasserman Schultz's District Director; Wendi Lipsich, Mr. Deutch's District Director; Joyce Postell, Ms. Wilson's District Director; Patricia Williams, Mr. Hastings' District Director; Courtney Parella, Minority Communications Director; Jesse Roberts, Minority Counsel; Cole Felder, Minority General Counsel; and Joy Yunji-Lee, Minority Counsel.

Chairwoman FUDGE. The Subcommittee on Elections of the Committee on House Administration will come to order.

I would like to thank all the Members of the Subcommittee and my colleagues from the House who are here today as well as our witnesses and those in the audience for being with us this morning.

I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and that any written statements be made part of the record.

Hearing no objection, so ordered.

I ask unanimous consent that Members be invited to sit on the dais for the Subcommittee hearing. They are, in order: Mr. Deutch, Ms. Wasserman Schultz, Mr. Hastings, Ms. Wilson.

Hearing no objection, so ordered.

I especially want to thank my good friend and distinguished colleague, Mr. Hastings, for welcoming us so warmly to his district as we continue the important work we do as a Subcommittee.

We are here to examine the state of voting rights and election administration in Florida. As this Subcommittee continues to travel the country, I can think of no better place than here in Florida, a

State that is no stranger to having its elections become the focus of national attention.

The right to vote is fundamental to a strong, thriving democracy, and yet, in our travels around the country and here in Florida, we see repeated attempts to suppress the vote. Florida has one of the most repressive disenfranchisement policies in the country and has made it extremely difficult for those convicted of a felony to have the voting rights restored. Between 2010 and 2016, the number of disenfranchised Floridians grew from 150,000 to approximately 1.68 million.

On November 6, 2018, a resounding 65 percent of Florida voters cast their ballots in support of Amendment 4, a constitutional amendment that would restore voting rights to the over 1 million Floridians who have been disenfranchised. It was a watershed moment for civil rights and for the dignity and worth of all Floridians. Sadly, shortly thereafter, Republicans in Florida began to undermine its implementation.

The bill passed last week by the Florida State legislature would require people with felony convictions to pay all restitution, fines, and fees resulting from their sentences or get these fees excused by a judge before becoming eligible to vote.

This bill is wholly unnecessary, as Amendment 4 was self-executing and did not require implementing legislation. This measure is nothing but a poll tax that would effectively disenfranchise those that who unable to pay if signed into law.

They do nothing to ensure election integrity and are merely a pretext to suppress the vote. Further, they blatantly ignore the will of the Florida voters that approved the measure in a retroactive act of voter suppression. It is an act of defiance by this legislature.

Florida has also been a host of other voting rights and election administration issues in recent years. I very well remember hanging chads.

Just last year, the Florida Secretary of State and the supervisors of elections in 32 counties were sued for violating the Voting Rights Act requirements which would provide bilingual voting machines and assistance for Spanish-speaking voters.

In both 2016 and 2018, October hurricanes made it difficult for voters to register before the deadline or receive their vote-by-mail ballots. The legislature did nothing to help.

Florida has seen repeated attempts at voter purging, and the purge rate has been steadily been increasing over the years. From November 2008 to November 2010, the median purge rate was 0.2 percent. It rose to 3.6 percent from 2012 to 2014 and jumped to more than 7 percent between December 2016 and September 2018.

Florida has always sought to restrict early voting. In 2014, the Florida Department of State issued an opinion banning colleges and universities from housing early voting locations. That opinion was overturned by a district court judge in 2018. However, several counties ignored the district court and refused to provide such rights on campuses.

Today, we will hear from experts, activists, and litigators who have worked for years to ensure that every Floridian can exercise his or right to vote. Their testimony will help as Congress seeks to

understand what needs to be done to safeguard every American's right to freely access the ballot.

The first panel will consist of four witnesses:

The first will be Ms. Gonzalez-Eilert, Executive Director, Common Cause Florida. At Common Cause, she is responsible for leading democracy reform efforts statewide.

Welcome.

Ms. Bastien, Executive Director, Family Action Network Movement, an organization whose mission is to empower Haitian women and their families socially, economically, politically, and facilitate their adjustment to south Florida.

Ms. Batista, Florida Field Director, Mi Familia Vota, an organization which works to unite Latino immigrant and allied communities to promote social and economic justice through citizenship workshops, voter registration, and voter participation.

Mr. Andrew Gillum, Chair, Forward Florida. Andrew Gillum served as Mayor of Tallahassee from 2014 through 2018 and was a candidate for Governor of Florida in 2018. Mr. Gillum is a lifelong Floridian who has worked to ensure access to voting for all Florida citizens.

You will each be recognized. We will start with Ms. Gonzalez-Eilert. You will have five minutes. You will see in front of you lights. When the green light comes on, you begin. When the yellow light comes on, you have one minute left. When the red light comes on, please try to wrap up.

You are recognized, Ms. Gonzalez-Eilert. Thank you.

Oh, I am sorry. Excuse me. You know, I am so used to the Ranking Member sitting next to me. My colleague from Georgia would like to make an opening statement.

Mr. Loudermilk, thank you so much for being here.

[The statement of Chairwoman Fudge follows:]

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G.K. BUTTERFIELD, NORTH CAROLINA  
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JAMIE FLEET, STAFF DIRECTOR

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COMMITTEE ON HOUSE ADMINISTRATION  
1309 Longworth House Office Building  
Washington, D.C. 20515-6157  
(202) 225-2061  
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RODNEY DAVIS, ILLINOIS  
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MARK WALKER, NORTH CAROLINA  
BARRY LOUDERMILK, GEORGIA

ONE HUNDRED SIXTEENTH CONGRESS  
JEN DAULBY, MINORITY STAFF DIRECTOR

### Chairwoman Marcia L. Fudge Voting Rights and Election Administration in Florida Opening Statement

I would like to thank the Members of the Subcommittee, and my colleagues from the House who are with us today, as well as our witnesses, and those in the audience for being here today. I especially want to thank my good friend and distinguished colleague, Mr. Hastings, for so warmly welcoming us to his district as we continue this important work.

We are here to examine the state of voting rights and election administration in Florida. As this Subcommittee continues traveling the country, I can think of no better place than here in Florida - a state that is no stranger to having its elections become the focus of national attention. The right to vote is fundamental to a strong, thriving democracy. And yet, in our travels around the country, and here in Florida, we see repeated attempts to suppress the vote.

Florida has had one of the most repressive disenfranchisement policies in the country and has made it extremely difficult for those convicted of a felony to have their voting rights restored. Between 2010 and 2016, the number of disenfranchised Floridians grew from 150,000 to approximately 1.68 million. On November 6, 2018, a resounding 65% of Florida voters cast their ballots in support of Amendment 4, a constitutional amendment that would restore voting rights to the over 1 million Floridians who have been disenfranchised.

It was a watershed moment for civil rights and for the dignity and worth of all Floridians. Sadly, shortly thereafter, Republicans in Florida began to undermine its implementation. The bill passed last week by the Florida state legislature would require people with felony convictions to pay all restitution, fines and fees resulting from their sentences or get these fees excused by a judge before becoming eligible to vote.

This bill is wholly unnecessary, as Amendment 4 was self-executing and did not require implementing legislation. This measure is nothing but a poll tax that would effectively disenfranchise those who are unable to pay if signed into law. They do nothing to ensure "election integrity" and are merely pretext to suppress the vote. Further, they blatantly ignore the will of the Florida voters that approved

the measure in a retroactive act of voter suppression. It is an act of defiance by this legislature.

Florida has also seen a host of other voting rights and election administration issues in recent years. I remember very well hanging chads. Just last year, the Florida Secretary of State and the Supervisors of Elections in 32 counties were sued for violating the Voting Rights Act's requirements to provide bilingual voting materials and assistance for Spanish-speaking voters.

In both 2016 and 2018, October hurricanes made it difficult for voters to register before the deadline or receive their vote-by-mail ballots. The legislature did nothing to help. Florida has seen repeated attempts at voter purging, and the purge rate has been steadily increasing over the years. From November 2008 to November 2010, the median purge rate was 0.2 percent; it rose to 3.6 percent from 2012 to 2014 and jumped to more than 7 percent between December 2016 and September 2018.

Florida has also sought to restrict early voting. In 2014, the Florida Department of State issued an opinion banning colleges and universities from housing early voting locations. That opinion was overturned by a District Court Judge in 2018; however, several counties ignored the District Court and refused to provide such rights on campuses. Today we will hear from experts, activists, and litigators who have worked for years to ensure that every Floridian can exercise his or her right to vote. Their testimony will help as the Congress seeks to understand what needs to be done to safeguard every American's right to freely access the ballot.

Mr. LOUDERMILK. Thank you, Madam Chairwoman. Thank you for recognizing me here.

I appreciate the opportunity to be here, and I appreciate you in holding these hearings across the country. And I didn't realize how welcome we were when I found out yesterday they had an air show in our honor just to be here.

Thank you for the time. And I appreciate all the officials here in Broward County for opening this facility.

The Committee on House Administration has an extremely important task to conduct oversight of Federal elections. Throughout the Committee's existence, Republicans and Democrats have worked across the aisle to create significant election policy that widely impacted this Nation.

The Subcommittee on Elections was created for the primary purpose to be an extension of House Administration, to enhance the Committee's oversight capabilities of Federal elections and how these elections are administered.

While I am a member of the full Committee but not technically the Subcommittee, I appreciate you, Madam Chairwoman for having me here to represent the minority voice in today's Subcommittee proceedings.

Chairwoman Fudge has been dutifully leading our Subcommittee this Congress to investigate voting rights issues in order to create a new formula that will reauthorize Section 4 of the Voting Rights Act.

The Voting Rights Act, enacted in 1965 for the purpose of removing racial-based restrictions on voting, has historically been a bipartisan effort, though most may not realize that. This legislation was most recently reauthorized under a Republican President and a Republican Congress.

In 2013, the Supreme Court determined Section 4 of the Voting Rights Act to be unconstitutional in *Shelby v. Holder*. Chief Justice Roberts said that the Voting Rights Act of 1965 employed extraordinary measures to address an extraordinary problem. While the Court did not decide whether there is still an extraordinary problem, the Supreme Court did hold that what makes sense at one time has lost its relevance. They noted that, nearly 50 years later, things had changed dramatically.

The Voting Rights Act primarily remains under the jurisdiction of the House Judiciary Committee. Our Committee, however, has an obligation to review election administration and recognize issues if any should elevate from State to Federal level, which is why I am here today.

After reviewing the written witness testimony and speaking with State and local election administrators, evidence shows us that the previous Supervisor in Broward County made inexcusable mistakes, from ballot design, lack of transparency, missed deadlines, and even within the ballot-counting process, all of which jeopardized the system's integrity.

These errors, while egregious, have not been determined as an intentional voter discrimination or suppression. Also, the State has already taken steps to counter these problems for the upcoming election cycle and are proactively working within their jurisdiction to make improvements.

If there is clear evidence of intentional widespread voter discrimination, Congress should take steps to remedy that in a bipartisan manner. However, the Subcommittee has yet to find concrete evidence of this within the field hearings.

It is essential that Congress make well-informed decisions by hearing from all the proper stakeholders and reviewing the facts and evidence.

The facts we know up to this point are simple: Voter turnout in the 2018 midterm election was the highest it has been in 50 years. Despite the unacceptable mistakes in the execution of the election here in Broward County, voter turnout was up by more than 11 percent from the previous midterm in 2014.

We also know that the State of Florida is already taking steps to remedy the mistakes seen in the 2018 election, as well as creating new laws that are tailored to the unique needs of their State's citizens. Congress must understand our role in assisting States, not overpowering their rights or taking over their election systems.

Today, I am here to listen and to learn more from these proceedings in Broward County to discover what the Federal Government's role should be here. And I look forward to hearing from all our witnesses who have graciously agreed to testify.

Again, thank you, Madam Chairwoman. Thank you all for having me here. And I yield back the balance of my time.

[The statement of Mr. Loudermilk follows:]

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VICE CHAIRPERSON

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### Representative Barry Loudermilk Voting Rights and Election Administration in Florida Opening Statement

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The Committee on House Administration has an extremely important task to conduct oversight of Federal elections. Throughout the Committee's existence, Republicans and Democrats have worked across the aisle to create significant election policy that widely impacted this Nation. The Subcommittee on Elections was created for the primary purpose to be an extension of House Administration, to enhance the Committee's oversight capabilities of Federal elections and how these elections are administered.

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level, which is why I am here today. After reviewing the written witness testimony and speaking with State and local election administrators, evidence shows us that the previous supervisor in Broward County made inexcusable mistakes, from ballot design, lack of transparency, missed deadlines, and even within the ballot-counting process, all of which jeopardized the system's integrity.

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Today, I am here to listen and to learn more from these proceedings in Broward County to discover what the Federal Government's role should be here. And I look forward to hearing from all of our witnesses who have graciously agreed to testify.

Again, thank you, Madam Chair. Thank you all for having me here. And I yield back the balance of my time.

Chairwoman FUDGE. Thank you very much.

I do want to do something a little out of order, and I can because I am the chair and I have the microphone. I would like to recognize my good friend, Mr. Hastings, for a few opening remarks.

Mr. Hastings.

Mr. HASTINGS. Thank you so very much, Madam Chairwoman.

Thanks, Pete. It didn't take you long to learn about Florida microphones.

I want Dale Holness and the other County Commissioners to know that I always wanted to sit on the dais here at the county. And for those who know that I have been ill over a protracted period of time, perhaps my next job will be to run for the county commission. In the meantime, know that I am staying in Congress.

Let me thank you, Chairwoman Fudge, and explain to the audience here that Nancy Pelosi, the Speaker of the House, actively sought Chairwoman Marcia Fudge to take on this immense responsibility. I am grateful to Marcia and my colleague from Georgia and my dear, dear friend, G.K. Butterfield, and Pete Aguilar for coming here to be with Rep. Ted Deutch and Debbie and Frederica and myself in listening to an extraordinary panel just on the credentials of the individuals that are here.

I have prepared remarks, Madam Chairwoman, but, in the interest of time, I am going to pass on those.

I just want to say that, when the Supreme Court struck down the Voting Rights Act, they struck down the promise that all eligible Americans should have the right to vote and gave free rein to States to enact discriminatory voting laws. And every day that Congress fails to act, voters are in danger. We must have a full restoration of the Voting Rights Act in this country, and hearings like this are critically important in accomplishing that goal.

I told a good friend of mine this morning—we were at breakfast, and I told him that I had a dream last night, and I was speaking, and what I said was that the forces of obstruction and oppression of minorities in this country have deep pockets, and they have been and are continuing to do everything they can to cause people not to vote.

But let me send a message to them. Certainly, African-Americans have suffered oppression for an extraordinary period of time. We are used to it. And we are unrelenting in making sure that every person in this State, as well as this Nation, has an opportunity to vote. And rather than obstruct, we should be about the business of instructing people how important voting is to their lives and to all of ours.

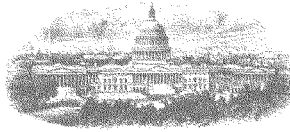
Madam Chairwoman, I can't thank you enough, and my colleagues, for the extraordinary efforts that you all have put forward, traveling around the country to develop the record. And, with your permission, I would ask unanimous consent that my prepared remarks be put into the record.

Chairwoman FUDGE. Without objection, so ordered.

Mr. HASTINGS. Thank you.

[The statement of Mr. Hastings follows:]

ALCEE L. HASTINGS  
20TH CONGRESSIONAL DISTRICT  
FLORIDA  
  
COMMITTEE ON RULES  
SENIOR MEMBER  
  
UNITED STATES  
HELSINKI COMMISSION  
RANKING DEMOCRATIC MEMBER  
  
FLORIDA DELEGATION  
CO-CHAIRMAN  
  
SENIOR DEMOCRATIC WHIP



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**Washington, DC 20515-0920**

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FT. LAUDERDALE, FL 33311  
TELEPHONE: (954) 733-2800  
FAX: (954) 733-9444  
☐ TOWN OF MANGONIA PARK  
MUNICIPAL CENTER  
1755 EAST TIFFANY DRIVE  
MANGONIA PARK, FL 33407  
TELEPHONE: (561) 469-7048  
[www.alceehastings.house.gov](http://www.alceehastings.house.gov)

May 6, 2019

**Statement of the Honorable Alcee L. Hastings**  
**On House Administration Elections Subcommittee Field Hearing On Voting Rights**

Good morning. I first want to thank Congresswoman Marcia Fudge and the Committee on House Administration for organizing this field hearing on voting rights. For the last several months, Chairwoman Fudge has tirelessly travelled the country to draw attention to the erosion of equal access to voting following the gutting of the *Voting Rights Act* by the Supreme Court in 2013.

Floridians, in fact, every citizen across our nation, deserves to know that there is a concerted, organized, and well-funded effort underway to prevent certain groups of people from exercising their right to vote. Students, the elderly, the disabled, minorities and low-income voters are all targets of these efforts.

We saw it during the 2018 midterm elections, when Floridians were denied their right to vote because of perceived signature mismatches. More than 4,000 ballots were set aside due to penmanship. Florida's signature mismatch law had no standards, an illusory cure process, and no process to challenge the rejection. That is why, when I get back to D.C., Congressman Ted Deutch and I will introduce legislation to create a federal standard for signature matching laws to ensure voters' due process rights are protected.

The tactics being used today are not new. At this very moment, Florida's Republican-controlled Legislature is moving to roll back parts of a historic constitutional amendment passed in November of last year that reinstated voting rights for 1.4 million convicted felons. The House bill not only expands the pool of voters who would be disqualified from voting, but also would require ex-felons to pay all court fees and fines before regaining the franchise.

The term for a rule that restricts the franchise on the basis of a person's financial means is a "poll tax." To prevent individuals from voting based on the size of one's bank account is a despicable abuse of power, and the Republican-led Legislature should be ashamed of themselves.

When the Supreme Court struck down the *Voting Rights Act*, they struck down the promise that all eligible Americans should have the right to vote, and gave free rein to states to enact discriminatory voting laws. And every day that Congress fails to act, voters are in danger. We must have a full restoration of the *Voting Rights Act* in this country, and hearings like this are critically important in accomplishing that goal.

Again, I want to thank Chairwoman Fudge for holding this critically important field hearing today, and I look forward to hearing from our esteemed panel of witnesses.

Chairwoman FUDGE. Thank you so much, Mr. Hastings.  
Ms. Gonzalez-Eilert, you are recognized for 5 minutes.

**STATEMENTS OF ANJENYS GONZALEZ-EILERT, EXECUTIVE DIRECTOR, COMMON CAUSE FLORIDA; ANDREW GILLUM, CHAIR, FORWARD FLORIDA; NANCY BATISTA, FLORIDA STATE DIRECTOR, MI FAMILIA VOTA; AND MARLEINE BASTIEN, FOUNDER AND EXECUTIVE DIRECTOR, FANM AYISYEN NAN MIYMI, INC.**

**STATEMENT OF ANJENYS GONZALEZ-EILERT**

Ms. GONZALEZ-EILERT. Good morning. Thank you, Chairwoman Fudge and Members of the Subcommittee on Elections, for inviting Common Cause Florida to participate in this hearing today.

My name is Anjenys Gonzalez-Eilert, and I am the Executive Director of Common Cause Florida. We are a national, nonpartisan watchdog organization with 1.2 million supporters and 30 State chapters.

Madam Chairwoman, I find my testimony will echo a lot of your opening comments. Although there are many voting-related topics to cover in Florida, I will focus my observations on election protection and election administration.

Election protection helps ensure eligible voters are able to participate in our democracy. Along with our partners, we have collected data that can be used to create meaningful reform, ensuring that our elections are free, fair, and accessible, as they are meant to be.

Issues that we find in Florida, for example, are lack of standardized training. As outlined in the conduct of elections reports submitted by the supervisors of elections to the Division of Elections, 70 percent of the issues reported were due to human error in our past election.

Our Polling Place Procedures Manual has not been revised since 2014. Things such as language access and how to move a voter in polling electronic poll books has not been included.

There is a need for standardized training by the Secretary of State and supervisors and canvas board members. This need is addressed in the new election bill being proposed, S.B. 7066, which speaks to the responsibility of the Secretary of State as it refers to signature matching as follows: Provide formal signature matching training to supervisors of elections and county canvassing board members.

The cure process for vote-by-mail and provisional ballots. In 2014, a signature cure process was created. The cure process currently requires that a voter submit a completed affidavit and a copy of their identification.

Currently, provisional ballots are issued when voters' eligibility cannot be verified. We feel the issuance of provisional ballots can be minimized with more stringent poll worker training, as they often issued erroneously.

Language access has long been a problem in the State of Florida. The only option currently available to people when they go to the Division of Elections website is to use Google Translate. As we

know, that can cause some errors. It would be of great benefit to have these pages properly translated.

In 2018, the Florida legislature approved legislation that would allow the Secretary of State as of January 1 of this year to join ERIC to improve the accuracy of our voter rolls and access to registration. However, in this current budget, there is no specific line item that proposes money for ERIC.

In recent years, Florida has been struck by several hurricanes during election season. More needs to be done to prepare for continuity of operations, as we know that this is likely to happen again, moving back to standardized processes.

There are various things that would be helpful at the Federal level, and I would like to advocate for them now. All of these can be found in H.R. 1: automatic voter registration, same-day voter registration, and election security.

The Election Security Act is a strong response because it would promote post-election risk-limiting audits, voter verifiable paper ballots, and increased funding for States to improve their voting machines.

As certain States and localities, including here in Florida, continue to try to suppress the votes of some communities and rig the rules to make voting more difficult for some people, Congress must step up to ensure that voting remains a right for all eligible Americans.

You can be on the correct side of history and support reforms that strengthen our democracy, or you can be on the side of the status quo and turn a blind eye to voter suppression tactics such as poll taxes, switching or eliminating polling places, and using signature mismatches to disenfranchise eligible Americans.

For nearly 50 years, Common Cause has fought to ensure that the voices of all Americans can be heard in government, and we will continue fighting until all eligible Americans can have their voices heard at the ballot box.

Thank you.

[The statement of Ms. Gonzalez-Eilert follows:]



**Florida**

*Holding Power Accountable*

**Written Testimony  
of  
Anjenys Gonzalez-Eilert  
Executive Director  
Common Cause Florida**

**May 6, 2019**

**Ft. Lauderdale, Florida  
Committee on House Administration, Subcommittee on Elections  
“Voting Rights and Election Administration in Florida”**

Thank you Chairwoman Fudge and members of the Subcommittee on Elections for inviting Common Cause Florida to participate in this hearing today. My name is Anjenys Gonzalez-Eilert, and I am the Executive Director of Common Cause Florida. We are a national, nonpartisan watchdog organization with 1.2 million supporters and 30 state chapters, including here in Florida where we have more than 76,000 members statewide. For nearly 50 years, Common Cause has been holding power accountable and amplifying the voices of everyday Americans through lobbying, litigation, and grassroots organizing. Common Cause fights to reduce the role of big money in politics, enhance voting rights for all Americans, foster an open, free, and accountable media, strengthen ethics laws to make government more responsive to the people, and stop gerrymandering.

Although there are many voting-related topics to cover in Florida, I will focus my observations on several key areas: our election protection program and election administration matters, election innovation & modernization, the impact on natural disasters on elections and election security in the state of Florida. We work with partner organizations both national and statewide in collaboration and coordination to ensure access to the ballot box for eligible voters.

Before continuing, I would like to state that, we have a strong appreciation for the hard work that our county Supervisors of Elections (SOEs) and staff put in everyday along with the poll workers who contribute to the election process in Florida. The three statewide recounts put everyone to the test with short deadlines during the 2018 General Election.

#### **Election Protection Program and Election Administration**

Common Cause has been a part of the Election Protection Coalition since 2002, led by the Lawyers' Committee for Civil Rights Under Law. It's the nation's largest non-partisan voter protection coalition. The Lawyers' Committee runs the [866-OUR-VOTE](#) hotline and partner organizations cover over 10 languages. Common Cause coordinates the voter assistance field program. Election Protection helps ensure eligible voters are able to participate in our democracy. Along with our partners, we have collected data that can be used to create meaningful reform ensuring that our elections are free, fair, and accessible. Common Cause Florida has engaged in Election Protection since 2010 and since 2002 nationwide.

#### **Lack of Standardized Training:**

As outlined in the Conduct of Elections Report submitted by SOEs to the Division of Elections, 70% of the issues reported were due to human error. This is borne out in our on-the-ground observations performing election protection and the calls received by the Election Protection Hotline 866-OUR-VOTE. The majority of the calls the program received were questions, such as "Where is my polling place?" or "Am I registered to vote?", that could have been answered by Supervisor of Election offices. Florida Statutes include a requirement for a uniform training curriculum from the Division of Elections. However, the only state-provided training is "Serving Voters with Disabilities" on [YouTube](#). Also, the Department of State is

required to create a uniform polling place procedures manual through the rulemaking process and to ensure that the manual is available in hard copy or electronic form in every polling place. However, the Polling Place Procedures Manual has not been revised since 2014. Rulemaking workshops were held in 2016 and 2018, but revisions were never completed. Earlier this year, the governor, in response to a court case, has indicated that the manual will be updated and a workshop will be held on May 21, 2019, during Florida State Association of Supervisors of Election conference towards this end. Some examples of updates we would like to see included in this revision are: Language Access training and protocols that clearly outline how to provide assistance to Limited English Proficiency voters and an emphasis on how to update a voter's information if they have moved using the electronic poll books so that voters are not given an unnecessary provisional ballot to cast when they are entitled to a regular ballot.

Knowledge from our election protection work on the ground and the Hotline informed us that some of the issues confronted by voters during the 2018 election were: malfunctioning equipment, ballots running out, voters sent to the wrong polling place, polling locations were relocated, issues checking status of VBM ballots, polling places in gated neighborhoods making for difficult access, and failure to provide language assistance, to name a few.

There are three key players in election administration in Florida: Secretary of State (SOS), Division of Elections, and Supervisors of Elections (SOEs). In Florida, the SOS is also the Chief Election officer. The Division of Elections is responsible for poll worker training protocols and the SOEs oversee the matching of signatures process in their county Canvassing Boards. There is a need for standardized training by the Secretary of State to Supervisors and Canvassing Board members. This need is addressed in the new election bill (SB7066), which speaks to the responsibility of the SOS as it refers to signature matching as follows: "Provide formal signature matching training to supervisors of elections and county canvassing board members." Currently, the SOE organization FSASE has been providing training to canvassing board members on signature verification. In addition to this training however, a handbook needs to be developed by the SOS office for signature verification. This development should include expanded staff training. The State of Colorado has a good manual and practices.

Canvassing Boards are composed of three members: a SOE, a county judge and a member of board of county commission. Canvassing Boards have final decision making power for accepting signatures regardless of issue. Canvassing boards are on duty from the commencement of the logic and accuracy test through a manual audit, if necessary.

#### Cure Process for Vote-By-Mail and Provisional ballots:

In 2014, a signature cure process was created for those voters casting a vote-by-mail ballot with a missing signature that allowed the voter to complete an affidavit in an effort to provide a signature for comparison to that on file. In 2016, the cure process was extended to include mismatched signatures. As vote by mail ballots arrive, they are reviewed by SOE staff for basics such as correct election, that the ballot was issued to the person returning it, and that it includes a signature on the envelope. If there is no signature on the envelope or the signature

does not match the one on file, the voter is sent a cure affidavit and instructions. In both instances, the cure affidavit is due by 5pm the day before the election. Due to court cases in 2018, the court extended the deadline for submitting signature cures including provisional ballots that had mismatched signatures.

The cure process requires that a voter submit the completed affidavit and a copy of an identification. In the election bill being considered, the new deadline would be the 2nd day after the election at 5pm, and the same provisional ballot documentation would be needed. Currently, there is no standardized process by which the SOEs contact voters to inform them of a problem with their ballot. In the election bill SB 7066 being considered, they are proposing that voters can be reached via text, phone call, and email as well as by receipt of a first-class letter up until the day before the election. The election bill recognizes that delivery and return of ballot is subject to timing of USPS and cannot be guaranteed by a set date.

#### Issuance of Provisional Ballots

Currently, provisional ballots are issued when the voters' eligibility cannot be verified. We have seen the following issues with provisional ballots -- poll workers don't check that a vote-by-mail ballot has not been received by the SOE office and therefore issue a provisional ballot when voter should have been given a regular ballot. Additionally, when a voter moves within or from one county to another and the receiving county uses electronic poll books, the voter should be able to update their polling location at their new site and vote a regular ballot. Sometimes voters aren't even offered a provisional ballot but instead are erroneously directed to their old precincts. We believe these issues can be resolved and improved with more stringent training for poll workers. Provisional ballots with mismatched signatures will be subject to the same cure process in the election bill being sent to the governor.

Language access has long been a problem in the state of Florida. The first time that the whole state of Florida was covered under Section 203 of Voting Rights Act for Spanish language was in 2011. Despite this determination from the director of the US Census, no significant changes were made in materials produced by the Division of Elections in Florida for Spanish speakers. The first time the Division of Elections made available a statewide Voter Registration and Voting Guide in Spanish was not until three weeks before the August 2014 primary. Since 2016, the Voter Registration and Voting Guide has been published concurrently in English and Spanish. The only option currently is to use Google Translate when visiting the Division of Elections website. A single Spanish webpage for voters is available only in the weeks before election day, but each topic links to an English page where again the only option available to a Spanish speaker is to use the Google Translate function. All forms that the public uses have been translated to Spanish and available to the public on the Division of Elections website since 2015.

There is currently no set of standardized instructions for poll workers to refer to in the Polling Procedures Manual for Language Assistance. Revisions must follow the rulemaking process, which can take an extended amount of time. It is currently being considered for

revision. For example, see page 17 of the 2014 edition of the Polling Place Procedures Manual, which says: "For guidance on how to assist voters in your county who speak a language other than English, please refer to instructions provided by the Supervisor of Elections. For guidance on how to assist voters with special needs due to a disability, see Voters with Special Needs on page 23." Many of the SOEs local training manuals do not contain this information either.

#### Funding

County election offices are funded by the Board of County Commissioners and augmented by federal Help America Vote Act (HAVA) funds from the state in the form of grants. Thirty of the 67 counties in Florida are fiscally constrained counties with under \$5 million in revenue. When asked to do more, they need financial assistance to follow through with action.

Supervisors of Elections use the HAVA funds for one or more of these areas: voter education; poll worker training; standardizing election results reporting; and other federal election administration activities as approved by the Department of State. Florida's original HAVA funds are projected to be fully expended at the end of FY 2020.

#### ERIC

In 2018, the Florida legislature approved legislation that would allow the Secretary of State, as of January 1, 2019, to join an organization such as Electronic Registration Information Center (ERIC) to improve the accuracy of voter rolls and access to registration. We have not yet learned of the new Secretary of State's decision, and, at this time, there is no specific line item in the proposed FY 2020 budget for the initiation and membership fees. We know that the 26 other states involved in ERIC are waiting for the third largest state to join them.

#### **Hurricane - Natural Disaster Prep/Aftermath**

In recent years, Florida has been struck by several natural disasters during election season. Hurricane Matthew (2016) and Hurricane Michael (2018) both arrived around book closing (29 days before election day). Hurricane Irma (2017) arrived around special elections and municipal elections in several counties. Given that election season falls in the middle of hurricane season, this is unfortunately very likely to happen again. Just as we prepare our homes and communities for these events, we need preparation for continuing an election and ensuring we do everything in our power to have standardized procedures in place that will ensure that no eligible voter is left without the ability to cast their vote and have their voices heard in our democracy. In early 2018, the state updated its rule: Comprehensive Emergency Suspension of Election Plan following Hurricanes Matthew and Irma. Each county drafts its own security and continuity of operations plan as it relates to natural disaster preparedness, and the plans can vary widely in their approach. It would be helpful to have guidelines for review of these plans with feedback from the SOS office.

The Department of State has been reluctant to extend registration around these recent hurricanes. They have been taken to court in order to do so. For Hurricane Michael, with nine

counties significantly impacted, the governor did prepare an Executive Order to assist in preparation after the hurricane for the election. With our partner organizations, we still need to ask for more information to aid the impacted voters. A special webpage was set up with quick links to information in each county, especially for voters who had evacuated. In addition, sometimes the response of the local county to a natural disaster can have a negative impact on the community. For example, 90% of the African American community in Panama City were not close to the six voting centers set up to replace precinct voting. After the SOE was contacted by the NAACP and partner organizations, a vote center was provided for only one day, the day before the election, leaving many voters disenfranchised and unable to cast their votes.

### **Election Security**

There has been increased scrutiny over the security and integrity of elections following Russia's efforts to interfere in the 2016 election. The Department of State spent \$14.5 million of \$19 million 2018 HAVA election security grant money by the November election. Most of these funds were used by counties where the Supervisor of Elections were able to implement physical improvements -- badges, locks, cameras, chain of custody -- as well as cyber security in the form of network monitoring in their counties. Additionally, the Department of State was able to hire 5 network contactors since the legislature refused to fund these positions in the FY 2019 budget request. However, it's critical that more federal money go to the states and counties so that counties may develop procedures to ensure that all voting systems have the resilience to recover from an attack perpetrated by an advanced persistent threat.

### **Voting Rights Act impact after 2013 Shelby decision**

Prior to 2013, five counties in Florida (Collier, Hillsborough, Hendry, Hardee, and Monroe) were covered jurisdictions under Section 5 of the Voting Rights Act. When the formula under Section 4 ended along with the preclearance process under Section 5 following the *Shelby v. Holder* decision, there were changes observed in two counties. In Collier County, the first time there precinct boundary changes were made, there was no collaboration with community organizations before the changes were sent to the Board of County Commissioners. After asking for this impactful review in 2018, the community was asked again to participate. Prior to the *Shelby* decision, the practice was to engage the community so it was part of the record submitted for preclearance. On another positive note, Collier County continued to provide bilingual ballots in English and Spanish. However, in Monroe County, the first ballots produced immediately following the *Shelby* decision in October 2013 were in English only. Spanish sample ballots were provided in the 2018 general election under the direction of a federal court.

### **Election Innovation and Modernization**

To enhance participation in the election process, and to ensure that every eligible voter can and does cast a ballot that counts, Florida must adopt additional reforms that protect the right to vote. In recent years, Florida has adopted online voter registration and has the

opportunity to join the Electronic Registration Information Center (ERIC), two measures that make registration more accessible and assist election administration. Those reforms are important ones, and I'm proud that Common Cause Florida educated legislators on their effectiveness, but there's more that Florida can and should do.

Floridians should move toward a system that makes registration more, not less, accessible. In the 2018 midterms Floridians voted overwhelmingly – with 64% of the vote – to re-enfranchise citizens upon their release from incarceration (Amendment 4). I'm proud of the work we did to mobilize Floridians to have their voices heard on that ballot initiative, and those numbers indicate to me that the state as a whole favors election reforms that afford all eligible persons greater access so that we can truly achieve a representative democracy accountable to us all.

#### Same Day Registration

Several states have already taken on strong registration reforms that we know have the effect of both registering eligible individuals not yet been a part of the system and then, importantly, prompting them to vote. Same Day Registration (SDR) – also called Election Day Registration – permits an eligible voter to register and vote on the same day, either just on Election Day or during an early voting period as well. It raises participation rates by upwards of 10 percentage points; it has proved particularly effective in increasing turnout among young voters, people of color, and other groups traditionally underrepresented in our democracy.

Most states close voter registration about a month before Election Day, cutting off participation just as many voters and young voters in particular are tuning into the campaign. A recent study indicated that "keeping registration open through Election Day in 2012 would have allowed an additional 3 million to 4 million Americans to register and vote." For the 2018 election, less than 55% of eligible Floridians cast a ballot in the midterms. Although we did better in 2016 – roughly 65% of eligible Floridians voted – we still lag behind many states in overall turnout. In fact, as noted in a recent report – Cost of Voting in the American States – Florida may not have been the hardest state to vote in (that prize went to Mississippi), but it was the 19<sup>th</sup> hardest, placing it in the bottom half. As the report's authors found, states with strict registration deadlines and other restrictions notably made voting harder and, thus, hurt turnout and participation. Those with the "lowest cost" of voting – Oregon and Colorado – had, among other things in place, strong registration reforms.

Florida can take a cue from both studies and the practices of other states. After Colorado enacted a wide-ranging election reform bill in 2013, including vote-by-mail and same-day registration during an early voting period, turnout jumped by 319,225 voters from 2011, the last non-presidential election before the reforms were implemented. That's roughly equal to the population of Aurora, the state's third largest city. Colorado now boasts the most comprehensive elections system in the country and consistently some of the highest turnout.

Seventeen states, plus the District of Columbia, now offer same-day registration; the majority adopted it in the past five years. While SDR can increase overall turnout, it is most effective among communities of color and young people. Indeed, in the 2008 election, young people whose home states offered SDR were 41% more likely to vote than those whose states did not. Same day registration could increase turnout by young Americans in presidential elections by as much as 14 percentage points. What's more, young voters are "more likely to be contacted by a political party in states with Election Day registration by an estimated 11 percentage points in presidential elections, and by an estimated 18 percentage points in midterm elections." SDR not only encourages young people to vote, it positions them for future elections, pushing candidates to reach out and consider their concerns.

#### Automatic Voter Registration (AVR)

Running for President in 1976, Jimmy Carter proposed that government take the initiative in registering eligible Americans to vote. France, Sweden, Argentina, Peru, Indonesia, and several other countries register individuals automatically; their turnout rates trump those of the U.S.

Since 2015, when Oregon passed the first AVR law in the nation, 16 other states and the District of Columbia have followed suit. The Oregon law – and many other states' laws – effectively turns the federal requirement that states provide opportunities to register to vote at DMVs from an opt-in to an opt-out policy. Given the success of this reform, Florida should adopt it, but so should the rest of the country if we are to reduce – if not eliminate – the gap between registered and unregistered voters.

Common Cause state organizations, along with our coalition partners and other national organizations, have advanced these reforms in Oregon, California, and across the country. The two trend-setting states offer the service at Division of Motor Vehicle (DMV) offices, but others have extended the service to additional agencies that collect citizenship and other eligibility information – public assistance offices, Medicaid offices, etc. – in order to reach all income brackets and promote a robust, inclusive democracy. Several states are also proposing automatically registering eligible voters in schools and colleges. As with preregistration, this reform can help ensure early – and continued – participation by younger voters.

Automatic registration could swell the electorate by millions of people. In Oregon alone, registration rates in the first four months of 2016 increased by more than 50 percentage points from those in the last presidential year. Same-day registration could increase turnout by young Americans in presidential elections by as much as 14 percentage points. Indeed, before implementation of AVR, Oregon was processing more than 4,000 new registrations a month; following its implementation, the state now processes over 12,000 a month through the reform alone – a threefold increase.

Safe and effective implementation of the program is critical. As advocates, elections officials, and legislators continue to push for automatic voter registration, they'll be challenged to

ensure that statutes or regulations include appropriate protections for those unwittingly registered – a likely rare but possible occurrence. They'll also need to conduct outreach and educational campaigns to inform and encourage eligible voters about the new options. Registration is the first step; consistent participation is the second. Government and advocacy groups alike must take these next steps to engage and encourage citizens. Reforms serve no one unless people are aware of and use them.

#### Risk Limiting Audits

Members of the intelligence community have publicized that the U.S. election infrastructure continues to experience attacks. As former NATO commander four-star General John Allen told the National Association of Counties in the summer of 2016, "Our democracy is under attack and you are the people who will defend it."

Compared to the federal government, counties do not have the same resources to defend themselves against cyber attacks. Fortunately, according to nearly all cyber security experts, the best way to defend our voting machines, votes, and vote counts from corruption by a nation-state actor is to build in low-tech checks and balances. We must ensure that every vote is recorded on paper, verified by the voter, and then that paper is used to double check that the election result is correct.

By 2020, every vote cast in Florida will be stored on some kind of paper record -- either a paper ballot or a summary card. This will ensure that if votes are deleted or changed in an attack, there is still a permanent record that voters have verified. However, those paper records and ballots MUST be used to check that election results are correct. The way to do that is through a "risk limiting audit." Currently two states (Rhode Island and Colorado) require risk limiting audits, but many other states are now piloting these audits in preparation for statewide risk limiting audits in the future. Florida is beginning to follow this trend.

Florida's current law spot checks machine function, but it doesn't tell voters what they really want to know -- "Did the winner really win?" Risk limiting audits are a "smart" election audit that check the election results.

Florida needs to take a first step in allowing county Supervisors of Elections to conduct risk limiting audits. Unless and until all of our election results are double checked with a risk limiting audit - our vote counts are at risk. Common Cause will continue to advocate for this critical reform so that our counties have the tools they need to preserve the will of the voters in the face of the inevitable, continued attacks on our election infrastructure.

#### **State and Federal Highlights: H.R. 1, For the People Act**

Despite significant barriers to advancing reform at the federal level in recent years, Common Cause and many other reform groups have continued to pass significant pro-democracy reforms at the state and local levels that help empower the voices of all

Americans. Just last year, as we outlined in our [Democracy on the Ballot report](#), voters in more than 20 red, blue, and purple states and localities passed pro-voter democracy reforms, with strong support from Republican, Independent, and Democratic voters. This includes voting rights restoration for formerly-incarcerated individuals here in Florida, an anti-gerrymandering measure in Utah, independent redistricting commissions in Colorado and Michigan, and automatic voter registration in Michigan and Nevada. Additionally, we led the successful campaign in Maryland to pass same-day voter registration, and in Ohio, we spearheaded the successful effort to create a bipartisan redistricting commission that passed with support from 75% of voters.

It isn't just through direct democracy ballot initiatives that voting reforms become law. Over the past few years, dozens of democracy reform measures have passed with bipartisan support in state legislatures, as well as at the city and county levels. In New York earlier this year, we led a coalition that passed a package of reforms including early voting, no-excuse absentee voting, voter registration portability, and pre-registration for 16- and 17-year-olds. Despite congressional Republicans blocking progress in Congress, reforms will continue to pass at the state and local level.

However, we have made some progress in the new Congress. Many of the most significant voting reforms that would greatly benefit Florida are included in H.R. 1, the For the People Act, which passed the House in March. Common Cause spent significant time working on this historic legislation and strongly endorsed this bill. I'd like to highlight several of its key provisions:

- [Automatic Voter Registration](#): Decades ago, many states passed restrictive and discriminatory registration laws to try to disenfranchise voters. In the last few years, 15 states, from Alaska to West Virginia, have created automatic voter registration programs and enabled millions of eligible voters to register to ensure their voices can be heard at the ballot box. Automatic voter registration makes common sense updates so more eligible Americans can register to vote and be able to have their voices heard, while at the same time safeguarding our election system with mandatory audits and better technology, as well as saving taxpayers money.
- [Same-Day Voter Registration](#): 17 states now offer same-day (sometimes called Election Day) registration. This common-sense reform improves the voting process by allowing registration to take place at the same time voters are casting their ballots. This can be helpful when voters have been erroneously purged from the rolls or faced early registration deadlines. In states where same-day voter registration has been implemented, it has helped increase voter turnout by an [average of 5%](#).
- [Election Security](#): After the United States was attacked in the 2016 elections when Russia attempted to manipulate our elections, Congress provided \$380 million in election security funding to update voting machines and help secure our elections,

including about \$20 million for Florida. While that was a step in the right direction, we desperately need much more. We need a bolder response to counteract continued Russian attacks and potential future attacks by other foreign interests as well. The Election Security Act is a strong response because it would promote post-election risk-limiting audits, voter-verifiable paper ballots, and increased funding for states to improve their voting machines.

As certain states and localities, including here in Florida, continue to try to suppress the votes of some communities and rig the rules to make voting more difficult for some people, Congress must step up to ensure that voting remains a right for all eligible Americans. You can be on the correct side of history and support reforms that strengthen our democracy, or you can be on the side of the status quo and turn a blind eye to voter suppression tactics such as poll taxes, switching or eliminating polling places, and using "signature mismatches" to disenfranchise eligible Americans. For nearly 50 years, Common Cause has fought to ensure that the voices of all Americans can be heard in government, and we will continue fighting until all eligible Americans can have their voices heard at the ballot box.

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Chairwoman FUDGE. Thank you.  
Mr. GILLUM, you are recognized for 5 minutes.

#### STATEMENT OF ANDREW GILLUM

Mr. GILLUM. Thank you so much, Chairwoman Fudge, and to the distinguished Members of this Subcommittee. Special appreciation to the Florida delegation who represent us so as well in Washington, D.C.

I consider it an honor to be able to provide a few comments to this extremely important Subcommittee as you all do the work that is part the basic principle which serves as the foundation for our democracy: voting.

I want to start by applauding the 116th Congress for passing H.R. 1, a historic piece of legislation. And in 2018, we saw a record number of Floridians use their voices at the ballot box. In a non-Presidential year, we had 8.2 million people cast ballots, more than 2 million more people than were expected to participate in that election.

Turnout among voters in our State was 57 percent African-American; 48 percent of Hispanics voted; 67 percent of white voters voted. Those are increases of 143 percent, 161 percent, and 134 percent respectively. Historic turnout indeed.

Florida voters also voted to pass Amendment 4, which the Chairwoman referenced in her opening comments, restoring the right to vote to formally incarcerated citizens and making Florida a forgiving State. We were unambiguous as voters, seeing as that amendment gained more votes than the sitting Governor, more votes than me, and, again, won with a historic 64 percent of the voters casting ballots saying that we were going to be a State that didn't judge people forever by their worst day.

That now historic change is under assault and has been under assault these last several weeks in the Florida legislature. I will pass on further comments there.

We should all be proud of these victories. But in 2018, the elections in Florida also saw some inequities that still exist in our electoral system. Out of the 8.3 million votes cast, 83,000 were deemed invalid. In a State where elections are often decided by 1 percent—in Senator Nelson's case, around 10,000 votes; in my case, around 33,000 votes. And the Chairwoman has already mentioned how close our Presidential elections can be. That means that 1 percent of the vote can be consequential to the outcome of any election, statewide or Federal.

Last year, over 2.6 million people voted by mail in the State of Florida. Researchers have found the statewide average of rejected vote-by-mail ballots in 2018 was at 1.2 percent—again, in a 1 percent State, 1.2 percent rejected—a rate that was even higher than the Presidential elections of 2012 or 2016. The rejection rate is higher in Broward County, with 2.8 percent of vote-by-mail ballots being rejected; even higher among voters between the ages of 18 and 21.

Judge Walker, when deciding on one of the contests during the recount period here in the State of Florida in 2018, said: The precise issue in this case is whether Florida's law that allows county elections officials to reject vote-by-mail and provisional ballots for

mismatched signatures, which, with no standard, an illusionary process to cure, and no process to challenge the rejection, passes constitutional muster. Walker goes on to say: The answer is simply it does not.

To add to this troubling data, the ACLU of Florida and the University of Florida analyzed the 2014 and 2016 elections and produced a report which found that younger and ethnic minority voters were much more likely to have their vote-by-mail ballots rejected and less likely to have their vote-by-mail ballots cured when they were flagged for a signature mismatch.

Ladies and gentlemen, one of the sets of things that I think we want to get to today are a set of recommendations on how we make this process work better. A few recommendations from my perspective would be:

One, allow same-day voter registration.

Two, repeal Florida's onerous voter registration laws.

Three, standardize and fund early voting across the State of Florida.

Four, universal paid postage—universal paid postage for all absentee ballots.

Allow ballots postmarked by election day to be counted.

Increase funding for the supervisor of elections offices.

Mandate electronic poll books to make sure that voter registration is portable across the State.

Fix the signature mismatch law. No untrained person should be able to invalidate a ballot simply because the "W" in your signature this year looks different than the one from the year before.

And, finally, a real recount system that triggers an evaluation of an actual paper receipt rather than feeding the same ballot through the same machines that produced the same count in the first place. We have paper ballots in the State of Florida, and we should count them.

Ladies and gentlemen, because my time draws near, I want to conclude by saying, last year, I was honored to be the Democratic Party's nominee for Governor of this great State. This is not partisan for me. I believe all votes should be counted—Republican, Democrat, independent, no party affiliate—with one caveat and, actually one interest in mind, and that is the goal being that the person who is ultimately sworn into office is the one who actually got the most votes.

Finally, in deciding on an elections challenge during the 2018 recount, Judge Walker concluded: This is a case about the precious and fundamental right to vote, the right preservative of all other rights. And it is about the right of every voter to have his or her vote counted, plain and simple.

Again, thank you for the opportunity. I will submit the rest of my comments, hopefully, for the record. Thank you, Madam Chairwoman.

[The statement of Mr. Gillum follows:]

**Written Testimony before the U.S. House of Representatives,  
Subcommittee on Elections of the Committee on House Administration  
Hearing Entitled “Voting Rights and Election Administration in Florida”**

**Mayor Andrew D. Gillum  
Former Mayor, Tallahassee, Florida**

**May 6, 2019**

Chairwoman Fudge and distinguished Members, it is an honor to appear before you today at this important hearing on the basic principle which serves as the foundation for our entire Democracy—voting. I want to start by applauding the 116<sup>th</sup> Congress for passing HR1 - a sweeping reform bill that works to increase access to voting and transparency in our process.

In 2018, we saw a record number of Floridians use their voice at the ballot box. In a non-presidential election year, 8.2 million people cast their vote - almost 2 million more than projected. In 2018 African American voters increased their participation by almost 150% over 2014 and Hispanic voters increased by nearly 97% over 2014. Historic turnout. Florida voters also voted to pass Amendment 4 - restoring voting rights to formerly incarcerated citizens and making Florida a forgiving state, one that believes in second chances and does not judge its' citizens by their worst day.

We should all be proud of these victories, but the 2018 elections in Florida also displayed some inequities that still exist in our electoral system. Out of 8.2 million votes cast, 83,000, or 1%, were deemed “invalid”<sup>1</sup>. In a state where elections are often decided by 1% or less, this margin can change the outcome of an entire election. By way of background, the reasons for a ballot to be marked “invalid” include:

- **Vote by mail (VBM):** ballots mailed well ahead of the Nov. 6<sup>th</sup> election but not received at the Supervisor of Elections office by 7pm on Election day.
- **Missing or signature mismatch:** vote by mail ballots where a voter’s signature on the security envelope is missing or does not match a signature on file.
- **Votes for more than one candidate:** The voting equipment picks up 2 candidates for the same office.
- **Blank/write in ballots**

Last year, over 2.6 million people<sup>2</sup> voted by mail in Florida. Researchers have found that the statewide average of rejected VBM ballots in the 2018 election was 1.2 percent, a rate even higher than in 2012 or 2016 presidential elections.<sup>3</sup> The rejection rate is higher in Broward

<sup>1</sup> Associated Press, 2019.

<sup>2</sup> Florida Division of Elections: Archived Early Voting and Vote-by-Mail Statistics

<sup>3</sup> Daniel A. Smith, “Vote-By-Mail Ballots Cast in Florida,” American Civil Liberties Union of Florida (Rev. Sept. 2018). (Last visited March 30, 2019) [https://www.aclufi.org/sites/default/files/aclufi\\_-\\_vote\\_by\\_mail\\_-\\_report.pdf](https://www.aclufi.org/sites/default/files/aclufi_-_vote_by_mail_-_report.pdf).

County- with 2.8 percent of VBM ballots rejected and even higher among voters between the ages of 18-21<sup>4</sup>. As the rest of Country applauded the young organizers from Parkland for getting engaged in the civic process to make change in their communities, it is estimated that 15 percent of mail-in ballots submitted by Parkland residents between the ages of 18 and 21 were never counted in the 2018 election.

To add to this troubling data, ACLU Florida and the University of Florida analyzed the 2014 and 2016 elections and produced a report which found “that younger and ethnic minority voters were much more likely to have their VBM ballots rejected, and less likely to have their VBM ballots cured when they were flagged for a signature mismatch”<sup>5</sup>

Our Democracy is only as good as the integrity of its systems. Such troubling facts should concern all of us and move us to action. That is why I am here today. Because I believe, as my grandmother used to say, that “when you know better, you do better”. After every election, we have the opportunity to evaluate, improve and secure our systems. At the state level, there are several measures that can be taken:

1. **Allow same-day registration.** Current Florida law closes voter registration 30 days before an election — the most restrictive deadline allowed by federal law. Same-day voter registration would eliminate arbitrary deadlines that cut off registration when voters are most interested, remedy inaccurate voter rolls, and assist geographically mobile, lower-income citizens, young voters and voters of color.

Florida should allow voter registration every day of the year, including same-day voter registration during Early Vote and on Election Day. Seventeen states and the District of Columbia offer same-day registration.

2. **Repeal Florida’s onerous voter registration laws.** Florida laws governing voter registration are among the most restrictive in the country, requiring anyone who registers new voters to register with the Secretary of State, submit the forms within ten days, and comply with a barrage of onerous, bureaucratic requirements. These laws, passed in 2012, were designed to make voter registration harder for groups like the League of Women Voters, and should be repealed.

3. **Standardize and fund early vote across the state.** Counties across Florida have differing early voting timelines, causing confusion among voters who frequently hear conflicting information. Florida must standardize early voting and end the practice of allowing counties to choose how many early voting days they will offer within a 15-day window.

Early voting should be mandated statewide for all counties for the 15 days before Election Day, including the Sunday before Election Day.

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<sup>4</sup> [Washington Post, 2019.](#)

<sup>5</sup> [ACLU Report: Vote-By-Mail Ballots Cast in Florida](#)

4. **Paid postage for absentee ballots.** No one should be excluded from voting because they can't find a stamp. Currently, only a few counties (e.g., Pinellas) pay the return postage on all absentee ballots.

All absentee ballots should have their return postage prepaid.

5. **Allow ballots postmarked by election day to be counted.** Current Florida law allows only absentee ballots received by Election day to be counted. This arbitrary rule disenfranchises voters whose ballots were mailed before Election Day but not received at their local SOE office.

Ballots postmarked by Election Day should be valid.

6. **Increase funding for SOE offices.** Supervisors of Elections offices across Florida are in dire need of additional funding, as the demands of an ever-increasing electorate meet the hard reality of insufficient budgets. In the 21st Century, every SOE office in Florida should have electronic poll books, modern voting equipment, and a staffing level up to the challenge of large turnout elections. In 2018, as in past elections, equipment failures have led to long lines at the polls, with broken printers, for example, causing long lines in Miami-Dade this year. Further, staff at SOE offices are often overworked and undertrained; they must be given the resources and training to succeed.

The state should appropriate additional funds for essential election infrastructure.

7. **Mandate electronic poll books to make voter registration portable statewide.** Currently, a voter who moves to a Florida locality that doesn't use electronic poll books must cast a provisional ballot. This should be changed to allow voters to move without updating their voter registration to cast a ballot at their new local polling place.

All SOEs should use electronic poll books to ensure that registered voters are not disenfranchised by a change of address.

Florida counties with electronic poll books do this, as do five other states: Delaware, Maryland, Ohio, Oregon, and Utah.

8. **Fix signature matching.** Currently absentee ballots whose signatures do not match the voter's existing signature on certain government documents are not counted, and the voter is notified of the problem. Under current law, a voter has until the Monday *before* Election Day to remedy the issue. Signature matching problems overwhelmingly disenfranchise the marginalized populations, however, and in November, a court struck down Florida's signature matching law.

We need greater uniformity in the procedures employed by Supervisors of Elections, their staff, and canvassing boards to process, validate and, if necessary, cure VBM ballots.

There is work to be done at the Federal level as well. In addition to these state-level measures, we need our Federal delegation to enact measures that address voter suppression **before** it occurs, not just after. Florida was covered by the Voting Rights Act preclearance formula that was struck down by the Supreme Court in 2013 in *Shelby County v. Holder* and gutted the Voting Rights Act. Under the formulas in the remedial legislation, the Voting Rights Advancement Act<sup>6</sup>, we expect that Florida would again be covered, requiring the Justice Department to pre-clear changes to state voting laws. This preclearance provision could potentially block suppressive voting measures before they go into effect.

There are also duties we, as private citizens, must carry out. We need to get off the sidelines, engage in the process and organize to improve our communities. I am encouraged and optimistic about the future of our state and our Country because in 2018 so many Floridians did just that. That is why I am going to continue in this work and am working with partner organizations across the state to register and engage up to 1 million new voters in Florida. We will continue to organize for a Florida that works for all, not just a privileged few.

I love this state. I am a proud, lifelong Floridian. I was born in Richmond Heights, South Miami Dade County. To my mother, a school bus driver, and my father, a construction worker — and when there wasn't any construction work you could find him on a street corner selling fruit and flowers. I'm the fifth of seven children and the first in my family to graduate from high-school and college. Nobody can tell me I don't know what it's like to see intergenerational poverty interrupted at the hands of a good public education. After graduating, I attended the Florida Agricultural and Mechanical University, FAMU, where I was elected as the youngest person ever to be elected to the City Commission — and in 2014, I was elected Mayor of the seventh largest city in the state of Florida — Tallahassee.

Last year, I was honored to become the Democratic nominee for Governor of this great state. This is not partisan for me - I believe all votes should be counted: Republicans, Democrats, and independents—and let the people be the ones to choose who represents them.

Thank you.

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<sup>6</sup> H.R.4. Voting Rights Advancement Act of 2019

Chairwoman FUDGE. Thank you very much.  
Ms. Batista, you are recognized for 5 minutes.

#### STATEMENT OF NANCY BATISTA

Ms. BATISTA. Thank you, Chairwoman Fudge, and to the Members of the Subcommittee here today. My name is Nancy Batista. I am the Florida State Director of Mi Familia Vota Education Fund, a 501(c)(3), nonprofit organization and also Mi Familia Vota, a 501(c)(4), nonprofit organization, nonpartisan organization.

Our mission is to build Latino political power. We do this by creating voters through the citizenship workshops that we provide. We also register people to vote. Last year, we registered 29,745 people to vote. We knocked on 101,000 doors, called 734 people, and sent 152,535 text messages to get out the vote. We also did a campaign to get out the vote for the primary election and for the general election.

We work in low-propensity, high-density Latino areas. During the voter registration process, we were making sure that people would sign up to receive a vote-by-mail ballot. During the primary election, we had four teams of five people each that were knocking on doors and making sure to get out the vote, GOTV.

Everything seemed to be going well until I was made aware of something that had happened not too long after the primary election was over. A person very close to me received a letter stating that their mailed-in ballot had been voided out due to a signature mismatch although they had not changed their signature since high school. That person was me.

The time for early voting came for the general election. I was prepared and I went to my early-voting site. While I was there, a couple of things happened.

The first thing was that I walked in to surrender my ballot because I wanted to make sure that my vote would count. As I tried to surrender my mail-in ballot, the person in the front told me that this was not protocol and that she could not do this. I told her to please contact her supervisor and that I was aware of my rights and that I knew that I could this. I waited for her to make contact with her supervisor.

While I waited for her to get clearance, I saw something else happen. I heard how another person working there told an older lady that the person next to her could not be next to her while voting. The person responded back that he was her son and that he was assisting her because she did not understand. The lady continued to say that he could not be there with her. Then the son asked for the material in Spanish, and said she that they did not have it at this time.

The person told the lady: You don't have this information in Spanish, and you won't let me assist my mom, who doesn't understand English. Do you have someone that can assist her? The lady said no. I jumped in, and I told her that I would be calling voter protection services about this incident to let them know about both incidents.

The other person came back with another person next to her. She told me that I could surrender my mail-in ballot and that they

would be giving me a provisional ballot. I turned around and I no longer saw the mother and son.

I got to my office; I called the lawyer from Latino Justice and told her of what I had just witnessed and experienced. I also called voter protection services and let them know about the incidents and told them that this was an early-voting site in Polk County that did not have any Spanish material and that no one could assist there that was bilingual as well.

We hosted a party at the polls in order to motivate our communities to go out and vote. While we were there, we had a couple of people that approached us, upset because of issues that they had encountered.

We had another person that mentioned that their voting site was in a gated community and that there was a passcode to get in and that she was not able to get in. My colleague told her that it was best for her to go to the supervisor of elections for her to cast her vote that way.

Election day arrived, and we were at the office. A couple people walked in, confused, asking for the office information regarding their polling site. Our office is nearby a library. The library was an early-voting site, but it was not a voting site for election day. We assisted those people by looking up their information and providing them with information on where their voting site was.

I am here to uplift the voices of those people that have been suppressed. I know because of my work I was able to cast my vote, but what about that mother and son? What about their vote? Did their vote not count? So I just want to make sure that our voices are heard.

Thank you.

[The statement of Ms. Batista follows:]

My name is Nancy Batista, I am the Florida state director of Mi Familia Vota Education Fund 501c3 and also Mi Familia Vota 501c4 non profit organization. Our mission is to build Latino political power. We do this by registering people to vote, encouraging civic participation, and expanding the electorate through the citizenship workshops that we provide. Last year we registered 29,745 people to vote, we knocked on 101,496 doors, Called 734 people and sent 152,535 Texts/SMS to get out the vote (GOTV) in Florida alone. We also completed a campaign to get out the vote for the primary election and for the general election. We work in low propensity, high density Latino areas in an effort to transform voter culture in our community, starting with those who are least likely to vote, which separates us from other organizations. During the voter registration process, we ensured that our constituents had access to numerous forms of voting such as voting by mail - we worked to signed up our community to receive a vote by mail ballot - and took care to educated our community on the importance of voting. During the primary election, we had 4 teams of 5 people each that were knocking on doors and motivating our neighborhoods to vote. We invest our resources and manpower into making sure that our community is prepared and able to vote.

Everything seemed to be going well until we were notified of voting irregularities. One of our community members received a letter stating that their mail-in ballot had been voided due to a signature mismatch, although they had not changed their signature since high school. Because of this, I knew that I needed to change my strategy for our Florida GOTV efforts. I shared the letter with my staff and I mentioned to them that we needed to push the message for early voting instead of voting by mail.

The time for early voting came for the general election, I was prepared and I went to my early voting site. While I was there a couple of things happened. First, I walked in to surrender my ballot because I wanted to make sure that my vote would count. As I tried to surrender my ballot, the person working there told me that I could not surrender my ballot but instead for me to complete it and to put it in the drop off box. I refused, I told her that I wanted a provisional ballot and that I wanted to surrender my mail in ballot. She told me again that this was not protocol and that she could not do this. I told her to please contact her supervisor and that I was aware of my rights and that I knew that I could do this. I waited for her to make contact with her supervisor. While I waited for her to get clearance I saw something else happen. I heard how another person working there told an older lady that the person next to her could not be next to her while voting. The person responded back that he was her son and that he was assisting her because she did not understand. The lady continued to say that he could not be there with her. Then, the son asked for the material in Spanish and she said they did not have it at this time. The person told the lady, you don't have this information in Spanish and you won't let me assist my mom that doesn't understand English. Do you have someone that can assist her? The lady said no. I jumped in and told her that I would be calling voter protection services about this incident to let them know about both incidents.

The other person came back with another person next to her, she told me that I could surrender

my ballot and that they would be giving me a provisional ballot. I turned around and I no longer saw the mother and son. They had left without completing the ballot, without voting. I got to my office, I called a lawyer from our partner organization, Latino Justice, and told her what I had just witnessed and experienced. I also called voter protection services and let them know about the incidents and also told them that this Polk early voting site did not have any Spanish material and no one that could assist there that was bilingual either.

In addition to these stories, our community has openly shared their alarming experiences (reminder: voting is a right). We hosted "Party at the Polls" in order to motivate our communities to go out to vote, while we were there we heard stories that we helped report using a voter protection services number.

Election day arrived and we were at the office, we had to assist with confusion caused by inconsistencies on our voting system; Our office is near a library that was used as an early voting site, but it was not a voting site for Election Day. We assisted those people by looking up their information and by providing them with updated information for their nearest alternative polling place. Voting was more than inconvenient for others: one constituent shared that their voting site was inside a gated community and that there was a passcode to get in and that she was not able to enter. My colleague told her that it was best for her to go to the Supervisor of Elections and for her to cast her vote that way.

Florida has robust voting statistics. Thirty-two million Latinos will be eligible to vote in the 2020 elections, 3.3 million of those eligible live in Florida. Currently, we have 1.9 million Latinos registered to vote, making up 16% of total registered voters. There are 671,000 Latinos in Florida currently eligible but not registered to vote. Between 2018 and 2020 there will be 168,000 Latino youth aging into the electorate. Lastly, there are 636,600 Latino Legal Permanent Residents currently eligible to naturalize and register to vote. Together, we can decide the future of our state and that of our nation.

Voters deserve healthier voting systems that support them in exercising their right to vote. We need to move into same day voter registration so that we can avoid signature mismatch, (this is hugely important for youth since sometimes students pre-register to vote at age 16 and their signature might change by the time they are 18 when they receive their voter card). Additionally, we need to make sure that staff are properly trained to make sure that signatures are accurately being matched and so that people's ballots are not being voided due to personal prejudices or racial profiling.

I am here today to uplift the voices of those people that have been suppressed, I just want to make sure that our voices are heard and for our votes to be counted.

My name is Nancy Batista, I am the Florida state director of Mi Familia Vota Education Fund 501c3 and also Mi Familia Vota 501c4 non profit organization. Our mission is to build latino political power. We do this by creating voters through the citizenship workshops that we provide. Last year we registered 29,745 people to vote, we knocked 101,496 doors, Called 734 people and sent 152,535 Texts/SMS to Get Out The Vote. We also did a campaign to get out the vote for the primary election and for the general election. We work in low propensity, high density latino areas. During the voter registration process we were making sure that people would sign up to receive a vote by mail ballot.

During the primary election, we had 4 teams of 5 people each that were knocking on doors and making sure to Get Out The Vote (GOTV).

Everything seemed to be going well until I was made aware of something that had happened not too long after the primary election was over. A person very close to me received a letter stating that their mailed in ballot had been voided out due to a signature mismatch although they had not changed their signature since high school.

Because of this, I knew that I needed to change messaging for the general election. I shared the letter with my staff and I mentioned to them that we needed to push the message for early voting instead of voting by mail.

The time for early voting came for the general election, I was prepared and I went to my early voting site. While I was there a couple of things happened. The first thing was that, I walked in to surrender my ballot because I wanted to make sure that my vote would count. As I tried to surrender my ballot, the person working there told me that I could not surrender my ballot but instead for me to complete it and to put it in the drop off box. I refused, I told her that I wanted a provisional ballot and that i wanted to surrender my mail in ballot. She told me again that this was not protocol and that she could not do this. I told her to please contact her supervisor and that I was aware of my rights and that I knew that I could do this. I waited for her to make contact with her supervisor. While I waited for her to get clearance I saw something else happen. I heard how another person working there told an older lady that the person next to her could not be next to her while voting. The person responded back that he was her son and that he was assisting her because she did not understand. The lady continued to say that he could not be there with her. Then, the son asked for the material in Spanish and she said they did not have it at this time. The person told the lady, you don't have this information in Spanish and you won't let me assist my mom that doesn't understand English. Do you have someone that can assist her? The lady said no. I jumped in and told her that I would be calling voter protection services about this incident to let them know about both incidents.

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We hosted party at the polls in order to motivate our communities to go out to vote, while we were there we had a couple of people that approached us upset because of issues that they

incurred while trying to cast their vote. We helped them by providing them with the voter protection services number.

Election day arrived and we were at the office, a couple of people walked in confused to our office and asking information regarding their polling site. Our office is near a library, that library was an early voting site but it was not a voting site for election day. We assisted those people by looking up their information and by providing them with the information of where their voting site was at.

We had another person that mentioned that their voting site was inside a gated community and that there was a passcode to get in and that she was not able to get in. My colleague told her that it was best for her to go to the Supervisor of elections and for her to cast her vote that way.

Chairwoman FUDGE. Thank you.  
Ms. Bastien.

**STATEMENT OF MARLEINE BASTIEN**

Ms. BASTIEN. Good morning, Chairwoman Fudge, and thank you for inviting us today. And I would like to thank the Members of the Subcommittee on Elections for this important forum this morning.

I am honored to be here. I am Marleine Bastien, Executive Director of Family Action Network Movement, which is a 501(c)(3) non-profit organization and FANM in Action, which is a 501(c)(4) non-profit organization. FANM provides wraparound services for low- to moderate-income families, which includes, of course, civic voter and voter education. Our services are free and accessible to all, but our core constituency remains Haitian-Americans, many of whom never voted before they arrived in the U.S.

On October 29, 2007, under the reign of General Henri Namphy, the morning of an election that was supposed to bring an end to a repressive era turned into a bloodbath when 60 armed soldiers and others in civilian clothes went into the school where people were supposed to vote, they opened fire, and many went into the school and started to attack voters with machetes.

You would wonder why I am bringing this up in this forum. No one has gone to that length in the U.S. However, the incidents like this one that I just mentioned are designed to terrorize and appear fear—to terrorize and appear fear—and then curtail the voting process and the voting rights of our citizens.

Incidents that occurred during the 2000 Presidential elections brought back memories to many Haitian-Americans who were voting for the first time. Many Haitians who grew up under the dictatorships of Francois and Jean-Claude Duvalier suffered from collective trauma resulting in post-traumatic stress syndrome. Some of the events of 2000 Presidential elections brought some disturbing memories to the mind of our voters. The elderly had the hardest time. And I remember that our managers at FANM started to receive distressing phone calls. I witnessed groups of white men screaming and intimidating voters, calling them names. Our office was inundated with phone calls from people who were turned away, harassed, and who could not vote.

And it is for these reasons FANM joined as a member of the Haitian-American Grassroots Coalition. The Haitian-American Grassroots Coalition was a plaintiff in the lawsuit that eased up some of the voting processes in Florida. Thousands of Haitians were not allowed to vote [inaudible] Were allowed to vote because of our work.

Now, during the November elections of 2018, FANM, with the support of New Florida Majority, ran a canvassing program combined with a communication strategy targeting close to 6,000 voters. We visited areas in the ZIP Codes where mainly immigrants live: 33127, 33137, 33138, and 33150. We hired canvassers who went door to door, and then we developed a GOTV program to educate members and then make sure that they understood that no one should be able to turn them away from their basic and sacred right to vote.

So, in the past elections, during this canvassing, we witnessed the following issues: voters who were turned out because of their names. Many Haitians have compound names, Jean-Robert or Jean-Claude. If on their card they have "J.R." And yet on their driver's licenses they have their full names, they are prevented from voting.

The design and the length of the ballot was also a deterrent. Many could not complete the voting process because the ballot was so long. Many went to the wrong polling place. While we were in some of the voting places close to 7:00 p.m., some people were still trying to locate their voting spaces.

No provisional ballot office in some of the precincts; no assistance for people who would not read or speak English or Spanish; last-minute changes of the polling sites; long lines, which also was a deterrent from what we observed last November; and then defective voting machines.

In my experience, to support community voter education initiatives, I think bilingual resources are often lacking and that they should be provided. In the 2018 midterm election, polling sites in Haitian-concentrated areas were lacking Haitian translators or even Spanish-speaking translators, and this is unacceptable. The number of people with Haitian ancestry has and continues to grow in Florida. According to the Census Bureau, Haitian-Americans' population has grown more than 300,000 in south Florida.

To conclude, permit me to express my thanks for the honor to address this Subcommittee. We share the prayer that Congress shall act to fix these issues now and before the 2020 election for every voice to be heard.

The election process so far excludes millions of Haitians, Hispanics, and people of Caribbean descent, many of whom live in underserved neighborhoods. Our question today is, why are these people targeted? Why are immigrants targeted? Why are these communities targeted?

The Subcommittee must raise these issues to the highest level of House and Senate leadership and pass laws that will protect and promote our sacred right to vote and maintain our sacred right to vote. As the biggest democracy in the world, we must do better in creating conditions for citizens to exercise their right to vote. It is an important first step toward an equitable society, a viable and strong democracy. Elections should be free, elections should be fair, and elections should be open and accessible to all.

We are seeing that the ugly head of suppression is rising again in Florida. Our hardworking citizens, our hardworking voters want participation. They want it, and our democracy demands it.

Thank you so much.

[The statement of Ms. Bastien follows:]



Testimony of Marleine Bastien, Executive Director  
**Family Action Network Movement**  
 And  
**FANM in Action**

Before the U.S. House of Representatives Subcommittee on Elections of the  
 Committee on House administration  
 May 6, 2019

Madame Chairwoman, members of the subcommittee, thank you for inviting me to testify before you on this vital issue "Voting Rights and Election Administration in Florida". My name is Marleine Bastien. I serve as the Executive Director of Family Action network Movement (FANM) formerly known as Fanm Ayisyen Nan Miyami/Haitian Women of Miami and FANM in Action.

Founded in 1991, Family Action Network Movement (FANM) formerly known as Fanm Ayisyen Nan Miyami, Inc.)/ Haitian Women of Miami is a private not-for-profit organization dedicated for the social, economic and political empowerment of Haitian women and their families in South Florida. Located in the heart of Little Haiti, FANM serves the needs of indigent and low-income women, and their families as well as victims of abuse, neglect, violence, discrimination, and racism. Since, 1991, FANM has championed and advocated for the rights of those who have been underserved, marginalized and disenfranchised. FANM's mission is to empower low to moderate income families socially, financially, and politically and to give them the tools to transform their communities.

FANM in Action mission is to work toward an inclusive, equitable, and just society for all. We train, educate, organize and mobilize grassroots citizens from the bottom up. We give them the tools to contribute to their own transformation, enfranchisement, and liberation. We encourage citizens' participation in political decisions and policies that impact their lives.

Florida long history of election woes is well known. According to “Florida, Georgia, North Carolina Still Purging Voters at High Rates,” from November 2012 to November 2014, the median purge rate in Florida was 3.6 percent. Between December 2016 and September 2018, Florida has purged more than 7 percent of its voters. Dade and Broward counties also have a number of zip codes that purged at higher rates (Morris & Brennan, 2018). Another issue is that Broward County and Palm Beach County have histories of being slow to count votes. Another concern is the design and length of the ballot.

As a community spokesperson who is privileged to serve as the Executive Director of Family Action Network Movement and FANM In Action, we want changes in the process of our elections with broad access to the vote. We want the process to be transparent to protect the integrity of the ballot and straightforward access to the polls. It is difficult for racial minorities and other groups to vote in Florida since these obstacles to voting are dominant such as polling location closures, inflexible work schedules, voter identification requirements, transportation issues, and language access issues.

FANM In Action ran a canvassing program combined with a communication strategy targeting close to 6,000, low-mid propensity, mid-high general activist score, Latino and Black naturalized immigrants in 2 areas of Miami-Dade: Little Haiti (33127, 33137, 33138, and 33150), and North Miami (33161, 33167, 33168, 33181).

We hired canvassers to go door to door, develop a Go out To Vote advertisement program to educate the voters about the importance of voting and mobilize them to go out and vote especially during early voting (preferably) and on Election Day. FANM In Action launched its signature campaign “Be my Vote” gear at encouraging those who cannot vote to recruit 5 U.S. Citizens voters to vote for them.

In November 2018, on Election Day, FANM in collaboration with New Florida Majority participated in the “Voter Protection Program”, where we sent more than 30 people to different election sites to monitor and identify the different problems and challenges at the poll. These are the different issues that we found:

- No translation services offered (Haitian Creole or Spanish).
- Issues with the voters' names.
- The design and length of the ballot.
- Wrong polling place.
- No provisional ballot offered.
- No assistance for people who don't read or write.
- Last minute change of polling sites.

- Long lines.
- Defective voting machines.

In my experience to support community voter education initiatives, I find that bilingual resources are one of the biggest issues in the Florida's election. In the 2018 midterm election, polling sites in Haitian concentrated areas lacked Haitian translators. This is unacceptable. The number of people with Haitian ancestry has increased much more than the growth of the overall population in Broward, Palm Beach and Miami-Dade counties in the past (Man, 2017). According to the Census Bureau, the Haitian-American population has grown to more than 300,000 in South Florida, 116,818 people of Haitian ancestry in Broward and 77,785 people of Haitian ancestry lived in Palm Beach County (Man, 2017). This is an important issue to consider. We must create a space for the diaspora community who want to become active participants in our democracy to vote.

To conclude, permit me to express my thanks for the honor of addressing this Subcommittee on Elections of the Committee on House administration. We share the prayer that Congress shall act to fix these issues now before the 2020 election for every voice to be heard. The election process so far excludes millions of Haitians, Hispanics, and Caribbean diaspora, many of whom live in the Haitian-American community I represent here today. The Subcommittee must raise this issue to the highest level of House and Senate leadership and pass laws that will protect and promote our sacred right to vote.

I want to reiterate that my testimony and comments today reflect upon my personal opinion, experience, and viewpoint. I am a nongovernmental witness. My statements here today are knowledgeable based on my experiences in the Florida election as a supervisor of GOTV staff, a committed and consistent poll watcher and an active voter in Florida.

Thank you very much.

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Chairwoman FUDGE. Mr. Butterfield, you are recognized for a statement and your questioning.

Mr. BUTTERFIELD. Let me thank you very much, Chairwoman Fudge, for your friendship. Thank you for your leadership on this Subcommittee and, most importantly, thank you for your vision in planning seven field hearings across the country.

We started in Brownsville, Texas, several weeks ago, and on to Atlanta, and then up to North Dakota, a State that I had never traveled to before, but we went to North Dakota, and then down to North Carolina, and then over to your home of Cleveland. Now we are in Fort Lauderdale, Broward County, and next week down to Birmingham.

So thank you so very much for your willingness to take us on the road and to have these hearings.

I have sat at each one of these hearings, and I will say it today just for emphasis: This is a Congressional hearing. We are collecting evidence that will be presented to the Congress of the United States of America. This is not a political visit, my dear friend, Alcee Hastings, to Broward County, even though you and I—

Mr. HASTINGS. [Inaudible.]

Mr. BUTTERFIELD. But this is indeed a very serious hearing where we are collecting evidence and to be in Congressman Hastings' district is really a joy, because we are all friends of Alcee Hastings and hold him in the highest esteem.

We are searching for evidence that will support or refute claims of voter suppression for minority citizens not just in Florida but across the country. We all know that the Voting Rights Act was passed in 1965, just days after I graduated from high school, passed in 1965.

It had many meaningful provisions in the Act. The three most notable provisions were the elimination of the literacy test; the creation of Section 2, which gave minority plaintiffs the right to bring lawsuits—it wasn't restricted to any particular State or county or jurisdiction. It is nationwide in its scope. And Section 2 allows minority plaintiffs to sue in Federal court if they feel that their vote is being diluted.

But the another part was Section 5, which gave the Department of Justice the authority to review and pre-clear voting changes in many States across the country and many counties within States. For example, in my State, only 40 counties were covered. In the State of Georgia, for example, the entire State was covered. And so Section 5 has been a very powerful tool.

There is a great difference between Section 2 and Section 5. Section 2 is very expensive litigation—very expensive litigation. When I litigated Section 2 claims back in the 1980s, it was around a million dollars to litigate one of those claims. I suspect that in 2019 and going forward, it is multi millions of dollars involved in bringing a Section 2 claim.

But Section 5 is very inexpensive. It is practically of no cost whatsoever. It simply gives to the jurisdiction that is affected the responsibility of getting the Justice Department to take a look at the proposed change, including redistricting maps, to see if those changes will dilute in any way minority voting rights.

And Section 5 has worked quite well down through the years and has been the catalyst that has caused many positive changes in voting that African-Americans and other minority groups have benefited from.

But on June 25, 2013, we received a devastating surprise. The U.S. Supreme Court told us that, while Section 5 continues to be a constitutional provision of the law, that the formula that is used to give life to Section 5 needed updating. It needed a contemporary formula, not one based in 1964 or 2006, but we needed a contemporary formula for Section 5.

And so that is, in part, what these hearings are all about. Yes, we are gathering evidence to try to lay the basis, the legislative basis, for updating the formula in Section 4, but we are also looking for other means of guaranteeing the right to vote for all of our citizens.

Ms. Nancy Batista, let me, in the time remaining that I have, ask you very quickly: You mentioned that there were no ballots or materials for Spanish-speaking voters. What county were you referencing?

Ms. BATISTA. It was in Polk County.

Mr. BUTTERFIELD. Okay. And I understand that ballots were not available, bilingual ballots, on that day, but the literature in advance of the election, was there any literature that was bilingual or for Spanish-speaking voters leading up to the election?

Ms. BATISTA. There was provided—they said that, that day, they didn't have any. It just happened to be the day that I went there. And when I asked—well, not me—the person that was there asked for that material, they said that they didn't have it. And then they didn't have anyone that would assist them being bilingual.

Mr. BUTTERFIELD. Sure.

I am going to ask you the obvious, but, again, this is for the Congressional Record, so I want to make sure it is in the record. Does it disenfranchise Spanish-speaking voters if ballots and the literature surrounding the election are not in Spanish?

Ms. BATISTA. Yes, it does. A lot of the people that came here post-Hurricane Maria do not understand the language, the English language, and cannot read it. They attended school. And that is part of the lawsuit that is being done, for those ballots to be provided in their native language so that they can understand.

Those amendments are very confusing, especially when you try to translate them. What mean "yes" might mean "no." And so trying to even interpret that or translate that to someone is very confusing.

Mr. BUTTERFIELD. Thank you. Thank you.

Let me ask my final question to you, Mr. Gillum.

And thanks to all of the witnesses for your testimony today.

But, yesterday afternoon, I took a few minutes to look at your constitutional Amendment No. 4 that the voters passed overwhelmingly by a two-to-one margin last year and read it in its entirety, and I have some concerns about what your State legislature is now attempting to do, and that is, to require individuals who have previous convictions of felonies to pay restitution and court fines and fees before being allowed to exercise the franchise.

As a former judge, let me just give this to—and I will be done, Madam Chairwoman. As a former judge, I would sentence individuals to an active sentence in prison for offenses that they committed. Ancillary to that decision, I would also tack on a provision that the defendant shall also be responsible for the fines, the costs, and any restitution that may have accrued. Essentially, that would be just for the record. It would be for the record and maybe later converted to a judgment or to a lien.

But let's just take a 16-year-old offender in the 1980s who broke into an abandoned house and was charged with the felony of breaking and entering and larceny. And he stole an eight-track tape in the 1980s that, at that time, was worth \$400. And that young offender received a 3-year active sentence. He has served the active sentence, he has been released from parole, he is now a law-abiding citizen in the community. But, still, that \$400 restitution and the court costs have now been accruing interest, I presume, over the last 30 years, and now it is thousands of dollars. And, apparently, the State legislature is telling that young man—but now he is a middle-aged man—that, before he can vote, he has to pay all of these thousands of dollars before being allowed to vote.

In my world, that is a poll tax. I don't—

Mr. GILLUM. That is right.

Mr. BUTTERFIELD [continuing]. Know any other way of saying it.

So, Mr. Gillum, my question to you is: Was there any notice on the part of the lawmakers regarding this constitutional amendment, that, if passed, that these prior felons—I hate to call them felons—those with prior felony convictions would be required to pay money? Was there any notice to the public that this was included in this?

AUDIENCE MEMBER. No.

AUDIENCE MEMBER. No.

Mr. GILLUM. I think the audience has answered, Congressman, and I will answer it into the record.

The scenario that you pointed out is a very live and real one for far too many people here in the State of Florida.

I don't know about in your home State, Congressman, whether or not the process is identical to Florida, but to get on the Florida—to get on the ballot for a constitutional amendment, the language must be approved through the Florida Supreme Court. The Florida Supreme Court very judiciously looks at the wording very specifically, takes out, adds to it, sends it back. Ultimately what results is the clearest reading possible so that any voter could understand the intent and the intention when they go into the ballot box to vote.

It was very, very clear that court fees and fines were not in the constitutional language when voters, again, 64 percent of us, went out and approved the constitutional amendment to automatically restore rights to a class of returning citizens.

Mr. BUTTERFIELD. Thank you.

Mr. GILLUM. And now through this legislative process, as you have already pointed out, we have loaded it up, and I agree with your summary, which is, it equates very much so to a poll tax—

Mr. BUTTERFIELD. Thank you.

Mr. GILLUM [continuing]. Which we got rid of over 100 years ago.

Mr. BUTTERFIELD. Thank you. I yield back.

Chairwoman FUDGE. And just for the benefit of the other members on the panel, you will not have 10 minutes. He had them because he is a member of the Subcommittee and I did not call on him for an opening statement, so I gave him a little extra time so don't try it, the rest of you.

Mr. BUTTERFIELD. What if I spent all Sunday afternoon writing this?

Chairwoman FUDGE. And I want to remind our witnesses that their entire written statements will be a part of the record and that you have 5 days in which to revise it or provide us extra material or any additional material.

Mr. Loudermilk, you are now recognized, sir.

Mr. LOUDERMILK. Thank you, Madam Chairwoman.

And I appreciate all the witnesses' being here and your testimonies.

Look it is clear that our Nation unfortunately does have a history of voter suppression and discrimination and that is why we have legislation such as the Voting Rights Act. Clearly, we have history, modern history, of voter irregularities, especially here in Broward County, so I think it is very appropriate, Madam Chairwoman, that you chose Broward as one of the seven sites for a hearing.

So one of the things that is our responsibility, as my colleague Mr. Butterfield stated, is to gather facts to determine, is there still voter suppression and discrimination occurring? And is it Congress' role to fix those problems, or are they as a result of human error, as I think Ms. Eilert stated, that 70 percent of the issues that she had encountered were because of human error?

Here in Broward County, as most everyone in the Nation knows and as Mr. Gillum had stated, it seems to be the epicenter of some national elections, as well as very close elections. Even in this election cycle, across the Nation, we had many, many elections that were within 1 percent, 2 percent. Some of those were determined days or weeks after the ballots closed.

So one of the things that we want to do is gather evidence. Are they because of human error, incompetence? Or are they because of actual voter discrimination?

Just here in Broward County, we have had Miriam Oliphant's poor handling of the 2000 Presidential election, missing ballots from the 2004 election, and then, more recently, the uncounted ballots that were mysteriously discovered a week after the election under, most recently, Supervisor Brenda Snipes' watch.

And so, Ms. Eilert, if you don't mind, I will ask you, do you—because you had referenced the 70 percent of human error. Do you consider these issues here in Broward County to be inefficient or incompetent work by the county election supervisors, or do you think they are active voter suppression and discrimination?

Ms. GONZALEZ-EILERT. Congressman, this would be solely my opinion. So, I mean, we can testify to the fact that there were a lot of things that were human error, that there were mistakes made. However, I could not in good conscience tell you whether or not some of this was intentional or not.

Mr. LOUDERMILK. Now, has your organization worked to resolve any issues like we saw here in Broward County?

Ms. GONZALEZ-EILERT. I am sorry?

Mr. LOUDERMILK. Has your organization worked to resolve issues like we saw in Broward County or across the State at the State level?

Ms. GONZALEZ-EILERT. Absolutely. We work year-round with the supervisors of elections throughout the State of Florida, and we have a very collaborative relationship with them. It is not an oppositional relationship. We ask them what are some of the issues that they find and see and how we can help them. We make recommendations, both at the supervisor level, and we try and meet with the Secretary of State, given that our Secretary of State is also the chief election officer for the State of Florida. So, yes, we currently provide recommendations for them.

Mr. LOUDERMILK. All right. And thank you for your work.

And, as I said, part of our task is to determine how much of the problems that exist do need to be corrected at the State level versus Washington, D.C., which takes a long time to get anything done and, quite often, is not very responsive and tries to do a one-size-fits-all, which a lot of areas in our Nation are diverse.

Mr. GILLUM, appreciate your testimony and the work that you have been doing. A simple question: Do you believe that non-citizens should have the right to vote, non-U.S. citizens?

Mr. GILLUM. I think the individuals who have the right ought to comport with what the Constitution permits.

Mr. LOUDERMILK. So do you believe that someone who is not a citizen of the United States should have a right to vote? I am not—

Mr. GILLUM. The Constitution of the United States affords citizenship and the rights—

Mr. LOUDERMILK. Okay.

Mr. GILLUM [continuing]. Of citizenship, which include the right to vote, right?

Mr. LOUDERMILK. Okay.

Mr. GILLUM. And so that right is one that is maintained for U.S. citizens.

Mr. LOUDERMILK. So, with that, there is a lot of controversy over voter roll purging, which, actually, Federal law requires to be done. How do you propose that we actually effectively ensure those who are eligible voters are the ones that are voting?

Mr. GILLUM. Well, I mean, the unfortunate thing is that, in my State, here in the State of Florida, we actually approach the question very differently. It seems we almost look directly at how we disenfranchise as many people as we possibly can.

And I will give you an example. Because human error, obviously, is a part of the equation, but there are also structural forms. And when I say “structural,” I mean built into the law.

So, take, for instance, on college campuses, the fact that we had to go to court in order to allow for precincts to exist on college campuses, affording young people the ability to vote.

Take, for instance, in certain communities, that folks might be waiting an hour and a half to go and vote when, in other communities, where they are voting multiple times higher, can go in and in 15 minutes be in and out. It is a particular burden to folks who

work 9:00 to 5:00 or may work an hourly job, who can't afford the opportunity to take time away or off.

I would also say, from a structural standpoint, the fact that in the State of Florida ballots that are received after 7:00 p.m. on election day cannot be counted even though they may be post-marked prior to election day—a structural issue that came to bear particularly here in South Florida, where we had a sort of maniac bomber who decided to send bomb threats to officials across the country, slowing down the delivery of mail systems here in south Florida, some of the heaviest Democratic county areas, and those ballots could not be counted.

And in 67 counties where there is a disparity between what the law looks like in each of those 67 counties because of the way in which the elections are administered, a cure process in Miami-Dade or in Broward County may look very different than Osceola or Leon or Duval County, Florida, for example.

Signature matching being another structural problem. The fact that you couldn't go before any judge or a court of law and challenge someone's signature without several experts being on record to say whether or not it was right or it was wrong. Yet, in counties all throughout the State of Florida, an individual with no formal training can, again, look at a signature and determine whether or not it is identical to the one that was filed on record 10 years before and invalidate someone's constitutional right to vote as a consequence thereof.

I just wanted to use those as structural examples to systems that exist, that are in place, that have the impact of keeping people's constitutional right to vote——

Mr. LOUDERMILK. Okay. I appreciate that.

Mr. LOUDERMILK. I appreciate that. If I could just clarify one thing, Madam Chairwoman, since my time expired a while back. I just want to clarify, because I only have five minutes versus the 35 minutes because of the other members here.

But to clarify your answer, Mr. Gillum, you are not opposed to legal purging of the voter database to remove those who are not eligible to vote?

Mr. GILLUM. I would say I don't trust the purging process in this State as it relates to——

Chairwoman FUDGE. Thank you.

Mr. Aguilar.

Mr. AGUILAR. Thank you, Madam Chairwoman, and I appreciate your leadership with this Subcommittee. I am honored to be on the Subcommittee with you and Mr. Butterfield, and on the full Committee, and I appreciate the hospitality of the Florida delegation, and especially our host, Mr. Hastings.

I wanted to get right into questions. Ms. Gonzalez-Eilert and Ms. Batista, language assistance clearly were two topics that you mentioned in your testimony, especially in the wake of Hurricane Maria. During the 2018 elections, there were signs that Florida was not going to assist Puerto Ricans displaced by Hurricane Maria with voting, and a Federal judge, in fact, said that in 32 Florida counties, in *Rivera v. Detzner*, must provide sample Spanish language ballots to help more than 30,000 Puerto Ricans who were displaced by the hurricane.

According to the National Association of Latino Elected Officials, between 2012 and 2017, the number of eligible voters in Florida increased nearly 10 percent while the number of Spanish-speaking limited English proficient voters increased by 24 percent. So Florida's compliance with applicable requirements is clearly a work in progress.

What more can the State do to help the counties evolve and grow throughout that process? What is being done and what should be done from the State to the local communities to administer this fairly?

Ms. GONZALEZ-EILERT. Representative, to give you a little bit of background just to show, demonstrate, that in fact language access continues to be an issue, it was only in August 2014 that the very first voter registration and voting guide was put together and released in Spanish. Clearly, this is very long overdue. After 2016, it was released on a regular basis.

However, at the Division of Elections at the State level, we still have a website that is in English. And even though a couple of weeks prior to an election, there is a little one page that says this is in Spanish, you can go here; when you click on that Spanish link, it takes you to an English page, so you are not going anywhere. If the only option for folks at that point is to push Google Translate—I don't know if you have ever used Google Translate for another language. Sometimes it is gobbledygook, so it is not going to give you exactly what you want.

What we would like to see, our recommendation, is that those pages be translated, all the pages be translated in Spanish and be made available with a URL that folks can look for in Spanish, and we believe that would make a huge difference.

Mr. AGUILAR. Ms. Batista.

Ms. BATISTA. I agree with everything that she said. Particularly, we were part of the process to doing the translation for the voter guide last year. We worked closely with the League of Women Voters, and we translated it into Spanish. However, that took resources from our organization, and it is information that we need to provide to our communities.

Like she mentioned, the wording in those amendments are legal wording. So a lot of when you do a Google Translate, the word will not translate accordingly or it will not make sense. And so when you read something in Spanish, usually it is the opposite of what you say in English. And so it is very difficult, it is very different, and even for me, I am bilingual, it is difficult to translate something in English into Spanish just knowing that I have to try and, like, go around it.

And so that information needs to be provided to our communities in Spanish in a way that they are able to understand it, not only in Spanish, but in Creole and other languages that are necessary for our communities.

Mr. AGUILAR. Thank you so much.

Mr. Gillum, I am not going to use my time to describe what an 8-track tape is, as Mr. Butterfield mentioned. I am 40 days your senior, and I am sure Mr. Deutch would have made that joke about me if you weren't here giving testimony.

I wanted to talk briefly about voter intimidation. There were concerns in 2018 of aggressive and legally unsupported attempts to enforce voter ID requirements at polls and other election hearings, and I noticed that there was also a story of an elections official in Sopchoppy, a city in Wakulla County, of an individual who had failed to remain neutral, who the Department of Law Enforcement was investigating because of her questioning of residences with no reasonable basis. So there are stories like this all over that have been experienced.

What is the State doing and what should the State be doing to ensure that poll workers understand the mandates and are administering them fairly?

Mr. GILLUM. I appreciate the question, Congressman. I have never obviously held the position of Supervisor of Elections or worked in one of those offices, but I could say pretty universally, and I think they have said this for themselves, their offices are under-supported from a resourcing standpoint. Our election system, largely in this country, particularly here in this State, and especially in parts of this State that are financially under-resourced, largely volunteer staffed. The training can be very disparate between one of the 67 counties to another.

It is one of the areas under which we tried to get the legislature to really concentrate, and that is by trying to create an equal or an equitable system of access across the State of Florida. It shouldn't matter that if you are in Wakulla County, you get this kind of access and treatment.

And I think in some cases, this leads to some of the disproportionate disqualifying of ballots based off a signature, because in some counties, the supervisor—they are small enough, the supervisor may know someone, maybe they are a more trusting area, and therefore, you can come in.

Whether the signature matches or not is not a barrier to your ability to have your vote cast and counted, whereas in a county as a populous as the tri-county area, Miami-Dade, Palm Beach, Osceola, Orlando, Hillsborough County, where that kind of connectivity is not as likely, meaning the supervisor of elections and the people who are working in those offices don't necessarily know the person coming in, and therefore, you get treated differently.

That is not how democracy is supposed to work. That is not how our system is supposed to work. So I would be a strong, strong advocate for, and I think the Supervisors would agree, to adequately resourcing the Supervisors of elections' offices and making universal the kind of training that takes place in each one of the 67 counties so that the outcomes with regard to how well trained a volunteer may be is not dependent upon how wealthy a county might be, but rather, made more universal and resourced more universally from the State standpoint.

Mr. AGUILAR. Thank you, Mr. Mayor. I appreciate the testimony of everyone.

Thank you, Madam Chairwoman.

Chairwoman FUDGE. Thank you.

Mr. Hastings.

Mr. HASTINGS. Madam Chairwoman, thank you very much. And I am going to pass on asking questions or making any other state-

ment. You gave me an opportunity, and I want to make sure that all us have ample time.

I am concerned, and my colleague, Mr. Deutch, and I have been working for the last 2 months on the signature mismatch. And I want to make sure that you all understand that we heard Judge Walker's decision about how illusory our cure was, and so we are addressing it, and the great hope is that we will be able to undertake it.

But in the interest of time, I will just yield my time.

Chairwoman FUDGE. Thank you very much.

Mr. HASTINGS. Plus I don't want it to be political.

Chairwoman FUDGE. Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Madam Chairwoman.

Before my time begins, Madam Chairwoman, if I can just enter—ask unanimous consent to enter two items into the record.

One would be the Florida Division of Elections web page that is headed "Language Assistance for Voting," where it specifically says: Additionally, the following 13 Florida counties are specifically subject to Spanish language requirements, including providing oral and written assistance in election-related materials such as instructions, forms, ballots, and notices.

And it lists the 13 counties, which does include Polk and this one and the other two South Florida counties as well, and about 10 others.

Chairwoman FUDGE. Without objection, so ordered.

[The information follows:]



Para español, seleccione de la lista  Powered by Google Translate

Department of State / Division of Elections / For Voters / Voting / Language Assistance for Voting

## Language Assistance for Voting

Based on U.S. Census Bureau determination ([https://www.census.gov/rdo/pdf/1\\_FRN\\_2016-28969.pdf](https://www.census.gov/rdo/pdf/1_FRN_2016-28969.pdf)), Florida is a covered jurisdiction for providing language assistance and translation of election-related materials in Spanish. See *Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)*. The state provides this assistance in several ways:

1. Spanish assistance is available through the statewide voter assistance and voter hotlines ([/elections/contacts/contact-us/](#)).
2. Information is available on the Division of Elections' website, including the translation of statewide-issued or-produced materials such as the voter registration application ([/elections/for-voters/voter-registration/register-to-vote-or-update-your-information/](#)) and the Florida Voter Registration and Voting Guide ([/elections/forms-publications/publications/](#)) in Spanish.
3. Additionally, the following 13 Florida counties are specifically subject to Spanish language requirements including providing oral and written assistance and election-related materials such as instructions, forms, ballots and notices. Those counties are:
  - > Broward
  - > DeSoto
  - > Hardee
  - > Hendry
  - > Hillsborough
  - > Lee
  - > Miami-Dade
  - > Orange
  - > Osceola
  - >

- Palm Beach
- > Pinellas
- > Polk
- > Seminole

These counties and others may also be subject to provisions of the Voting Rights Act including but not limited to 52 U.S.C.A § 10303 (language assistance to persons who were educated in the U.S. territories, such as Puerto Rico where English is the primary language) and 52 U.S.C.A § 10508 (assistance in voting-by-mail or at the polls for persons with blindness, disability or other inability to read or write or limited English proficiency).

For more information about language services available in your county, contact your county Supervisor of Elections office (<http://dos.elections.myflorida.com/supervisors/>).

## Resources

- > U.S. Election Assistance Commission - Election Phrases at a Glance
  - > English to Spanish (íngles á español) ([https://www.eac.gov/assets/1/28/Glossary%20at%20a%20Glance\\_Spanish.pdf](https://www.eac.gov/assets/1/28/Glossary%20at%20a%20Glance_Spanish.pdf))
  - > For other languages see EAC website (<https://www.eac.gov/election-officials/glossaries-of-election-terminology/>)
- > U.S. Election Assistance Commission - Voter's Guide to Federal Elections
  - > Spanish ([https://www.eac.gov/assets/1/28/High%20Res%20EAC\\_VotersGuide\\_2012\\_Spanish.pdf](https://www.eac.gov/assets/1/28/High%20Res%20EAC_VotersGuide_2012_Spanish.pdf))
  - > For other languages see EAC website (<https://www.eac.gov/voters/voters-guide-to-federal-elections/>)
- > U.S. Election Assistance Commission - 14 Facts About Voting in Federal Elections
  - > Spanish ([https://www.eac.gov/assets/1/28/P1977SPA\\_Voter%20Guide%20-%20508\\_10-29-14.pdf](https://www.eac.gov/assets/1/28/P1977SPA_Voter%20Guide%20-%20508_10-29-14.pdf))
  - > For other languages see EAC website (<https://www.eac.gov/voters/voters-guide-to-federal-elections/>)



**Ron DeSantis, Governor**

**Laurel M. Lee, Secretary of State**

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R.A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Ms. WASSERMAN SCHULTZ. And the second document is one that describes specifically, respectfully to my colleague, Mr. Loudermilk, the specific evidence that discredits your indication that 3,000 votes suddenly mysteriously showed up in Broward County. That is not accurate, and I would like to enter into the record that those were absentee ballots that had not yet been canvassed and recorded, and they were legitimate ballots that simply came in on time but were unable to be counted by election night. So we did not have mysterious ballots that suddenly showed up out of the clear blue sky after Election Day.

Chairwoman FUDGE. Without objection, so ordered.  
[The information follows:]

## Florida recount: What's true and what's false

### ADVERTISEMENT

As the statewide vote recount continued Monday, Gov. Rick Scott dropped his motion to impound voting machines in Broward County after a judge said he could find no evidence for the improper activities that would justify such a step.



By **Dan Sweeney**  
South Florida Sun Sentinel

NOVEMBER 14, 2018, 6:30 PM

**W**ith recounts underway and infinitesimally close election results the subject of repeated insults, lawsuits and insulting lawsuits, the truth has in many cases become a casualty of the ongoing war. Here are some of the most commonly spread myths of this year's election and the truth lying just behind them — or in some cases, a few hundred miles to the side.

Many of them deal with conspiracies surrounding Broward Supervisor of Elections Brenda Snipes, and while these myths are untrue, Snipes' checkered history of election management has made it easier for them to stick.

<http://www.sun-sentinel.com/news/politics/fl-ne-election-recount-myths-20181112-story.html> 5/6/2019

**Claim:** Boxes of ballots have been found at polling places after the election.

**False:** Boxes labeled “provisional ballots” have been found at polling sites in Margate and Tamarac and at the Fort Lauderdale airport. Are there ballots in these boxes? We don’t know, but the elections office says ballots were already taken from these boxes, and the boxes themselves are left with other voting equipment to be picked up later.

**Claim:** Tens of thousands of Broward voters did not vote for U.S. Senate because they didn’t see it on the ballot.

**Mostly true:** Almost 25,000 voters in Broward County voted in the governor’s race but did not vote in the Senate race, according to a South Florida Sun Sentinel analysis of voting patterns. This voting pattern did not happen in any other county to this extent. Why this happened in Broward is unclear, but in ballots in this county, the Senate race appeared on the left hand side, below the voting instructions. Voters may have missed the Senate race for that reason.

**Claim:** The Broward elections chief once destroyed ballots.

**True and false:** A Broward County Circuit judge found that Snipes had destroyed ballots 12 months after the 2016 election when federal law requires the ballots to be preserved for 22 months. At the time they were destroyed, the ballots were the subject of a public records request by Tim Canova, who lost a Democratic primary in 2016 to U.S. Rep. Debbie Wasserman Schultz, D-Weston.

**Claim:** Broward County counted some votes rejected by its Canvassing Board.

**True:** The elections office opened and sorted 205 provisional ballots before presenting them to the Canvassing Board, which then rejected about two dozen of them for having invalid signatures. However, there was no way of matching the envelopes with their separated ballots.

**Maybe true, maybe false:** Snipes’ attorney, Eugene Pettis, said on Saturday that all the 205 were counted. On Tuesday, during an interview with CNN’s Chris Cuomo, Snipes said those ballots “were never counted.”

**Claim:** Democrats are trying to steal votes to put themselves over the top.

**Mostly false:** Democrats hope to pick up more votes, but there's not much chance that they'll come out in front.

With all votes other than military and overseas accounted for Saturday, Scott still led Nelson by more than 12,000 votes. Republican gubernatorial candidate Ron DeSantis still led Gillum by more than 33,000. There have only been a handful of recounts in recent history that put the loser back on top. The 2004 Washington governor's race saw the initial loser, Democrat Christine Gregoire, down by 261 votes. She wound up winning by 129 votes.

In the 2008 Minnesota Senate race, Democrat Al Franken was initially down by 215 votes and wound up winning by 312.

The idea that Democrats are riding high in these recounts is only reiterated by Democratic politicians like Andrew Gillum, who said in an appearance at Fort Lauderdale's New Mount Olive Baptist Church on Sunday, "They don't get to shut down the process because they're not winning."

For either Nelson or Gillum to win now would be historically unprecedented.

### **Claim: Broward County had more votes than registered voters.**

**False:** Posts making the rounds on social media claim that Broward had 1,167,982 registered voters but 1,284,780 ballots in last week's election, for 110 percent turnout and clear evidence of fraud. In fact, both numbers are wrong. The county has 1,174,851 registered voters, and a total of 714,859 ballots were cast on election day — making turnout about 61 percent.

### **Claim: Broward still hasn't counted a single vote, even though the recount started Saturday.**

**True:** Broward's machines had a technical issue Sunday morning, when the county planned to start its recount. Instead of sorting by machine, the staff was sorting the first page of the ballot by hand on Monday. Once that's done, the machine recount will start.

### **Claim: Democratic Senate and governor candidates already conceded on election night, so no recount is necessary.**

**False:** President Donald Trump tweeted confusion over the idea that both Tallahassee Mayor Andrew Gillum and U.S. Sen. Bill Nelson were "back in play" in Florida recounts after conceding on Election Day, wondering how it is recounts could be going on and noting it was "an embarrassment to our country and democracy."

Florida election law requires a machine recount if the vote margin in a race is less than 0.5 percent and, after that, a hand recount of undervotes and overvotes if the margin is less than 0.25 percent. Undervotes are those in which the machine reads no vote having been cast in an election; overvotes are those in which the machine reads votes for more than one candidate. Even if a candidate concedes on Election Day, these recounts are required by law unless the losing candidate in a race states in writing that they do not wish to have a recount. None of the candidates have done so.

**Claim:** The complete vote totals were in at noon Saturday. No new ballots can count.

**False:** Unofficial vote tallies are due to the state Division of Elections no later than noon four days after the election — in this case, by last Saturday. But there is an exception for military and overseas mail-in ballots. These ballots can be accepted up to 10 days after the election, as long as they are postmarked by Election Day. Ordinarily, these ballots are not enough to swing an election, but given the close statewide races this year, they could have an effect.

**Claim:** Ballots showed up out of nowhere in Broward County.

**False:** Trump was at the forefront of this myth as well, tweeting that “large numbers of new ballots showed up out of nowhere” and that the state should abandon recounts and go with election night results.

But on election night, Broward County alone showed that it had counted about 34,000 less ballots than it was reporting for total turnout. Compared with other counties, that was an unusually high number of mail-in ballots yet to be counted, but it indicated that they were there, not simply “made up” or “found” over the next few days.

As for the last line of Trump’s tweet, that Florida “must go with election night” totals, that would violate the state’s law regarding election recounts.

**Claim:** State law requires that ballots not reported by 30 minutes after polls close should not be counted.

**False:** U.S. Sen. Marco Rubio tweeted out on Election Night that the “law requires counties report early voting & vote-by-mail within 30 minutes after polls close” but left out three important words.

In fact, state law requires all early votes and *c canvassed and tabulated* mail-in ballots to be reported by 30 minutes after polls close. That means only those mail-in ballots that have been opened and the results documented by 30 minutes after polls closing must be reported. Because mail-in ballots can

arrive at the supervisor of elections office up until polls close, every election year there are many ballots that have arrived but have not yet been opened and recorded by that deadline. For those ballots, elections officials have until noon four days after the election to count them — and six days past that in the case of military and overseas ballots.

That said, the table Rubio tweeted showing which counties had finalized their votes comes from the state Division of Elections website and includes a line for early voting. Broward County's early vote was not checked off on the table until several days after the election, when the law requires all early votes to be counted by 30 minutes after polls close. It's not clear whether this was an oversight on the part of the state Division of Elections or whether Broward County's elections officials were still counting early votes days after the election.

### **Claim: Rampant fraud was committed by the Broward supervisor of elections; courts even sided with Gov. Rick Scott over it.**

**Both true and false:** Whether “rampant fraud,” as Scott alleged in a Thursday news appearance, took place is at the heart of contentious arguments between lawyers for the campaigns of Scott and Nelson. Scott called on the Florida Department of Law Enforcement to investigate Broward election officials, but FDLE said that it had received no allegations of fraud and no written request from Scott to conduct an investigation.

The lawsuit that Scott's Senate campaign won in court was not about whether Broward votes were fraudulent, but rather over whether Broward and Palm Beach county supervisors of elections had to produce records of what votes had yet to be counted. Judges in both Broward County and Palm Beach County told the supervisors to turn over the records.

### **Claim: Broward Supervisor of Elections Brenda Snipes is corrupt and incompetent.**

**Mostly false:** Judges and FDLE have found no evidence of wrongdoing, but Snipes has a history of problems. Whether she's incompetent or just disorganized is a judgment that someone — maybe voters — will have to make later.

**dsweeney@SunSentinel.com, 954-356-4605 or Twitter @Daniel\_Sweeney**

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Ms. WASSERMAN SCHULTZ. Thank you. I appreciate the indulgence and—

Mr. HASTINGS. Madam Chairwoman, I ask unanimous consent to restore the gentlelady's time to 5 minutes.

Chairwoman FUDGE. Without objection, so ordered.

Ms. WASSERMAN SCHULTZ. I appreciate the indulgence. Thank you so much.

And to the panel, it is wonderful to be able to welcome you here, and to welcome our colleagues to Broward County for this critical issue of making sure that we can ensure the franchise is validated for every single person who is eligible to vote.

Mayor Gillum, if I can just ask you a couple of specific questions. Given that our legislative session ended on Friday, and unfortunately, they made what I believe is an illegal decision to proscribe or interpret the voters' intentions when they passed Amendment 4, I have joined many others around the country in calling their decision what it is, to require all fines and fees and restitution and parole and any provision of their sentence to be completed before they can have their franchise restored a poll tax. It is, plain and simple, a requirement for payment in order to be able to exercise your right to vote.

Do you agree with that assessment? And what impact will that have on restoring the voting rights of Floridians who have been granted that right by the voters? I want to ask my questions at once so you can answer them.

Also, do you agree that sowing fear and confusion among voters is part of the motivation behind the legislature's attempt to thwart the clear will of Florida voters on Amendment 4? And will this decision by the legislature exacerbate the disproportionate disenfranchisement of black Floridians? I say black because it is not just African Americans that are affected, because we have 20—more than 20 percent of black Americans in Florida are disenfranchised. It is unacceptable, and so that is my series of questions initially.

Mr. GILLUM. Yeah. Thank you very much, Congresswoman. Thank you for your service as well. Yes is the first answer on whether or not I agree with the assessment that this is a poll tax.

Yes, I also believe that the intention here is to sow confusion. I also—and I don't—we can provide this as part of the 5 days that we may have available, but the Brennan Center for Justice produced a report that showed that when fines, fees, and restitution is added as criteria for reengagement and the ability to vote, that only 3 percent of returning citizens actually are able to satisfy that. If that statistic is translated into, in the case here in Florida, you are talking about 97 percent of people not being able to regain their ability to vote and participate in the election. That is almost nullification of what 64 percent of the people who went out and voted, Republicans, Democrats, Independents, non-party affiliates, because the truth is, all of us have somebody who has made a mistake in our family, someone that we know, and I think that led to, again, the overwhelming turnout of individuals in the State to participate.

And you are absolutely right as it relates to the disparate impact that it will have on communities of color, particularly for black citizens who are represented at twice their population and the crimi-

nal justice system here in the State of Florida. I think one of the things that probably sent a little bit of a scare, possibly, to the Florida legislature is on January 8, when we began the process of re-registering voters, that we saw that people of color went out in droves to regain their right to vote. I read story after story where black men were coming out of the Supervisors of Elections' offices saying, for the first time in my life, I feel whole. For the first time in my life, I feel seen. That kind of efficacy and belief that you now belong is something that really can't be described.

So this is not just about the vote. This is also about the ability to have agency over yourself and your community to participate in the process. What they have done at the Florida legislature sends an extremely chilling effect to people's ability to participate in the process, which I believe is not only antithetical to what was approved in November but also to the Constitution of the United States of America.

Ms. WASSERMAN SCHULTZ. Thank you very much.

Madam Chairwoman, before my time expires, I just want to ask Ms. Batista. Have we seen evidence in the State of Florida of individuals who have been improperly purged from the voter rolls? And what laws or best practices could be put in place to ensure that registered voters who vote sporadically or chose not to vote at all don't lose their registration status?

Ms. BATISTA. I am sorry. Can you repeat that one more time?

Ms. WASSERMAN SCHULTZ. Sure. Have we seen evidence in the State of Florida of individuals who have been improperly purged from the voter rolls? And what laws or best practices do you think could be put in place to ensure that registered voters who vote sporadically or choose not to vote at all don't lose their registration status?

Ms. BATISTA. I don't know the answer to that question, to be honest with you. However, I could say that I know where there have been people that are residents that have received voter registrations in order to confuse them, and I believe that people should always have the right to go to vote and not be disenfranchised, so whereas they have to be registered to vote if they don't want go to vote within the last two elections. So they should definitely be given that chance to go vote and make their voice heard.

Ms. WASSERMAN SCHULTZ. Thank you.

I yield back the balance of my time.

Chairwoman FUDGE. Thank you.

Mr. Deutch.

Mr. DEUTCH. Thank you, Madam Chairwoman. And thanks to the Members of the Subcommittee for joining the locals down here in Broward County and the city of Fort Lauderdale.

Nearly 16 months ago, I visited the Politics Club at Marjory Stoneman Douglas High School. The students were bright. They were engaged. They were eager to talk about ways that they can improve their community and the country. It was unbelievably impressive. And that was a month before February 14, 2018 when 14 of their fellow students and 3 staff members were killed in a mass shooting.

I will never forget what those students spoke out about at that Politics Club and what happened since. They wanted to see change.

They came down here to the courthouse steps at March For Our Lives, at townhall meetings. They registered voters. They did Get Out the Vote rallies in high schools here and around the country, on college campuses as well. Many of them were desperate to vote for the first time in their lives, just 9 months after this horrific tragedy at their school.

That is why this headline that was in The Washington Post recently was so disconcerting: Young Parkland voters' ballots were rejected at much higher rate than State average in November, research finds.

Ronni Isenberg was at college when she saw the news of the shooting that killed one of her friends at MSD. That fall, after she learned that her mail-in ballot was rejected, she said: We wanted to make a change and vote for a change. I should have had the right to vote, and my vote should have been counted.

According to research that has been done by the University of Florida, 15 percent of mail-in ballots submitted by Parkland residents between 18 and 21 were never counted in the midterms. Compare that to 5.4 percent rejection rate statewide for that same age group and a 1.2 percent statewide rejection rate for all ages. It is clear that the mail system, the vote-by-mail system needs some additional guardrails.

Congressman Hastings, as he pointed out, and I are working on legislation to require two forms of notification to voters and 10 days at least to cure, and that would be something that would help. The State passed legislation that would help, but unfortunately, they couldn't help themselves in Tallahassee. They took legislation—they took an amendment that was overwhelmingly supported. Amendment 4 was the largest expansion of voting rights in this country, 1.4 million people since the end of poll taxes and literacy tests, and then the Florida legislature decided to take this legislation that was meant to help people cast their vote and put a poll tax on top of it. It is not within the text of the amendment. It is a far cry from the spirit of the amendment.

And, Madam Chairwoman, what we would ask that you take back with you is the understanding that this is not just Florida politics. This is not just frustration. This is a rejection of the democratic will of the people of this State. That is what Congress needs to understand.

So I would just—I would ask first—I would ask first, Mayor Gillum, if I may—and thanks to all our witnesses for being here. Thanks for your excellent testimony.

Mayor Gillum, if you could tell us if you are aware of any efforts that the State has made to investigate these disparities, the number of young people whose votes weren't counted. And then if you could also tell us what your organization is doing to continue to retain the excitement and the enthusiasm that so many young people have heading in, despite the fact that they just experienced this in the last election, heading into the next election.

Mr. Gillum. Thank you, Congressman, and thank you for your leadership, obviously, in this area. As you already pointed out, 15 percent—it is estimated 15 percent of 18- to 21-year-olds in the Parkland area specifically did not have their votes counted in the 2018 election, far above the State average and the State rates.

Broward County by itself had a rejection rate of, as I think I provided in my testimony, 2.8 percent of vote-by-mail ballots, again, above the State average of 1.2. And the State average is above that of the two previous Presidential elections, just looking at 2018 as an example.

Unfortunately, Congressman, the State legislature has not gone in the right direction here. In fact, we have gone in the opposite direction. The fact that we had to bring litigation in order for students to be able to vote on college campuses I think is testament enough to the fact that the legislature, those in power, are not interested in introducing an element of young people, certainly not easily, into the elections and the democratic process.

As it relates to the work that we are engaging here in Forward Florida, we are undertaking an effort to bring a million new voters and reengage a million new voters in the system here in the State of Florida. Today, 4 million people in Florida are eligible but unregistered to vote. Four million. We believe that we can do better. We have seen precipitous decline, quite frankly, in areas that are really, really important to see increase when it comes to registration.

So as much as Florida is getting more diverse, it isn't necessarily being represented, one, in who is voting, and two, in who is registering to vote. So it is our intention to go about all 67 counties. Again, red areas, blue areas, purple areas, no color areas, to engage as many people in the process of registering as we possibly can.

The problem becomes—there are many of them—but if folks don't believe that their votes will be counted, that if they go about the process of getting registered and then we have situations like we saw in this in election and we have seen in previous elections, where folks don't have confidence that even if they wait the 45 minutes, if they wait the hour and a half to go and vote, that they walk out of there not believing that their vote is going to be counted. It is a real—it has a real chilling effect, particularly when you are working with communities who find themselves at the margins of society. They may as well continue to go to work and not participate in the process if they conclude that their vote won't count anyway.

So not only are we fighting the laws that are on the books, we are also fighting the impacts of those laws that show up every election cycle where folks, again, don't have faith in the process and don't have faith that their votes will count.

Mr. DEUTCH. Thank you very much.

Thank you, Madam Chairwoman.

Chairwoman FUDGE. Thank you.

Ms. Wilson.

Ms. WILSON. Thank you, Madam Chairwoman, and welcome to our part of the State, Miami-Dade County. I am so pleased to have our panel here.

I just have a couple of clarifications. I just want to give you a little update on the voting rights history in the State of Florida. There was a time in the State of Florida when I served in the legislature that people's—felons' rights were restored, and the rights were restored under Governor Charlie Crist after the Legislative Black Caucus filed a lawsuit under former Governor Jeb Bush, won the lawsuit, and we began to restore the rights to felons.

They were being restored up until the point that Rick Scott was elected as Governor. When he was elected as governor, he decided that in order for a felon to have his rights restored, it must be a majority of the cabinet, his cabinet, voting for it, and of course, we know that the entire cabinet was Republican. So everyone who tried to have their rights restored, they were denied. So consequently, we have this constitutional amendment.

So when a lawsuit is filed against this constitutional amendment, which I am sure that many organizations will file, including the NAACP and some of our activists here who represent different organizations, they can use as evidence when we were restoring rights to felons, we did not require that all of the fees be paid.

So that is not the history of Florida. The history of Florida was when you complete your sentence and you leave prison your rights would automatically be restored. So not only is that a poll tax, but that is illegal, and that is against all the rules and laws and the history of the State of Florida.

And it is not—I don't want anyone to think that this is just a Black issue, because when I was in the State legislature, I had a group come from a small town in Florida, and they wanted their rights restored. And we were helping them get their rights restored, because they only had 15 people in the city who could serve on a jury, because everyone had a criminal record in the whole town, and it was a total White town. So just keep that in mind.

And it also has been brought up about the prison, people voting from prison. And we know that the Census already disenfranchises cities or all of us with the Census being taken in prisons and causes the prison towns to get all of this money. But just keep in mind, and this is for the record, if you are in jail, if you are in jail and you have not been sentenced or you have not seen a judge to sentence you, you have the right to vote.

So it is the job of the public defender to make sure that everyone who is being held in jail votes just like everyone else, because they are still citizens. Some of them are registered voters, and there are organizations that should be doing active voter registration in jail while people are awaiting their sentences.

And also, in the State of Florida, in many of our counties, our children—and I have a bill that I filed in Congress to do this for everyone, give everyone the opportunity to do this—our 11th graders in their American history classes are registered to vote by the Department of Elections. I see Ms. Snipes here, and I think they do it in Broward and Dade. I started it when I was on the school board of Dade County. And automatically when they turn 18, they are issued a voter registration card. So that is something.

And I also wanted to bring up ballot design, because I feel so terrible about what happened to Senator Bill Nelson right here in my district in Florida, which takes up West Park and parts of Hollywood. Because of the ballot design, and Senator Nelson was at the bottom by himself with Rick Scott, and I was not on the ballot because I did not have an opponent. So many of the constituents of that district did not vote in that race. They went all the way up, and thank God they found you, Mr. Gillum, and voted for you. It came all the way down. But there were enough votes to cost him the election.

So the ballot design that we must put in place is so important, Madam Chairwoman, and I just wanted that to be in the record. Thank you. I yield back.

Chairwoman FUDGE. Thank you.

I am just going to really ask one question of Ms. Bastien, and then we are going to move to the next panel.

How many Haitians are in Florida, do you know?

Ms. BASTIEN. So the estimate is over 1 million in Florida, but half a million are registered to vote.

Chairwoman FUDGE. And what percentage, do you know, of the half million, what percentage, actually vote?

Ms. BASTIEN. I don't have that information, unfortunately. But one thing that I can tell you is that, historically, there has been a lot of efforts to suppress the Haitian vote because most of us are immigrants.

And during the 2000 elections, for example, a lot of the big suits that I had mentioned earlier, forgive my French, came to present where a lot of Haitian Americans voted, so they have been targeted because they know many of them are recent immigrants, and they are afraid and they are scared. Just like some of the narratives today are preventing some folks to vote, because even though people are U.S. citizens, if they hear information from the administration that indicates that they may be targeted or that they are not supposed to vote, even though they are U.S. citizens, this is a way really to suppress the vote.

Chairwoman FUDGE. Thank you.

I am going to yield a minute to Ms. Wilson to ask a question, and then we will have closing statements.

Ms. WILSON. Yes. I just want to reiterate what Ms. Bastien has said. We have never had an election in Miami-Dade County that our office did not get a call about someone suppressing the vote of the precincts that are in majority Haitian districts, and we have always had to send people out. We have always had to call for help. We have always had to do that.

And I just want to say to Marleine—and we have been trying to do this, but there is a pride issue in this—is in the State of Florida, another thing Jeb Bush did was he took away all requirements for absentee battles, so an absentee ballot is just like a piece of toilet paper. You could get an absentee ballot, you don't need an excuse.

So we have been trying to say to everyone who was disenfranchised or everyone who has to work or everyone who finds it hard to vote, because these amendments in Florida are getting longer and longer, and it takes—I mean, it takes time to go through all of these and know how and what to vote for, that we encourage people to get an absentee ballot.

And the ballots in Dade County are in three languages. You have to read English, Creole, and then Spanish. So that makes the ballot three times as long as any other ballot in any part of this State.

So we are going to work with Marleine to get that done, to get them all absentee ballots, so they can sit down, study the ballot, know how to vote, take it into a polling place, take someone—I mean, send the ballot off so we won't have to—you know what I am saying.

Thank you.

Chairwoman FUDGE. Yes. Thank you.

We do have a second panel, so we really need to wrap this up.

Mr. Loudermilk, if you have a few closing remarks, and then we will be ready to bring our next panel up.

Mr. LOUDERMILK. Thank you, Madam Chairwoman.

Again, thank you for hosting these events. I thank everyone on the panel. Some great information in here.

Let me also address something. I appreciate the correction and information from my dear colleague, Ms. Wasserman Schultz, on the information, because part of what we are trying to do here is to parse out fact from perception. And if the information that she has provided is true, and I have no doubt to think that it isn't, and my apologies to her and Mrs. Snipes for the information there. As we all know, you can't always rely on press reporting on things, even if it is from The New York Times. So my apologies there.

But still, we are dealing in a time where we have to figure out what is human error versus discrimination. And more importantly, of all the issues that were brought up here, I think Mr. Gillum made the point very well that what makes sense in one county may not make sense in another area, and that is why I have caution and pause for having Washington, D.C. bureaucracy so involved in an election process, because one size does not fit all.

And I am encouraged from being here from a lot of your testimonies. I know a lot of you have been working, as Ms. Batista has in the community to increase Latino vote. In fact, in this year, the midterms election this year—or last year in midterms elections, the Latino vote doubled from the previous midterm nationwide, and that is as an effort of many of you being out in the community. And voter registration has gone up. The African American vote has increased by 10.8 percent, and so it is—the engagement in the community is working.

I am also encouraged by some of the information that Mr. Gillum brought up, and my understanding is that a lot of those issues are being addressed in the latest bill that recently passed, a bipartisan bill that passed in the Florida legislature. And so, hopefully, a lot of those issues would be resolved, as well as the confusing ballots.

My understanding in that bill also included requirements for ballot design that would avoid the confusing ballots like we saw here in Broward County in 2018, as well as one of the issues that got my attention was the access to assistance in Spanish ballots. And from what I understand, the current governor has ensured that there will be assistance in Spanish ballots in all 67 counties by the next election.

So from what I have gathered here, Madam Chairwoman, I think a lot of the work is being handled at the State level, which I think is the best, is the most responsive, and I appreciate the chance for us to hear from the community.

And thank you. I yield back.

Chairwoman FUDGE. Thank you.

And I would just say just a few things as I have listened. I know that my colleagues want to justify that everything is okay because more people voted. Because we overcome roadblocks doesn't mean that it was right to put the roadblock there in the first place. If we call ourselves a democracy, we need to act like it. We need to

ensure that every single person has a right to vote and that their vote is counted.

As a Member of Congress, I was sworn to uphold the Constitution of the United States. The Constitution does not say if you miss a vote, we are not going to let you vote anymore. The Constitution does not say if you miss two votes, we are not going to let you vote anymore. It says that you have a right, an unfettered, unabridged right to vote in this country if you are a citizen.

Also, I am a lawyer. I took an oath to uphold the Constitution of my State, the laws of the State and the laws of the United States, and what I know is that laws are not always just. Laws are sometimes made by very flawed people who are doing things in their own self-interest, just as this legislature in this State has done as it relates to Amendment 4.

I understand that purging may be the law of the land. It doesn't make it right. Separate but equal was the law of the land. It wasn't right, but *Brown v. Board of Education* changed it. People walked across the bridge for the right to vote. The law was not on their side, but the law was not just.

And so I think that what we have to understand is that even though States have a right to do certain things, I mean, we do, as a Federal body, have oversight on Federal elections. But I would also suggest that the history of this country as it relates to State rights has not been very good to poor people or to people of color or to people who are sick or to people who do not have the mental capacity to survive.

And so with that, I would say that we are going to do whatever we can together, Democrats and Republicans, to be sure that as people who love their country, we make sure that every other person that loves their country has the right to determine how this country is run.

So I thank my colleagues for being here. And we are going to start our next panel.

I thank you all so very, very much. It is a pleasure to have had you here. Thank you.

[Recess.]

Chairwoman FUDGE. On our second panel, we will hear from Mr. Juan Cartagena, President and General Counsel, LatinoJustice PRLDEF. Mr. Cartagena is a constitutional and civil rights attorney who is the President and General Counsel of one of the Nation's leading civil rights public interest legal organizations that represents Latinas and Latinos throughout the country and works to increase their entry into the legal profession.

Karen Wilkerson, the League of Women Voters of Florida. League of Women Voters of Florida has been fighting to make democracy work for all Floridians since 1939.

My good friend, Ms. Judith Browne Dianis, Executive Director, Advancement Project. Ms. Dianis has an extensive background in civil rights litigation and has protected the rights of people of color in the midst of some of the greatest civil rights crisis of our modern times, including in Florida after the 2000 election.

And Mr. Logan Churchwell, Communications and Research Director, Public Interest Law Foundation, a 501(c)(3) public interest law firm.

Mr. Cartagena, you are recognized for 5 minutes, sir.

**STATEMENTS OF JUAN CARTAGENA, PRESIDENT AND SENIOR COUNSEL, LATINOJUSTICE PRLDEF; KAREN WILKERSON, LEAGUE OF WOMEN VOTERS OF FLORIDA; JUDITH BROWNE DIANIS, EXECUTIVE DIRECTOR, ADVANCEMENT PROJECT; AND LOGAN CHURCHWELL, COMMUNICATION AND RESEARCH DIRECTOR, PUBLIC INTEREST LEGAL FOUNDATION**

**STATEMENT OF JUAN CARTAGENA**

Mr. CARTAGENA. Thank you so much.

And on behalf of Latino Justice PRLDEF, I want to thank Chairwoman Fudge and all the Members of the Subcommittee, all the other Members of Congress who are at this hearing. Thank you so much for this invitation to allow me to share some observations on this topic of election administration in Florida.

So Latino Justice PRLDEF, PRLDEF is an acronym for our former name, the Puerto Rican Legal Defense and Education Fund. Over 46 years of life since 1972, plus working on behalf of Latinos and Latinas throughout the country, we are a public interest law organization, and as a result, as you can imagine, given the demographic change of Florida over the last 20 years, Florida has been a base of our operations as well.

I have personally litigated cases here in Florida's Federal courts on Section 2 of the Voting Rights Act, of the National Voter Registration Act, and I currently supervise the Rivera case that was referred to before that currently is pending against 32 counties in Florida for alleged violations of what is called Section 4(e) of the Voting Rights Act.

My office has been doing cases in this State for over 10 years, and we for over 5 years have had a physical presence in Orlando, Florida, in an office, our southeast regional office.

Florida occupies a unique place at this point in our history in the country with respect to election administration, a lot of it to do with the amazing energy and the zeal that voters have in the State who participate. But we also know that it is a change in demographic environment. Florida is now the third largest State in the country. It just edged out New York State, where my headquarters is located, in the last couple of years. Not only is it the third largest State, it is now estimated to be about 21.3 million residents in the State of Florida. They have the second largest rate of growth behind Texas, added 322,000 residents in just the last year alone, between 2016 and 2017.

But Florida's Latino population is also changing dramatically, and that is a very specific area of concern for my office at Latino Justice, as you can imagine. Based on the—there are about 5.4 million residents in the State of Florida, of that 21 million that I mentioned before, that are Latino. Census data now demonstrates that the Puerto Rican population is well over a million people in the State, and grew about 30 percent alone since 2010. That is significant given the Puerto Rican evacuation of Puerto Rico both before Hurricane Maria, because of the fiscal crisis, but exacerbated by Hurricane Maria post.

Cubans are still the plurality among all the Latinos in the State. They are about 28—no. Excuse me. Yes, 28 percent of the population, and Puerto Ricans are now 21 percent of the population in Florida. It is a change in the demographic scene.

I say all that—and of course, data showing that the white population is plateauing, if not declining. The median age of white folks in Florida is increasing by far. In fact, Florida has the largest percentage of senior citizens of any State in the country, well over 20 percent.

So we are looking at demographic changes that make it a particular hot battleground State. That is on top of what we all know are very, very close elections in Florida, right? That was referred to in part by the previous panel.

My first conclusion for you is that from the perspective of both Latino and African American voters in Florida, the ability to exercise our Constitutional rights to the franchise has been, will be, tested repeatedly in the State, where seemingly every result is contested in an environment of rapid economic—excuse me, rapid demographic growth.

I want to end my time with just two points. The first one is language assistance. You heard quite a bit of that in the first panel. We are the lawyers among other lawyers, Demos and others, SEIU and others, who are actually challenging the 32 counties for lack of assistance with respect to Puerto Rican voters.

Now, this overlapping Federal law that requires assistance, this section 203, which has numerical thresholds that deal with people of various language backgrounds, and it applies, as was mentioned before, I believe, by Representative Wasserman Schultz, that applies to about seven to eight counties already.

Section 4(e) is a provision of the 1965 Voting Rights Act. That is how long it has been on the books, and it prohibits conditioning the right to vote to any Puerto Rican educated in Puerto Rico who does not understand English. Simple as that. It applies nationwide, and it applies to every Puerto Rican living in the United States.

As a result, one of the first things I want to share with you is a quick quote from the judge, Judge Walker, in that case in which he said, quote, it is remarkable—this is, by the way, in 2018. “It is remarkable that it takes a coalition of voting rights organizations and individuals to sue in Federal court to seek minimal compliance with the plain language of a venerable 53-year-old law.”

I first ask the Subcommittee and all Members of Congress to recognize that these are laws, and the will of Congress is being thwarted in so many ways that this hearing is so important to make sure that we get to the bottom of why these things happen.

But *Rivera v. Detzner*, now called *Rivera v. Lee* because of the change in the Secretary of State’s office, is simply asking for one very important thing: full access in Spanish. There is a current motion pending that asks for the following things: That all election materials, including paper ballots, voting machine ballots, sample ballots, absentee ballots and envelopes, voting guides, voting instructions, polling place signage, election-related websites, and registration materials are provided in Spanish as well as English. In addition, the court is being asked to provide all assistance for voter

registration, absentee ballot, and voting at early voting sites and polling places for election post August 1.

It is true, and I refer to the fact that it was referred to earlier today, that there is a change now afoot to try to force every county to have Spanish ballots in each of the 67 counties. That is a proposed rulemaking that was just announced recently in April of this year. We are concerned whether the specificity is part of that, and we are very concerned about whether that specificity is there.

I will end with voter purging, but I would be more than happy to talk about this in the question and answer. We will also partner with the Advancement Project in challenging the purge of alleged noncitizens here in Florida. It was done in violation of the National Voter Registration Act, and we think that is also another example of how election officials are looking to suppress the vote of both Black and Latino voters in the State.

Thank you.

[The statement of Mr. Cartagena follows:]



TESTIMONY OF  
 JUAN CARTAGENA  
 PRESIDENT & GENERAL COUNSEL, LATINOJUSTICE PRLDEF  
 BEFORE THE U.S. HOUSE OF REPRESENTATIVES  
 COMMITTEE ON HOUSE ADMINISTRATION, SUBCOMMITTEE ON ELECTIONS  
 REGARDING VOTING RIGHTS AND ELECTIONS ADMINISTRATION IN FLORIDA  
 FORT LAUDERDALE, FLORIDA. 6 MAY 2019

TO THE HON. MARCIA L. FUDGE, CHAIRPERSON, SUBCOMMITTEE ON ELECTIONS  
 And MEMBERS OF THE SUBCOMMITTEE ON ELECTIONS

On behalf of LatinoJustice PRLDEF I thank Representative Fudge and the members of the Subcommittee on Elections for inviting me to testify on the important subject of voting rights in the State of Florida. While it is safe to say that full compliance with voter protections in any State, including Florida, is always a timely and critical endeavor, this topic, and indeed this hearing, is coming at an opportune time for democracy in this State. Demographic growth, and the changing racial and ethnic composition of the State, along with an expanded electorate created by changes in State law<sup>1</sup> that belies decades of concerted practices to minimize the vote of eligible voters make Florida an important battleground for Voting Rights Act compliance.

LatinoJustice PRLDEF (formerly known as the Puerto Rican Legal Defense and Education Fund) is a national civil rights, public interest law organization that represents Latinas and Latinos throughout the country in litigation and advocacy, and works to increase their entry into the legal profession. For over ten years we have actively litigated voting rights cases in Florida and for five years we have had a Southeast Regional Office in Orlando. In my capacity as President & General Counsel I have personally litigated Section 2 Voting Rights Act cases and National Voter Registration Act cases in federal courts here in Florida and I supervise a current case under Section 4(e) of the Voting Rights Act against 32 counties in this State. Finally, I have engaged in election protection efforts in several counties in Florida as well to ensure compliance with Voting Rights Act protections for Puerto Rican and other Latino voters.

Demographic Changes and Contested Elections in Florida

Florida occupies a unique place in recent years with respect to election administration and the energy and zeal that voters exert in the State. Much of that reputation stems from its booming

<sup>1</sup> The passage of Amendment 4 of the Florida constitution via public referendum in November 2018 is a milestone event in voting rights that LatinoJustice PRLDEF applauds as we were part of the effort to secure its passage. Restoring the vote to the formerly incarcerated is a longstanding goal of ours and while I have been asked to focus primarily on language assistance in voting for this testimony (others directly in the leadership of securing Amendment Four's passage have been invited to testify today and I defer to them gladly) I welcome any questions the Subcommittee may have on this historic expansion of the eligible electorate as well.



population growth and the fact that in partisan terms it is a closely divided State. This latter point is important not from the lens of Republicans versus Democrats – LatinoJustice is a nonpartisan, tax-exempt organization – but for the mere fact that close elections place inordinate pressures on election administrators and are often the fuel that ignites Voting Rights Act abuses.

Florida is now the third most populous State in America with an estimated population of 21.3 million behind California and Texas and just outpacing New York.<sup>2</sup> Over the last year Florida had the second largest numeric growth of any state by adding over 322 thousand residents. The State has a voting age population of 80% and its overall African-American population is just under 17% while its Latino population comprises 25.6% of the State's residents.<sup>3</sup>

Florida is also undergoing dramatic changes in its Latino population.<sup>4</sup> Latinos number over 5.4 million in Florida as of July 2018.<sup>5</sup> Based on 2017 Census data Florida now has the highest number of Puerto Rican residents than any other state in the country at 1,128,225 and it grew by over 30% since 2010. Among all Latino populations in Florida Cubans are still the plurality at 28.5% with Puerto Ricans second at 21% of the State's Latino population, but Cubans have a slower rate of growth since the start of the decade (20.8%).

Simultaneously, the white population of the State is declining due to its increased median age and a growing, younger nonwhite population in Florida. For example, Florida has the highest proportion of senior citizens anywhere in the country<sup>6</sup> while it has reportedly had a decline in young whites as well.<sup>7</sup> Not surprisingly, local media outlets in Florida seemingly sound the alarm in the face of these demographic changes with headlines like "How soon will minorities make up a majority of Palm Beach County?" when reporting a drop to 56% in 2017 from 70% in 2000 of the white portion of the county.<sup>8</sup>

<sup>2</sup> Saunders, Jim. Florida population climbs to 21.3 million, News Service of Florida. <https://www.orlandoweekly.com/Blogs/archives/2018/12/21/floridas-population-climbs-to-213-million> (last accessed 2 May 2019).

<sup>3</sup> U.S. Census Bureau, Quick Facts: Florida; Population estimates as of July 1, 2018. <https://www.census.gov/quickfacts/fl> (last accessed 2 May 2019).

<sup>4</sup> Figueroa, Damayra. Data Sheet, Puerto Ricans in Florida: 2010-2017. April 2019. Center for Puerto Rican Studies, Hunter College, CUNY, Centro DS2019-01. [https://centropr.hunter.cuny.edu/sites/default/files/data\\_sheets/fl\\_datasheet-4-11-19.pdf](https://centropr.hunter.cuny.edu/sites/default/files/data_sheets/fl_datasheet-4-11-19.pdf) (last accessed 2 May 2019).

<sup>5</sup> U.S. Census Bureau, Quick Facts: Florida; Population estimates as of July 1, 2018. <https://www.census.gov/quickfacts/fl> (last accessed 2 May 2019).

<sup>6</sup> Wilson, Reid. America's white population shrinks for the first time as nation ages. The Hill, 21 June 2018. <https://thehill.com/homenews/state-watch/393322-americas-white-population-shrinking-as-nation-ages> (last accessed 2 May 2019).

<sup>7</sup> Brownstein, Ronald. 46 States Saw Young White Population Decline. The Atlantic, 12 Aug. 2015. <https://www.theatlantic.com/politics/archive/2015/08/46-states-saw-young-white-population-decline/432546/> (last accessed 2 May 2019).

<sup>8</sup> Singh, Mahima. How soon will minorities make up a majority of Palm Beach County? The Palm Beach Post. 14 July 2017 <https://www.palmbeachpost.com/news/how-soon-will-minorities-make-majority-palm-beach-county/JQCIU8mfzpo2oX7YE9gM9J/> (last accessed 2 May 2019).

Florida is also a divided state electorally. The 2000 presidential election pitting George Bush and Al Gore resulted in a difference of 537 votes in the certified count of almost 6 million votes cast. Last year the November 2018 elections resulted in recounts for both the Governor's race and the election for the U.S. Senate – in each case the margin of difference in the initial counts was less than one percent – and again Florida gained national attention in how it runs its election apparatus.<sup>9</sup>

From the perspective of Latino and African-American voters in Florida the ability to exercise their constitutional rights to the franchise has been, and will be, tested repeatedly in a State where seemingly every result is contested within an environment of rapid demographic change.

#### Failure to Provide Language Assistance to Puerto Rican Voters

In spite of a history of significant Latino migration and immigration to Florida the Secretary of State and a host of local Supervisors of Elections have not deemed it necessary to comply with full panoply of language assistance measures included in the Voting Rights Act. Today, and as of 2016 in addition to statewide coverage for Florida, ten counties are required to provide Spanish-language assistance under Section 203 of the Voting Rights Act: Broward, DeSoto, Hardee, Hendry, Hillsborough, Lee, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk and Seminole.<sup>10</sup>

However, it usually takes litigation to force Florida election officials to abide by the will of Congress. In 2002 the U.S. Department of Justice sued Osceola County and entered into a settlement to stop the discriminatory failure of the county to provide voting access to Spanish-speaking voters under Section 2 of the Voting Rights Act.<sup>11</sup> Then in 2009 LatinoJustice and others filed suit against Volusia County to provide Spanish-language assistance to Puerto Rican voters under Section 4(e) – the case was settled and assistance was finally provided.<sup>12</sup>

The unprecedented migration of Puerto Ricans to Florida referenced above in this decade brought to light once again, the systemic failure of Florida's election apparatus to meet needs of Puerto Rican Spanish-dominant voters. In *Rivera Madera v. Lee* Puerto Rican voters, represented by LatinoJustice and others, sued 32 counties in August 2018 for compliance with

<sup>9</sup> Mazzei, Patricia & Robles, Frances. It's Déjà Vu in Florida, Land of Recounts and Contested Elections. *New York Times*, 9 Nov. 2018  
<https://www.nytimes.com/2018/11/09/us/florida-ballots-recount-scott-nelson-gillum-desantis.html> (last accessed 2 May 2019).

<sup>10</sup> U.S. Census Bureau, Federal Register Notice Dec. 5, 2016.  
<https://www.federalregister.gov/documents/2016/12/05/2016-28969/voting-rights-act-amendments-of-2006-determinations-under-section-203> (last accessed 2 May 2019).

<sup>11</sup> *U.S. v. Osceola County*, No. 6:02-CV-738-ORL-22JGG (M.D. Fla.). See, Culliton-González, Katherine. Time to Revive Puerto Rican Voting Rights, 19 *Berkeley La Raza Law Journal* 101, 130 (2009).

<sup>12</sup> See, *Perez-Santiago v. Volusia County*, 6:08-cv-1868-Orl-28KRS (M.D. Fla.).

Section 4(e) of the Voting Rights Act of 1965<sup>13</sup>. Section 4(e) “prohibit[s] the States from conditioning the right to vote of [Puerto Ricans] on ability to read, write, understand, or interpret any matter in the English language.”<sup>14</sup> Accordingly, it requires full Spanish language voting assistance to Puerto Ricans within the 50 states, who are all U.S. citizens by operation of law, if they were educated in Puerto Rico. Congress specifically passed Section 4(e) to assist Puerto Rican voters and stop the discriminatory nature of English-only elections.<sup>15</sup>

The suit, filed in advance of the November 2018 elections, is still pending but it has already borne fruit. In September 2018 the court issued partial preliminary relief on behalf of thousands of Puerto Rican voters in the 32 counties by ordering that a facsimile of a Spanish language ballot be made available at every voting site. In April 2019 plaintiffs returned to court to ask for full injunctive relief to force compliance with Section 4(e) for all elections in the State from August 1, 2019 through the end of the litigation. That motion specifically requests that all election materials, including paper ballots, voting machine ballots, sample ballots, absentee ballots and envelopes, voting guides, voting instructions, polling place signage, election related websites, and registration materials are provided in Spanish as well as English. Additionally, the court is being asked to order that the State provide bilingual workers ready to give oral assistance with voter registration, absentee voting, and voting at early voting sites and polling places for all elections post-August 1<sup>st</sup>.

Judge Mark Walker made one, telling observation in his order of September 7, 2018 in *Rivera Madera v. Detzner (now Lee)* that speaks volumes about the administration of elections, federal and local elections, in the State of Florida: “It is remarkable that it takes a coalition of voting rights organizations and individuals to sue in federal court to seek minimal compliance with the plain language of a venerable 53-year-old law.”<sup>16</sup>

*Rivera Madera v. Lee* clearly has had a positive effect in securing compliance with the Voting Rights Act of 1965. Prompted clearly by the litigation and its success to date the Florida Secretary of State on April 25, 2019 issued a Notice of Development of Proposed Rules and Negotiated Rulemaking in the Florida Administrative Register to require Spanish language ballots statewide.<sup>17</sup> The preamble to the rules notice states that Spanish language ballots for all Florida elections are necessary because “the State’s Puerto Rican American population has increased since the devastation of Hurricane Maria in September 2017, but there is currently no uniformity in Spanish-language ballot requirements.” The proposed rules follow an announcement earlier in April 2019 by Governor Ron DeSantis in which he instructed the Secretary of State to begin providing Spanish-language ballots in Florida in time for the 2020

<sup>13</sup> *Rivera Madera v. Lee*, No. 1:18-cv-00152-MW-GRJ (N.D. Fla.) case pending.

<sup>14</sup> 52 U.S.C. § 10303(e)(1).

<sup>15</sup> See *Katzenbach v. Morgan*, 384 U.S. 643, 645, n.3 (1966).

<sup>16</sup> *Rivera Madera v. Detzner*, *supra*, Slip Op. p. 25, Sept. 7, 2018.

<sup>17</sup> See [https://www.flrules.org/BigDoc/View\\_Faw.asp?ID=2855](https://www.flrules.org/BigDoc/View_Faw.asp?ID=2855) (last accessed 2 May 2019).

elections. The rules notice also makes a general reference for the need to provide accessible Spanish voting and election materials but there is no specificity as to which materials need to be translated. And specificity is clearly required when dealing with recalcitrant county Florida Supervisors of Elections who look for any loophole to avoid full compliance. For example, the plaintiffs in *Rivera Madera* had to rush back to court in November 2018 on an emergency basis after the Supervisor of Elections of Duval County refused to provide a Spanish facsimile of the ballot during early voting days despite Judge Walkers September 7<sup>th</sup> order referenced above. The defense? The judge did not specify “early voting” when he referenced November elections. Judge Walker immediately rejected this ridiculous defense and issued a supplemental order. In summary, while this recent proposed rules development is a laudable first step there is no guarantee that the rule would not be diluted in the public comment process or that it will provide the comprehensive relief that Section 4(e) of the Voting Rights Act requires or that it will be implemented in time for the November 2020 elections.

#### The Myth of Latino Non-Citizen Voters

Long before President Trump unilaterally declared that his failure to capture the majority of the popular vote in 2016 was due to the fact that 2 to 3 million illegal alien voters supported his opponent, the myth of Latino non-citizen voters had taken hold in Florida. As with the President’s pronouncement, corroborating evidence was absent in Florida and once again, litigation was required to enforce the will of Congress – this time through the protections of the National Voter Registration Act (“NVRA”).

In 2012 then Governor Rick Scott claimed to have evidence of thousands of non-citizens who voted illegally in Florida elections and his Secretary of State Ken Detzner proceeded to purge them from Florida’s voter rolls. The evidence of non-citizen voting allegedly emanated from both the State’s Department of Highway Safety and Motor Vehicles data base and later from the federal governments immigration database maintained by the Department of Homeland Security. Two U.S. citizens from Miami on the list, Karla Arcia and Melande Antoine, sued under the National Voter Registration Act, among other claims, to stop the illegal purge of otherwise qualified voters. Years later in 2014 their claims were upheld by the 11<sup>th</sup> Circuit Court of Appeals in *Arcia v. Detzner* because systematic removal programs are barred within 90 days of a federal election.<sup>18</sup> The two voters were joined by the Florida Immigrant Coalition, National Congress for Puerto Rican Rights, and 1199 SEIU United Healthcare Workers East-Florida. They were represented by Advancement Project, Fair Elections Legal Network, LatinoJustice PRLDEF, Project VOTE, SEIU, and the law office of Chavez & DeLeon. The opinion by Judge Beverly Martin concluded that Florida could not systematically remove voters using the Department of Homeland Security’s database known as Systematic Alien Verification for Entitlements (SAVE) within 90 days of any federal election: Eligible voters removed days or weeks before Election Day will likely not be able to correct the State’s errors in time to vote.”<sup>19</sup>

<sup>18</sup> *Arcia v. Florida Secretary of State*, 772 F.3d 1335 (11<sup>th</sup> Cir. 2014).

<sup>19</sup> *Arcia v. Florida Secretary of State*, supra, 772 F.3d at 1346.

The initial purge by Florida targeted 2,700 voters in 2012 – 82% of them were people of color and many of them were eligible citizens. Both Ms. Arcia and Ms. Antoine were naturalized citizens and duly registered voters. The Secretary of State insisted on using both SAVE and 10 to 12 year old databases the state maintained to determine who was a citizen in 2012. Eventually, Florida settled with the plaintiffs in *Arcia* on the purge but insisted on litigating the NVRA claim – leading to its defeat before the Court of Appeals.

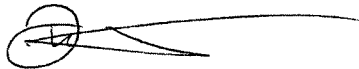
#### Conclusion

Florida is a battleground state in many ways and it's positioning as a state where the administration of its elections in violation of federal law as a recurring theme is not lost on the federal judiciary as Judge Walker noted in his opening paragraph of the *Rivera Madera* decision cited above:

"Here we are again. The clock hits 6:00 a.m. Sonny and Cher's "I Got You Babe" starts playing. Denizens of visitors to Punxsutawney, Pennsylvania eagerly await the groundhog's prediction. And the state of Florida is alleged to violate federal law in its handling of elections."<sup>20</sup>

I respectfully submit that Congress must be vigilant in Florida. It must monitor the State's election administration and it must be ready to investigate, document and remedy every instance in which it's will – the very laws of the United States – are thwarted or compromised in Florida. To that end I thank you again for sponsoring this important hearing.

Respectfully submitted,



Juan Cartagena  
President & General Counsel  
[jcartagena@latinojustice.org](mailto:jcartagena@latinojustice.org)  
212.739.7494  
Latinojustice.org

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<sup>20</sup> *Rivera Madera v. Detzner (now Lee)*, *supra*, Slip Op. p. 1, September 7, 2018.

Chairwoman FUDGE. Thank you so much.  
Ms. Wilkerson.

#### **STATEMENT OF KAREN WILKERSON**

Ms. WILKERSON. I am Karen Wilkerson, and I am speaking on behalf of the League of Women Voters of Florida. The League believes that voting is a fundamental right protected by our U.S. Constitution, and any attempt to suppress votes is an invasion of our democracy.

Several years ago, Florida produced the purge list, that included the names of rightfully entitled voters. This was a shameful act that should never happen again. Nothing can justify these types of actions. In Florida, the League has been certified as a third party to register voters, and we take this responsibility seriously and make sure that we train our workers well.

Being able to vote by mail is an important of our State because of our rural communities and the number of older citizens living in Florida. Only a few counties pay the return postage on these ballots. The number of voters requesting to vote by mail is increasing every year. We seem to have very long ballots with lots of proposals to amend the State constitution and approve local taxes, et cetera. Therefore, voters don't want to make these decisions after waiting in long lines with only a few minutes in the voting booth. Often these issues are complicated, so the use of the mail-in ballot ensures that people can have time to read the proposals and do homework in order to educate themselves before casting their votes.

To assist voters, the League prints and makes available digitally a publication called Voter's Guide, which provides voting information, pros and cons on proposals, answers from candidates on the hot topics. I should add that we do publish this in Spanish and are exploring whether we can do it in Creole. We hope we will make partnerships with some of the school districts that have the translators.

We also hold candidate forums throughout the State so that voters can get to know the candidates. We hold forums on judicial candidates as well.

Our organization is nonpartisan. We never endorse a candidate or a political party. It would certainly help if the municipalities, the county, and the State governments assisted in the funding of these types of voter education publications. We also cover the State with presentations from our speakers' bureau, which presents the pros and cons of all the proposals that are up for consideration.

Right now, the signature of mail-in ballots is a check for validation. I think it is time to select a more efficient method, perhaps the UPS code or the last part of your Social Security number. There has to be a better system than what we are using now.

We strongly believe that voting machines must have a paper trail. We support the use of early voting sites and extended hours at election locations. In Palm Beach County and many other counties in Florida, the supervisor of elections has located voting machines in elderly living facilities and homeowners' associations of our large developments. We commend these moves.

Confusion occurs when early voting sites are not available for voting on election day. Long lines are particularly troublesome in

Florida. You know our primaries are in the hurricane season. We are apt to have hot temperatures, rain, et cetera. We have a lot of people waiting outside the polling locations. I do remember one Presidential election where I waited 4 hours. Some community groups try to assist by bringing folding chairs for the elderly and infirm and offer water to those bearing the hot temperatures.

Perhaps it is time to explore other types of venues for voting. Enclosed shopping centers are air-conditioned, they have adequate parking, and they are open for long hours. No doubt we will be considering digital voting in the future, and I would hope a committee like this would take that into account.

Florida has just passed legislation to ensure that the format of ballots will more easily be instituted by the voters. We have had instances where the instructions interfered with the candidate selection process. Hopefully that has been cured.

I personally find it strange to understand why the voting machine industry has such an impact on us. It would make more sense for the election officials to decide what functions are needed and then to have the industry to design those machines that are needed.

Perhaps the most visible trouble spot in voting is the electoral college. The myth that this system was designed to protect small population States is certainly contradicted by the Federalist Papers that clearly read this design was to make sure that the elite controlled the polls. The League of Women Voters of the United States supports the present campaign to move to a national popular vote for President. It is important that the person selected to be President of our great Nation is elected by a majority of the voters.

Let's face it. If a foreign country used our present system, we would condemn it, and we would send the Jimmy Carter or the Ronald Reagan Foundations over there to straighten things out.

Please help us in making sure that your vote and my vote is counted to select the person to serve in the most important office in our country. The national popular vote is a reform that is being adopted by the States. We have now approximately 190 electoral votes that will go for that, and we only need the magic number of 270.

You have received some written comments from Susan Booker, who is a Supervisor of Elections in one of our State's largest counties. I hope you will look at her comments.

Thank you for the opportunity to participate in this hearing, and I thank you very much for coming to Florida.

[The statement of Ms. Wilkerson follows:]

HOUSE ADMINISTRATION SUBCOMMITTEE ON ELECTIONS – FLORIDA FIELD HEARING  
MAY 6, 2019 BROWARD COUNTY GOVERNMENTAL CENTER, FORT LAUDERDALE, FLORIDA

I am Karen Wilkerson speaking on behalf of the League of Women Voters of Florida. Thank you for the invitation to address you.

The League believes that voting is a fundamental right protected by our Constitution. Any attempts to suppress votes is an invasion of democracy.

Several years ago, Florida produced a purge list that included the names of voters who were rightfully entitled to vote. This was a shameful act that should never happen again. Nothing can justify these types of actions.

In Florida the League has been certified to register voters. We take this responsibility seriously and make sure that we train our workers well.

Being able to vote by mail is important in our state because of rural communities and the number of older citizens living in Florida. Only a few counties pay the return postage for these ballots. The number of voters requesting to vote by mail is increasing every year. We seem to have very long ballots with lots of proposals to amend the state constitution and approve local taxes, etc. Therefore, voters don't want to make these decisions after waiting in long lines and using the few minutes in the voting booth. Often these issues are complicated so the use of mail in ballots insures that people have time to read the proposals and do homework to educate themselves before casting their votes.

To assist voters, the League prints and makes available digitally a publication called VOTERS GUIDE which provides voting information, pros and cons on proposals, answers from candidates on hot topic issues. We also hold candidate forums throughout the state so that voters can get to know the candidates. We hold forums on judicial candidates as well. Our organization is nonpartisan so we never endorse a candidate or political party. It would help if municipal, county, and state governments assisted in the funding for these types of voter information publications. We also cover the state with presentations from our speakers bureau which present the pros and cons of all the proposals up for consideration.

Right now, the signature for mail in ballots is the check for validation. I think it is time to select a more efficient method: perhaps a ups code or last part of a social security number. There has to be a better system for this match.

We strongly believe that voting machines must have a paper trail. We support the use of early voting sites, and extended hours at elections locations. In Palm Beach County and many other counties in Florida, the Supervisors of Elections have located voting machines in elderly living facilities and home owners association of large developments. We commend these moves.

Confusion occurs when early voting sites are not available for voting on election day. Long lines are particularly troublesome in Florida because we are apt to have hot temperatures, rain, etc. while people wait outside polling locations. Some community groups try to assist by bringing folding chairs for the elderly and infirm and offer water for those bearing the hot temperatures. Perhaps it is time to explore other types of venues for voting: shopping centers that are air conditioned and have adequate parking and long open hours for instance. No doubt we will be considering digital voting in the future.

Florida has just passed legislation that will insure that the format of ballots will be easily understood by the voters. We have had instances where the instructions interfered with the candidate selections process. Hopefully, that has been cured.

I personally find it strange to understand why the voting machine industry has such an impact on us. It would make more sense for the election officials to decide what functions are needed and then to have the industry design those machines to those requests.

Perhaps the most visible trouble spot in voting is the electoral college. The myth that this system was designed to "protect" the small population states is confronted by the Federalist Papers that clearly read that this design was to make sure the "elite" controlled the polls. The League of Women Voters of the United States supports the present campaigns to move to a National Popular Vote for President. It is important that the person selected to be President of our great nation be elected by a majority of the voters. Let's face it, if a foreign county used our present system, we would condemn it and send the Jimmy Carter Foundation over there to straighten things out.

Please help us in making sure that your vote and my vote is counted to select the person to serve in the most important office in our country. National Popular Vote is a reform that must be adopted by the states.

Chairwoman FUDGE. Thank you.  
Ms. Browne Dianis.

**STATEMENT OF JUDITH BROWNE DIANIS**

Ms. BROWNE DIANIS. Thank you, Chairwoman Fudge and Members, for having me here today. My name is Judith Browne Dianis, and I am executive director of the national office of The Advancement Project. We have been proud to work on behalf of and beside groups on the ground here in Florida, including New Florida Majority, Dream Defenders, NAACP, Florida Rights Restoration Coalition, and SEIU, among others.

My work here in Florida dates back to the 2000 election. Congressman Loudermilk, I can tell you that I have been here for that long doing voting rights work, and I can tell you that this is not about mistakes and accidents, but instead, that there are structures that have been put in place in the State of Florida to make it harder to vote for people of color.

I can also tell you—that this is not about Washington bureaucracy reaching its hand down to Florida, but instead, it is about civil rights laws that come from the U.S. Constitution, namely, the 13th, 14th, and 15th Amendments, among others.

For the last 20 years, I have seen what has happened in Florida. While other people were looking at hanging chads, my team was investigating and gathering evidence of voting irregularities that made it disproportionately more difficult for voters of color to exercise the right to vote. After the dust cleared in the *Bush v. Gore* case, we filed a lawsuit, and we have filed half a dozen others in the ensuing years advocating with election officials and lobbying lawmakers.

Ever since that chaos in 2000, Florida has continued to be the battleground for access to the polls and with regard to matching and purging, we have seen again that the State gets it wrong. In 2006 and 2007, Florida's law disenfranchised tens of thousands of otherwise eligible voters disproportionately; Latino, Haitian Americans, and African Americans. During this period, 65 percent of the unmatched rejected applications were Latino or African American, even though Latino communities comprised only 15 percent of the applicant pool, and African-Americans, 13 percent.

That happened again in 2012. Florida employed, again, another yet flawed data matching process when it used faulty and outdated motor vehicle and immigration databases as a proxy to remove noncitizens from the voter rolls in advance of the 2012 elections, a move that instead wrongly targeted thousands of eligible citizens and voters.

In 2012, we joined forces with Latino Justice and other partners to stop Florida's mass purge. Our research found 87 percent of the people on Florida's purge list were people of color, and more than 50 percent were Latino. Again, these were not mistakes, but as Congressman Butterfield knows, like in North Carolina, these were practices and policies put in place, surgically crafted to hurt voters of color.

After the 2000 Presidential election, the other thing we saw was expansions in early voting and court injunctions allowing increased opportunities for voter registration, improved access to the ballot

box. Voters, particularly voters of color, used early voting in high numbers in the 2008 election. By then, those measures came under—attack. In 2011, Florida lawmakers passed HB 1355 that cut early voting and eliminating the final Sunday before Election Day, placing onerous restrictions on third-party voter registration also.

Social scientists concluded that the law's restriction had caused a precipitous drop in voter registration. The law's cuts to early voting led to long lines and massive wait times on Election Day.

You may remember the story of a woman, Desiline Victor, 102 years old, a story that we lifted up. This Haitian American woman stood in line for 3 hours to vote. It was due to the cuts in early vote. The polling place in North Miami at North Miami Library is now named after her.

Florida also employed other flawed data matching, including using the SAVE database. Keep in mind, this all happened before the Shelby County case. More recently, Florida has opened access to voting, when 64 percent of voters approved Amendment 4 due to the work of the Florida Rights Restoration Coalition, Desmond Meade, and others in the country. We are proud to be a founding member of that.

Florida was among four States that permanently denied civil rights to every citizen with a felony conviction. Ten percent of Florida's voting age population was excluded from voting, and one in five African Americans in the State was denied the right to vote. In advance of the 2018 election, we released *Democracy Disappeared*. We have republished it as *Democracy Rising*, which shows the impact on Black communities of this disenfranchisement.

Unfortunately, the State moved very quickly after the voters approved this amendment by deciding to roll it back. These newfound rights are under attack when Florida lawmakers just days ago voted to undo the will of the voters. Section 5 would have stopped this action in its tracks.

One of the things that we know about Section 5 is that it is important to have these protections in place, because as we learned in Florida, it is too late after the vote is taken and counted to protect the civil rights of people of color.

Lastly, Florida is now moving to aggressively purge voters. An estimated 7 percent of voters have been purged in the past 2 years, and the problem is that the Federal Government is not watching, that the fox is not watching its brother the fox watches the hen house. And so now we see these attacks continuing to happen. We know that Congress must act to make sure that voting rights are protected for the people of Florida and elsewhere in our country. And I thank you and call on Congress to act quickly.

Thank you.

[The statement of Ms. Dianis follows:]



**Remarks by Judith Browne Dianis  
Executive Director, Advancement Project National Office**

**Committee on House Administration, Elections Subcommittee  
Field Hearing on Voting Rights and Election Administration in Florida  
May 6, 2019  
Broward County Commissioner's Office**

Thank you Chairwoman Fudge and to the House Administration Committee, Subcommittee on Elections for holding today's important Field Hearing on Voting Rights and Election Administration. I am honored to provide remarks on voting rights in Florida. My name is Judith Browne Dianis and I am the Executive Director of Advancement Project's National Office. Advancement Project is a national racial justice organization that works in deep partnership with grassroots organizations to inspire and develop community-based solutions inspired by the tactics and courage that produced the landmark civil rights victories of earlier eras. We are proud to stand beside our many partners in Florida who are fighting these battles on the ground every day -- including partners like the Florida Rights Restoration Coalition, New Florida Majority, Dream Defenders, NAACP, Service Employees International Union, and others.

My work on voting rights in Florida goes back nearly two decades. As one of the first responders on the ground in Florida following the 2000 elections, Advancement Project worked with community partners to challenge discriminatory voting practices that undermined the principles of law, equality and fairness in that presidential election. While others were focused on how to count hanging chads, our team was investigating and gathering evidence of voting irregularities that made it disproportionately more difficult for voters of color to exercise their right to vote. We heard directly from voters in community meetings in church basements, community centers, union halls, college campuses and front porches to uncover barriers facing Floridians of color. We heard from voters met by police presence blocking roads near polling places in Black and Brown communities. We met with voters who were turned away at the polls without casting a ballot based on reprehensibly inaccurate voting lists. Poll workers were required to use the state's flawed databases, created by private enterprises, that incorrectly designated eligible voters as ineligible. Eligible voters were improperly purged from the rolls based on an intentionally over-inclusive list that inaccurately designated individuals as having prior felony convictions. The strategy relied heavily on excessive false-positives. We heard stories of people who registered but were not on the voter rolls, along with other election administration failures, voter confusion and intimidation. In a state where a margin of 537 votes determined the outcome of a U.S. presidential election, each and any of these problems impacted electoral outcomes. After the dust cleared and the U.S. Supreme Court's ruling in *Bush v. Gore* settled the election results, we went to work to battle the systemic barriers voters of color faced in Florida, bringing half a dozen lawsuits over the

ensuing years, advocating with elections officials, and lobbying lawmakers. Advancement Project's voting rights work with our partners in Florida over the last 20 years showcases the range of systemic barriers to voting faced by communities of color and the genius and perseverance of our partners to fight for their rights in the courthouse, the statehouse, the streets and ultimately at the ballot box. The story of voting rights in Florida is a harbinger of voting rights in our nation and speaks compellingly for the need for Congress to take decisive action to protect the right to vote throughout the country.

Ever since the chaos of the 2000 presidential election, Florida has been ground zero in battles for access to the polls. After Congress passed the Help America Vote Act of 2002, ostensibly intended to streamline statewide voter registration systems,<sup>1</sup> Florida implemented rigid matching requirements for voter registration that could disenfranchise eligible voters based on a typo or other minor mismatch error. In 2006 and 2007, Florida's law disenfranchised tens of thousands of otherwise eligible voters, disproportionately Latinx, Haitian Americans, and African Americans.<sup>2</sup> During this period, 65 percent of the unmatched rejected applicants were either Latinx or African American, even though Latinx communities comprised only 15 percent of the applicant pool and African Americans only 13 percent of the pool. Of the rejected voter applicants, 39 percent were Latinx, and 26 percent were African American. On behalf of the Florida NAACP, the Haitian-American Grassroots Coalition, and the Southwest Voter Registration Education Project, along with co-counsel, we brought a federal lawsuit, *NAACP vs. Browning*. As a result, on the eve of the registration deadline, 16,000 unmatched voter applicants were added to the rolls, an amendment to the law that eased some of the burdens on voters was enacted, and considerable public attention to the issue was generated. This public attention and ensuing advocacy prompted dozens of supervisors of elections to act within their discretion to allow voters to correct errors and minimize the numbers turned away.<sup>3</sup> Over those years, our legal challenges to Florida's statutory burdens on voter registration, including the state's restrictive verification requirements, unnecessary requirements on voter registration forms, and burdensome regulation of voter registration drives, while receiving mixed results in court, were instrumental in spurring progressive legislative reforms.<sup>4</sup> Advancement Project targeted key counties – including Broward, Palm Beach, Miami-Dade, Hillsborough, Orange, Osceola, Volusia and Duval – to work closely with election administrators and local coalition partners to protect the rights of potential voters by improving poll worker training and resource distribution, as well as improving registration administration.

Some of those early 2000's reforms – like expansions in early voting and court injunctions allowing increased opportunities for voter registration – improved access to the ballot box. Voters, particularly voters of color, used early voting in high numbers in the 2008 elections. But then those measures came under attack, and in 2011 Florida lawmakers passed H.B. 1355 - legislation cutting early voting (and

<sup>1</sup> 42 U.S.C. § 15483(a)(5). See, Nat'l Comm'n on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process* 29 (2001).

<sup>2</sup> See *NAACP v. Browning*, 1163 F.3d 1153, 1176 (11<sup>th</sup> Cir. 2008).

<sup>3</sup> On Election Day in 2008, at least 29 of Florida's 67 counties – including Broward, Miami-Dade, Orange, and Pinellas – allowed voters to correct matching problems at the polls.

<sup>4</sup> From 2004-2008, Advancement Project represented voters in four lawsuits relating to voter registration in Florida: (1) *Diaz v. Cobb*, 475 F. Supp.2d 1270 (S.D. Fla. Feb. 27, 2007); 541 F. Supp.2d 1319 (S.D. Fla. 2008) (challenging the registration form's unnecessary check boxes and the burdensome registration correction deadlines; the claim against the checkbox was dismissed in 2007 and judgment was entered in favor of the state as to the other claim in 2008); (2) *League of Women Voters v. Cobb*, 447 F. Supp. 2d 1314 (S.D. Fla. 2006) (preliminarily enjoining enforcement of third party registration laws as unconstitutional); (3) *League of Women Voters v. Browning*, 575 F. Supp.2d 1298 (S.D. Fla. 2008) (refusing to preliminarily enjoin amended laws governing third party registrations); and (4) *NAACP v. Browning*, 523 F.3d 1153 (11<sup>th</sup> Cir. 2008) (challenging HAVA matching requirements).

eliminating the final Sunday before election day, when Souls to the Polls programs expanded African American voter turnout), placing onerous restrictions on third party voter registration efforts and creating additional hurdles for voters who had moved – measures that all had a disparate impact on voters of color.<sup>5</sup> The restrictions led some voter registration groups – including the League of Women Voters – to cease voter registration operations until the lawsuit was settled mere months before the 2012 elections. Social scientists concluded that H.B.1355's onerous voter registration restrictions lead to a precipitous drop in voter registrations leading into the 2012 elections, particularly among underrepresented populations.<sup>6</sup> The law's cuts to early voting led to long lines and massive wait times on Election Day that year – wait times that were two to three times longer in African American and Latino precincts than in white precincts.<sup>7</sup> We helped uplift the story of 102-year old Desiline Victor, a determined Haitian-American voter who was forced, due to unequal polling place resources, to wait more than three hours at her precinct to vote in 2012. Her tenacity and the barriers she faced were later highlighted by President Barak Obama in the 2013 State of the Union address, where he challenged the nation to make it easier to vote.<sup>8</sup>

Florida also employed yet another flawed data matching process when it used faulty and outdated motor vehicle and immigration databases as a proxy to remove non-citizens from the voter rolls in advance of the 2012 elections, a move that instead wrongly targeted thousands of eligible citizen voters – disproportionately voters of color – due to the databases' inaccuracies and problematic matching protocols. Nevertheless, the Secretary of State continued the program to purge voters, even within prohibited blackout dates. In 2012 we joined forces with LatinoJustice PRLDEF and other partners to bring suit to stop Florida's mass purge.<sup>9</sup> Our research found that 87 percent of the people on Florida's purge list were people of color and more than 50 percent were Latinx.<sup>10</sup> And this flawed program impacted more than those who were wrongly removed from the rolls – it spurred intimidation throughout entire communities that further chilled participation. Florida's Latinx and Haitian communities reported that they were afraid that police would show up at their homes, and go through their documents just because they had the audacity to register for the right to vote.

Keep in mind that all of this occurred *before* the U.S. Supreme Court gutted the preclearance provisions in the Voting Rights Act that had ensured protection for key jurisdictions in Florida covered under the preclearance mandate. Not only did the *Shelby v. Holder* decision open the door to discriminatory practices that would have been halted at the outset under the preclearance, but it made it more difficult to challenge such laws, placing the burden on already under-represented voters of color and their

<sup>5</sup> Herron, Michael C. and Daniel A. Smith, "Florida's 2012 General Election under HB 1355: Early Voting, Provisional Ballots, and Absentee Ballots," Executive Summary, <https://electionsmith.files.wordpress.com/2013/01/wv-pr-herron-smith.pdf> ("minority voters and African Americans in particular were most burdened in the 2012 General Election by recent legal changes in Florida's electoral environment.")

<sup>6</sup> Herron, Michael C., and Daniel A. Smith. "The Effects of House Bill 1355 on Voter Registration in Florida." *State Politics & Policy Quarterly*, vol. 13, no. 3, 2013, pp. 279–305. *JSTOR*, [www.jstor.org/stable/24711106](http://www.jstor.org/stable/24711106).

<sup>7</sup> Herron, Michael C., and Daniel A. Smith. "Race, Party, and the Consequences of Restricting Early Voting in Florida in the 2012 General Election." *Political Research Quarterly*, vol. 67, no. 3, 2014, pp. 646–665. *JSTOR*, [www.jstor.org/stable/24371899](http://www.jstor.org/stable/24371899). ("Florida's decision to truncate early voting may have diminished participation rates of those already least likely to vote")

<sup>8</sup> Carli Tepoff, "Woman who earned praise from Obama after waiting in line for hours to vote dies at 106," *Miami Herald*, Oct. 1 2017.

<sup>9</sup> *Arcia, et al. v. Florida Secretary of State*, No. 12-15738 (11th Cir. 2014)

<sup>10</sup> Advancement Project, "Segregating American Citizenship: Latino Voter Disenfranchisement in 2012," (Sept. 12, 2012), [https://b3cdn.net/advancement/18ff5be68ab53f752b\\_0tm6yjsj.pdf](https://b3cdn.net/advancement/18ff5be68ab53f752b_0tm6yjsj.pdf)

advocates. Since then, without the law's stopgaps, the burden has fallen even more heavily on impacted voters to challenge denials of their fundamental right to vote.

Through grassroots organizing, legal, legislative and electoral strategies and deep tenacity, groups have impacted access to democracy in Florida in meaningful ways. For more than a decade, Desmond Meade and the Florida Rights Restoration Coalition (FRRRC) have been working to dismantle Florida's draconian felony disenfranchisement law – leading to the historic passage in November of Amendment 4, the largest expansion of the state's electorate since Reconstruction. As far back as 2002 we were calling for restoration of voting rights for returning citizens in our report, *Re-enfranchisement: A Guide for Individual Restoration of Voting Rights in States that Permanently Disenfranchise Former Felons*. Advancement Project was the only national group invited to be a founding member of FRRRC and we've been working with FRRRC since its inception – when no one thought Florida's law could be changed.

Florida was among four states that permanently denied civil rights to every citizen with a felony conviction. Ten percent of the Florida's voting age population was excluded from voting – and one in five African Americans in the state was denied the vote. The vast majority of those barred from voting due to a criminal record are not incarcerated. They live, work, and pay taxes in our communities. In advance of the 2018 elections, we released *Democracy Disappeared*, research illustrating how Florida's law – a law born out of hostility to Reconstruction<sup>11</sup> – created a web of disempowerment for Florida's Black neighborhoods. The report showed how felony disenfranchisement silenced the voices of returning citizens and thwarted their ability to make change in their neighborhoods – neighborhoods that are disproportionately Black and/or poor when compared to the state average.<sup>12</sup> For returning citizens, democracy had truly disappeared. Now, with Amendment 4, it has the opportunity to rise.

The passage in November of Amendment 4 by nearly 65 percent of Florida's voters opened the doors of democracy to 1.4 million returning citizens in the state. But now these newfound rights are under attack by Florida lawmakers who just days ago, voted to undue the will of the voters – through legislation that would expand the law's exemptions and make it harder for returning citizens to be eligible to register to vote. Among other problematic measures, the legislation would continue the disenfranchisement of otherwise eligible returning citizens with outstanding costs, even if those fines, fees, and restitution obligations are reduced to a civil judgment and not part of the criminal case. The measure also places arduous administrative burdens on local election supervisors to individually check state, federal or outstate court records to determine whether an applicant has ever been convicted of a felony in any state or federal court, and if so, to verify whether the applicant has completed all terms of their sentence. At the time of submission of this testimony, lawmakers were poised to reconcile the legislation and send it to Governor DeSantis for his signature, laying the path for it to become effective on July 1, 2019. The fight for an inclusive democracy in Florida continues.

This past mid-term election cycle has shown us the power of communities of color. People of color turned out and were engaged. But we must not confuse that turnout to suggest that we have overcome voting barriers. The fact that some voters persevere to overcome barriers to voting doesn't mean that the

<sup>11</sup> Tim Elfrink, "The long, racist history of Florida's now-repealed ban on felons voting," Washington Post, Nov. 7, 2018, [https://www.washingtonpost.com/nation/2018/11/07/long-racist-history-floridas-now-repealed-ban-felons-voting/?utm\\_term=.324ae92847cb](https://www.washingtonpost.com/nation/2018/11/07/long-racist-history-floridas-now-repealed-ban-felons-voting/?utm_term=.324ae92847cb)

<sup>12</sup> Advancement Project, "Democracy Disappeared, How Florida Silences the Black Vote through Felony Disenfranchisement," (Oct. 2018), <https://advancementproject.org/democracydisappeared>

barriers are not unlawful.<sup>13</sup> Moreover, many voters are dissuaded by voter suppression. It was estimated that more than 200,000 Floridians did not vote in 2012 due to long lines resulting from cuts to early voting.<sup>14</sup>

Under the current administration, the Justice Department's political appointees have retreated on the Department's legal oversight of discriminatory voting laws – in some cases, even switching sides. They have fanned the flames of ignorance, fear, hate and racism by lying about voters of color, portraying Latinx and Black people as those who are not entitled to the franchise, but deserve investigations in “urban areas” and phony integrity panels instead.

These attacks show that Congress must take affirmative steps to protect the right to vote. The full protections of the Voting Rights Act are necessary to ensure that the promises of the Reconstruction Amendments are kept. One thing we learned in Florida in 2000 is that discriminatory voting measures and practices cannot be effectively challenged after the fact. A lost vote can never be reclaimed, and the collective legacy of these lost votes leaves a lasting scar on democracy for generations.

More than half a century after hard fought civil rights struggles lead to the passage of the Voting Rights Act, the urgency of that movement today could not be clearer. Communities of color are resisting all-out assaults on our lives, dignity and freedom on multiple fronts. Black and Brown people are fighting back against police brutality in our streets and in our schools. Our immigrant neighbors are profiled, criminalized, thrown in cages and kicked out of the country as if they were less than human. Amid these attacks on our humanity and our voice, we are fighting the same battle that the freedom fighters led during the civil rights movement. The attack on the right to vote continues – at stake is our very voice, and indeed our very dignity.

The *Shelby* decision emboldened these attacks on the right to vote - assaults designed to curtail the growing political power of voters of color as they emerge into the new American majority. Today nearly a third of eligible voters are voters of color, and those numbers are only growing – producing a backlash against the growing American electorate. Sometimes the courts see through the ruse, but in the post-*Shelby* world, the protections may be short lived.

We know most Americans believe that elections should be free, fair and accessible. Instead of being a partner in that work, the current administration fans unfounded fears of “voter fraud” in order to demonize the growing American majority. These efforts to delegitimize voters of color are paving the way for further restrictions on voting – and Florida's example over the last 20 years shows how dangerous these are. Without the preclearance provisions in the Voting Rights Act that were gutted by the *Shelby* ruling, and without explicit protection for the Right to Vote in the U.S. Constitution, voting still largely remains the province of state and local election authorities, where it is more vulnerable to attack by politicians and courts – as we are seeing right now in the Florida legislature. The Supreme Court's gutting of the Voting Rights Act in *Shelby* - and the ensuing decisions in its wake - makes challenging these laws' discriminatory effects more difficult.

<sup>13</sup> Polling conducted in advance of the 2018 elections by Advancement Project in collaboration with the NAACP and African American Research Collaborative showed that voters of color were driven to vote by widespread attacks on people of color and their access to democracy. <https://www.africanamericanresearch.us/survey-results>

<sup>14</sup> Scott Powers and David Damron, “Analysis: 201,000 in Florida didn't vote because of long lines,” *Orlando Sentinel*, Jan. 29, 2013, <https://www.orlandosentinel.com/business/os-xpm-2013-01-29-os-voter-lines-statewide-20130118-story.html>

Thank you Congresswoman Fudge and members of the committee for holding these hearings. It is time for Congress to act by reinstating the pre-clearance provisions of the Voting Rights Act. Moreover, we must enshrine an explicit Right to Vote at the federal level. Legal protection for voters is needed now more than ever, both to safeguard hard-fought progress and to defeat persistent and ongoing attempts to narrow the franchise.

Chairwoman FUDGE. Thank you.  
Mr. Churchwell, you are recognized, sir.

#### STATEMENT OF LOGAN CHURCHWELL

Mr. CHURCHWELL. Chairwoman Fudge, Members of the Subcommittee, thank you very much for this invitation to participate in today's hearing. My name is Logan Churchwell. I am the Communications director for the Public Interest Legal Foundation, a nonprofit law firm dedicated to election integrity.

I would first like to thank this body for holding discussions about the Voting Rights Act of 1965 around the Nation. The current protections of the VRA are a success story that has done a tremendous job in eliminating racial discrimination in voting. Section 2 has proven to be an effective tool to combat barriers to the ballot box and protect the ability to elect representatives of choice. Because of the VRA, it has never been easier to register and vote than it is in America in 2019.

Contrary to assertions without evidence by some, the VRA was not gutted by the Supreme Court in 2013. Activists and political candidates campaigning on reinstating the law are fearmongering, fundraising, or both. 2019 is not 1965. The heavy hand of Federal micromanagement in State election law was justified in 1965. It is not in 2019.

The VRA was originally designed to operate on two tracks. First, the law empowers the Justice Department to provide parties to challenge States' procedures on the basis they were enacted with a racially discriminatory intent or had racial discriminatory effects.

Second, the preclearance provisions in 1965 were an extraordinary exercise of Federal power that required approval of any election change in jurisdictions with deep histories of racially discriminatory behavior. Preclearance obligations were, in part, Constitutional because they had an expiration date. Congress continued to expand the power beyond its Constitutional shelf life, however.

Unfortunately, preclearance power became a power that was abused. From South Carolina voter ID to Georgia redistricting, Justice Department lawyers exercised powers they did not possess by blocking States' laws that were neither discriminatory in purpose or effect.

Section 5 in 2006 also flipped evidentiary burdens on subject jurisdictions to prove they were not discriminatory with each procedural reform. This concept of guilty until proven innocent is inherently un-American, and the Supreme Court took note of it in *Shelby County v. Holder*.

Whether the old preclearance regime can fully be credited for the actual progress made in creating a more just voting system, history will show that the program had a proper time and place, and that time has passed. I contend to this body and the general public that trying to resuscitate 20th century style preclearance will prove an inefficient use of Federal resources and will always be at least one step behind emerging population and demographic trends.

Targeted affirmative enforcement of the VRA is the way of the future. Perhaps the American people need a reminder of the tools available under the law. Section 2 can be used to confront almost any discriminatory hurdle in its wake, from classic poll taxes to

vote diluting maps and even tribal lineage tests on voter participation. This section can help any affected eligible voter anywhere.

Section 11(b) addresses efforts to intimidate or coerce voters. Some elements of the law can protect those that are in need of bilingual ballots in election administration, and finally, preclearance is still possibly where it is needed.

For those arguing that affirmative enforcement of the VRA is too slow, they need to take a closer look at the case record provided by the DOJ. The lull in actions became apparent during the Obama administration but well before Shelby County. The DOJ sat largely dormant for 8 years, barely enforcing Section 2. It is reasonable for any fair-minded person to infer that if the Department did not bring very many cases under the Voting Rights Act, that not many cases of racial discrimination must have existed.

Worse, based upon several reviews of the DOJ, the voting section hardly seems—as we know it today, the voting section hardly seems the proper place to vest so much extraordinary power. Section 5 lends itself to abuses of power, and the unit in charge of enforcement has exhibited rank ideological bias in the recent years.

It is crucial that the Trump administration set a tone for what litigation-based enforcement of the Voting Rights Act will look like. But without some cultural shifts within the DOJ, enforcement will remain stagnant. If preclearance is returned, it will certainly again become abusive.

We offer a simple, yet potentially substantial conversation starter for how the Trump DOJ can modernize enforcement of the VRA, and it probably won't even require an act of Congress.

Decades of preclearance no doubt served to physically cloister Federal attorneys and staff, sometimes thousands of miles from the civil rights fires they were entrusted to douse. The administration should seriously consider breaking up and physically scattering the Federal voting rights monitors on a permanent basis so they can better embed within their communities. Physical presence can carry a whole new outlook on civil law enforcement that improves both monitoring and responses to emerging threats.

We are doing our Nation a disservice if we let nostalgic laments for the old preclearance system cloud our ability to innovate civil rights strategies going forward. Know this: If too many voices claim the Voting Rights Act is gutted, bad actors will always find a way to take advantage.

I thank you for this invitation to testify and submit the remainder of my remarks for the record.

[The statement of Mr. Churchwell follows:]

# **PUBLIC INTEREST**

—— LEGAL FOUNDATION ——

**Testimony of  
Logan C. Churchwell**

**Before the United States House Committee on  
Administration**

**Subcommittee on Elections**

**“Voting Rights and Election Administration in  
Florida”**

**May 6, 2019**

Logan C. Churchwell  
Communications and Research Director  
Public Interest Legal Foundation  
32 E. Washington Street, Suite 1675  
Indianapolis, Indiana  
[lchurchwell@publicinterestlegal.org](mailto:lchurchwell@publicinterestlegal.org)

Chairpersons Lofgren and Fudge, Ranking Member Davis, and Members of the Committee, thank you for the invitation to participate in today's hearing.

My name is Logan Churchwell. I am the Communication and Research Director for the Public Interest Legal Foundation, a non-partisan, nonprofit law firm dedicated to election integrity.

I would first like to sincerely thank this body for not only holding discussions in Washington, D.C. about voting issues and the Voting Rights Act of 1965 – but doing so around the nation. The current protections of the Voting Rights Act (“VRA”) are a success story that has done a tremendous job in eliminating racial discrimination in voting.

Section 2 of the Voting Rights Act has proven to be an extremely effective tool to combat barriers to the ballot box and the ability to elect representatives of choice. When properly used, the VRA can be leveraged as a force for good.

Because of the Voting Rights Act, it has never been easier to register to vote and vote as it is in America in 2019.

Contrary to the assertions without evidence by some, the VRA was not “gutted” by the Supreme Court in 2013. Activists and political candidates campaigning on “reinstating” the law are fearmongering, fundraising, or both. 2019 is not 1965. The heavy hand of federal micromanagement of state election law was justified in 1965. It is not in 2019.

The VRA was originally designed to be operated on two tracks. First, the law empowered the Justice Department and private parties to challenge state election procedures and statutes on the basis they were enacted with a racially discriminatory intent or had racially discriminatory effects. Second, the VRA's preclearance provisions in 1965 were an extraordinary exercise of federal power that required approval of any election change in jurisdictions with deep histories of

racially discriminatory behavior. Preclearance obligations were, in part, constitutional because they had an expiration date. This Congress, however, continued to extend the power beyond the provision's constitutional shelf-life.

Unfortunately, the preclearance power became a power that was abused. From South Carolina voter ID to Georgia redistricting, Justice Department lawyers exercised powers that they did not possess by blocking states laws that were neither discriminatory in purpose or effect, and in some cases, courts handed down sanctions.

Section 5 also flipped evidentiary burdens on subject jurisdictions to prove *they were not discriminatory* with each procedural reform. This concept of *guilty until proven innocent* was inherently un-American and the Supreme Court took note of this unprecedented burden shift when it struck down Section 4's triggers in *Shelby County v. Holder*.

Whether or not the old preclearance regime can be fully credited for the actual progress made in creating a more just voting system – history will show that the program had a proper time and place – and that time has passed. I contend to this body and the general public that trying to resuscitate the concept of 20<sup>th</sup> Century-style preclearance will prove an inefficient use of federal resources and will always be at least one step behind emerging population and demographic trends. While the framers of the VRA were certainly prescient, it is doubtful they could've predicted international migration trends where their country was on track to absorb nearly a million people crossing illegally between ports of entry in a single year.<sup>1</sup>

Targeted, affirmative enforcement of the VRA is the way of the future. Perhaps the American people need a reminder of the tools available under the law. Section 2 can be used to confront almost any discriminatory hurdle in its wake. From classic poll taxes to vote diluting

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<sup>1</sup> *The Washington Post*; Nielsen says Homeland Security is on track to detain 900,000 migrants this fiscal year (March 6, 2019)

maps and even tribal lineage tests on voter participation<sup>2</sup>, this Section can help any affected eligible voter anywhere. Section 11(B) addresses efforts to intimidate or coerce voters, whether they are Klan, New Black Panther, or designs from any other group or individual. Some elements of the law can protect voters in need of bilingual ballots and election administration, based on local demographic trends. Finally, preclearance is still a possibility. If a jurisdiction's actions warranted it, Section 3 would bail that locale back under administrative review.

For those arguing that affirmative enforcement of the VRA is too slow or hard to keep track of emerging threats, they need to take a closer look at the case record provided by the DOJ. The lull in actions became apparent during the Obama Administration, but well before *Shelby County*. Simply, apart from one or two high profile, headline-earning lawsuits in Texas and North Carolina, the DOJ sat largely dormant for eight years, barely enforcing Section 2. It's reasonable for any fair-minded person to infer that if the Department did not bring very many cases under the Voting Rights Act, then not very many cases of racial discrimination must have existed. Worse, based upon several internal and external governmental reviews of the DOJ<sup>3</sup>, the Department's Voting Section hardly seems the proper place to vest so much extraordinary power. Simply, Section 5 lends itself to abuse of power, and the unit in charge of enforcement has exhibited rank ideological bias in its proven abuses.

It is crucial that the Trump Administration set a tone for what litigation-based enforcement of the Voting Rights Act will look like for the generations to come. But without some cultural shifts within the DOJ itself, said enforcement will remain stagnant, and if Section

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<sup>2</sup> *Davis v. Guam* No. 17-15719

<sup>3</sup> DOJ-OLA letter to Rep. James F. Sensenbrenner dated April 12, 2006  
<https://www.scribd.com/document/48673021/2006-0412-Ltr-to-House-of-Rep-re-Voting-Rights-Act-Procedures>  
 See also: DOJ-OIG; A Review of the Operations of the Voting Section of the Civil Rights Division (March 2013),  
<https://oig.justice.gov/reports/2013/s1303.pdf>

5 is renewed, will certainly again become abusive. Courts have noted the improper relationship between the Voting Section and private third parties. They have fallen behind historic trends in bringing litigation under non-preclearance sections of the Voting Rights Act. The parent Civil Rights Division paid out \$4.1 million in fees and court costs after bringing faulty actions from 1993 to 2000 (half belonging to the Voting Section alone).<sup>4</sup>

Under the previous administration, the Voting Section led from behind – and the litigation record clearly proves it.

We offer a simple yet potentially substantial conversation starter for how the Trump DOJ can modernize enforcement of the VRA – and it probably won't even require an act of Congress. Decades of preclearance no doubt served to physically cloister the federal attorneys and staff in Washington – sometimes thousands of miles from the civil rights fires they were entrusted to douse. The Trump Administration should seriously consider breaking up and physically scattering these federal voting rights monitors on a permanent basis as they do with the Community Relations Service of the Civil Rights Division, so they can better embed within their communities. Physical, real-time presence can carry with it a whole new outlook on civil law enforcement that improves both monitoring and responses to emerging threats.

We are doing our nation a disservice if we let nostalgic laments cloud our ability to innovate civil rights strategies. Know this: if too many voices claim that the Voting Rights Act of 1965 is "gutted," bad actors will find ways to take advantage of that mindset.

Thank you for the invitation to testify.

Respectfully submitted,

Logan C. Churchwell

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<sup>4</sup> See note 3

Chairwoman FUDGE. Thank you very much.

Mr. Butterfield, you are recognized for five minutes.

Mr. BUTTERFIELD. Thank you very much, Madam Chairwoman.

Mr. Churchwell, let me just address one or two questions to you, and perhaps I may have a little time left when I can get to the other witnesses. But in any event, I thank all you for your testimony today.

You seemed to suggest that we should continue with full enforcement of Section 2 but not have the benefit of Section 5 as we know it. Is that correct?

Mr. CHURCHWELL. Yes, it is, Congressman.

Mr. BUTTERFIELD. Tell me, if you know, the expense associated with Section 2 litigation. Is it not a very, very expensive thing to litigate a Section 2 claim in Federal court?

Mr. CHURCHWELL. Congressman, any litigation can become expensive, but the greater question we need to ask here is let's take a look at the expenses over the lifetime of preclearance and look at the record held by the Justice Department.

Mr. BUTTERFIELD. I am talking about plaintiffs' litigation expense, private plaintiffs.

Mr. CHURCHWELL. Every year that passes, you see a new organization coming up trying to stand for voting rights. We have seen quite a growth in that area. That sector is growing quite immensely. The question that we need to answer here, though, is from the Federal perspective, was it more efficient with the data that we have today—

Mr. BUTTERFIELD. You are talking about the efficient use of Federal resources. I am talking about the efficient use of private resources. Would you stipulate that a Section 2 voting rights claim in today's dollars costs more than a million dollars to fully litigate through the trial division? Would you stipulate to that?

Mr. CHURCHWELL. Sure.

Mr. BUTTERFIELD. It is very expensive and if a jurisdiction were to move a polling site away from a minority community, move it into an unfriendly community, making it more difficult and more challenging for minority citizens to vote at that polling site, that is a change that would be covered by Section 5. It would have to be approved before it happened. But without Section 5, the only remedy you are suggesting for that community would be to file a million dollar Section 2 lawsuit.

Don't you think we need some type of oversight from the Federal Government to make sure that local jurisdictions do not engage in very subtle acts of voter suppression?

Mr. CHURCHWELL. Well, Congressman, I think we would find multiple levels of agreement if we were to consider all of the data. Particularly, you raise the issue of polling place relocations. The DOJ record for the lifetime of preclearance for every jurisdiction that was under Section 4 at one point or another, polling place relocations were the largest category of submissions to the Justice Department for approval. And more than 99.6 percent of all those submissions before Justice were approved.

If you look at it from purely an enforcement question of are we dedicating our resources in the hottest places necessary, most of

the preclearance issues that were ever considered were polling place issues——

Mr. BUTTERFIELD. Annexations——

Mr. CHURCHWELL [continuing]. And they were approved.

Mr. BUTTERFIELD. Annexations are included in preclearance.

Mr. CHURCHWELL. Category 2.

Mr. BUTTERFIELD. And that is a big deal in my State. I don't know about Florida, but I can tell you, DOJ prevented many annexations that would have otherwise submerged African-American communities.

Mr. CHURCHWELL. And that annexation issue, also tracking less than 1 percent of all objections. We are talking about a large volume of submissions before Justice Department that, if you look at the record, it looks like DOJ was rubber-stamping 99 percent of all of these submissions to them. The question I would ask all of you——

Mr. BUTTERFIELD. But, sir, I have had 30 years or more of involvement with the voting section of the Department of Justice, and those men and women who comprise the voting section were world-class litigators. The Legal Defense Fund and the other civil rights groups have been world-class litigators. And it has not been a waste of resources.

Have there been Section 2 claims in Florida since the *Shelby County* decision? Since June of 2013, any Section 2 cases?

Mr. CHURCHWELL. Not from the Obama or the Trump department.

Mr. BUTTERFIELD. No, private plaintiffs, private plaintiffs. Have there been any private plaintiffs who have sued under Section 2 since *Shelby County*?

Mr. CHURCHWELL. I believe we have heard testimony to that effect, yes.

Mr. BUTTERFIELD. And are you personally aware of any?

Mr. CHURCHWELL. Yes, over the minority language issues.

Mr. BUTTERFIELD. Have any of those Section 2 claims been successful?

Mr. CHURCHWELL. It is my understanding the litigation is ongoing.

Mr. BUTTERFIELD. And do you know the millions of dollars that are being expended every day to try to get those cases resolved?

Mr. CHURCHWELL. My question is why didn't the Obama Justice Department——

Mr. BUTTERFIELD. No, my question is to you, Mr. Churchwell, and not you to this panel.

I yield back, Madam Chairwoman.

Chairwoman FUDGE. Mr. Loudermilk, you are recognized for 5 minutes.

Mr. LOUDERMILK. Well, thank you, Madam Chairwoman. I appreciate that.

We have heard a lot of testimony on a lot of different issues, and, clearly, there has been voter irregularities here in Florida, as there is across the Nation, because we are human and we do err. The question is, structurally or in the lack of oversight, are these intentional? Are they for human error, as we have already had someone

on the previous panel suggest that 70 percent of what they have seen is because of human error?

More importantly, of those that are questionable that they could be intentional, what is the best way of addressing those issues? And as we had also heard, that even here in Florida, communities are different.

And so, as I said earlier, I am encouraged that there are actually—the State is taking action to correct some of these on a bipartisan basis.

Something else that has resonated with me is the people of Florida have voted to restore rights to felons who have served their sentence. And the only reason I bring this up is this is very important, because this Presidential administration and Republicans in Congress have led the effort on judicial reform. We have to decide, as a people, who are we afraid of versus who we are mad at.

We are going and taking those that we were just mad at for one reason or another, and we are allowing them—we are reducing their sentences, we are putting them back into society, and we have to decide. It is something that the communities, each community, each State is deciding, as Florida has taken it up, of what rights do we restore. Do we restore all their Constitutional rights once they have served their sentence? And I think that is something that I applaud the State of Florida for doing.

However, a lot of what we are talking about are things that appear to be mostly at the State level that States are rectifying. We are a democratic republic, and the will of the people under the Constitution is served.

However, the purpose of these hearings are dealing with the Voting Rights Act. And so I appreciate, Mr. Churchwell, you focusing in on that issue. And I have a couple questions for you.

Since the Supreme Court 2013 holding in *Shelby County*, what have the enforcement trends of the Voting Rights Sections 2 and 3 been like, and what do those trends tell us?

Mr. CHURCHWELL. Well, there has been a drop-off, and, like I mentioned in my prior testimony, that drop-off began before Shelby. And the issue that we would raise here is that we began relying a bit too much on preclearance despite the outdated coverage map. And the data from the Justice Department proves that, and it proves it well before 2013.

Because let's get some context here. A lot of people hear about preclearance and they realize that the Justice Department had essentially an administrative veto over so many State and local jurisdictions. And you think, well, there must have been a very good reason for that. And in the 1960s there was, and the Nation acted out of an abundance of caution to that effect.

But when you look at the data itself, it appears, based on the enforcement, that too much was being reviewed by the Federal Government; resources were being redirected. And instead of the Justice Department being able to chase down that bad city council district map or any other kind of qualification for voter registration, they were instead more likely sweating the relocation of the polling place from the Methodist church to the Baptist church next-door.

Because let me just give you some numbers. In the lifetime of preclearance, 129,000 times DOJ was asked to review a polling

place change. They objected to only 83 of those for the entire lifetime.

Congressman, you mentioned annexation before. 113,500 annexation schemes; only 1 percent of those were objected to.

Precinct boundary changes was the third-largest category: 73,000 precinct changes reviewed over the lifetime of preclearance; 0.08 percent of those were objected to.

So the more important question here is, was preclearance focusing on the correct amount of issues to review? And was the map up to date over the years? And whenever you are showing 99 percent approval rates, we have to essentially recheck our nets and figure out if we are focusing our Federal efforts in the appropriate areas.

Mr. LOUDERMILK. Okay. I appreciate that.

As we probably don't have time to get into the other questions and I know that we want to stay on track here, I will submit the remaining questions for the record, and I yield back my time.

[The information follows:]

Chairwoman FUDGE. Thank you very much.

Mr. Aguilar.

Mr. AGUILAR. Thank you, Madam Chairwoman.

I, too, like my colleagues, applaud the residents of Florida for voting overwhelmingly in favor of restoring voting rights to individuals so they are not judged, as the mayor said in the previous panel, by their worst day.

The question for Florida policymakers that is of interest to this panel is: Why undo that mandate that the voters have given, which they did on Friday?

You know, we agree, as my colleague mentioned, that there are irregularities at times, but based on the testimony and based on what we are hearing, those irregularities are looking a lot like systemic voter suppression efforts.

My question for Mr. Cartagena and Ms. Browne Dianis is, you know, specific to the purge rate here in Florida. According to the Brennan Center for Justice, the rate of voter purges 10 years ago was 0.2 percent. Between December of 2016 and September 2018, a similar 2-year window, that voter purge rate was 7 percent.

Can you describe the litigation that has taken place over the past few years? And can you tell us why the purge rate has increased so significantly over the past decade?

Mr. CARTAGENA. Thank you, Representative Aguilar.

I am going to yield more of the details to my colleague, Judith Browne Dianis, on the details of the actual purge. Both of our organizations litigated *Arcia v. Detzner*, which is one of the challenges to the use of the alleged noncitizen purge that occurred in violation of the National Voter Registration Act. That went up to the 11th Circuit, and we won before the 11th Circuit.

Effectively, at that time, which is the purge before the 2012 election, the State of Florida sought to systemically purge people for alleged nonvoting based on old databases that were not in effect, that could not even prove at the time of actual purge that people were not naturalized citizens. In fact, many of them were.

But with respect to the issues of the 7 percent purge today versus 2 percent before, or less than 2 percent before, I will yield to Ms. Browne Dianis.

Ms. BROWNE DIANIS. Thank you.

What we are seeing happening across the country and in Florida is a push to move more people off the rolls. This push is—you know, as we talk about the Justice Department Civil Rights Division Voting Rights Section, their work has shifted to suing States over purging, wanting to get them to purge. They are working hand-in-hand with their friends in the conservative legal community, including the Public Interest Legal Foundation, the American Civil Rights Union, and Judicial Watch, making sure that States, instead of increasing access to the ballot, making sure that they are taking people off the rolls.

So, here in Florida, what we are seeing is that same kind of move, making sure they are being sued by organizations like Mr. Churchwell's to make sure that they are taking people off the rolls.

Our problem with that—and, yes, to Congressman Loudermilk's point—is that the National Voter Registration Act has provisions in it for list maintenance. The problem is that the State of Florida has shown time and time again that they cannot be trusted to do it in a way that does not disproportionately impact people of color.

We believe that that is intentional in the way that it is being done, using flawed databases, inaccurate information, going after so-called noncitizens, like they did in the case that we did with Latino Justice, finding that, actually, there were people that are citizens, there were veterans that were on that list, and that they didn't care about the fact that they were going to sweep up other people in what was an unlawful purge.

Mr. AGUILAR. Mr. Cartagena—

Mr. CHURCHWELL. Chairwoman Fudge, may I respond to that very briefly?

Chairwoman FUDGE. You may not.

Mr. AGUILAR. This is my time, Mr. Churchwell. Apologies.

Mr. Cartagena, can you talk specifically about the barriers that Puerto Ricans face with respect to language assistance and voting here in Florida?

Mr. CARTAGENA. No question. Thank you very much for that question.

So, effectively, you are looking at a population that, on the island of Puerto Rico, is roughly about 65 percent Spanish dominance. Everything happens in Spanish in Puerto Rico; all government proceedings happen in Spanish in Puerto Rico. A very, very active elective in Puerto Rico. Turnout in Puerto Rico elections is upwards of 80 percent—things that are almost unheard of within the 50 States of the United States.

That is due to a lot of factors, including the fact that in Puerto Rico elections are held only—consolidated all the elections on one cycle, and it is a national holiday. It is a holiday where people vote and take it seriously.

To take it seriously in the United States, the same population that moves to the United States expects and only asks that Federal law be complied with. Federal law, as I mentioned before, since 1965, clearly states—and this is Section 4(e)—that the right to vote

for Puerto Ricans educated there cannot be conditioned on knowledge of the English language.

So the first barriers are, you looking at a population that is coming both to Florida and to other States throughout the South, the deep South, as a way to evacuate from very, very onerous conditions on the island of Puerto Rico, and they are finding themselves, when they are finally able to exercise a decision about what is happening locally—do they want to say “yes” to that local official who helped them with housing? Do they want to say “no” or use their vote against a local official who didn’t help them with enrolling their children into public schools? That is the kind of simple civic engagement that many people in this country cherish. They find themselves unable to effectively and fully file an effective vote because of mostly issues around language assistance.

Mr. AGUILAR. Thank you so much. I appreciate it.

Mr. CARTAGENA. Sure.

Mr. AGUILAR. My time has expired, Madam Chairwoman.

Chairwoman FUDGE. Thank you.

Mr. Hastings.

Mr. HASTINGS. Thank you very much, Madam Chairwoman.

Ms. Wilkerson, what I am about to say is just self-serving. I was the second male member of the League of Women Voters here in Broward County.

Ms. WILKERSON. [Inaudible.]

Mr. HASTINGS. Right. That is great. Nowadays. But in those days, Don and I were the only two. It was kind of interesting.

Ms. Dianis, I can’t say enough about thanking you for the extraordinary work that the Advancement Project does and has been doing. And it is good to learn about Mr. Cartagena’s work as well.

Mr. Churchwell, you mentioned that there are emerging threats. And in your written testimony, you raised that several times. Can you tell me, what exactly are these emerging threats?

Mr. CHURCHWELL. I would be happy to share a most recent one. There is a case called *Davis v. Guam*, Guam being in the Ninth Circuit. In essence, a retired military officer living on Guam wished to register to vote in time for a plebiscite election to determine what was Guam’s status going to be with the United States going forward. He was told: No, you cannot register to vote because of your Tribal lineage. You have none. You do not have Chamorro blood. You cannot participate in this election.

It is examples like that—and I will grant you that there are not many of these. But here we are today where we need to remind ourselves that the Voting Rights Act was meant to protect everyone. And even the United States, even in the Ninth Circuit, a case like that can be generated and find for Mr. Davis at the Ninth Circuit.

Mr. HASTINGS. Let me ask you, do you consider it discriminatory—and you have said that in Section 2 almost any discriminatory hurdle can be overcome.

How would Section 2 help a young man that has been in prison for 6 years, and he gets out of jail and he becomes, as my colleagues have said, a good citizen, and he wants to register to vote now, and his fines are \$10,000. And we don’t even know an assess-

ment of the court costs, because there was no record of the court costs.

How does Section 2 help him overcome that? And is that a discriminatory hurdle?

Mr. CHURCHWELL. It is a question that looks like it is going to be asked very soon within the Federal district courts. We have heard discussions about that at this panel and in the news media. So that question will be answered.

But let me add to that to say, look, the Florida legislature had three jobs to do. It could not just say, "Okay, the amendment passed. Supervisor of Elections, you all figure it out from there." Because you would have had supervisors acting differently in different counties.

Mr. HASTINGS. Uh-huh.

Mr. CHURCHWELL. They had three jobs to do. First was answer the question of what does it take to become square with the House. Now we have the Senate and the House reporting out a bill. Some people like it, some people don't, but that process is ongoing.

Job number two was to determine what were we talking about in the amendment language when we talked about violent and sexual crimes.

And job number three was, to the Supervisors of Elections, what do they do in the actual paperwork, the handling of a voter registrant that might have a felony record behind him but wants to register to vote now.

Mr. HASTINGS. Do you think the Florida legislature's actions last week have overcome all of those three matters?

Mr. CHURCHWELL. There is definitely a question hanging on that. However—

Mr. HASTINGS. You got that right.

Mr. CHURCHWELL [continuing]. Two out of three jobs—

Mr. HASTINGS. Let me reclaim my time.

Listen, I am 82 years old, and I am a native Floridian, and I am here to tell you, I have lived in a preclearance situation. If it had not been for Section 5, G.K. Butterfield and Marcia Fudge and I would not be sitting here in the United States Congress. Let's just start with that.

Third, please know that discrimination continues. You are looking at a person that filed the original school desegregation case in this county where we are right now. And just—

Mr. CHURCHWELL. Thank you for your service.

Mr. HASTINGS. And just to listen to the kinds of things that are coming out from my Florida legislature is extremely disturbing because they are, in fact, discriminatory.

We have self-executing constitutional amendments in this State, three of them, and there is nothing that suggests that this could not have been the case.

The voters spoke, and the legislature spoke against the voters. And you tell them I said so.

I yield back my time.

Chairwoman FUDGE. Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Madam Chairwoman.

I would like to ask unanimous consent to enter into the record an article that specifically describes the horrendous voter suppres-

sion, point by point, over the last number of years, particularly beginning with the term of former Governor Rick Scott.

Chairwoman FUDGE. Without objection, so ordered.

[The information follows:]



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### THE BUZZ

## Rick Scott has made enemies over voting rights during the last eight years

The courts have repeatedly ruled against Florida in voting cases, including the recent decision by U.S. District Judge Mark Walker, who ordered Scott to create a new process to restore felons' voting rights.

By **Steve Bousquet**

Apr. 18, 2018



Voters will decide if Gov. Rick Scott becomes a U.S. senator, and no issue in his time in office has produced more controversy than voting.

In the nation's largest swing state, Scott's actions on voting have angered county election supervisors, the League of Women Voters, college students and federal judges, one of whom recently dismantled Florida's system of restoring voting rights to convicted felons.

The courts have repeatedly ruled against Florida in voting cases, including the recent decision by U.S. District Judge Mark Walker, who ordered Scott to create a new process to restore felons' voting rights.

Rather than comply, Scott called the judge's actions "reckless" and is appealing.

"I served under five governors," said retired supervisor of elections Ion Sancho, a former Democrat turned independent, who held office for 28 years in Tallahassee until 2016. "This is the most self-serving and partisan governor that I ever served with in the field of elections."

Scott's voting controversies spanned his eight years in office.

- The state ordered Pinellas County in 2013 to stop the use of remote sites as a convenience for voters to submit mail ballots, but Supervisor of Elections Deborah Clark defied the order and the state backed down.
- Scott's Division of Elections blocked a request by the city of Gainesville to use the student union at UF as an early voting site in 2014, saying it was not a government-owned community center. The site was not used.
- Judge Walker in 2016 struck down a state law that rejected mail ballots if a voter's signature on the ballot envelope did not match a signature on file. In a state with millions of older voters, the judge said the rule "categorically disenfranchised thousands of voters." They can now update their signatures.
- Scott refused to extend the voter registration deadline in 2016 after ordering evacuations due to Hurricane Matthew. The Democratic Party filed suit and won a six-day extension.

The judge in that case also was Walker, who called Scott's logic "poppycock" and said: "No right is more precious than having a voice in our elections."

Under Scott, Florida had the longest lines at early voting sites of any state, creating indelible images of obstacles to voting in 2012, the year President Barack Obama won re-election.

That was a year after Scott signed the Legislature's notorious House Bill 1355 that created new barriers to registering voters and curtailed early voting times.

It also ended early voting on the Sunday before Election Day, a practice known as "souls to the polls" that helped churches mobilize African-Americans, who support Democrats.

The historically long lines made a minor celebrity of Deseline Victor, a 102-year-old woman who stood under a sweltering Miami sun for three hours to vote.

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Facing harsh criticism, Scott and the Legislature reversed course a year later by expanding early voting hours and locations and restoring optional early voting on the Sunday before Election Day.

Scott praised lawmakers for approving his call to make voting "more efficient, convenient and accessible."

A spokesman for Scott said he has made Florida "one of the most voter-friendly states in the nation."

McKinley Lewis cited Scott's support for a new online voter registration option, a new law allowing Florida to share voting data with other states to reduce possible fraud and federal money to improve security of a statewide voter database.

Seminole County Supervisor of Elections Mike Ertel said a new governor doesn't have all the answers.

"So while Gov. Scott and I have not always agreed on elections-related issues, he has always been willing to listen, and after input, has often massaged his mind set to align with Florida's elections administrators," said Ertel, who disagreed with Scott's initial reluctance to let voters register online.

As Scott embarks on a U.S. Senate race, he faces a new voting controversy. He'll share the ballot with a proposal embraced by nearly a million Floridians who signed petitions to restore the right to vote to felons who have served their time, except for murderers or sex offenders. Scott said the proposal is "for each voter to decide on."

A recent poll by Quinnipiac University showed that 67 percent of Florida voters support the change.

"Scott is mired in the past," said Howard Simon of the American Civil Liberties Union, a leading supporter of the ballot initiative. "The ground is shifting out from under him."

Weeks after taking office in 2011, Scott eliminated a streamlined system of restoring voting rights to ex-felons that allowed most to regain the right to vote without formal hearings.

In its place, Scott and the Cabinet imposed a minimum five-year waiting period to apply for clemency.

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"What compelling government interest is served by felon disenfranchisement?" conservative columnist George F. Will wrote this month. "This is not a legitimate objective for elected officials to pursue."

An estimated 1.5 million people with felony convictions are permanently disenfranchised in Florida, more than 10 percent of the state's registered voters.

The recent felons voting case was not the first time Scott's actions on voting were struck down by federal courts.

A judge ruled in 2012 that the state could not slap heavy fines on groups that register voters if they failed to turn in registration forms within 48 hours.

In addition, an attempt in 2012 to purge non-citizens from the rolls violated federal law because it occurred less than 90 days before a statewide election when such removals are barred, a federal appeals court ruled.

Two women voters in Miami-Dade, both naturalized U.S. citizens, were shocked to see their names on a purge list.

#### **RICK SCOTT'S RECORD ON VOTING: A TIMELINE**

2011: Leads effort to require minimum five-year waiting period for felons to apply for restoration of voting rights.

2012: Criticized by U.S. District Judge Robert Hinkle for signing a law that made it harder to register voters.

2013: State issues directive banning use of remote drop-off sites for mail ballots but backs down amid opposition.

2014: Opposes use of Reitz Student Union at University of Florida as early voting site in Gainesville city election.

2016: Rebuked by U.S. District Judge Mark Walker for refusing to extend voter registration deadline during Hurricane Matthew, which required a mass evacuation.

2018: Ordered by Walker to scrap "fatally flawed" system of restoring voting rights to felons; state appeals.

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Source: Times/Herald research

**Steve Bousquet** @SteveBousquet  
✉ bousquet@tampabay.com  
Times Tallahassee bureau chief

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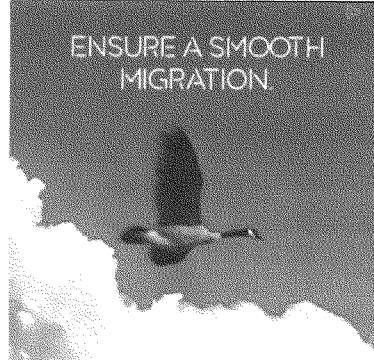
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A more active governor, a more conservative Supreme Court and transactional new leaders in the House and Senate led to a wave of successes. Oh, and where were the Democrats?

### Florida Legislature approves Amendment 4 bill that creates hurdles for voting felons

Democratic lawmakers begged Gov. Ron DeSantis to veto the bill.

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Ms. WASSERMAN SCHULTZ. Thank you.

I would also like to just address Mr. Churchwell, not with a question but a statement.

The Florida legislature had one job, not three, and the one job was for Florida to follow the amendment for plain language and not read between the lines, overinterpret it, and simply allow what the amendment required, which was self-execution, to ensure that voters' will was implemented and allow people who were former felons who had completed their sentences to register to vote.

Mr. HASTINGS. Hear, hear.

Ms. WASSERMAN SCHULTZ. Period. One job, not three.

That having been said, Ms. Browne Dianis, I want to switch to a different subject that we haven't really touched on. Florida is one of more than 40 States that requires citizens to register well in advance of election day, before many voters become truly engaged.

And research shows that allowing same-day registration would increase turnout, especially among younger residents—and as the parent of twin almost-20-year-olds, that is important to me—and that same-day registration can be executed, implemented without favoring one party over another.

So what would Florida election officials need to do to offer this basic, beneficial voting option?

Ms. BROWNE DIANIS. Thank you, Congresswoman.

This is a simple thing. There are other States that do it. And, actually, one of the things that is also important about Florida is that, especially, like, in a place like south Florida, where you have people who are moving across county lines, et cetera, this kind of ease of being able to carry your registration across county lines, being able to register again is very important. Transient populations tend to be low-income families, people of color, and college students who would benefit from same-day registration.

In order to do it, the State would have to infuse some money into supervisors of elections. That is one of our problems that continues happen after HAVA, is that supervisors of elections aren't given enough money to run efficient elections. And so that is what would have to happen. And I am sure that the supervisors of elections here in the State could execute that quickly and without any problems.

Ms. WASSERMAN SCHULTZ. Thank you very much.

And, Ms. Wilkerson, first of all, thank you so much for the work that the League of Women Voters has done over decades and decades in this State. Because you have been among the most successful and unsung civil rights organizations that has filed successful lawsuit after successful lawsuit to ensure that the franchise was maximized.

And with that having been said, that includes our constitutional amendments that allowed for fair districts and that eliminated political gerrymandering.

So, with that integral role, you know, we are at a point where now we have gone in Florida from in 2012, prerredistricting, with Florida being a 50/50 State, we had a congressional delegation with 25 Members of Congress, 19 Republicans and 6 Democrats; post-fairer-districts, today, with the State Supreme Court having to intervene and impose a map that was compliant with the voters' in-

tent and the constitutional amendments, we have 14 Republicans and 13 Democrats in our congressional delegation, which is far more aligned with the voters repeatedly expressing their will election after election.

What is the League's position on the current cases in the Supreme Court of the United States that are asking the Court to rule that political gerrymandering is a violation of the United States Constitution?

And, as an organization, are you prioritizing nationally the elimination of gerrymandering and fight at the State level and at the Federal level to ensure that districts are fairly drawn and do not favor incumbents or political parties, as we do not here?

Ms. WILKERSON. Yes, we are organized all over the United States, and I am very concerned about gerrymandering. Right here in Florida, we are concerned about the census not being adequately funded, because that will decide how many extra people we have in Congress or not. And as particularly swing States, it is very important. It took us several years to get our maps adopted by the Supreme Court because of the gerrymandering pattern that Florida had, and I suspect we will be back in court again after the census.

I think all of these negative and suppression methods that our people are using are really why people don't go to the polls. They don't think that their vote makes a difference anymore, particularly when we look at the younger generation. It is really sad, you know? The schools don't all even mandate civics education anymore; they don't know how government works.

And I know, when we go and register voters and we say, you know, is there a good place for us to go where we can get some more voters registered, we go there and we will get a dismal turnout. We will go to another church, like an after-church or something, and, "We are here to register to vote," "Well, it isn't going to make any difference because I haven't voted the last couple of years because nobody seems to care about my concerns." And I think that is a fundamental thing that we should all be very worried about.

We have had to improve our original democracy with a lot of compromises in that first democracy that we had. And if we stop or negate the things like the civil rights things, having marched in Montgomery myself, I think it is disgraceful. To think that we don't—if the maps no longer applied, you just simply draw new maps. That law should have been extended and protected every voter.

It is a disgrace that we are not looking at the democratic things. Politics has become such a game, rather than, are we—this Amendment 4 in Florida is the perfect example. Bills were introduced in many sessions; nothing happened. Finally, Charlie Crist, when he was Governor, did by executive order kind of funnel out the people who would get their rights restored immediately, and then they would look at the more complicated cases.

But the clemency board that you had to go to, and you had to go to Tallahassee to be heard—

Chairwoman FUDGE. Ms. Wilkerson, we need you to wrap up, please.

Ms. WILKERSON. Okay.

They only met four times a year for 3 hours. The backlog meant you had a 28-year wait right now to get to the clemency board.

Ms. WASSERMAN SCHULTZ. Thank you.

Thank you, Madam Chair, for your indulgence.

Chairwoman FUDGE. Thank you very much.

Mr. Deutch.

Mr. DEUTCH. Thank you, Madam Chair.

Thanks to the witnesses for being here.

Ms. Dianis, I am just a little confused from a lot of the things I have heard today, so maybe you could just help cut right through that confusion.

Did Amendment 4 need any additional action by the Florida legislature?

Ms. BROWNE DIANIS. No. It was a self-executing amendment.

Mr. DEUTCH. And do you believe that the new fee requirement is discriminatory?

Ms. BROWNE DIANIS. Yes.

Mr. DEUTCH. And why?

Ms. BROWNE DIANIS. Because it will disproportionately impact black and brown would-be voters.

Mr. DEUTCH. And do we know the impact of the fee payment requirement on people with prior convictions? How many people are there in that situation, and what is the typical amount owed?

Ms. BROWNE DIANIS. Well, we actually don't know all the numbers yet. I can tell you, when I was canvassing, I met many people who could not vote and who had restitution. I met one black man who had restitution of \$250,000. And he said to me, I will never be able to vote if they don't allow us to vote without restitution. So, to us, this is nothing more than a poll tax.

Mr. DEUTCH. Ms. Dianis, do you think fees throughout the justice system help to criminalize poverty?

Ms. BROWNE DIANIS. Yes. This has been——

Mr. DEUTCH. Why?

Ms. BROWNE DIANIS [continuing]. Shown across the country, that what we see is that people can never get out of the system if they can't pay.

And there have been lawsuits brought across the country—in Missouri, we are involved in one—where there are challenges to the fact that we are creating debtors' prisons. And that has happened in the State of Florida, and it has not yet been challenged, but look for that to happen.

Mr. DEUTCH. I appreciate that.

Mr. Cartagena——

Ms. BROWNE DIANIS. That is a threat, a real one.

Mr. DEUTCH. Thank you.

Mr. Cartagena, I want to follow up on an issue that Mr. Loudermilk raised earlier. That is this specter of noncitizen voting.

On May 11, 2017, President Trump established a Presidential Advisory Commission on Voting Integrity, which was ostensibly to find and root out voter fraud. Did the President's commission ever find widespread systematic voter fraud?

Mr. CARTAGENA. No. Quite the contrary. Nothing was found, and the President disbanded the commission very, very silently com-

pared to the way it was, you know, publicly addressed when it was first created.

Both my organization, the NAACP Legal Defense Fund, the Mexican-American Legal Defense Fund, and others sued the establishment of the commission, but the President himself just took it off the table.

Mr. DEUTCH. And then, if you go back to 2012, in Florida, before the 2012 elections, there were headlines that warned of 200,000 noncitizens who were registered to vote. That was the impetus behind then-Governor Scott's effort to purge the voter rolls.

Do you recall what happened in that case?

Mr. CARTAGENA. Sure. The headline said 200,000. The actual list was 2,700. And when we scoured that list, we, again, with the Advancement Project and others here in Florida, we learned of many people who were naturalized citizens post the first check of the database.

The databases that were used were SAVE database—this is the one from Department of Homeland Security—and also the Department of Highway Safety and Motor Vehicles here in Florida, their local database.

The problem was very, very simple. The databases may have discovered something that may have happened 10 to 12 years earlier. At that point, Juan Cartagena wasn't a naturalized citizen, so he said, yes, I either can't get a license or I cannot serve on a jury. They used 12-year-old databases to determine in 2012 who can actually vote.

Mr. DEUTCH. And so, in fact, 0.0425 percent was the percentage that was affected.

It was that same time that Congressman Hastings and I learned of a World War II veteran who was told that he would not be able to vote because he was caught up in that voter purge.

Just in my remaining time—let me just make one more observation about that. Mr. Cartagena, we heard earlier that there are ways that we can try to address this. I sent probably half a dozen letters to Governor Scott encouraging him to participate in these multi-State databases like ERIC, which we heard in this legislative session, again, no funding to do that. Is that right?

Mr. CARTAGENA. There are ways to try to address it, but one of the most important things we have to recognize is that naturalization proceedings happen every day in this country. Thousands of people, you know, pledge their allegiance to the United States and become citizens. But by the time that data enters any kind of database, there is a lag time. And to assume that we have an accurate database on who becomes naturalized in this country is fallacy.

Mr. DEUTCH. And in my final seconds, Ms. Wilkerson, when I think about the basic question, do our elections work, do they produce a government that is of, by, and for the people, is the will of the people driving Washington, I frequently come back to the same issue, and that issue is money in politics and the need to overturn Citizens United to diminish the influence of money in politics.

Thank you for the work that you have done in advocating for that position. What is so problematic about all of this money that floods into our campaigns?

Ms. WILKERSON. Well, I am sympathetic that the campaign costs have so increased. That is part of the problem. And until you get some limits on what people can spend, you will still get this enormous infusion of money, whether it comes in with the first hand or the second hand behind them. But campaigns have just gotten so expensive, we have to look at another structure.

And we also have to make sure that qualified people are proud to run an election and to run as a campaign. And, very often, those are not the people who can have the multimillion-dollar donors.

Mr. DEUTCH. Thank you.

Thank you very much.

Chairwoman FUDGE. Thank you.

Ms. Wilson.

Ms. WILSON. Thank you, Madam Chairwoman.

Judith, I have worked with you through the years with the Haitian community, and we have seen in Florida the length of the ballots. Because every time we vote, there are tons of amendments added to the ballot. And our ballots in Dade County and maybe in Broward or some other counties are in three languages, which means it is triple the length.

This is intimidating for educated people, people with Ph.Ds. The people who are new citizens and people who are in challenged communities, like the community that I represent—has it ever been brought to your organization that we should move towards voting online or an increase in absentee balloting since we have this easy way to absentee ballot?

Also, we have a constituent in the audience who approached me about the absentee ballots and the matching of signatures. And when are the signatures considered out of date, old, or do they notify you that the signature—it is time for you to come in and sign again, for these people who have been absentee balloting for a long time?

But every election we have, the Republicans out-absentee-ballot us by thousands, and it is just—it is unnecessary. So what kind of suggestion do you have for the people who don't take advantage of that?

Ms. BROWNE DIANIS. Yes. Thank you, Congresswoman WILSON. So, a few things that I think can be done.

One is, part of the problem in Florida with the long ballots—and the reason it takes so long is that, in those particular polling places where we see those long lines, we don't have enough machines, we don't have enough poll workers.

If you start to look at the way that those machines and poll workers are distributed, it is discriminatory. We brought a lawsuit around that in 2008 in Virginia and found this in other places, where the machines are not distributed equally—

Ms. WILSON. Do you think it would be wise for these people not to even go to the machines—

Ms. BROWNE DIANIS. Well, I think—

Ms. WILSON [continuing]. Just vote from home?

Ms. BROWNE DIANIS. Yes.

Ms. WILSON. And we had a little slogan when I ran for Congress. That is when they were trying to put in the ID law. And it was,

“No ID? Vote absentee.” And 90 percent of the people who voted for me voted absentee——

Ms. BROWNE DIANIS. Right. Well, I would——

Ms. WILSON [continuing]. And I won.

Ms. BROWNE DIANIS. Yeap. I would say a few things. One is more machines. Two is extending early voting opportunities. Three is increasing absentee ballots.

And the reason I say the other two is because there are a lot of people who still don't trust the absentee balloting process. So being able to have all three of those things will help alleviate the long lines that people see in those particular precincts.

Ms. WILSON. And to all of you, something we need to just make note of is the elephant in the room is Russia. And what kind of impact do any of you think that Russia had on this election?

We had one, we know—it has been rumored—I don't know if it was rumor or a fact—that in a county in Florida the Russians were able to crack into their election system. It has been rumored that that county is Broward. No one has proven that yet, but the Governor has set up a meeting with the FBI to determine which county it was, how far they got, and what kind of impact that made on the State.

I am not sure if he wants to really find out the answer, because it might impact what his results were because he won by such a slim margin.

But tell us what you feel about Russia.

Mr. CARTAGENA. Let me start.

It deserves an entire congressional inquiry as well. The fact that there have been clear representations by members of this administration that the Russian meddling is actively involved now for the 2020 election is such a red flag, such a dangerous red flag, that I would urge you all to just undertake a complete investigation of that now, what is going on with respect to the 2020 elections.

I cannot believe that any Federal Government, and this Administration especially, would just minimize the threat, as if it didn't happen before and as if it may not happen again, when every indicator seems to be that there is meddling going on now in advance of the 2020 election.

Ms. WILSON. For the record.

I yield back. Thank you.

Chairwoman FUDGE. Thank you so much.

Mr. Churchwell, you wanted to respond to Mr. Aguilar. I will give you a moment to do that, sir.

Mr. CHURCHWELL. Sure.

Rewind the tape here back to the argument that Public Interest Legal Foundation and other groups were essentially signal-calling to the Trump DOJ to purge voter rolls around the country.

Number one, anyone who uses the word “purge” probably hasn't spent much time with a voter registrar, because that is a very easy way to get slapped, mentioning that word in front of them. They do not like that word.

But beyond that, the most recent DOJ action as it relates to list maintenance was resolved in Connecticut. And the settlement there required that the State of Connecticut's Vital Statistics Bureau, the keeper of the death records, the death notices, that information be

transmitted to voter registrars, so when the State knew for a fact that someone died and they could match that identity to a voter registration record, they could handle it accordingly.

That is the most recent case that has been resolved by the Justice Department. Similar issues have come and gone in Kentucky.

What we are talking about here is meat-and-potatoes issues, making sure that when someone dies the voter registrar knows it because we have a government record to prove it, or if someone moves, that same information is transmitted. We still cannot take that for granted today.

Chairwoman FUDGE. Thank you very much.

I would ask each of you, if there is one thing that you want us to take away today, of all the things that you have said, would you please tell me what that is?

We will start with Ms. Dianis and we will go straight down.

Ms. BROWNE DIANIS. The one thing I would want you to take away is that just because we see voter turnout going up for black and brown voters does not mean that discriminatory voting practices and policies are not in place.

In fact, if it makes it harder for certain people to vote, that, in and of itself, is a violation of the Voting Rights Act. So we should not get caught in the idea that turnout means that we have overcome.

Chairwoman FUDGE. Thank you.

Ms. Wilkerson.

Ms. WILKERSON. The fundamental right to vote is so precious to our country. It is how we preserve a democracy, by letting everyone have their say and select their choice of candidates and issues. We need to preserve that. It should be a priority of Congress.

Chairwoman FUDGE. Thank you.

Mr. Cartagena.

Mr. CARTAGENA. Everything that Congress has said in the area of voting demonstrates that voting is a right. The problem is, of course, that in many States in this country it is treated as a privilege that you earn, and they have to re-earn it and re-earn it again. The will of Congress is being thwarted every time that happens. I thank you for having this hearing and urge you to have many more.

Chairwoman FUDGE. Thank you.

Mr. Loudermilk, any closing thoughts?

Mr. LOUDERMILK. I just want to thank you, Madam Chairwoman, for inviting me to be part of this hearing, and all the other of my colleagues that are here.

And I appreciate all the panelists taking their time to bring their ideas and their passion to the table for this important issue.

Chairwoman FUDGE. Thank you.

And I want to thank our witnesses; to thank the Members who have spent their morning with us today to ask questions that are extremely important to this process; thank Broward County Governmental Center for hosting us this morning; to the people of Florida who have joined us today; certainly our staff; those who are live-streaming.

If you didn't know, this has been live-streamed. I probably should have said that earlier. I probably should have said something, be-

cause even the ones in the audience, sometimes it is on you, sometimes it is on us.

I want to thank you all.

I just want to end with these closing thoughts. You know, as I listen to these hearings, hearing after hearing. I keep saying to myself: The more things change, the more they stay the same.

If citizenship is really the measure, then I wonder whether, in fact, we should have ever taken the rights of prisoners away. They are still citizens, whether they are convicted or in prison or not. So if citizenship is the measure, they should never have lost their right to vote. So I applaud the people of Florida for making sure that they give it back.

But I also want to make clear that Chief Justice Roberts did not deny that discrimination exists. It was quite the opposite. He says, I know it does. However, I cannot continue to say to certain of these 14 States that you are going to be punished because the data that we are using is old.

What they said was, we want contemporaneous data so that we can be sure that we are being fair. Maybe it is not just States that are already in preclearance. Maybe it is Ohio, where I live, which clearly should be in preclearance. Maybe it is Wisconsin or Pennsylvania. But what he said was: You give us new data so that Congress can come up with a new formula.

What we are doing across this country is deciding how we create the record that satisfies the decision in Shelby and gives the data appropriately to the Congress of the United States. That was what the decision was. It wasn't to say we don't need preclearance anymore. It was just to say that we can't continue to use data that is 25 years old.

And what I do know is that, if Section 5 had been in place in Brownsville, Texas, where we started, people who have a difficulty with the language would not be forced to vote in police stations, places where they were intimidated. Or in North Dakota, on an Indian reservation, they wouldn't be forced to vote in chicken coops. Or they would not, with their high poverty rates, be forced to go out and buy a driver's license and they don't drive, because that driver's license may have been a carton of milk or eggs for their family, because some of those particular reservations have unemployment rates of almost 60 percent.

What have we done to the citizens of this Nation, people that we have made a promise to? Well, we have made it more difficult for them to do the very thing that this country stands for, which is to be a part of our democracy.

And so I can't imagine—I just have this one question for you, Mr. Churchwell. You seem like a very nice young man. Did you live through the 1960s?

Mr. CHURCHWELL. No, ma'am.

Chairwoman FUDGE. The 1970s?

Mr. Churchwell. No, ma'am.

Chairwoman FUDGE. Okay. I did. And what I know—no, no, I mean, it is serious, because I don't think that he can understand the passion with which we believe that this country needs to live up to its promise.

You know, I lived at a time when people that looked like me could not vote. I lived through it. And I know it is difficult for you in your wildest imagination to believe that this country has done something wrong, but it has.

And what makes us a great country is our ability to repair our faults, and that is what we are doing today.

I thank you all, and I say that this Subcommittee stands adjourned without objection.

[Whereupon, at 12:59 p.m., the Subcommittee was adjourned.]



**Written Statement of the  
Southern Poverty Law Center  
Before U.S. House of Representatives  
Committee on House Administration  
Subcommittee on Elections  
“Voting Rights and Election Administration in Florida”**

**Fort Lauderdale, Florida  
May 2019**

### **Introduction**

Florida continues to showcase the ongoing impact of Jim Crow era voter suppression laws targeted at making sure former slaves, newly enfranchised through the Fourteenth and Fifteenth Amendments, were never able to enjoy full citizenship. Over one hundred years later, Florida still has some of the harshest voting restrictions in the country and disenfranchises more voters than any other state.<sup>1</sup> Prior to the November 2018 mid-term elections, almost 10% of the state's voting age population was permanently disenfranchised due to a felony conviction, and African-American/Black citizens represented a disproportionate number of those disparately impacted.<sup>2</sup> Moreover, despite litigation to curb the state's aggressive and unlawful approach to voter purging<sup>3</sup>, Florida nevertheless removes voters from the rolls at an alarming rate.<sup>4</sup> In 2019, following a string of successful ballot initiatives over the years, including Amendment 4 which single-handedly restored the voting rights of over 1.4 million voters, the state legislature introduced an unprecedented number of bills attacking basic civil liberties, some of which are highlighted below.

### **Passage of Amendment 4 and Senate Bill 7066**

For over the past 15 years, numerous bills have been introduced to automatically re-enfranchise voters with felony convictions, but the legislature has done nothing to advance, let alone pass, these measures. In November 2018, Florida citizens decided they had had enough with waiting on the legislature to enact a rights restoration law that reflected the values of most voters, Republicans and Democrats alike. National and state-based civil rights groups, working under the umbrella of the Florida Rights Restoration Coalition, launched a major multi-year campaign for a ballot initiative to amend Florida's constitution. The proposal allowed for the automatic restoration of voting rights to those with felony convictions who had completed their sentences, except for anyone convicted of murder or felony sexual assault. Otherwise, the only alternative remained an executive clemency process<sup>5</sup> that a federal district court deemed to be "a fatally flawed scheme of unfettered discretion."<sup>6</sup>

Activists and volunteers gathered over 766,200 signatures for the petition and approval from the state supreme court to put the measure on the November 2018 ballot. In approving the language, the court held that:

the ballot title and summary clearly and unambiguously inform the voters of the chief purpose of the proposed amendment. Read together, the title and summary would reasonably lead voters to understand that the chief purpose of the amendment is to automatically restore voting rights to felony offenders.

<sup>1</sup> Erika L. Wood, *Florida: An Outlier in Denying Voting Rights*, Brennan Center for Justice, available at [https://www.brennancenter.org/sites/default/files/publications/Florida\\_Voting\\_Rights\\_Outlier.pdf](https://www.brennancenter.org/sites/default/files/publications/Florida_Voting_Rights_Outlier.pdf) (last visited Apr 26, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> *Mi Familia Vota Educ. Fund v. Detzner*, 891 F.Supp.2d 1326 (M.D. Fla. 2012).

<sup>4</sup> Kevin Morris & Myrna Perez, *Florida, Georgia, North Carolina Still Purging Voters at High Rates* (2018), available at [https://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_46932.pdf](https://www.brennancenter.org/sites/default/files/legacy/d/download_file_46932.pdf) (last visited Apr 26, 2019).

<sup>5</sup> Fla. Const., Art. IV, § 8(a).

<sup>6</sup> *Hand v. Scott*, 315 F.Supp.3d 1244, 1248 (N.D. Fla. 2018), *stay granted*, 888 F.3d 1206 (11<sup>th</sup> Cir. 2018).

except those convicted of murder or felony sexual offenses, upon completion of all terms of their sentence.”<sup>7</sup>

After hosting numerous community town halls, tabling at every kind of public event, running multiple television advertisements and other public service announcements, and engaging in deep canvassing, almost 65% of Floridians voted “YES” on Amendment 4.<sup>8</sup> Over a million formerly convicted individuals can now participate in our democracy. Unfortunately, in an undisguised, blatant attempt to undermine the will of the people, the state legislature passed SB 7066, which materially changed the meaning and enforcement of Amendment 4 in two key ways: first, by expanding the definition of murder and, second, by redefining “completion of sentence” to include the payment of almost any and all legal financial obligations (LFOs), even those converted to a civil lien.<sup>9</sup>

The legislature knew exactly what it was doing when it required the full satisfaction of all LFOs prior to someone being eligible to vote. SB 7066 imposes exorbitant financial barriers to the ballot box which many have decried as a modern-day poll tax. The average citizen who completes prison, parole and probation faces steep challenges in securing gainful employment, safe and secure housing, and financial assistance to attend school. If enforced, the likelihood that most people who were eligible to vote under Amendment 4 can satisfy those additional financial hurdles is much, much smaller. Therefore, SB 7066 completely runs afoul of the plain language and meaning of Amendment 4, now enshrined in the state constitution<sup>10</sup>, as recognized by the state supreme court and understood by the voters.

In addition to being unconstitutional, SB 7066 creates a world of confusion for impacted individuals and the agencies and grassroots organizations that serve them. Many people have registered to vote since Amendment 4 went into effect in January 2019, and now those voters face the loss *again* of their voting rights. Despite voters’ best intentions in passing Amendment 4, the legislature has again found a way to keep Florida’s disenfranchised population ever so high. Not only is this a huge setback, but it only further undermines the people’s faith in our democracy.

#### **Restrictions on Petition Gathering (SB 7096)**

Amendment 4 passed because Florida’s ballot initiative process allows citizens to bypass legislators who refuse to respect the demands of their constituents when it comes to adopting progressive social policies. In disappointing, yet true fashion, the Florida legislature’s response to Amendment 4’s passage was to rebuff rather than respect the will of the people by imposing nefarious and unnecessary restrictions on the constitutional right to place amendments on the ballot. Under SB 7096, petition gatherers could face second-degree misdemeanor charges for failing to register as an official petition circulator and can no longer receive compensation per signature collected.<sup>11</sup> This legislation is not only a mean-spirited response to Floridians’ dissatisfaction with the political status quo, but it is also an unconstitutional infringement on the

<sup>7</sup> *In re Advisory Opinion to the Atty Gen. re: Voting Restoration Amendment*, 215 So.3d 1202, 1208 (Fla. 2017).

<sup>8</sup> Florida Amendment 4, CNN, available at <https://www.cnn.com/election/2018/results/florida/ballot-measures/1> (last visited Apr 26, 2019).

<sup>9</sup> CS/SB 7066, Reg. Sess. 2019 (Fl. 2019).

<sup>10</sup> Fla. Const., Art. IV, § 4(a).

<sup>11</sup> SB 7096, Reg. Sess. of 2019 (Fl. 2019).

right to free speech and freedom of association in violation of the First Amendment.<sup>12</sup> Further, the Supreme Court has deemed the prohibition on payment to petition circulators as violating the First Amendment as well.<sup>13</sup> If SB 7096 is enforced, grassroots advocacy groups would almost never have the resources they need to mount a successful ballot initiative. Moreover, this law would ensure that issue campaigns like ending Florida's lifetime felony disenfranchisement ban are never successful and would effectively leave the state legislature with unyielding power.

#### **Increasing the Numerical Threshold for Passage of Citizen Initiatives (HJR 57/S 232)**

Citizen initiatives are the bedrock of our democracy because they help ensure that, even when the legislature fails to act or passes a terrible law, voters have a direct say in state and local policies. The initiative process has resulted in several substantive legislative accomplishments.<sup>14</sup> In early April, the House and Senate introduced similar versions of a bill that would have increased the threshold to approve constitutional amendments implemented through the initiative process from 60% to 66 & 2/3%.<sup>15</sup> This increase is almost two percentage points higher than the 64.5% secured to pass Amendment 4. Thankfully, these measures died in committee, but if the 66 & 2/3 threshold existed in 2018, Amendment 4 either might not have passed, or supporters of the amendment would have had to spend more money and time to secure enough votes for passage. It seems obvious that the motivation behind, or at least the impact of, this law is to thwart any and all future ballot initiatives. HJR 57 and S 232 are another reminder that when we take one step forward, those opposed to fairness and transparency in government operations take us two steps backwards.

#### **Conclusion**

Although only five counties in Florida were subject to preclearance under Section 5 of the Voting Rights Act<sup>16</sup>, the bills discussed in this written statement are evidence as to why statewide federal oversight of Florida's elections, election laws, and other policies that impact a person's right to vote remains necessary. We urge this Committee and Congress to revive Section 5, amend the coverage formula to include the entire state of Florida, and protect the fundamental right to vote.

<sup>12</sup> *Buckley v. American Constitutional Law Found. Inc.*, 525 U.S. 182 (1999).

<sup>13</sup> *Meyer v. Grant*, 486 U.S. 414 (1988).

<sup>14</sup> See Summary of Florida ballot measures, available at <https://votesmart.org/elections/ballot-measures/FL#.XNwmdMhKg2w>, last visited May 15, 2019.

<sup>15</sup> HJR 57, Reg. Sess. of 2019; S 232, Reg. Sess. Of 2019 (Fl. 2019).

<sup>16</sup> DOJ list of previously covered Section 5 jurisdictions, available at <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5> (last visited May 15, 2019).



**THE NEW FLORIDA MAJORITY-EDUCATION FUND**  
**WRITTEN TESTIMONY TO CONGRESS ON VOTER SUPPRESSION IN FLORIDA**  
**MAY 13, 2019**

The New Florida Majority-Education Fund (NewFM-EF), established 2011, is an independent nonpartisan 501(c)3 multiracial, community-centered racial justice organization dedicated to creating an inclusive, equitable, and just Florida by building up the unified power of the state's historically marginalized groups. NewFM-EF works to increase the political voice and wellbeing of communities of color, and build multi-racial unity across the state through issue campaigns in the arenas of democracy, criminal justice reform, economic justice, climate action, gender equity and immigrant rights, and through conducting nonpartisan voter registration. We maintain a statewide presence with a regional focus on North Florida (Duval County, Leon County) and South Florida (Miami-Dade, Broward, Palm Beach), with offices in Miami and Jacksonville.

**EARLY VOTING AND VOTER PURGES**

Over several election cycles, The New Florida Majority-Education Fund has conducted voter education and voter protection in mainly low-income communities of color in Miami-Dade, Broward, and Duval Counties. Expansion of democracy and voting rights are a central part of our organization's work and our reason for being.

Early voting on college campuses had been disqualified by Rick Scott in 2014, among several other restrictions to access to the vote that year, but that disqualification was removed in a court ruling in July 2018. In Miami-Dade County, three college-based Early Voting locations at both Miami-Dade College and FIU in Miami-Dade County were added by the Mayor in September 2018, after pressure from civil rights groups including NewFM, and students, to add accessible Early Vote locations for students. Each of these institutions reportedly have an enrollment of around 55,000.

In the beginning of October, 2018, as we prepared for Election Protection work the following month, we learned of a late purge of voter lists... Book-closing for voter registration in 2018 was October 9<sup>th</sup>, and we learned of this purge attempt on Thursday October 4<sup>th</sup>. We and our statewide coalition partners sprang into urgent action to contact voters who had been purged from the rolls and ensure that they could re-register by the deadline if eligible.

With our partners the Advancement Project, we trained and prepared staff and volunteer Vote Protectors in voting rights, basic voting issues, and in specific Florida-centric issues that tend to reoccur, including accessibility, language translation or other assistance at the polls, signature challenges, Florida's voter ID requirements, suitable apparel, mistaken ballots, provisional ballots, precinct changes and precinct confusion, as well as preparing observers and Vote Protectors on how to respond to voter challenges or aggressive electioneering around or beyond polling place boundaries - including by local candidates. Experienced Vote protectors recounted and documented stories of voter suppression, for example in North Miami where reportedly there are

problems of under-resourcing and voter suppression every cycle. North Miami has a large Haitian-American population.

During the Early Voting period, we received several reports about long-used Early Vote sites that had been changed in 2018, but without leaving adequate signage to indicate that the Early Voting location was not being used, nor to show what the nearest Early Vote location was instead. There were also early voting sites that used the back door of a site as the primary entrance without adequate signage. Related to this are reports that we received about confusion on Election Day when voters arrived at locations that had been used for Early Voting – but were not being used on Election Day itself.

#### **ELECTION DAY AND THE RECOUNT PERIOD**

On Election Day in Miami-Dade, we set up a command center at our offices in Miami, from where our Vote Protectors went out to observe their assigned precincts in known 'problem areas', such as Allapattah, North Miami, Miami Gardens, Liberty City. We had a command center phone number for our volunteers to call, the phone numbers for the Miami-Dade SoE office, and, as a failsafe, the call-in number for the national Voter Protection hotline.

The day began smoothly, but reports came in as night fell. Voters were discouraged by long lines at many locations, and then, after standing in long lines, found their precinct location had been changed.

We heard stories of precinct location changes being announced or advised on paper only in English, and Haitian Kreyol-speaking voters being at the mercy of well-meaning fellow citizens to take the responsibility of translating for them to find out their new precinct location.

Several Spanish speakers needed assistance with their ballots which was not provided. Voters' eligibility to vote was challenged. Insufficient and harried staff were reported at several precincts, slowing the pace of voting. In Allapattah, at Westview Baptist Church, the presiding clerk or their deputy actively prevented our vote protector from helping a voter – because she had already helped someone. Still in Allapattah, the precincts at Juan Pablo Duarte Park had bad problems, including long lines, uncooperative supervisors, and worst of all, voters advised within three minutes of closing of the polls that they were in the wrong precinct, and then denied the ability to cast a provisional ballot. One of our Vote Protectors intervened fiercely on behalf of two of these voters with the onsite supervisors as well as the SoE (which did not answer the phone), and finally called an Election Protection hotline to report what had happened.

In Duval County, which we've been told is known as a laboratory to test out voter suppression techniques, we were told of or witnessed the following:

- Ballots improperly cut and not being able to fit in the machines to be scanned
- Printer broken-not able to print ballots (Edward Waters College)
- Computer/Tech issues in which someone had to be called twice to fix (Edward Waters College)
- Reports that the SOE office had technical issues at the opening of the polls and people waiting to vote before work were unable to.
- Sample ballots in Spanish were unavailable/never printed.
- Voter not allowed to trade in vote by mail ballot for a regular ballot.

We helped a voter who had had to cast a provisional ballot because of a supposed signature no-match - and when we accompanied them to the Miami-Dade SoE the Thursday after Election Day to cure it, they would not accept her signature.

Among the worst signature-matching abuses we heard of, one man in Broward County, who was in hospice care, was told his signature was too light and so his ballot (his last) would not be accepted. I also spoke with a man who has MS and argued for his signature to be accepted to no avail.

One of our volunteers telephoned us frantic, having heard from an eyewitness that VBM ballots had been piled up inside the Opa-Locka central mail facility in Miami-Dade County. We mobilized to the scene and demanded explanations. <https://www.cnn.com/2018/11/11/politics/florida-miami-dade-election-uncounted-ballots/index.html>

The day after the election, when the votes were too close to call in the two top of the ticket races, we joined with other groups to help to locate and cure provisional ballots that had been cast. A massive volunteer effort took place, and as we gathered together in the race to obtain the list of provisional ballots cast, and then to get every vote counted, more stories of voting difficulties emerged.

#### CONCLUSIONS

It became clear to us that at so many points in the process, the votes by mail, early votes, and votes on Election Day that could not be cast or were displaced onto provisional ballots, or then discounted because of signature-matching issues, added up to what would now be a significant, determinate vote. And we believe this is deliberate, and disproportionately impacts communities of color, especially those which are bilingual.

In the days after the election, as the recount proceeded, aggressive groups of agitators (some reportedly from out of state) gathered at the Broward County SoE's office; one of our senior directors was verbally attacked with racist epithets on camera and as we turned up with allies day after day onsite, we experienced traumatizing, virulent partisan hatred and open racism. National and international coverage of the recount period in the media shows that the lessons of 2000 and the intimidation and obfuscatory practices employed then to force a result are not being learned - or rather, are being well learned: for the benefit of those who wish to discount the votes of Floridians.

As this pattern became clearer, we and our coalition partners developed the Count Every Vote platform to address the impediments and obstacles that had been witnessed. We make these recommendations to the Congress, as ways to ensure that voting in Florida is easy and accessible, and that every single vote is counted.

**Regardless of political affiliation, every eligible voter must be able to vote and their vote must be counted to ensure the integrity of our elections. When statewide races are determined by razor-thin margins, this principle is paramount. As we navigate another tumultuous recount, it's clear Florida's election processes are deeply flawed and disenfranchising voters. We must act on these revelations by implementing transformative reforms to ensure we count every vote, combat voter suppression, protect election integrity and increase voter turnout.**

**Implement Automatic voter registration (AVR) for all Floridians:** AVR requires that every eligible citizen who interacts with state agencies including the Division of Motor Vehicles and Agency for Health Care Administration be automatically registered to vote, unless they decline. This process **proactively includes voters as they become eligible to vote, including voters**

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**turning 18, newly-naturalized citizens and people with felony convictions who have had their rights restored.** This simple swap from an opt-in to an opt-out system increases registration rates, cleans up the voter rolls, and save states money. Currently fifteen states and the District of Columbia have approved the policy. *With the passage of Florida's Voter Registration Amendment (Amendment 4), the state must follow the will of the voters and implement automatic voter registration for our 1.4 million returning citizens and specifically include the Department of Corrections as a AVR agency.*

**Implement Same Day Registration (SDR) and Portable Registration:** With AVR, address updates will be automatic as voters interact with state agencies. However in the case where a voter is missed by the AVR system, they should have the opportunity to get registered at the polls via SDR. If they were registered but their address is not updated, voters should be able to update their address at the polls and cast a ballot that counts regardless of the technology available at their polling location, via portable registration.

**End Voter Purges:** Voter purges have been on the rise since the Supreme Court overturned a key part of the Voting Rights Act in 2013. Under Florida law, a registered voter may be removed from the rolls for several reasons, including if the voter fails to respond to an address confirmation final notice and there is no voting or voter registration record activity for two subsequent general election cycles (inactive voters). This disproportionately impacts low-income voters, people of color, the elderly, young people, and homeless residents: voters who are more often displaced and forced to relocate within their counties and the state.

**Implement Alternatives to Voter ID Laws:** Voter ID laws have been used to disenfranchise low-income voters, students, indigenous people, and homeless residents. When required to obtain a ballot, voters should be allowed multiple methods to verify their identity, including those that do not require a picture ID or signature verification. This should include the last four digits of Social Security number, utility bills, bank statements, paycheck stubs, and government issued check.

**Replace Signature Verification:** Reports indicate that the signature verification process cancels far too many eligible voters. In fact, signature match laws in Georgia and New Hampshire were tossed out prior to this election by federal judges who have recognized that these policies are tainted by arbitrariness. Why not give people the option of using fingerprints, which are much easier to match and far less likely to change over time? Or unique identifying numbers, such as the last four digits of the voter's Social Security number, or another form of "pin" number? These solutions allow verification while reducing the risk of disenfranchisement.

**Reform Vote by Mail Ballots:** In addition to signature verification reforms, rather than requiring ballots be delivered by Election Day, Supervisor of Elections should accept all ballots postmarked on Election Day. Every vote should count, even if this requires additional time to

count the votes. The state should also require voters to opt-out of receiving a vote by mail ballot, rather than requiring voters to opt-in. VBM ballots should be delivered every election indefinitely, without a requirement to renew the request.

**Polling Locations:** Reports indicate that voters may visit the wrong location to cast their vote on Election Day. Volunteer clerks may also provide inaccurate information, sending voters with limited time to the incorrect polling location. Similar to Early Vote, voters should be able to cast their vote at any polling location within their county on Election Day, regardless of their precinct. In addition, the fullest allowable days and hours should be implemented during Early Vote and on Election Day to ensure access to the ballot box.

**Create An Independent, Nonpartisan Redistricting Commission:** Voters should choose their elected leaders, not the other way around. In 2018, voters in Colorado and Missouri and Michigan overwhelmingly approved ballot measures calling for nonpartisan redistricting. These measures seek to end the practice of gerrymandering or at least limit it. While not perfect, nonpartisan commissions have worked better to put the interests of voters before incumbent legislators, operating with more public support and acceptance.

**Invest in Modern Election Technology & Additional Staff:** A [2014 study by the Brennan Center for Justice](#) found that the ten precincts with the longest lines in Florida had fewer poll workers than the statewide average. [Aging voting machinery lead to inaccurate counts](#) and malfunctions which result in longer lines, arduous recounts, and election results which lack integrity. The state budget as well as county budgets should reflect an urgent investment in our democratic process to ensure elections are accessible, accurate, and secure. This includes appropriating funds for modern voting machines and adequate staffing to keep lines short, ensure every vote is counted, and execute efficient recounts. If it hasn't already, the Florida Division of Elections should immediately conduct a county-by-county inventory of voting equipment needs and seek funding in the next state budget to help supervisors of elections meet those needs before 2020.

**Improve Language Access:** In [August 2018 advocates filed suit](#) against Florida Secretary of State Ken Detzner and the Supervisors of Elections of 32 Florida counties in violation of the Voting Rights Act of 1965's requirement to provide bilingual voting materials and assistance, including ballots and poll worker support, for Puerto Rican-educated, Spanish-speaking United States citizens. Judge Mark E. Walker of the United States District Court for the Northern District of Florida [ruled in their favor](#), however due to time constraints did not require ballots printed in Spanish. This case demonstrates another flagrant act of voter suppression. We must ensure the language access provisions of the Voting Rights Act are implemented.

**Campaign Finance Reform:** Both the Florida House and Senate prohibit members from accepting contributions during a regular, extended, or special Legislative Session. The same

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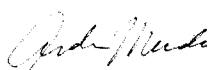
restrictions should apply to statewide elected officials. We must also ban Super PACs engagement in local and statewide races, and restrict foreign money in local elections.

**Ballot Designs:** Per the U.S. Election Assistance Commission, instructions should be provided in the top row of the ballot, with elections listed in following columns. Races should never be placed underneath vertical instruction columns, which as seen in Broward County, leads to disproportionate undervotes and inaccurate election results.

**Update Recount Timeline:** The Florida timetable for counts and recounts is draconian, especially considering fiscal constraints of election offices and their aging technologies. Every vote should be counted, regardless of how long the process takes. Arbitrary recount deadlines lead to disenfranchisement.

We witnessed in the 2018 elections that the civil rights of Floridians of color are not assured; that voting rights are still in peril here, 50 years later; and that every means must be employed to safeguard and expand the rights - and funding to safeguard the ability - of our people to vote.

Sincerely,



Andrea Mercado

Executive Director

**New Florida Majority Education Fund**

10800 Biscayne Blvd, Suite 1080

Miami, Florida 33161

Field Hearing on Voting Rights and Election Administration in Florida

Broward County Governmental Center  
115 South Andrews Ave, Room 422  
Ft. Lauderdale, FL 33301

May 6, 2019

*Submitted electronically on May 8, 2019*

**Written Testimony of  
Laura Guren Rodriguez  
Co-Chair State Policy Advocate  
National Council of Jewish Women**

To the Subcommittee on Elections of the Committee on House Administration

My name is Laura Guren Rodriguez and I am the State Policy Advocate Co-Chair of Florida for the National Council of Jewish Women. The National Council of Jewish Women (NCJW) strives for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. Throughout its history, NCJW has educated and engaged our members and supporters to drive voter turnout and expand voting rights, including advocating for women's suffrage and the historic Voting Rights Act of 1965 (VRA), in pursuit of the Jewish value of *tzedek*, or justice. Today, we work for election laws, policies, and practices that ensure easy and equitable access and eliminate obstacles to the electoral process so that every vote counts and can be verified.

Efforts across the country to suppress the vote have multiplied since the 2013 US Supreme Court decision in *Shelby County v. Holder* gutted a key provision of the VRA. In my testimony, I highlight voter suppression and recent election administration problems in Florida. Five counties in Florida were covered by the VRA prior to the *Shelby* decision.

**Voter Suppression in Florida**

The State of Florida has a long history of voter suppression and disenfranchisement. In November 2018, nearly 65% of Florida voters made it clear by passing Amendment 4 that non-violent ex-felons who served their time should have their voting rights restored. However, by passing what can only be described as a poll tax, the state legislature narrowed this right by requiring that all fees, fines and payments owed by the ex-felons be paid in order to have their voting rights restored. This disproportionately affects minority voters who are less likely to have access to funds to pay off their fines.

Florida's voter registration system further restricts the voting capacity of minority communities. Restrictions on groups helping individuals register to vote, and the absence of same-day voter registration, make access to the ballot harder for people who don't have access to a computer or those who can't take time off from work or family commitments to register at an office in person. Further, the state's practice of purging non-citizens from the voter rolls uses information from unreliable sources to determine citizenship, leading to mistakes and wrongful purges – mainly of minority voters. In addition, the state has tried to ban early voting on college campuses, a direct attack on voting access for young people. A U.S. district judge struck down the statewide campus ban for being blatantly unconstitutional, stating, "Throwing up roadblocks

in front of younger voters does not remotely serve the public interest. Abridging voter rights never does."

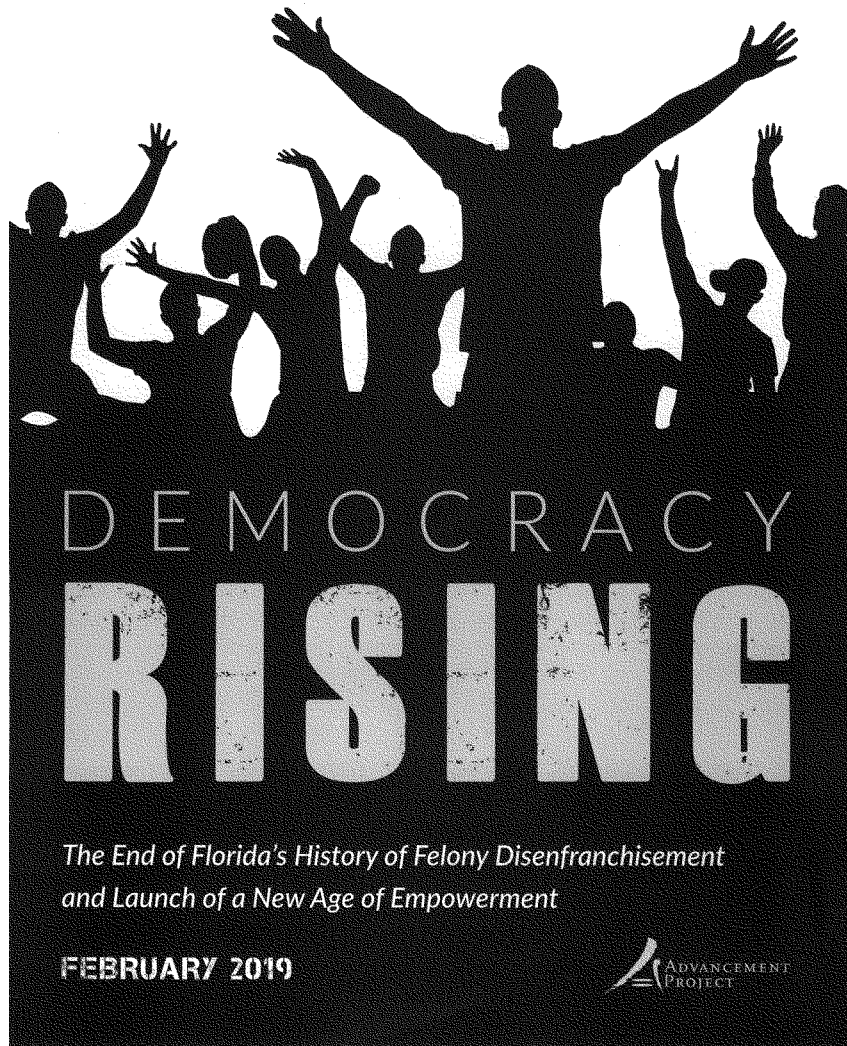
#### **Election Administration in Florida**

While the state does have online registration and early voting, the rules covering these practices are burdensome, and their complexities discourage people from registering and voting. The state's system for mail-in ballots is also flawed. A vote does not count if the signature on the ballot is not exactly the same as that on the voter registration or driver's license, and the people determining whether the signatures match are not experts. Signatures change over time, and further, people get married and perhaps put off changing their license. In a particularly disheartening situation, "1 in 7 mail-in ballots submitted by college-age voters in Parkland were rejected or failed to arrive on time to be counted" ([Tim Craig, Washington Post, March 24, 2019](#)). This 15% rejection rate far exceeds the national average. There are also inadequate numbers of Spanish and Creole ballots and instructions. Many non-English speaking voters arrive at a polling place with questions and concerns and frequently there is no one to assist them in their native tongue. After Hurricane Maria, Florida became home to more than 100,000 people fleeing the devastation in Puerto Rico. These voters found themselves at the polls with no assistance in Spanish, clearly suppressing their vote.

Elections in Florida are not for the faint of heart. Long lines, inadequate numbers of booths and machines, ineffectual personnel and hard to access polling places unduly impede the voting process. The state has also reduced the number of early voting locations as well as Election Day polling locations. Florida has a notorious history of election administration nightmares. Hanging chads, rooms of uncounted ballots, recounts of recounts and a revolving door of election supervisors are just some of the effects of poor administration. Florida has become the joke of the nation when it comes to elections. It is embarrassing that our state cannot ensure our most basic civil right — the right to vote and have our voices heard.

#### **Conclusion**

Voter suppression most harms already marginalized communities. Laws and actions designed to make it harder to vote — including strict voter ID requirements, limits to early voting, and voter roll purges — disproportionately impact communities of color, minority-language speakers, low-income voters, elderly and young voters, women, and transgender individuals. But there are also armies across states, mobilizing on the ground, taking action, and making major progress to strengthen and expand the right to vote. I am proud to be a part of these efforts, and thank the Subcommittee on Elections of the Committee on House Administration for the opportunity to provide written testimony.



This report, *Democracy Rising: The End of Florida's History of Felony Disenfranchisement and Launch of a New Age of Empowerment*, is a project of the Power and Democracy Program of Advancement Project's national office, which advances national and state-level strategies to expand access to the ballot for communities of color and advocates for an affirmative right to vote for all.

Founded by a team of veteran civil rights lawyers in 1999, Advancement Project is a next generation, multi-racial civil rights organization. Rooted in the great human rights struggles for equality and justice, we exist to fulfill America's promise of a caring, inclusive and just democracy. We use innovative tools and strategies to strengthen social movements and achieve high impact policy change. From its national office, Advancement Project uses the same high-quality legal analysis and public education campaigns that produced the landmark civil rights victories of earlier eras. We work in deep partnership with organized communities of color to develop community-based solutions to racial justice issues and to dismantle and reform the unjust and inequitable policies that undermine the promise of democracy.

The Power and Democracy program is dedicated to protecting the right to vote as the foundation of our democracy and works to ensure free, fair and accessible elections for all, particularly communities of color. In collaboration with local and national partners, our Voter Protection program works to identify and eliminate systemic barriers to the ballot box, educate voters, and influence decision-makers to confront burdensome voting restrictions and election administration practices. Our Right to Vote initiative advances a national narrative promoting the establishment of an explicit, affirmative and guaranteed right to vote in our Constitution.

## acknowledgements

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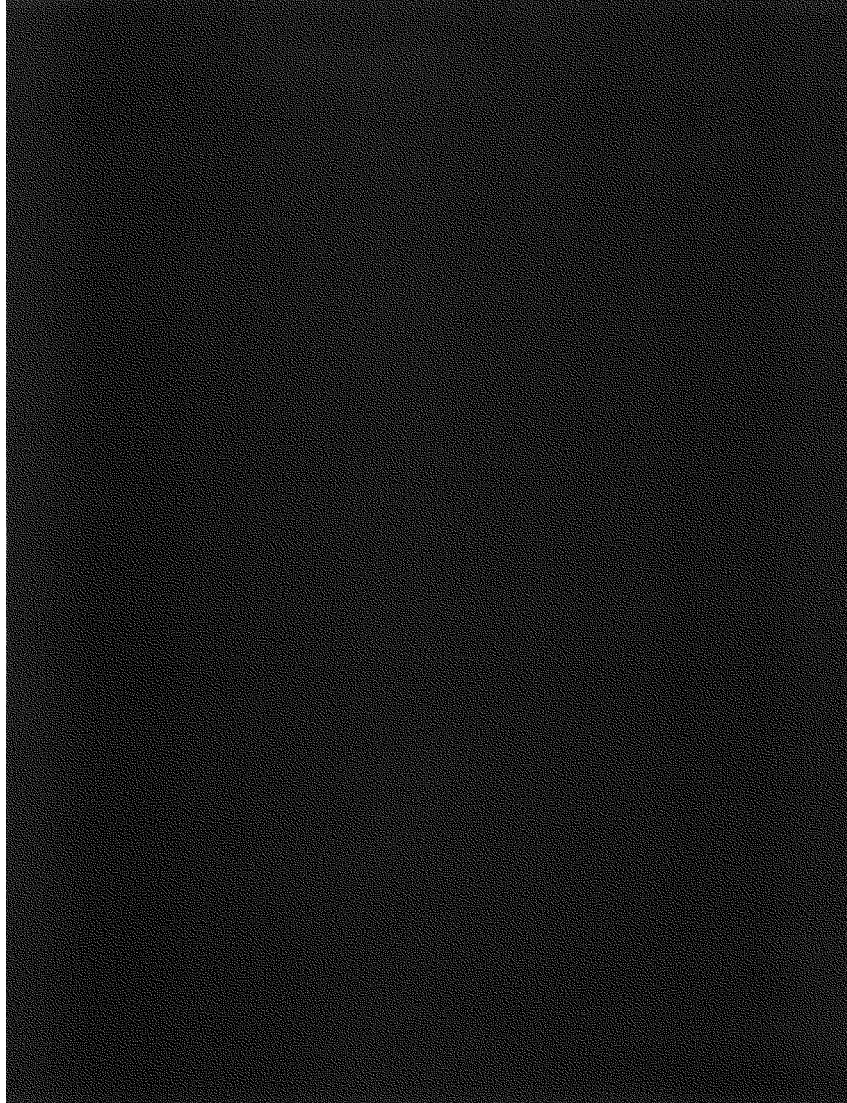
This report and the Power and Democracy program are made possible by The Cedar Tree Foundation, The JPB Foundation, The John D. and Catherine T. MacArthur Foundation and The Tikva Grassroots Empowerment Fund.

Advancement Project's National Office is also supported by the Bauman Foundation, Ford Foundation, Nathan Cummings Foundation, Open Society Foundations, W. K. Kellogg Foundation, Wallace Global Fund and the WhyNot Initiative.

We thank Desmond Meade for his insights and guidance. We are grateful to Returning Citizens JB, Judith Boyer, Anthony Bozman, Dexter Gunn and Teze Jones, who generously contributed their time and personal stories for this report.

Advancement Project has had a long history of supporting grassroots organizations and labor unions in Florida. We are honored to support the work of: Concerned United People, Dream Defenders, Florida Immigrant Coalition, Florida State Branches of the NAACP, Miami Workers' Center, New Florida Majority, Power U Center for Social Change and SEIU Florida. We are a proud founding member of the Florida Rights Restoration Coalition, whose unwavering commitment to voting rights restoration inspired this report. We appreciate their contributions to this report as well as those of New Florida Majority.

The primary authors of this report, Robb King, MFP and Eileen Ma, Esq., were supported by Program Associate Monae White, and Co-Directors of the Power & Democracy Program Donita Judge and Denise Lieberman. Advancement Project interns and volunteers, Tristin Brown, Aja Espinosa, Clarence Okoh, David Fringle, and Sharion Scott, the Advancement Project Communications team and report design partner Research Action Design also assisted.



**A MORE INCLUSIVE  
DEMOCRACY IS A  
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THOSE CLOSEST  
TO THE PAIN MUST  
LEAD THE FIGHT TO  
GET THERE.**

**DESMOND MEADE,  
FLORIDA RIGHTS RESTORATION COALITION**

## foreword

We are updating our recently released report, *Democracy Disappeared*, on the silencing of the Black vote in Florida through felony disenfranchisement laws. This time we highlight the new empowerment opportunities that exist for the Black vote in Florida. Democracy is reappearing in the Sunshine State following a voter-approved ballot initiative amending the Florida's Constitution to end the dark days for more than a million vanishing voters with felony convictions. On November 6, 2018, over 64 percent of concerned citizens participating in a historic midterm election determined that their right to vote must be shared with those citizens who have completed their criminal sentences.

This amazing development injects new power and energy into the communities described in this report and paints a new electoral landscape that should garner the attention of those who recognize the benefits of an inclusive democracy. Amendment 4 passed overwhelmingly after we published our original report. This report remains a relevant portrayal of facts and circumstances that will change once the Constitutional amendment is immediately and fully implemented. As we move forward, we also look back.

A year after Advancement Project's national office opened its doors, we rushed to Florida to investigate how democracy was robbed during the 2000 Presidential Election. Hundreds of Black voters were illegally removed from the voter rolls through a purge that erroneously categorized them as ineligible due to felony convictions. After suing the state over that issue and other voting barriers, we knew that the cracks in our democracy were real and had significant consequences.

What also rang true is that while those purges were wrong, millions of other people could not exercise their right to vote under Florida law because of past convictions. In 2003, Advancement Project's national office was honored to become a founding member of the Florida Rights Restoration Coalition (FRRC) that sought to fix this historic and discriminatory wrong.

That work really took off when someone who had been impacted by this unfair law became the leader of the organization. I met Desmond Meade when he joined FRRC bringing passion and

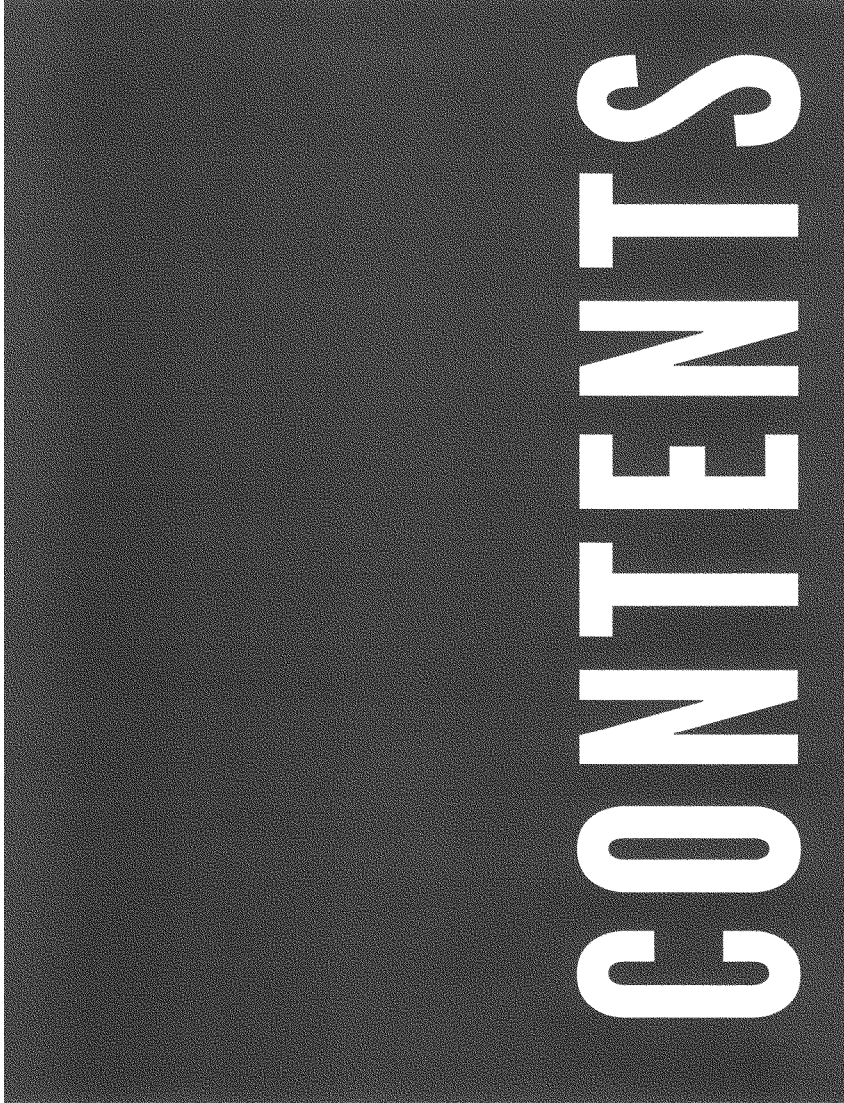
purpose to the work as someone who knew firsthand what it meant to be a Returning Citizen who could not vote. He shared his story and urged a mass, statewide response to Florida's practice of felony disenfranchisement. I remember vividly Desmond standing before a group of progressive organizations in 2012, calling for a ballot initiative to amend the Constitution to forever end this legacy. Many people in the room were skeptical but many of us knew it was time. Advancement Project's national office has long understood the sordid history of these laws, the collateral consequences of mass incarceration and the systemic barriers to the ballot among communities of color. Moreover, our work has always been driven by needs identified by impacted communities. We immediately joined with Desmond to bolster his grassroots efforts to build support for rights restoration in Florida.

Advancement Project's national office is proud to be a part of this movement in Florida, Virginia, Louisiana and elsewhere. The racist history of these laws, and the negative impact of them on communities of color, requires that we restore the civil rights of Returning Citizens. For too many, the harsh, unjust criminal justice system has not only destroyed their lives, but also their communities. They have only recently regained their ability to hold the system accountable. We are committed to the grassroots movement now embodied in FRRC and other groups dedicated to achieving justice for disenfranchised community members and the neighborhoods to which they return. We offer this report, *Democracy Rising: The End of Florida's History of Felony Disenfranchisement and Launch of a New Age of Empowerment*, to cast this as an urgent racial justice fight and to identify clearly the frontlines of the skirmish in Florida's communities of color. We hope to inspire more support, investment and organizing in the Black communities that have the most at stake.

It took all of us to win. Thanks to FRRC and Desmond Meade for their partnership, vision and leadership.

We will continue to work with our partners to focus on the total inclusion of new voters, whose rights are now enshrined in the Florida Constitution. We will continue to support efforts to carry forward the vision to uplift and transform communities spotlighted in the report. The voters have spoken clearly. Our democracy is strong only when there is true liberation, equality, and redemption.

Judith Browne Dianis  
Executive Director  
February 2019



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# EXECUTIVE

Felony disenfranchisement is not a new phenomenon. Its roots are **lodged deep in the founding of this nation.** Laws and practices that deny the right to vote to individuals with felony convictions have existed since the time of the ratification of the United States Constitution. These laws are a **remnant of the era of slavery,** and they were applied with vigor to the Black community following the ratification of the Fifteenth Amendment, which granted former slaves the right to vote.<sup>1</sup> As a part of a backlash against Reconstruction efforts to address the inequity of slavery, felony disenfranchisement became a potent tool for the White establishment to **stymie the empowerment** of the Black community.

# S U M M A R Y

Floridians are quite familiar with this story. Florida was one of four states that permanently disenfranchised those with felony convictions. Today, pending implementation of Amendment 4, over 1.68 million people in Florida are banned from voting—many even decades after they have completed their sentences. Equally troubling is the poor, socio-economic state of the neighborhoods to which individuals return after serving prison time. Those neighborhoods—many of which are predominantly Black—often lack political voice and economic power and are limited in the full freedom to thrive in equity and self-determination.

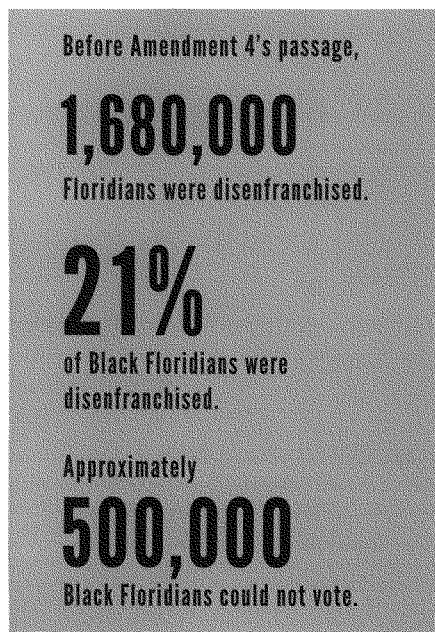
Using data from the United States Census Bureau's American Community Survey and the Florida Department of Corrections, we located the zip codes (designated as neighborhoods) to which released inmates relocated after leaving prison. We analyzed the socio-economic conditions of those neighborhoods in 10 Florida counties with significant Black populations where Advancement Project and our partners work. We located approximately 100,000 individuals who were released from Florida prisons from 2012 to 2016 and returned to neighborhoods in the state.

Our analysis shows that Returning Citizens in Florida are found at higher rates in both poor and Black neighborhoods, and Returning Citizens are disproportionately Black. A disproportionate 43 to 44 percent of Florida's Returning Citizen population is Black, while the Black population of the entire state

is only about 17 percent. We also found that Returning Citizens reside disproportionately in Black neighborhoods in Florida. Specifically, the data shows Black neighborhoods in Florida experience adverse socio-economic conditions: lower median incomes, higher child poverty rates, lower educational attainment, and high unemployment—all of which are associated with felony disenfranchisement and the prevalence of Returning Citizens.

Further analysis showed a relationship between the number of Returning Citizens in a neighborhood and the socio-economic state of a neighborhood—the higher the number of Returning Citizens in a neighborhood, the poorer the neighborhood's socio-economic outcomes, as compared to county and state median statistics. These relationships are conspicuous at the county level across socio-economic indicators, and especially pronounced in Black neighborhoods—even when these relationships are not prominent at the state level.

Felony disenfranchisement was one among many simultaneous challenges faced by Returning Citizens and the neighborhoods where they live. The correlation between socio-economic hardships and high numbers of disenfranchised Returning Citizens in these neighborhoods in these counties suggests a relationship between community conditions and the political franchise of Returning Citizens. The statistical relationships raise questions about the extent of the impact of felony disenfranchisement on



Candidates, including incumbents, may find it easy to ignore communities that do not have registered voters. This hurts the entirety of neighborhoods where Returning Citizens live, not just those whose voting rights were taken away. The addition of over a million voters to Florida's electorate will make our democracy more representative. We posit that the theoretical and mathematical possibilities illustrate the grave impact of the removal of so many voters from our democratic process—especially at the local level.

Our hope is that this report will spark conversations across Florida and the nation about felony disenfranchisement and its role in a system of inequities imposed on poor and Black communities. For some, including many in our selected neighborhoods where widespread disenfranchisement became almost commonplace, this report merely validates their life experiences and what they already know. We also hope this report will reach those unfamiliar with felony disenfranchisement who will be shocked by its many immediate and reverberating consequences for our democracy.

both those disenfranchised and the communities in which they reside—communities that are often predominantly Black and already beset with over-policing, over-incarceration and hindered in their efforts to change the conditions of their community.

Disenfranchised Returning Citizens were unable to influence elections in their communities and were denied a voice in local decision-making related to the socio-economic conditions they experienced. The absence of large swathes of voters from local and state-level elections has real-world effects.

No analysis of felony disenfranchisement would be complete without the voices and experiences of those who were impacted directly by this institutionalized practice of disempowerment. Thus, featured here are stories of individuals whose lives exemplify the injustice of the unreasonable additional punishment once enacted on them by Florida's felony disenfranchisement law and process. These are stories of perseverance, redemption and triumph from individuals who have met their responsibilities to redress their convictions and have completed the rehabilitative steps required by

our systems of “justice.” These testimonies are a reminder that permanent disenfranchisement of our fellow citizens is unjust and wasteful and that our communities would benefit enormously from the full participation of all people. These stories convey the human impact of disenfranchisement, along with many other challenging socio-economic conditions, on the lives of real people and their families, including children. We share these stories in the report in order to center Returning Citizens’ experiences and voices as the moral core of this work.

Restoration of the right to vote to Returning Citizens will have a powerful societal impact by helping to amplify currently marginalized political voices—especially in Black communities, where so many are disenfranchised and where a lack of voter participation prevents community engagement and representation in local decision-making.

Like other voter suppression tactics, felony disenfranchisement has a long history rooted in slavery in the US. It is also an outgrowth of our failure to have enshrined in our federal Constitution an affirmative right to vote.<sup>2</sup> Felony disenfranchisement is an egregious by-product of a piecemeal, state-by-state approach to the franchise and election administration that has allowed the suppression of millions of votes. Even more troubling, communities of color continue to be disproportionately impacted by these laws. For these communities, felony disenfranchisement is one thread interwoven in a web of disempowerment, along with numerous unjust institutional mechanisms, such as regimes of over-policing and mass incarceration, community underfunding, voter suppression, school privatization—all of which disproportionately affect Black communities. Unraveling felony disenfranchisement is a meaningful step toward the empowerment of currently under-represented communities in Florida.

## THIS REPORT OFFERS A FEW RECOMMENDATIONS

1. IMMEDIATELY AND FULLY IMPLEMENT AMENDMENT 4 TO THE FLORIDA CONSTITUTION
2. REFORM FLORIDA’S RULES OF CLEMENCY
3. INVEST IN RE-ENTRY AND REMOVE ROADBLOCKS TO RE-INTEGRATION
4. REDUCE HARSH SENTENCING RULES AND PRACTICES
5. SUPPORT CIVIC ENGAGEMENT IN COMMUNITIES OF COLOR, ESPECIALLY AMONG RETURNING CITIZENS AND OTHER IMPACTED COMMUNITIES
6. DIVERSIFY DATA COLLECTION REGARDING RETURNING CITIZENS AND THE COMMUNITIES WHERE THEY LIVE
7. ESTABLISH A FUNDAMENTAL RIGHT TO VOTE IN THE U.S. CONSTITUTION

# about democracy rising

This report breaks new ground by providing a Florida neighborhood-level analysis of felony disenfranchisement and related socio-economic factors, including a discussion of the potential impacts of political disempowerment at local levels. We offer it as a supplement to existing state and national level research.<sup>3</sup> Highlighting the outcomes and experiences in communities of color in Florida, the report is intended for use by grassroots organizations and other stakeholders in their efforts to address felony disenfranchisement and other neighborhood challenges.

The study provides demographic and socio-economic data on 10 counties—Broward, Miami-Dade, Duval, Escambia, Gadsden, Hillsborough, Orange, Osceola, Palm Beach and Pinellas—that hold 50.5% of Florida's population of individuals with felony convictions released from incarceration from 2012 to 2016. These counties vary in geographic size and location, population size and racial composition, rurality, and in other aspects. They were selected, in part, because they have significant populations of people of color.<sup>4</sup>

## METHODS + DATA

Datasets from the United States Census Bureau (U.S. Census) and the Florida Department of Corrections (FDOC) Offender Based Information System (OBIS) database were analyzed, with zip code serving as our unit of analysis.<sup>5</sup> The American Community Survey (ACS) Five-Year Estimates for 2012 and 2016 from the U.S. Census provided data on selected socio-economic characteristics<sup>6</sup> in zip code tabulation areas (ZCTAs)<sup>7</sup> located in Florida. FDOC OBIS provided datasets of released inmates (1997 – 2016) and state location after release.<sup>8</sup> We identified 99,103 individuals between 2012 and 2016 who returned to zip codes in Florida; this dataset was combined with the ACS 5-Year Estimates' dataset for 2012 and 2016.<sup>9</sup>

While their numbers are substantial, individuals still under supervision (e.g., parole or probation) are not included in our primary dataset.<sup>10</sup> Reasonable people differ as to whether and how individuals under community supervision, versus incarcerated, should be treated distinctly for the purposes of rights restoration. For example, Florida's 2018 Voting Restoration Amendment

ballot initiative granted automatic rights restoration for Returning Citizens upon completion of their sentences, including terms of probation and parole,<sup>11</sup> whereas Louisiana advocates seek rights restoration for individuals still on parole or probation.<sup>12</sup> In our view, the disenfranchisement of parolees and probationers is unjust, but we do not offer a comprehensive analysis here, in part because the dataset here does not allow for efficient or reliable tracking of compliance with terms of supervision after release.<sup>13</sup> Those currently incarcerated or serving jail, probation or other non-incarceration sentences are also not included in our data analysis.<sup>14</sup> Thus, our tabulations count only those released from incarceration with no further terms of supervision.<sup>15</sup> Recidivism rates<sup>16</sup> are not considered here, due to similar tracking challenges and to avoid speculative estimations. We have also not excluded individuals convicted of murder and sexual offenses, assuming such omissions would not significantly alter our overall conclusions here. The report does not attempt to address contested questions as to how rights restoration should be handled for this population of offenders.

## TERMINOLOGY

Throughout this report and following the lead of FRCR, we use the term **“RETURNING CITIZENS”** to refer to formerly convicted people who share common experiences of disenfranchisement and other challenges. This community includes many who have never been sentenced to prison nor separated from their communities by incarceration. The term “Returning Citizen” does not imply a universal “return” from incarceration, nor the loss or regaining of any official citizenship status under the law. Indeed, not all those impacted by felony disenfranchisement have been incarcerated; rather, many have served alternative sentences, like probation, rehabilitation treatment or local jail terms. Also, not all are citizens (e.g., some may be legal permanent residents).

Not all those  
impacted by felony  
disenfranchisement  
have been  
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sentences.

For the purposes of this report, we examined FDOC Released Inmate data (i.e., individuals previously incarcerated due to felony convictions then released) as a proxy to analyze the experience of Returning Citizens generally.<sup>17</sup> The data and experiences of these releasees—a *subset of the broader Returning Citizen population*—provides a reasonable extrapolation of the experiences of this population at large. Because the conclusions drawn from our data analysis apply to the general population of Returning Citizens, we maintain the use of the term throughout the text and in graphics illustrating the data analysis.<sup>18</sup> Note, however, that our datasets actually refer precisely to just one subset of the entire Returning Citizen population, and were analyzed apart from other data and resources.

We use the term **BLACK** to refer to African Americans and other members of the African diaspora. We use the term **LATINX**, in lieu of Latino/a, to refer to people identified as Hispanic, Latin American, or descending from Latin-American countries. Unless otherwise noted, we maintain the terms used in government databases and reports, and other publications (e.g., Hispanic or Latino, Black or African American) when citing these sources.

## DIVERSITY + INCLUSION

The population of Returning Citizens is as racially and ethnically diverse as the general population itself,<sup>19</sup> and communities of color share common challenges of voter suppression and other systemic inequities. This report does not offer a comprehensive study of felony disenfranchisement and its impacts on each racial or other identity group. While such an exploration is essential to any full understanding of this issue, we offer this report as an initial effort to look at localized, neighborhood impacts, starting with the Black community in light of its disproportionate representation in the Returning Citizen population.

Florida is among the most diverse states in the nation, with a large and rapidly-growing Latinx population.<sup>20</sup> Likely, Latinx communities are also disproportionately affected by felony disenfranchisement, as Latinx people are incarcerated at rates disproportionate to their representation in the general population as compared to Whites.<sup>21</sup> But we do not provide analysis of Latinx Returning Citizens because the collection of data on racial identity of released inmates in the FDOC dataset is unclear.<sup>22</sup> We cannot reliably identify or estimate the numbers of Latinx releasees.<sup>23</sup> The datasets also do not include immigration status or related information, and we assume these numbers to be

insignificant for our purposes.<sup>24</sup> Further research on Latinx Returning Citizens and Latinx communities, as well as immigrant Returning Citizens and immigrant communities, is needed but is beyond the scope of this study.

Indeed, we do not attempt to explore the nuances of all the varied experiences of the diverse population of disenfranchised people with felony convictions, such as immigrants, youth of color, lesbian, gay, bisexual, transgender and queer people, and women, among others who have increasingly been ensnared in the criminal justice system. Individuals who claim these identities almost certainly exist in the Returning Citizen population and are encompassed within our dataset, but they are not identified. For instance, data as to immigration status, gender identity and sexual orientation was not collected. Also, deferred for later, are explorations of varying experiences and outcomes based on age and gender, or other distinguishing characteristics.<sup>25</sup> Surely, Returning Citizens of these specific identities have their own stories to tell, even if they share commonalities with the Black community and Black Returning Citizens featured here. We look forward to future studies that illuminate these unique challenges and experiences.

“It is the wound that refuses to heal. They say they want you to be a productive citizen, but they deny you the right to be productive, to vote. It hurts a lot.

It feels like I’m part of a team, but I can’t play. We won a trophy as a team, but I didn’t give out a towel. I didn’t get a drink for the players. I was just a silent participant just looking. So, it’s painful. Especially election times.

I am a 55-year-old man

who hides on election days.  
People ask me on election day,  
'Oh, did you vote?' I cannot say,  
'Yes, I voted.' So I just evade  
the question altogether. I don't  
answer, I change the subject.  
Which I shouldn't have to do. I did  
my time. I should be proud to say,  
'I voted.' I've been employed, I am  
in my community and family life."

Anthony Bozman, Returning Citizen  
with a 27-year-old conviction prior  
to the passage of Amendment 4

# INTRODUCTION

Today in the United States, felony disenfranchisement prohibits over 5.1 million people from voting, many even decades after they have completed their sentences.<sup>26</sup> Among the more insidious and reverberating consequences of felony disenfranchisement is the dampening of the political power of Returning Citizens and the communities where they live. Unable to vote, Returning Citizens have little or no ability to participate in the governance of their communities, to change conditions, or to hold elected officials accountable. Florida is considered ground zero for the calamity of felony disenfranchisement. Until November 2018, a total of 1.68 million people in Florida were disenfranchised, representing over 10% of Florida's voting-age population.<sup>27</sup> Disenfranchised Floridians represented over one-quarter of the 6.1 million disenfranchised in the country. The passage of Amendment 4 in Florida in 2018 automatically restores voting rights for Returning Citizens who have completed their sentences including parole or probation.

For Florida, this was undeniably a statewide problem. But evidence suggests that the impacts of felony disenfranchisement still have disparate impacts based on communities' class (i.e., income and poverty levels) and racial compositions. Our analysis shows a strong relationship between income levels and the numbers of Returning Citizens in communities across Florida. Lower income communities, regardless of race, are likely to have larger numbers of Returning Citizens. Economic disadvantages are pronounced in poor communities and communities of color, where relatively higher numbers of Returning Citizens live. Poor people of all races are more likely to experience the disadvantages associated with Returning Citizens' disenfranchisement.

Such disenfranchisement on its own is a travesty of our criminal justice system and a perversion of the notion of justice. Evidence of racial disparities in impact, disproportionate representation and potential discrimination in application makes felony disenfranchisement law and practice even more alarming. A reckoning with the racist origins of this nation's restrictive voting laws and their present-day perpetuation is long overdue.

Felony disenfranchisement is a relic of Reconstruction-era voter suppression laws designed to disempower newly-emancipated Black Americans. The disproportionate silencing of Black voices continues the legacy of Jim Crow. By now, it is

# 6,100,000

People in the U.S. cannot vote due to felony disenfranchisement.

# 1,680,000

of those people lived in Florida before Amendment 4.

In other words, before Amendment 4...

# 27.5%

of the country's disenfranchised Returning Citizens were in Florida.

# 10.6%

of Florida's voting-age residents were disenfranchised prior to Amendment 4 passage.

**In Florida, 6 out of 10 residents are White, and 2 out of 10 are Black.**



**On the other hand, 2 out of 10 Returning Citizens are White and 4 out of 10 are Black.**



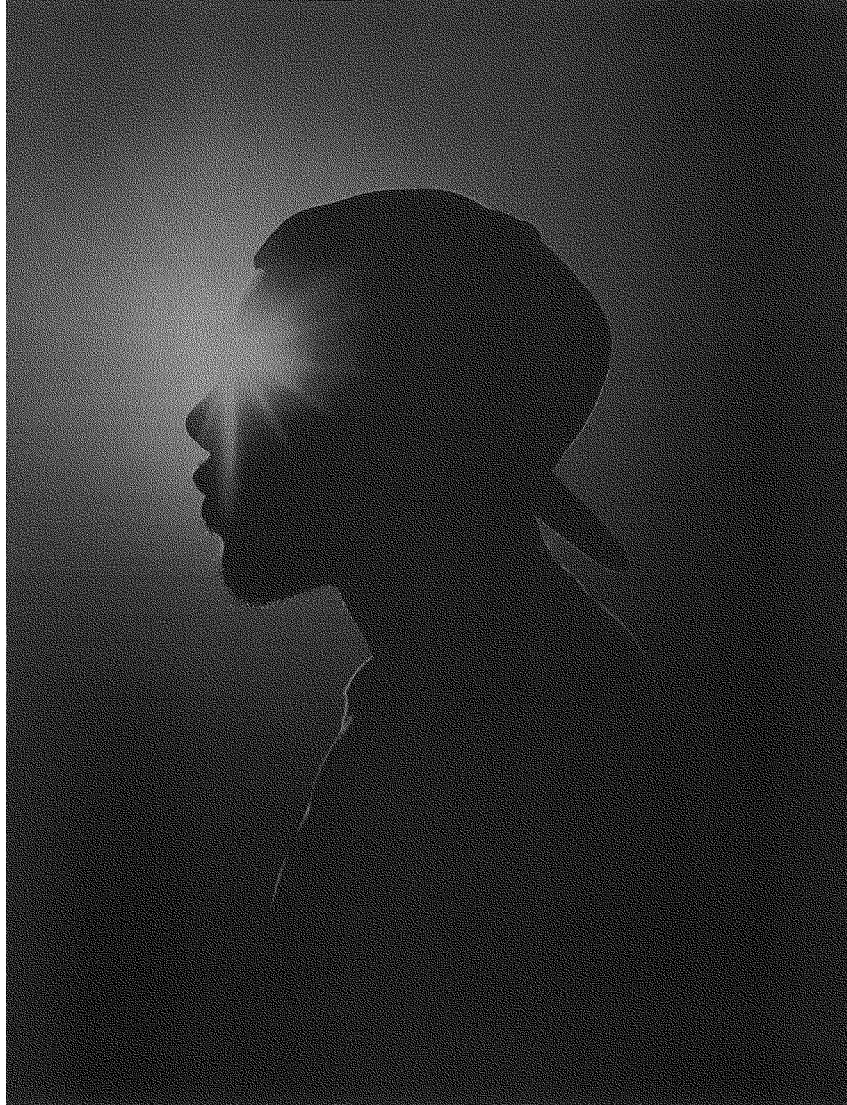
indisputable that communities of color are disproportionately impacted by our country's mass incarceration regime. The impacts and real-world consequences of *mass disenfranchisement* due to felony convictions are lesser known.

This report shows that the injustice of felony disenfranchisement and the devastating community outcomes associated with it were disproportionately seen in Florida's Black communities. Analysis of neighborhood level data and our particular focus on neighborhoods of color provide a localized view of this systemic and racialized injustice. We show here the links between disenfranchisement of Returning Citizens and particularly challenging conditions in Black neighborhoods in selected Florida counties, where significant numbers of people return once they have completed their incarceration. Detailed neighborhood data analyses of the 10

selected counties of Broward, Duval, Escambia, Gadsden, Hillsborough, Miami-Dade, Orange, Osceola, Palm Beach, and Pinellas show that Returning Citizens are found disproportionately in Black neighborhoods.<sup>28</sup>

Furthermore, Returning Citizens are disproportionately Black, relative to the general population. We also find a correlation between adverse socio-economic conditions and the prevalence of Returning Citizens and Black population percentages in these counties. Socio-economic indicators, such as median income, child poverty rates, education attainment and unemployment rates, show persistent inequities in these same communities. Black neighborhoods are likely to experience relatively poor socio-economic conditions. They are also likely to have higher numbers of Returning Citizens and therefore have more disenfranchised community members.

Our finding of glaring relationships across communities between numbers of Returning Citizens, Black population percentages and socio-economic outcomes suggests that felony disenfranchisement was a determinative factor in the conditions of the community. Thus, felony disenfranchisement is not only a barrier to civic engagement for scores of individual voters. It also operated as a constraint on the aspirations and advancement of entire communities—particularly voters and Black communities.





## A FLORIDA STORY OF DISENFRANCHISEMENT

### *Feeling Invisible, Voiceless*

Anthony Bozman, 55, is married and has five adult children. His wife of 20 years, Varonnica, works in an assisted living center for seniors. His children, ages 26 to 34, are independent and upstanding citizens. Anthony works hard at his two jobs, pays taxes and contributes to his community as a volunteer providing help for the homeless and for advocacy organizations.

In 1991, Anthony was involved in a fight that resulted in him firing gunshots into an unoccupied building. He was on private property with a gun and was charged with an aggravated felony. Anthony was convicted and served four years in prison. His arrest led to a personal revelation that he could do better with his life. He never made excuses for his past transgressions. Rather, he reflected on his life and upbringing and realized he needed to transition into a better way of living as an adult. Anthony credits a solid family support system and a strong education with enabling him to get on the right track back into society.

He has tried to put his felony conviction from 27 years ago behind him. He served his time, reflected on his mistakes, reached new personal heights and has maintained a positive outlook and exemplary life since then. He is a productive citizen. But much like other former offenders, he faced one implacable barrier: He was unable to vote. To Anthony, the right to vote is essential to any individual's full acclimation and return to society. He applied to Florida's Clemency Board for rights restoration around 2000, but as of 2013 he was told his application was sitting in Tallahassee and had not been processed. In the 2018 midterm elections he regained his ability to register to vote.

Since his release in 1995, he has not stopped working. He has resolutely confronted and overcome obstacles in his way to find opportunities, earn a living, support his family, and advocate for what's right in his community. Continued denial of his right to vote meant that even after almost 30 years since his conviction, and despite his many achievements and his undisputed rehabilitation, Anthony was not fully accepted as a member of our society and not an equal citizen. "I am feeling invisible, like I am voiceless," said Anthony ahead of the 2018 midterm elections. "As Ralph Ellison said, 'an African-American male is not acknowledged in this country as a man and as a human for that matter.'"

## Felony Disenfranchisement's

# ROOTS OF RACISM

The roots of disenfranchisement can be traced back to the founding of the nation. These laws and practices, which deny the right to vote to individuals with felony convictions, have existed since the time of the ratification of the Constitution.<sup>29</sup> These laws, which were enacted in America as early as the 1600s, espoused a punitive principle that those who violate social norms disqualify themselves from participating in the political process.<sup>30</sup> By 1868, 29 states had implemented felony disenfranchisement laws.<sup>31</sup> Although often race neutral on their face, these laws are steeped in the history of slavery and oppression of the Black community. The nation's dependence on slavery and the endemic exploitation of Black people, allowed the nation's political institutions to use felony disenfranchisement as a potent weapon to oppress and control former slaves and the Black community as a whole.<sup>32</sup> Felony disenfranchisement remains one of the major barriers erected to curtail the democratic participation of communities of color.

After the Civil War in the late 1860s, Congress enacted the Reconstruction Amendments to end the institution of slavery: the Thirteenth Amendment abolished slavery;<sup>33</sup> the Fourteenth Amendment granted citizenship status to African Americans;<sup>34</sup> and the Fifteenth Amendment prohibited the denial of the right to vote to citizens on account of race, color or prior conditions of servitude.<sup>35</sup> This expansion of civil rights to Black people created a backlash from the southern, former slave-holding states, where White supremacist power structures sought to maintain full control of the region's social and economic institutions. Suffrage for the masses of new Black citizens was a categorical threat to the southern White monopoly on power. To counter this threat, many southern states broadened felony disenfranchisement laws by focusing on crimes attributed disproportionately to Black Americans.<sup>36</sup> For instance, Mississippi disenfranchised those convicted of burglary and robbery, which were thought to be "Black" crimes, but did not disenfranchise murderers and rapists.<sup>37</sup> In concert with Jim Crow laws and an array of voter suppression tactics, including the use of blatant intimidation and violence, felony disenfranchisement efforts effectively blocked Black communities out of circles of power.<sup>38</sup> Florida's lifetime felony disenfranchisement law was added to the Florida State Constitution in 1868.<sup>39</sup> Even after the passage of the Reconstruction Amendments, the exclusion

of Black voters continued. In fact, Florida initially "rejected the [Fourteenth] Amendment and established additional crimes, including a new, expansive type of larceny, in order to address the altered condition of free [B]lacks living in the state."<sup>40</sup> Other discriminatory practices included literacy tests, property qualifications, grandfather clauses, poll taxes and "White primaries" used from the 1880s through the early 1900s.<sup>41</sup> The compounded impact of these tactics over time was the maintenance for decades of a White supremacist racial hierarchy.

The entire South, encompassing all the former slave-holding states of the defeated Confederacy, have strict felony disenfranchisement laws to this day.<sup>42</sup> Today, of the 6.1 million people across the U.S. who are denied the right to vote due to previous felony convictions,<sup>43</sup> over 2.2 million of these people are African Americans, 40% of whom have completed their sentences.<sup>44</sup> High incarceration rates in the Latinx community suggest that Latinx people are also likely to be disproportionately disenfranchised, relative to their population rates, as a direct and collateral result of felony convictions.<sup>45</sup> By and large, the casualties nationwide are found in heavy concentrations in communities of color, especially in Black communities.<sup>46</sup> Despite the nation's uneven progress toward racial justice, the racist legacy of felony disenfranchisement laws continues.<sup>47</sup>

A STATEWIDE SNAPSHOT

WHAT'S WRONG  
IN FLORIDA?

Florida was one of four states where, under the state constitution, a felony conviction resulted in a lifetime loss of civil rights, including the right to vote.<sup>48</sup> Under the Florida Constitution, until recently amended, a person was denied the right to vote upon conviction of a felony for life,<sup>49</sup> unless they receive a “restoration of rights.”<sup>50</sup> Florida’s felony disenfranchisement law before passage of Amendment 4 was roughly the same as when it was inserted into the State Constitution 150 years ago. A 1968 constitutional revision narrowed the application of the disenfranchisement provision only to those convicted of felonies but maintained lifetime disenfranchisement.<sup>51</sup> The law survived a 2005 racial-discrimination-based challenge in Federal court: the court ruled that the law did not violate the Equal Protection provisions of the U.S. Constitution.<sup>52</sup>

The power to restore civil rights, including the right to vote, serve on a jury or hold public office, was vested in the Governor and the Cabinet.<sup>53</sup> There is widespread agreement that the previous rights restoration rules imposed by Governor Rick Scott’s Clemency Board were patently unfair.<sup>54</sup> The rules imposed 5- and 7-year waiting periods for eligibility and instituted hearings giving the Clemency Board arbitrary decision-making authority.<sup>55</sup> The process of rights restoration under Gov. Scott has slowed to a trickle.<sup>56</sup> Since 2011, the clemency rules have been arbitrary and so restrictive that less than 3,000 people have had

their rights restored.<sup>57</sup> By comparison, the previous governor restored the rights of 155,000 between 2007 and 2010, while the governor before him restored the rights of 77,000.<sup>58</sup> Under Gov. Scott, the backlog of applicants remained consistently over 10,000.<sup>59</sup> Hundreds of thousands of others were not even *eligible* to apply to have their rights restored due to the lengthy waiting periods imposed *after* the completion of their sentences.<sup>60</sup> The Clemency Rules are currently being challenged in court.<sup>61</sup> Florida’s judiciary condemned the state process, concluding that “Florida’s arbitrary slow drip of vote-restorations violates the U.S. Constitution,” and characterizing it as “at a snail’s pace guided by absolutely nothing.”<sup>62</sup> Florida voters, however, on November 6, 2018, approved Amendment 4 to abolish the unfair rights restoration process by Constitutional Amendment, which provides automatic rights restoration to Returning Citizens.<sup>63</sup>

Massive numbers of people have been disenfranchised in Florida due to felony disenfranchisement.<sup>64</sup> Returning Citizens represent a cross-section of Florida’s general populace.<sup>65</sup> Florida comprises less than seven percent of the entire U.S. population.<sup>66</sup> Yet, Floridians constituted over one-quarter (25%) of those across the nation unable to vote due to felony convictions.<sup>67</sup> Disenfranchisement—extensive, prolonged and permanent—in combination with other forms of voter suppression, influences

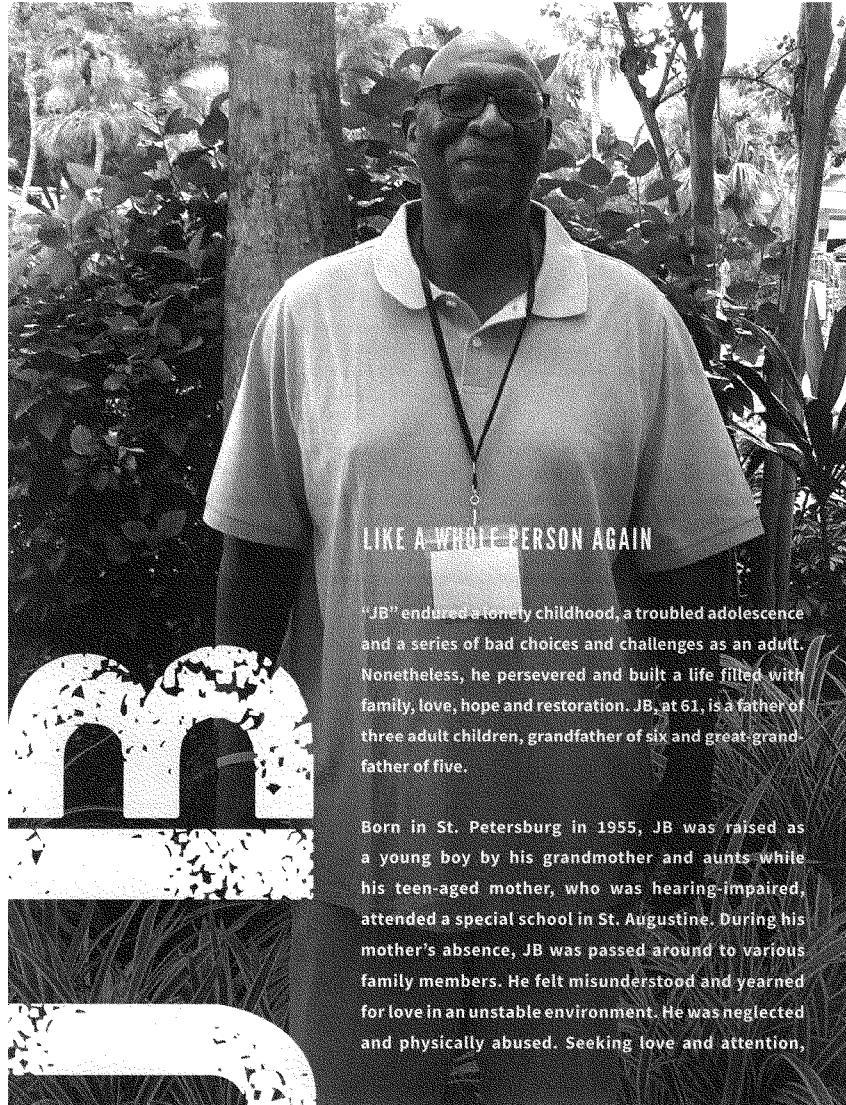
the composition of Florida's electorate and potentially the outcomes of numerous elections.<sup>68</sup> Florida's democracy is one in which a large segment of the population is simply unrepresented. The voices and votes of poor Floridians of all races in large numbers are excluded from electoral decisions, large and small.

Notably, across the nation, felony disenfranchisement is a plight that disproportionately affects people of color.<sup>69</sup> While more than 10 percent of the entire voting age population is permanently barred from voting due to a felony conviction,<sup>70</sup> one-third of the disenfranchised are Black.<sup>71</sup> Meanwhile, one in five (at least 20 percent) African Americans in Florida were disenfranchised.<sup>72</sup> In numbers disproportionate to their percentage of the general population, large segments of the Black community were being excluded from the democratic process—unable to participate in any elections.<sup>73</sup> Thus, without the full force of Amendment 4, felony disenfranchisement is one major obstruction to Black communities' efforts to exert power in democratic decision-making in Florida.

High disenfranchisement rates and low voter participation have real-world ramifications for the people and democracy in Florida and across the United States. Looking back at past Florida elections, some relatively small margins of victory are striking, when juxtaposed against

exorbitant numbers of voters disenfranchised from these elections.<sup>74</sup> Every voter counts—as does every excluded voter—especially when races are won by relatively slim margins. Memorable to many, in the 2000 U.S. Presidential election, George W. Bush won Florida by 537 votes,<sup>75</sup> as more than 12,000 individuals were purged from the voter rolls for mistaken felony convictions.<sup>76</sup> That same year, 600,000 people in Florida with felony convictions had completed their sentences but were not permitted to vote.<sup>77</sup> Gov. Scott, who in 2011 erected the strictest barriers to rights restoration to keep hundreds of thousands off the voter rolls, was elected in 2010 and re-elected in 2014, by paltry margins of, respectively, 61,550 and 64,145 votes statewide.<sup>78</sup> Local and municipal elections have been decided by even closer margins and smaller numbers of votes, dictating the composition and direction of city councils, county commissions, school boards and other elected bodies across the state.<sup>79</sup> While it is impossible to prove that any of these outcomes would have been different had Returning Citizens been added to the rolls—and we make no such claim here—it is important to consider the cumulative value of each vote and voter. What might have happened in any given election is always a matter of speculation, but it is a mathematical certainty that adding voters to any race would make a difference, begging the question: What if *everybody* could have voted in Florida?

Evidence suggests that the consequences of felony disenfranchisement fall disproportionately on poor communities and communities of color, which are likely to have high concentrations of Returning Citizens who are disenfranchised.



### LIKE A WHOLE PERSON AGAIN

"JB" endured a lonely childhood, a troubled adolescence and a series of bad choices and challenges as an adult. Nonetheless, he persevered and built a life filled with family, love, hope and restoration. JB, at 61, is a father of three adult children, grandfather of six and great-grandfather of five.

Born in St. Petersburg in 1955, JB was raised as a young boy by his grandmother and aunts while his teen-aged mother, who was hearing-impaired, attended a special school in St. Augustine. During his mother's absence, JB was passed around to various family members. He felt misunderstood and yearned for love in an unstable environment. He was neglected and physically abused. Seeking love and attention,

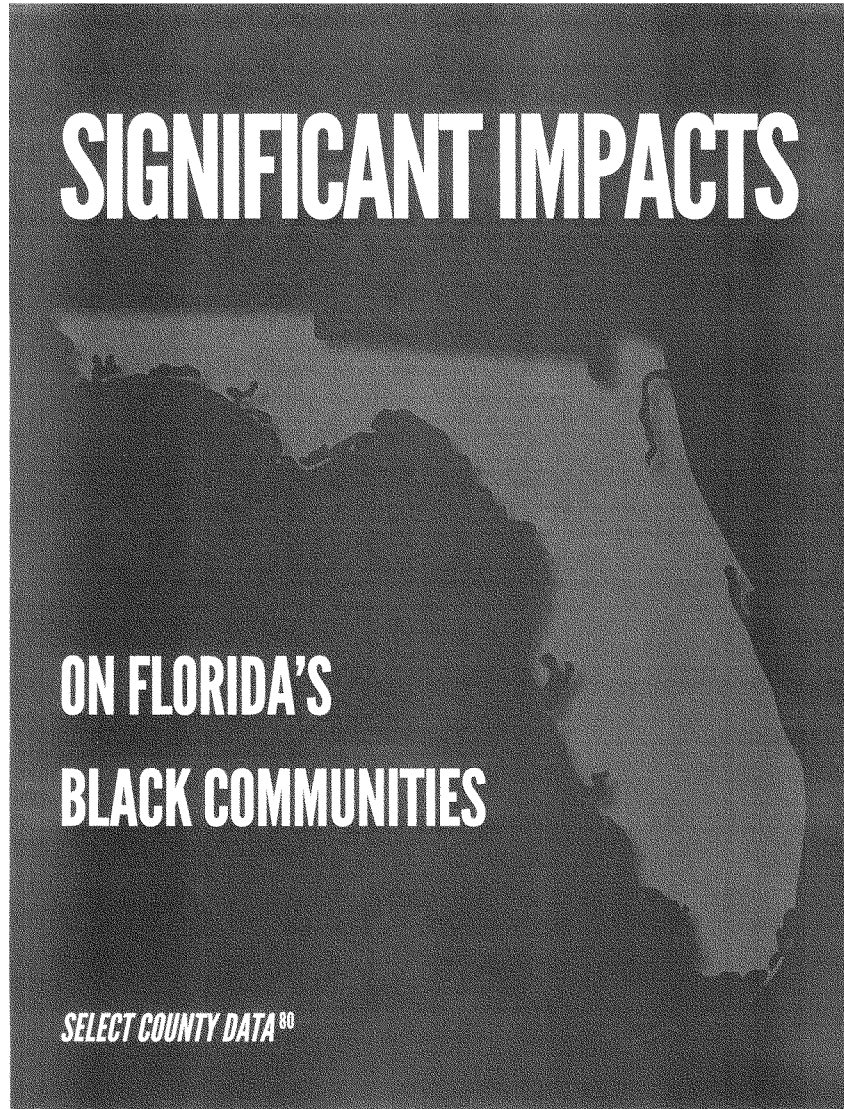
he acted out and got in trouble for bad behavior. At age nine, JB was sent to a foster home where he lost connection with his family. After four years, he ran away from foster care and returned to his mom and four sisters.

In 1972, JB was charged and convicted of armed robbery. At age 17, he was sentenced as an adult and served approximately four years in an adult prison. Incarceration as a teenager marked the rest of his life. He had difficulty getting on track to a stable life. Between 1989 and 2009, he was arrested in two other incidents, as well as for violating parole, for which he served additional time. The incarceration and intermittent absences were hard on his children, who were close with him and depended on him. Having several offenses on his record made life difficult, even as he has tried to lift himself up to support his family and to improve his life. Decent-paying jobs to cover basic living expenses—like rent, utilities, and food to sustain his family—were elusive. He had trouble finding apartments because many landlords simply refused to rent to people with convictions.

In 2014, JB was embroiled in another incident, which resulted in his arrest. In an escalated dispute with a cab driver in which no one was hurt, and no threat or harm to life was sustained, JB was charged and convicted of attempted murder. During his sentencing, his 40-year-old conviction from 1972 was considered in labeling him as a habitual felony offender. He served the majority of a four-year prison sentence, ending in October 2017.

Since his return to his community, JB has been active as an advocate for a local non-profit organization, but he has found it difficult to make it. "I can find work, but it is not sustainable in terms of being able to take care of [our] families or cover [our] living expenses. It's hard to sustain an apartment, utilities and food on the table," he said.

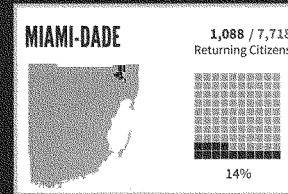
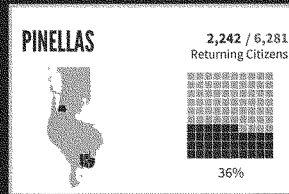
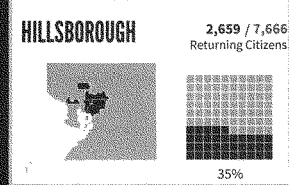
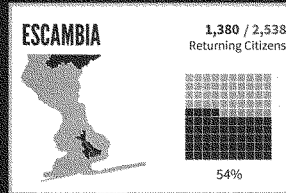
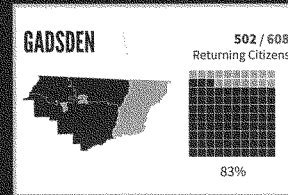
JB had his right to vote restored in time to be able to vote for the first time in his life in 2008. He voted for President Barack Obama. It was a powerful experience for him. In that moment he felt "like a whole person again, because he could make a difference that needed to be made." He had grown up with the common mindset among young people of his time that voting would not make a difference—that he could not make a difference. In 2008, he saw how using his voice can have an impact, and it is extremely important to him to have his voting rights restored. With a hopeful and positive attitude, he aspires to make a difference again.



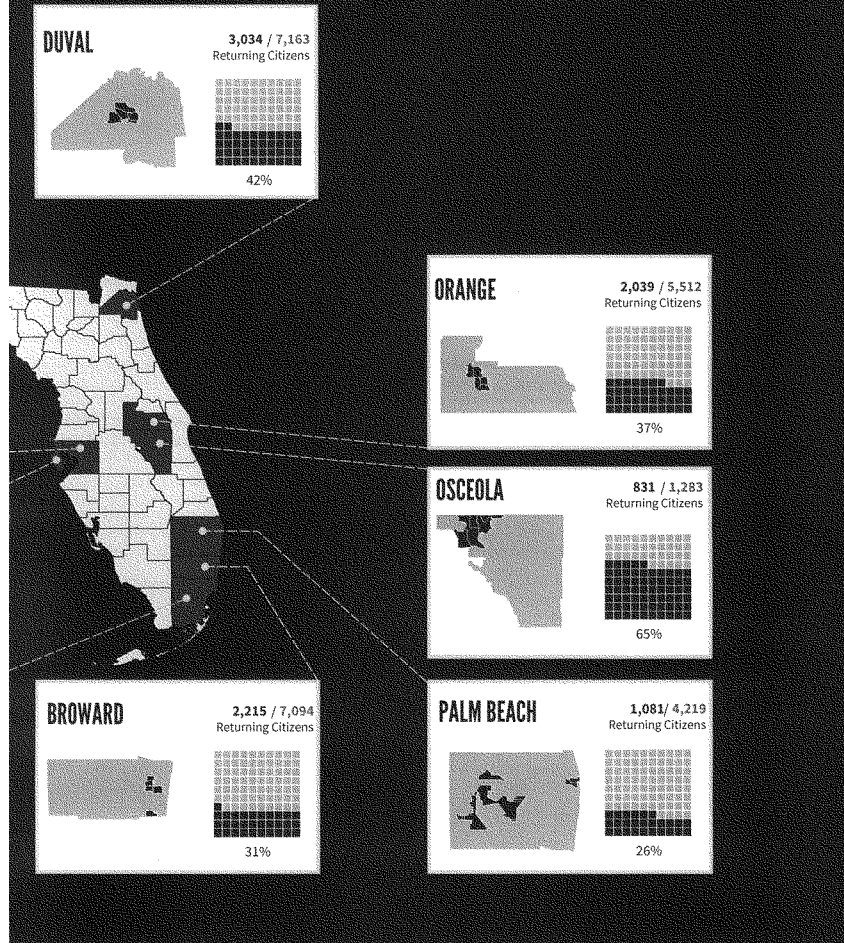
The disappearance, due to felony disenfranchisement, of over one-and-a-half million voices from the electoral landscape still affects all Floridians, but the impact is not spread evenly across all communities or across the state. Evidence suggests that the consequences of felony disenfranchisement fall disproportionately on poor communities and communities of color, which are likely to have high concentrations of Returning Citizens who were disenfranchised prior to Amendment 4's passage. High numbers of people with felony convictions return, upon their release, to geographic areas where people of color live. Note that our research focuses specifically on the Black community. The FDOC data collected related to Latinx, Native American and Asian American, Native Hawaiian people and Pacific Islanders is insufficient to allow for reliable analysis of socio-economic impact and disparities at the zip code and neighborhood level.

# DISPROPORTIONATE IMPACT

The dark shaded areas on each county map reflect the five zip codes with the highest Black population percentages. The counties' Returning Citizens live in disproportionate numbers in those five zip codes. The charts show the percentage and numbers of Returning Citizens in those Black neighborhoods, as compared to the county as a whole.<sup>21</sup>



# ON BLACK NEIGHBORHOODS

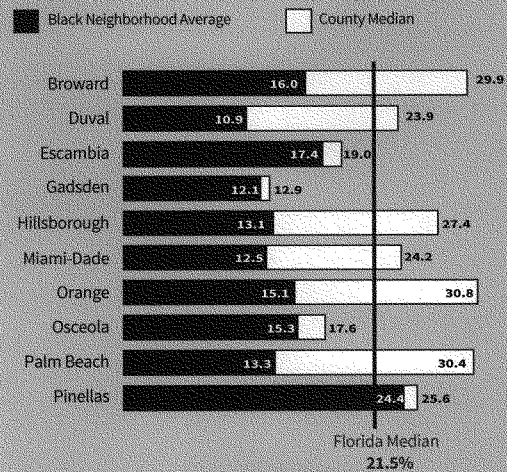


## BLACK NEIGHBORHOODS FACE SOCIO-ECONOMIC CHALLENGES

In the 10 counties we analyzed, Black communities with high numbers of Returning Citizens experience many socio-economic challenges. The neighborhood-level data shows mostly strong correlations between the Returning Citizen population and the socio-economic factors we examined; such correlations do not register, or register weakly, in the statewide data analysis. The data shows a pronounced relationship between numbers of returning citizens and socio-economic hardships at the county and neighborhood levels, suggesting that socio-economic conditions are affected by felony disenfranchisement, particularly in Black communities.<sup>82</sup>

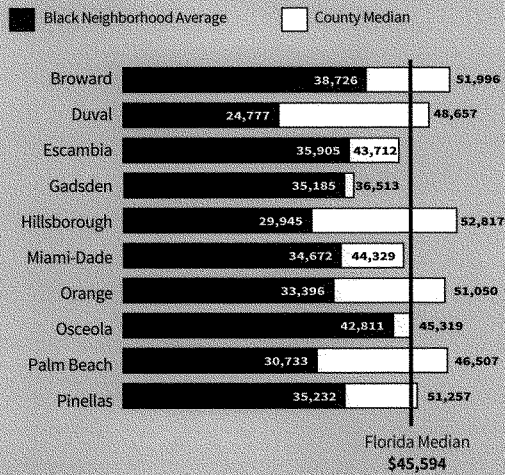
### Lower Educational Attainment

Persons with a College Degree (2012, %)



## Lower Median Incomes

Median Household Income (2012, \$)



**ABOVE:** Across the counties we studied, neighborhoods (zip codes) with higher Black population rates and higher Returning Citizen numbers have lower median incomes, some by almost 50% less—tens of thousands of dollars less—than county and state medians.

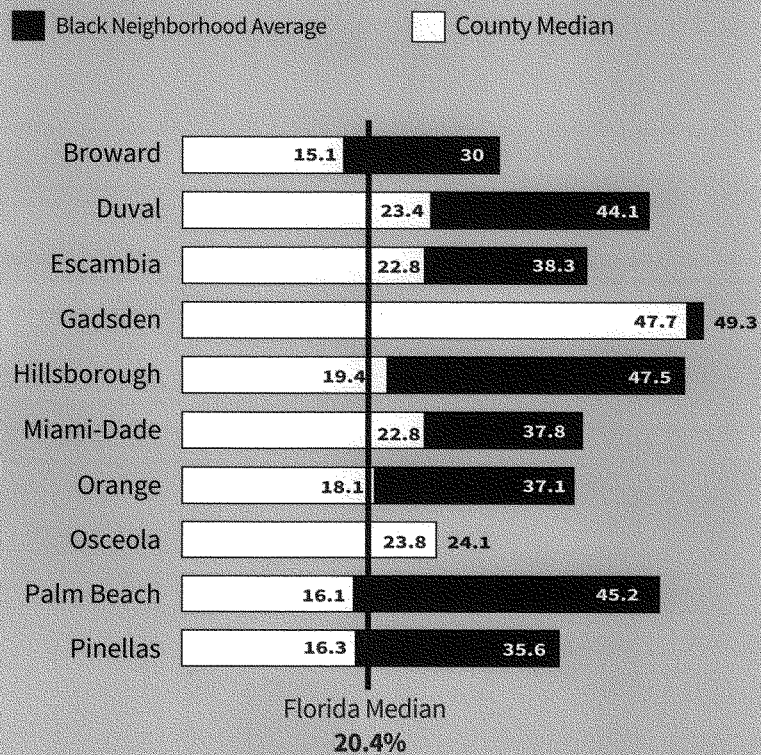
Strikingly, 18% of **Broward County's** Returning Citizens reside within just one zip code in Fort Lauderdale. This zip code, 33311, contains Sistrunk Boulevard, the historic heart of Fort Lauderdale's Black community. Overall, in Broward County, 1 in 3 Returning Citizens returns to a Black neighborhood (5 out of 52 zip codes). Similarly, in **Palm Beach County**, 1 in 4 Returning Citizens returns to a Black neighborhood (5 out of 47 zip codes).

In **Duval County**, where median incomes in Black neighborhoods (5 out of 31 zip codes) are barely half the county median, over 42% of Returning Citizens live in a Black neighborhood.<sup>83</sup>

**LEFT:** We measured educational attainment by the percentage of adults who have obtained a college degree. In these counties, neighborhoods with higher Black population percentages and higher numbers of Returning Citizens reflect educational attainment levels below the county and state medians.

## Higher Child Poverty Rates

Child Poverty Rate (2012, %)



**Children in Florida's Black communities experience alarming poverty rates above the state median and mostly above the county medians as well.**

In two of **Escambia County's** Black neighborhoods, both in the Pensacola area, the child poverty rates are more than double the county and state medians: in zip code 32501, the child poverty rate is 52.1%; in zip code 32505, the child poverty rate is 47.2%. About half the children in these majority Black neighborhoods live in poverty. The five zip codes with the highest Black population percentages account for 54.4% of the Returning Citizens in the entire county.

**Gadsden County** is a majority Black community; the Black population comprises 57.5% of the county. The median child poverty rate in the whole county is 47.7%, more than double the state median, suggesting a pronounced child poverty problem in the county. Two of the zip codes with highest Black population rates have child poverty rates almost three times the state median.

Child poverty in **Hillsborough County's** highest Black population zip codes are a shocking 20-40 percentage points higher than the county and state median poverty rates. In these Black neighborhoods, in 5 of the county's 48 zip codes, where 38.1% of the county's total Returning Citizen population lives, the average child poverty rate is 47.5%, over twice these rates of the county (19.4%) and state (20.4%). Virtually every other child lives in poverty.

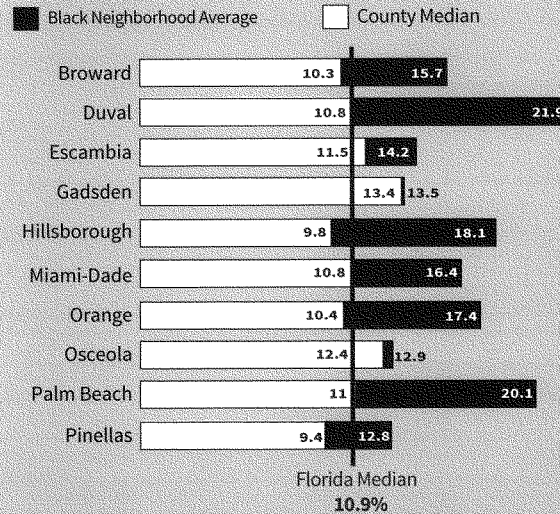
In **Orange County**, Black neighborhoods experience an average 37.1% child poverty rate, more than double that of the county median. That 4 in 10 children in these neighborhoods are living in poverty in a county with a \$9.1 billion tourism industry is appalling.\*

The average child poverty rate of 45.2% in **Palm Beach County's** Black neighborhoods is almost three times higher than the county median and 25 percentage points higher than the statewide median. In every one of the highest Black population zip codes, the child poverty rate is at least 50% higher, and in two instances, the figures are doubled or nearly doubled. These neighborhoods contain 25.4% (1 in 4) of the county's Returning Citizens.

\* Orange County Register Editorial Board, Editorial, *Does Disney pay its fair share? Yes*, ORANGE COUNTY REG., Oct. 14, 2017, <https://www.ocregister.com/2017/10/14/does-disney-pay-its-fair-share-yes/>.

## Higher Unemployment Rates

Unemployment Rate (2012, %)



**"It was very difficult to find a job that was stable because of my felony conviction."**

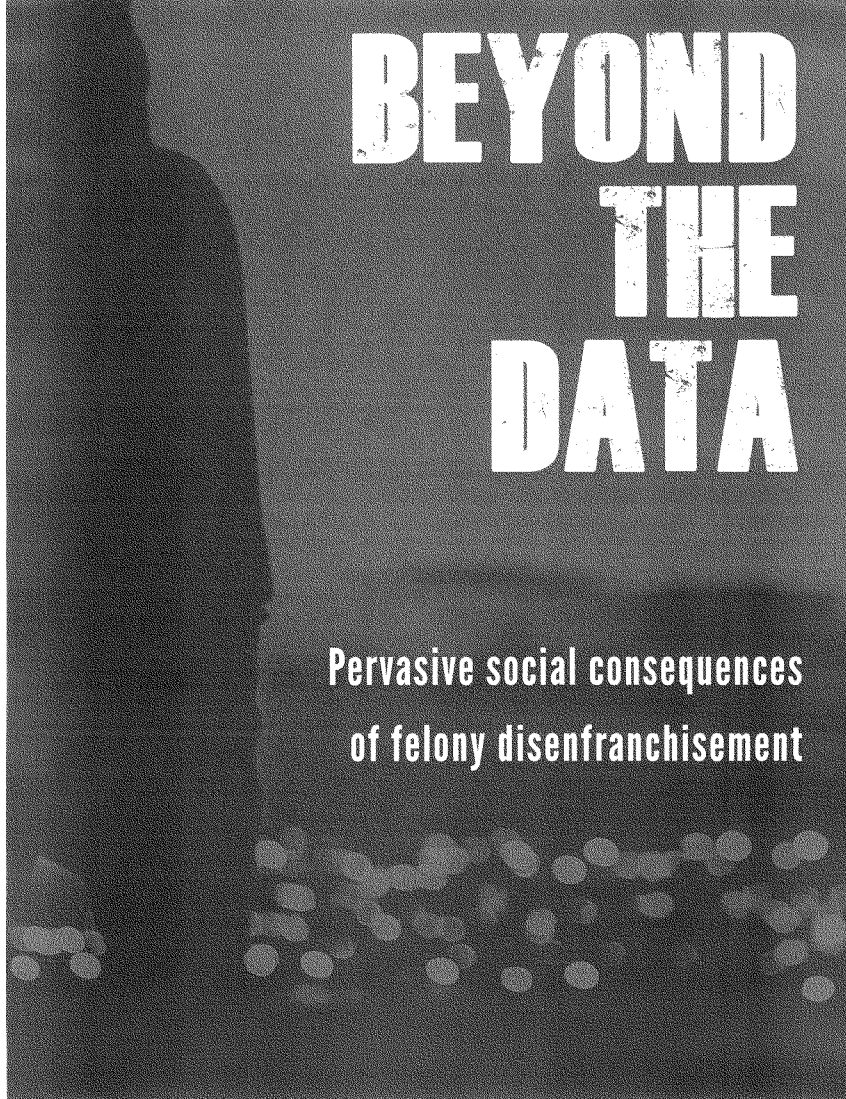
**Judith Boyer, Returning Citizen**

The statistics here match this common experience among Returning Citizens.<sup>84</sup> In every one of these Black neighborhoods, the unemployment rate exceeds both the state and county medians, showing that Black communities are left out of state and county economic development progress and opportunities.

Our data shows that there are correlative relationships among Returning Citizen populations (and thus, their disenfranchisement), Black population percentages, and socio-economic indicators. The upshot? **Felony disenfranchisement is not an isolated phenomenon, but rather one threaded significantly together with compounding social inequities in Black communities.** For Returning Citizens and their families, the data means that disenfranchisement is only one immediate and reverberating consequence of felony conviction. Our analysis shows that losing the right to vote is linked to socio-economic conditions and the lived experiences of the communities where Returning Citizens live. Felony disenfranchisement converges with low income, poverty, limited education and employment opportunities to disempower entire communities.

# BEYOND THE DATA

Pervasive social consequences  
of felony disenfranchisement



The co-existence of the aforementioned socio-economic disadvantages with high levels of disenfranchisement of Returning Citizens in Black communities can also have wider ramifications, although the precise causes and consequences of these social conditions are not easily determined. The inability of disenfranchised communities to participate meaningfully in our democracy limits their power to overcome patterns of inequity and systemic injustice. When large numbers of community members are not permitted to vote, entire constituencies may go unrepresented in the democratic institutions that govern them.

Routinely, thousands of local elected officials make decisions of great consequence in the daily lives of residents throughout Florida. This research does not presume that Returning Citizens care inordinately or at all about elections of particular school board members, sheriffs, state attorneys, public defenders, judges, or in general. It is obvious, however, that these elected officials and the institutions they lead, have significant influence over real-world issues of common concern to many Black communities in Florida. Below we examine spheres—schools and law enforcement—in which the consequences of disenfranchisement may be manifested in practical ways.

## LOCAL SCHOOL BOARDS

Local school boards hold the power to shape the quality of public education in each community, which can have wide-ranging consequences for students beyond their experiences in school.<sup>85</sup> Ideally, school boards provide access for parents, students, and taxpayers to have a voice in education policy issues. These include, but are not limited to, funding allocations, curricular content, teacher selection, and school discipline.<sup>86</sup> Many Returning Citizens have children and are invested in education policies for youth in their communities. Pending full implementation of Amendment 4, their inability to participate in choosing school board members denies them opportunities to influence these elected institutions. As long as entire neighborhoods are stripped of a voice in electing school board members, the educational system may not represent the best interests of Returning Citizens, their children or families.

### WHEN THE PEOPLE DON'T DECIDE: PINELLAS SCHOOLS FAIL BLACK STUDENTS

In 2007, the Pinellas County School Board approved a “neighborhood schools” plan denounced by some as “de-facto segregation.”<sup>87</sup> The plan, meant to keep children close to their homes, resulted in segregation such that children in White neighborhoods attended schools where a majority of the population was White, and Black children residing in Black neighborhoods attended majority Black schools. This de facto segregation, combined with other school board decisions, contributed to a decline in educational outcomes for Black students.<sup>88</sup> Five elementary schools in the district—Campbell Park, Fairmount Park, Lakewood, Maximo, and Melrose—produced failing student standardized test scores: eight in 10 students failed reading

and nine in 10 failed math.<sup>89</sup> These five schools are all located in Black neighborhoods—the three zip codes with highest Black population percentages.<sup>90</sup> The state Department of Education also ranked Melrose as the worst school in Florida, Fairmount Park as the second worst, Maximo as the 10th worst, Lakewood as the 12th worst, and Campbell Park as the 15th worst.<sup>91</sup> Pinellas schools are still struggling.<sup>92</sup> Three of the five board members who voted for the plan were still on the board in 2016.<sup>93</sup> Would the election of different school board members have made a difference? Would a different, more representative electorate have voted to seat school board members more committed to shared values of equity and integration? It is reasonable to ask.

## STATE ATTORNEYS

Policies and practices of the institutions of the criminal justice system, including local law enforcement agencies and the courts, significantly impact local communities. Black communities in Florida and nationwide are often over-policed, over-punished, over-incarcerated, and under-resourced.<sup>94</sup> Policing practices, prosecutorial approaches, the effectiveness of legal public defense, and even the nature and orientation of the courts, all influence the everyday experiences of safety, security, and well-being in local neighborhoods.<sup>95</sup>

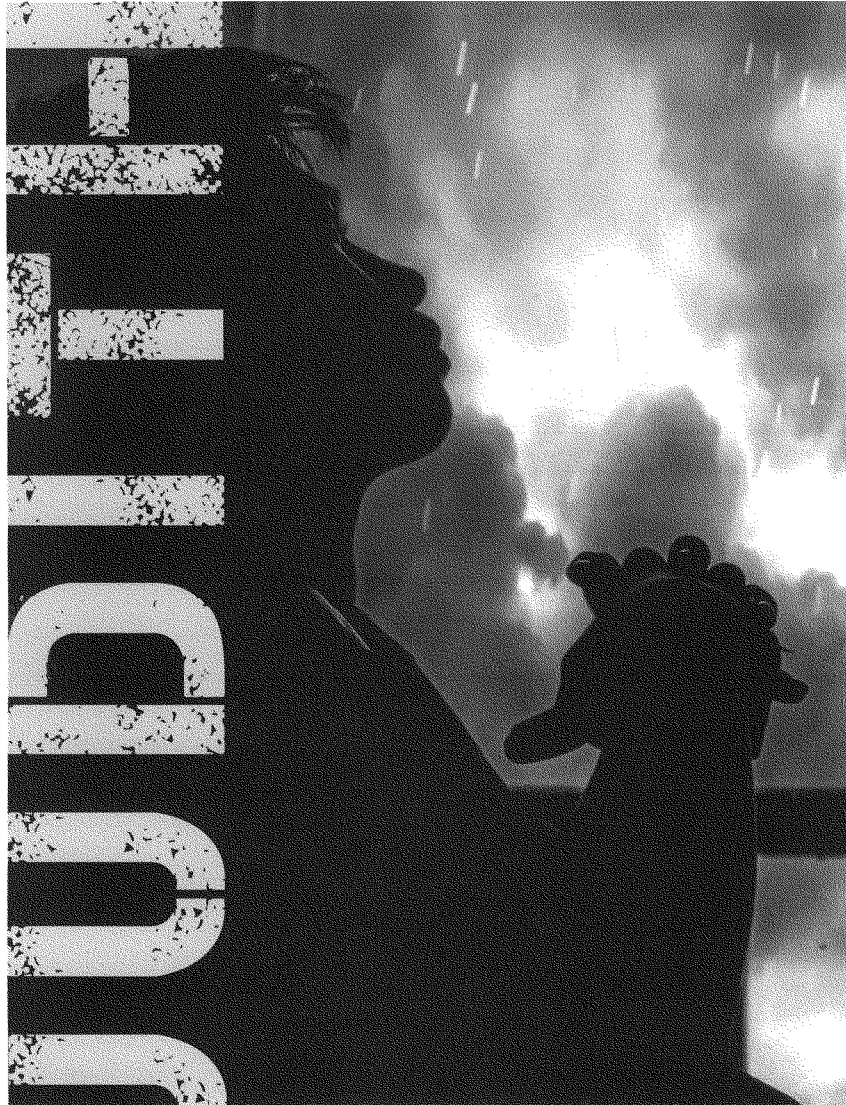
Elected state attorneys manage resources, set standards and priorities for criminal investigation and prosecution, and influence the culture of local prosecutors' offices. Along with local

sheriffs who direct the actions of local police officers in their day-to-day interactions with community members, state attorneys play a major role in determining the execution of law enforcement efforts. Guidance from elected sheriffs and state attorneys influences who gets arrested, charged, and prosecuted; whether and what charges are brought for sometimes minor offenses; whether young people will be charged as adults; who is incarcerated and for how long; how harsh sentences will be; and who is given the death penalty or life without parole. Finally, many Returning Citizens will be able to vote to elect these decision-makers who determine how the criminal justice system is implemented—a system that powerfully impacts their lives and communities.

### WHEN THE PEOPLE DECIDE: ELECTED DUVAL COUNTY STATE ATTORNEY SANCTIONS REFORM

Jacksonville/Duval County elected a new state attorney in the Fourth Circuit Court in 2016 who was swept in by a promise of reform and widespread community dissatisfaction with the incumbent.<sup>96</sup> In her first year in office, the new state attorney has taken steps to drop charges in cases of unreasonable prosecutions, increased police use of civil citations for young people, set new processes before trying children as adults and set new approvals prior to prosecutors seeking the death penalty.<sup>97</sup> She has increased the use of treatment courts for those with drug charges in order to divert people from criminal courts and harsher consequences and has reviewed cash bond and pre-trial detention

practices and their impact on low-income arrestees.<sup>98</sup> She also established Florida's first-ever conviction integrity review unit to investigate potential wrongful convictions.<sup>99</sup> The election of this, or any single, state attorney is by no means a panacea for communities dealing with epidemic over-policing, over-incarceration and over-punishment. But Duval County provides a window to reforms that are possible with a change in leadership that is within the power of the electorate to realize. Criminal justice reform would likely seem more within reach for Black communities if its reform-minded electorate could participate meaningfully in selecting its law enforcement officials.<sup>100</sup>

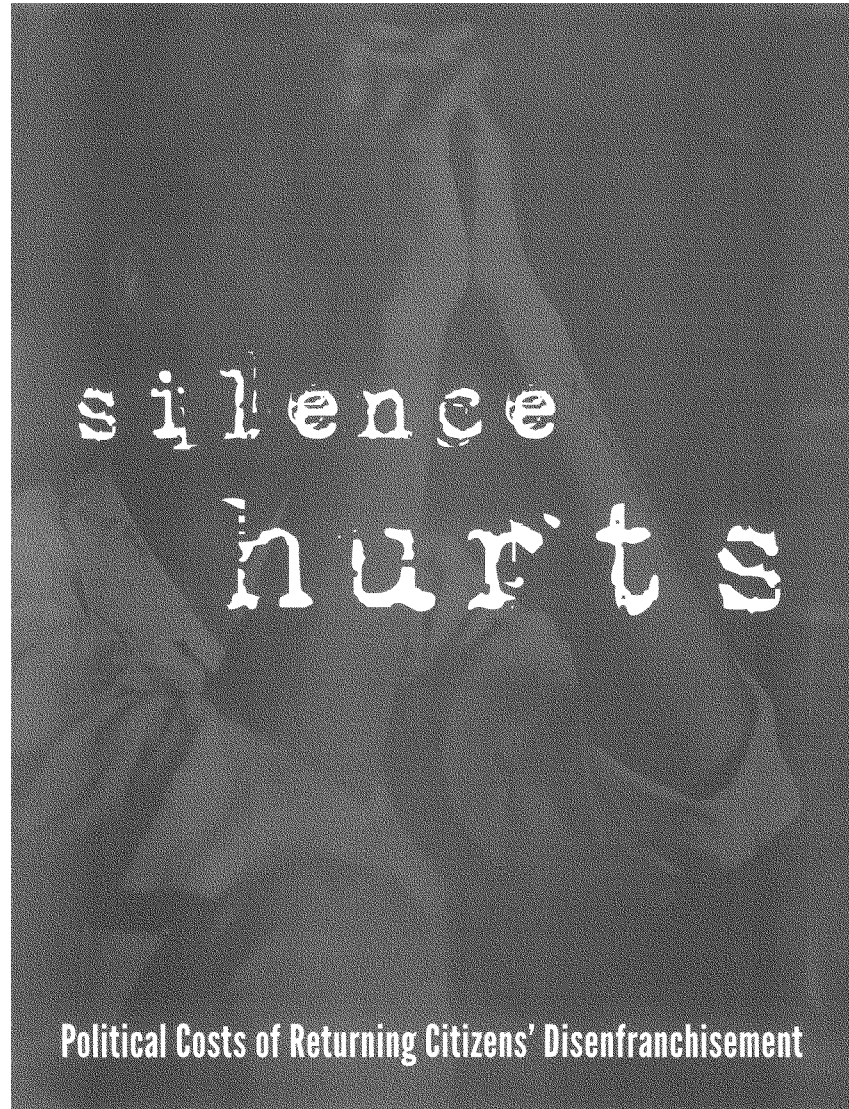


## RETURNING HOME

Judith Boyer, a resident of Orlando, is the mother of a 13-year-old daughter. Judith, 32, served a mandatory-minimum sentence of five years in federal prison in Tallahassee for a 2010 drug conviction. During this time, she missed all the little things in her daughter's life, such as attending parent-teacher meetings, taking her daughter to the doctor and birthdays. The separation was hard for both of them, but the greatest loss was suffered by Judith's daughter, who from age 6 to 11 was separated from her mother. During her time away, Judith was also unable to be present when her father was dealing with cancer. She worried constantly while she was incarcerated and became depressed and suicidal.

Judith completed her sentence and was released in December 2015. The five-year gap in family relationships caused difficulty and disconnect: "It seems as though my family advanced in those years while my life stood still," she said. "When I returned home, I was welcomed happily by my family and daughter. I am grateful for their forgiveness and acceptance and the good care my daughter received. I could never repay my family for all they did." Judith is rebuilding her relationships with her family and friends. She is learning about herself and healing with professional mental health support.

"Today my relationship with my daughter is strong. I share what I went through with her so that she does not get caught in those traps. We talk a great deal about her life and her dreams. She is now a bubbly girl, who does well in school and plays the flute." Judith is currently enrolled at Valencia Community College doing paralegal and pre-law studies with a minor in counseling. Despite her success and recovery since her incarceration, and her place as a role model for her daughter, Judith was unable to vote until the passage of Amendment 4.



**The addition to the voter rolls of 1.68 million voters who were disenfranchised in Florida could create a political sea change. This potential impact is exponentially greater when considering over 6.1 million now disenfranchised voters nationwide. Beyond the national implications of an increased and diversified electorate, the reversal of felony disenfranchisement could have significant state and local effects.<sup>101</sup> While there is no certainty that election outcomes would be different,<sup>102</sup> these excluded voters must be considered along with other voter turn-out factors as possible influences on the outcomes. Felony disenfranchisement is an overbroad and unacceptable exclusion of large segments of the community from voting and having a say in many important political decisions of their lives.**

Individual races, cumulatively, determine the composition and racial make-up of Florida's local leadership and political base. The outcomes of individual races have far-reaching influence in the statehouse and other political networks. They cover countywide offices ranging from Court Clerk to County Commissioners, County Executives, Sheriff, State Attorney, School Board, lesser-known elected offices, like resource management officials of the Soil and Water Commission and even various referenda. Ultimately, extensive disenfranchisement impacts races across the state and results in the election of candidates or decisions that do not fully reflect the will of *all* the people.

Notably, many of these races are district court races that determine the composition of the state judiciary, which has powerful effects on the criminal justice system in the community, particularly Black neighborhoods. For instance, the county and circuit courts make up Florida's system of trial courts that hear civil and criminal matters of all kinds and types of disputes.<sup>103</sup> The administration of justice depends in large measure on how these elected local judges interpret and apply the law. In criminal cases, matters of charges, convictions and sentencing rely on judges' discretion and de-

cisions related to procedure in their courtrooms.

Amid concerns about racial bias in the Florida justice system, research shows that of over 900 Florida county and circuit court judges, just 7% are Black.<sup>104</sup> Black communities and Returning Citizens are not adequately represented in these institutions,<sup>105</sup> nor are they able to vote to choose their representation. Equal justice under law requires full participation in the election of judges.

The indirect impacts of felony disenfranchisement may be difficult to calculate. The exclusion of hundreds of thousands of voters across all counties alters the political landscape. Florida's democracy, from the lowest levels to the highest, was distorted because of the inability of Returning Citizens to vote. This makes a difference in the very communities where their voices and input are most needed. These communities had no fair say in the laws made to govern their lives and cannot ensure the accountability to them of their elected leaders. The democratic decision-making process was and still is tainted by sweeping, unjust exclusion.

The historic significance of Amendment 4 cannot be overstated. Denial of the vote to Returning Citizens in

numerous distinct local races can, in the aggregate, result in massive suppression of political voices across the state. Year after year, these election outcomes, without the participation of a chunk of the electorate, affect the political landscape. These impacts are further compounded over time. Local races provide entry points into statewide and national political arenas, which can lead to even more substantial influence by elected leaders on elevated and wider-reaching political platforms. The future looks brighter for increasing a more representative electorate through implementation of Amendment 4.

Candidates are elected to local offices, sometimes for the first time, and become incumbents who access a pipeline to higher political office and positions of leadership in the state power structures. The intent of this report is not to recommend strategies to change election outcomes, nor to predict how elections would be influenced by new voters. We note only that the denial of votes in local races can have broader impact, even beyond the immediate selection of a candidate to office.

### **CORROSIVE EFFECTS OF FELONY DISENFRANCHISEMENT**

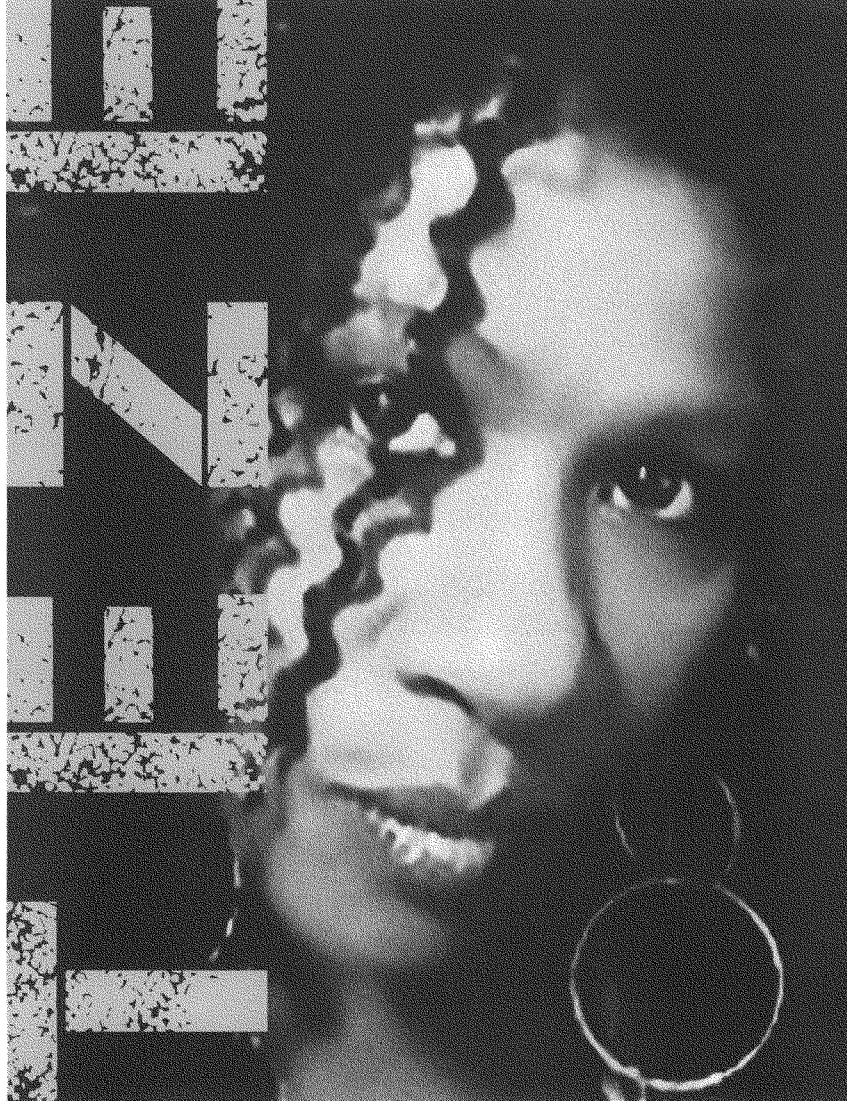
Aside from categorically wiping out the votes of Returning Citizens across all communities in Florida, felony disenfranchisement also dampened the likelihood of voting in certain communities *even among eligible voters*.<sup>106</sup> It affected and still affects voting by community members *who do not have felony convictions*, exacting a collateral punishment on communities to which formerly incarcerated people return upon release. “[R]emoving a large portion of the electorate” through felony disenfranchisement “lowers the overall rates of political participation” in the community.<sup>107</sup> Research shows that these indirect consequences are felt

in Black communities and other communities of color, not in White communities.<sup>108</sup> For the Black population, there was a distressing correlation between state felony disenfranchisement laws, rates of disenfranchisement and Black voter registration and turn-out. This phenomenon can be explained, in part, by the diminished political power of Black communities due to the increased likelihood of disenfranchised citizens living in these communities, which are disparately affected by economic and educational inequities. Studies show that felony disenfranchisement exacerbates challenges that are already known to depress voting by the community at large, such as lower levels of educational attainment, and lower incomes.<sup>109</sup>

For Black communities, the peril of long-term generational impact is also disconcerting. Research shows that voting is habitual, and initial registration and turn-out are major factors in the establishment of lifetime patterns of voting.<sup>110</sup> Parental involvement and influence, socio-economic factors, socialization and education all impact whether young people initially vote and become habitual voters; in fact, it appears these influences are more powerful before children reach voting age.<sup>111</sup> A community where parents are voting, sharing knowledge about voting and elections, with higher education attainment and other socio-economic stability is more likely to pass down the practice and eventual habit of voting to young people. Conversely, mass felony disenfranchisement in families and among community members removes countless numbers from the electorate in individual races. This insidious suppression of Black voter participation undermines the practice and culture of voting in Black communities thus suppressing the Black vote. The indirect or collateral consequence has led to minimal voter participation by entire Black communities in Florida.

“Going to prison and having a felony conviction affects the entire family and community. When you’re considered a leader in your family and you end up in prison, it disallows you from being there for the little things that count. When you’re not there, you have a feeling of disconnect from not being present in the lives of people who matter the most.”

Dexter Gunn, Returning Citizen



## LIVING RESILIENCE

Teze Jones ("Tez") is a native of Tampa, the eldest of four children. Her childhood, in a single-parent household, was scarred by her victimization by an adult family friend when she was just four years old. Her young life and adolescence were marked by trauma, pain, hyper-vigilance and an inability to trust people or find mental rest. She describes living in a constant state of terror, struggling to cope with unpleasant memories. This led to her use of crack cocaine, which quickly led to severe addiction.

During the worst of her addiction, Teze's life was out of control as she sustained her drug habit with criminal behavior. At her worst, she found herself driving a getaway car for a drug crime. She was indicted and given a five-year sentence for a non-violent, drug-related federal conviction. Her sentence separated her from her three daughters, and newborn son who at the time of her surrender to a Kentucky prison was barely two months old.

By grace, Teze by this time had experienced a divine-deliverance from her addiction. An appreciation of a God-given second chance along with self-motivation sustained her rehabilitation. She was released on December 28, 1988, after eight months, to a 90-day work release program and year-long probation. Since her release, Teze has used her experiences, her faith, and her resilience to inspire and motivate. She intentionally found ways to rebuild trust, communication and honesty while raising her children so that they would not be "left to the wind." They are now grown and continue to remain close.

Teze's is a success story, but not one without hardship. She still faces challenges in housing and employment. Her felony conviction, now over 30 years old, still limits her ability to rent in certain neighborhoods. As recently as about two years ago, a landlord turned her away because of her record. She has also been limited in her ability to find decent-paying jobs, a felony record often puts her out of consideration for many secure, stable employment opportunities.

Still, she perseveres and is thriving. Today, at 60 years of age, Teze is an author, speaker and performer, who uses her creative endeavors as a part of her ministry. "When you have peace, you have clarity and can have a meaningful life that includes helping others," she says.

The right to vote has always been important to her. Teze grew up in times when young Black children like herself had to worry about overt hostility and violence from racist White people in her neighborhood. She grew up seeing people being attacked by dogs, bleeding and even dying for demanding their civil rights, including the right to vote. She has taken great pride in voting as a commemoration of, and joining to those who stand up against discrimination.

# REVERSING SYSTEMIC RACISM AND A WEB OF DISEMPOWERMENT

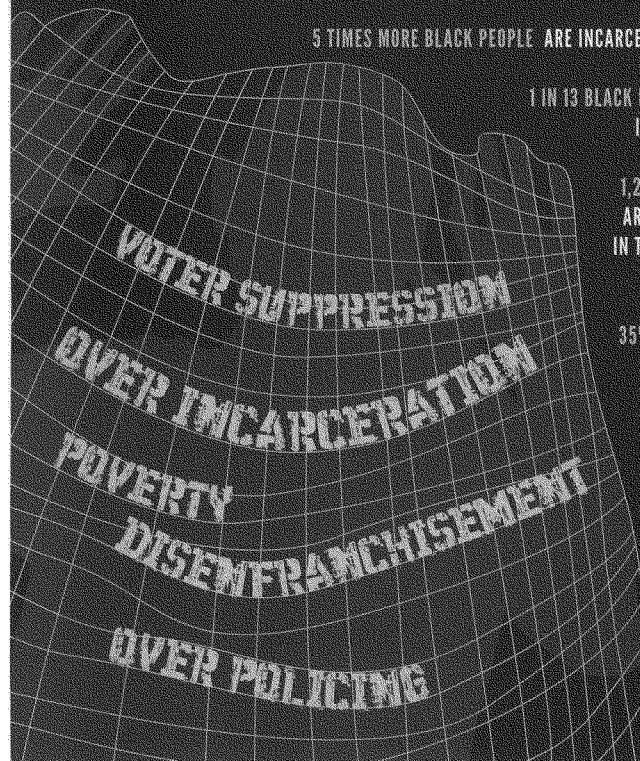
2,300,000 PEOPLE ARE INCARCERATED IN THE U.S.<sup>i</sup>

5 TIMES MORE BLACK PEOPLE ARE INCARCERATED THAN WHITES.<sup>ii</sup>

1 IN 13 BLACK PEOPLE OF VOTING AGE  
IS DISENFRANCHISED.<sup>iii</sup>

1,200,000 BLACK PEOPLE  
ARE UNDERREPRESENTED  
IN THEIR CITY COUNCILS.<sup>iv</sup>

BLACK PEOPLE EARN  
35% LESS THAN WHITES.<sup>v</sup>



[i] Prison Policy Initiative  
<https://www.prisonpolicy.org/reports/pic2018.html>

[ii] NAACP  
<https://www.naacp.org/criminal-justice-fact-sheet/>

[iii] The Sentencing Project  
<https://www.sentencingproject.org/publications/6-million-less-voters/state-level-estimates-for-only-disenfranchisement-2016/>

[iv] Demos  
<https://www.demos.org/publication/problem-african-american-underrepresentation-city-councils>

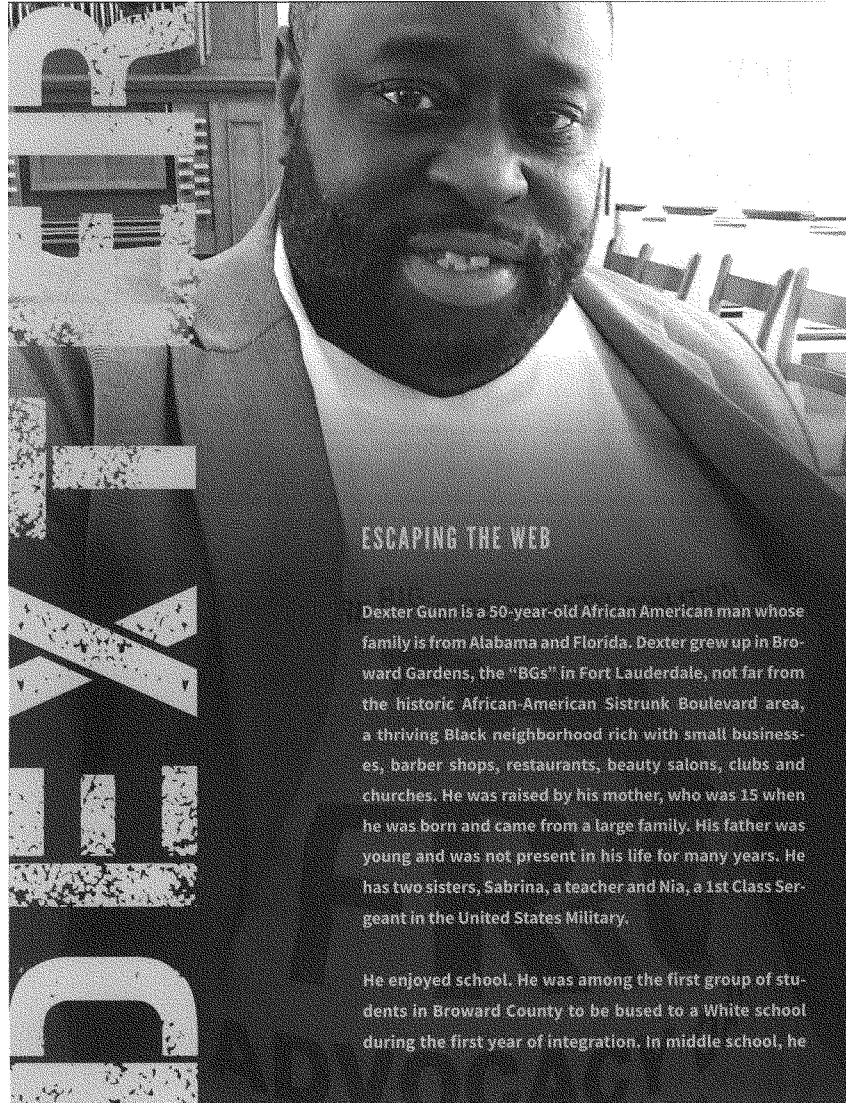
[v] Pew Research Center  
<https://www.pewresearch.org/fact-tank/2018/07/12/new-findings-on-the-rise-in-income-inequality-in-the-us-among-racial-and-ethnic-groups/>

Even as trends in recent years suggest that many states have moved to end strict felony disenfranchisement laws, mitigating the harsh consequences of felony convictions,<sup>112</sup> millions are still disenfranchised and other restrictions on access to voting are still in place.<sup>113</sup> Thus, felony disenfranchisement is also a political tool implemented to maintain power of the status quo over underrepresented communities—a tool that impacted Florida's low-income and Black communities disproportionately. Poor people were at a disadvantage in their ability to wield political power in Florida's democracy. It is one of many hard-hitting voter suppression tactics that disproportionately impact communities of color. At the same time, as a continuing legacy of racist suppression of the Black vote, felony disenfranchisement today is best understood as one part of an interconnected system of control, with deliberate and devastating consequences for Black communities. One need only to look at the current racial make-up of Congress, state governorships, the White House staff or Supreme Court clerks to understand that the systems of racial exclusion are in full force.<sup>114</sup>

As widespread and comprehensive as the specific effects of felony disenfranchisement are on the electorate and on individual voters, it is a multidimensional problem. Beyond a voter suppression tactic in our electoral system, it simultaneously operates as: (1) a direct punishment and collateral consequence of our criminal justice system and mass incarceration regime; (2) a selection criterion in our system of social and economic distribution; and, (3) a gatekeeping mechanism for our democratic institutions. Further, it is interlaced within an entrenched

system of governance imbued with structural racism, which does not begin and end with any single, specific policy, practice, law or institution. We live in a web of aggressive disempowerment: a collection of interwoven institutional mechanisms that function together—if not intentionally, then negligently—to maintain a system of racial injustice, which seeks to marginalize communities of color.

Felony disenfranchisement and voter suppression are connected to systemic socio-economic privation, inhumane immigration policies, an under resourced public education system, neoliberal economic policies and privatization, over-policing and mass incarceration and many other systemic injustices that overburden people of color. Thus, ending felony disenfranchisement is not a cure-all for all the inequities facing communities of color. But, it is an essential step in creating a fair democracy in which all people can fully participate in efforts to create political and social change in our society—by voting, as a start. Further, confronting felony disenfranchisement is an important challenge to just one longstanding manifestation of institutional racial inequity in the U.S. It is a challenge that can open our democracy in a fundamental way to historically disenfranchised individuals and communities. Beyond the practical impact on our electorate and elections, rejecting felony disenfranchisement could have powerful ripple effects. Perhaps this confrontation could clear the way for a new discourse on race, democracy and community empowerment. This discourse could challenge the notions that all communities of color are criminals and that only certain people are deserving of citizenship. In their wake, we could look forward to a democracy in which all voices are included without the historical exclusion of millions.



### ESCAPING THE WEB

Dexter Gunn is a 50-year-old African American man whose family is from Alabama and Florida. Dexter grew up in Broward Gardens, the "BGs" in Fort Lauderdale, not far from the historic African-American Sistrunk Boulevard area, a thriving Black neighborhood rich with small businesses, barber shops, restaurants, beauty salons, clubs and churches. He was raised by his mother, who was 15 when he was born and came from a large family. His father was young and was not present in his life for many years. He has two sisters, Sabrina, a teacher and Nia, a 1st Class Sergeant in the United States Military.

He enjoyed school. He was among the first group of students in Broward County to be bused to a White school during the first year of integration. In middle school, he

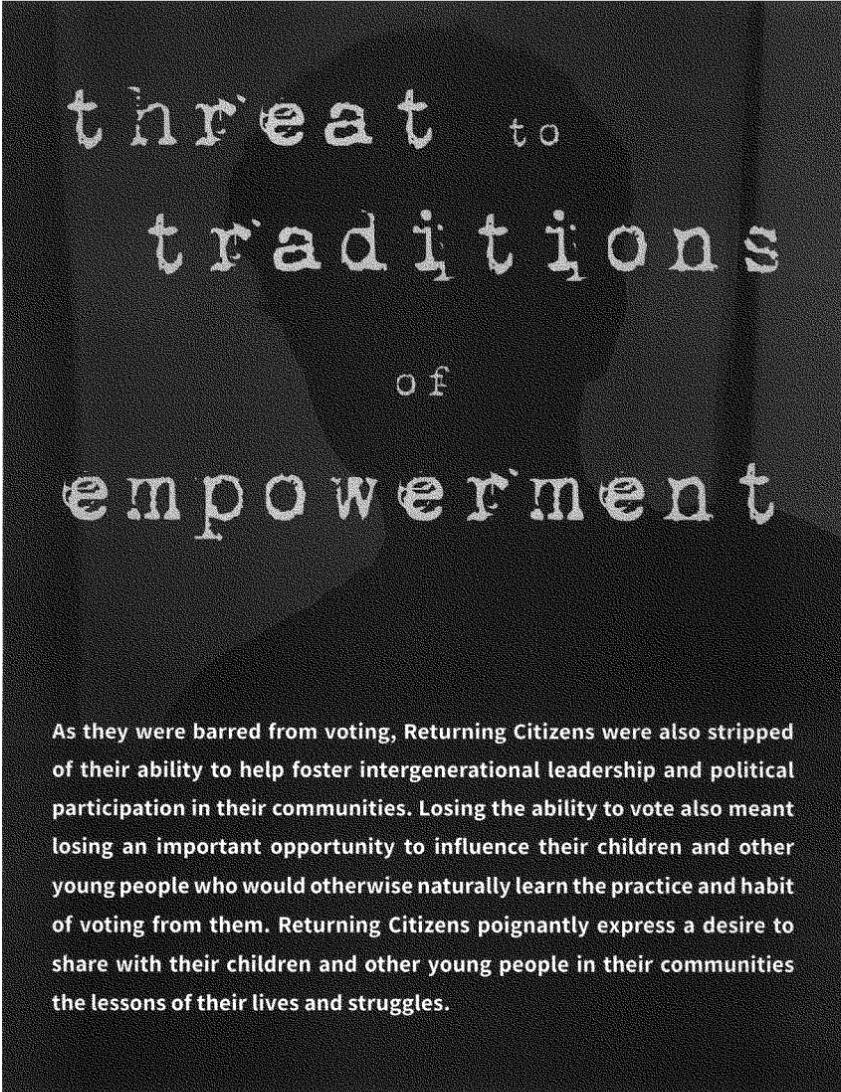
made friends he still has to this day. In high school he started hanging with the “cool kids,” some of whom were involved in delinquent behaviors, during a time when the crack epidemic was taking hold in the early 1980s. Still, he maintained good grades and even went to summer school to advance his schooling. Things changed in his later years in high school when the crack epidemic was in full swing, and Dexter succumbed to the temptation and pressures of the drug-dealing culture.

At 17, he was arrested for the first time and charged and convicted as an adult for robbery. He served approximately two years in prison. He returned home to a strained family life and poor employment prospects. He served another 10 months incarceration for a minor traffic violation within that first year of his release. When he was 22, he was arrested again on numerous charges. Due to his prior convictions and the severity of the charges, he was convicted and incarcerated in 1990 with sentences totaling 70 years.

Dexter was released on February 25, 2011. He had served 20 years. He says, “When I came home, I had nothing, and I felt as though I had lost everything. I lost seven family members, my mother, my grandmother, my father, my stepfather, two aunts and my best friend who was like a brother to me. All were gone. They were my support system while I was locked away. When I came home I did not have a release address and stayed with a friend who I was in prison with until eventually I was able to rent a house with the support of my remaining family.”

In prison, Dexter educated himself in the prison law library. He became a certified law clerk and later a senior law clerk, providing monthly legal seminars for other people who are incarcerated. After his release, he used his legal training to obtain employment with a law firm for two years before he started his own paralegal business. He now does contract work specializing in criminal appeals and post-conviction research. In 2015, Dexter started a nonprofit for at risk juveniles, called SOARES RESET and earned a 501(c)(3) nonprofit status. In 2017, he received a \$10,000 grant from the Broward Sheriff’s Office to help youth and to divert them away from the criminal justice system.

“It is important for the Black community that we get our voting rights back so we can use our voices to recapture our neighborhoods,” Dexter said. “So many Black men lost the vote because of the war on drugs and the crack cocaine epidemic, minor non-violent drug offenses and residual effects. Restoring our voting rights will give us a voice again to make our communities safer and better.”



threat to  
traditions  
of  
empowerment

As they were barred from voting, Returning Citizens were also stripped of their ability to help foster intergenerational leadership and political participation in their communities. Losing the ability to vote also meant losing an important opportunity to influence their children and other young people who would otherwise naturally learn the practice and habit of voting from them. Returning Citizens poignantly express a desire to share with their children and other young people in their communities the lessons of their lives and struggles.

**JUDITH** says, “Today, my relationship with my daughter is strong. I share what I went through with her so that she does not get caught in those traps. We talk a great deal about her life and her dreams. She is now a bubbly girl, who does well in school and plays the flute.”

**TEZE** says, “The shadow of those who came before me is in my heart, so I insist on going to the polls and voting in person,” she says. In her view, no one should ever lose the right to vote—especially in light of the historical significance of the right to vote for the Black community. She is close with her children and shares her life story through a prison ministry program where she supports recovery and fosters resilience in others. Teze says, “Life is a succession of choices, so make right ones!”

**JB** aspires to be a positive role model for Black and Latinx young men and boys. He wants to offer his life-lessons to all young men who face similar challenges. He shares his life as a good example to help keep people out of the system and to help them better their lives. He also wants to advocate for justice system reform and for people like himself who have paid their debt to society but still face discrimination as they try to earn a living, support and house themselves and their families, and most importantly exercise their political voice.

**DEXTER** now shares his story to help others avoid some of what he went through. Dexter’s ultimate goal is to have an organization for at-risk children that have been tried as adults: “I want to teach those kids how to tap into a gift they may possess. Now, we are grandfathers, fathers, businessmen—we grew from our experiences and we want to teach our grandchildren.”

**ANTHONY** said ahead of the 2018 midterm elections, “So, it’s painful. Especially election times. It is the wound that refuses to heal. They say they want you to be a productive citizen [after release from prison], but they deny you the right to be productive, to vote. [But] there is still a degree of democracy here. I make sure my children and my wife vote and are making a difference. One voice can make a difference. I tell everyone I can: ‘VOTE. Do what you can. Be the difference.’” With the passage of Amendment 4, Anthony and others can begin the healing process.

# RECOMMENDED

Numerous incremental and systemic changes are required to address the unjust impacts and collateral consequences of felony disenfranchisement and other institutionalized challenges that disproportionately harm Black communities. We recommend a few important steps:

## 1. IMMEDIATELY AND FULLY IMPLEMENT AMENDMENT 4 TO THE FLORIDA CONSTITUTION

Florida should fulfill the will of voters by executing Amendment 4 that grants automatic restoration of voting rights to eligible Returning Citizens.

*Felony disenfranchisement is a relic of the Jim Crow South and its rejection as a form of punishment is past due.*

## 2. REFORM FLORIDA'S CLEMENCY BOARD AND RULES

End Florida's current arbitrary rights restoration processes.

*Florida's Rules of Clemency are unfair as written and as implemented and should be revised.*

## 3. INVEST IN RE-ENTRY OF RETURNING CITIZENS AND REMOVE ROADBLOCKS TO SUSTAINABLE LIVELIHOODS

Eliminate barriers to re-entry for those released from prison by funding and improving access to resources for Returning Citizens, including employment and fair housing opportunities.

*Returning Citizens must have ample support and access to health, housing, employment and other resources to facilitate their re-entry.*

# JUSTICE FOR FLORIDA'S

# MEASURES

## 4. REDUCE HARSH SENTENCING

Reform Sentencing Guidelines, including limitations on juvenile prosecutions and expansion of alternative sentencing options for drug offenses.

*Criminal justice system reforms should include reduced charges and reduced sentencing for non-violent offenders to mitigate harsh penalties and collateral consequences.*

## 5. SUPPORT CIVIC ENGAGEMENT EFFORTS IN DISENFRANCHISED AND UNDERREPRESENTED COMMUNITIES

Invest in civic engagement programs in Black communities and for Returning Citizens and their families to reverse generations of disenfranchisement.

*Well-resourced community engagement programs and voter registration efforts build a strong foundation for people to succeed and for expanded civic participation among all members of the community.*

## 6. DIVERSIFY DATA COLLECTION

Require collection of Returning Citizen data that disaggregates information on racial and ethnic identities, non-binary gender identities and sexual orientation.

*Accurate data is necessary to improve our understanding of the challenges facing the entire community and to develop appropriate policy solutions.*

## 7. ESTABLISH A FUNDAMENTAL RIGHT TO VOTE BY CONSTITUTIONAL AMENDMENT<sup>15</sup>

Enshrine an affirmative and fundamental right to vote in the federal and state constitutions.

*The federal Constitution and each state Constitution should contain explicit, affirmative provisions for the right to vote for all and the means to enforce that right.*

# BLACK COMMUNITIES

# C O N C L U S I O N

Impacted people and their allies united to reverse the long, wrong, far-reaching consequences of Florida's felony disenfranchisement of Returning Citizens, which disproportionately affected poor communities of all races and Black communities. The previous, pernicious impacts of the Florida's felony disenfranchisement framework were felt on top of existing socio-economic challenges resulting in further exclusion of sometimes already beleaguered communities.

Among the most harmful long-term consequences of former Florida policies was the whittling away of Black communities' ability to influence decision-making at all levels of government. The disappearance of millions of Returning Citizens' votes, including hundreds of thousands of Black votes in Black communities across hundreds of elections over many decades, prevented Black participation in the institutions where weighty decisions and policies are made. Millions of poor White, Latinx and other voters were similarly excluded year after year. Felony disenfranchisement perpetuated a false and non-representative political system, one in which millions of would-be voters simply did not count. For these millions of voters—both those directly denied the right to vote and those in communities where their political power is muted—democracy had disappeared.

However, there is a new day in Florida. Led by impacted Returning Citizens, many of whom could not vote, voters did what their elected representatives did not do. They strongly supported a self-executing ballot initiative that creates new opportunities for Returning Citizens to have a meaningful voice in deciding who gets what, where, when, and how in Florida. Democracy has appeared in the Sunshine State. This is a vital change for good that will help to eliminate other socio-economic challenges that afflict communities of color.

## epilogue

In a historic mid-term election in 2018, Florida residents voted in favor of state constitutional Amendment 4, which automatically restores voting rights to 1.6 million people with prior felony convictions. The ballot initiative received support from over 60 percent of Florida voters—the needed amount to amend the state’s constitution. After 150 years of disenfranchising Floridians with past felony convictions, it is only fair that Returning Citizens now have a say in how their schools, cities, states and country are governed.

The work now becomes moving those previously disenfranchised onto the voting rolls through voter education, voter engagement and voter registration. Advancement Project’s national office will continue to work with partners in Florida around the implementation of Amendment 4.

Democracy is rising in the Sunshine state and organizations like the Florida Rights Restoration Coalition (FRRC), the New Florida Majority, SEIU, and Dream Defenders will continue their advocacy efforts to create a more inclusive democracy for all Floridians and dismantle the web of disempowerment for communities of color.

# NOTES

1. U.S. CONST. amend. XV, § 1. Note that this right to vote applied to males only. Women, including former slave women, were not given the right to vote until the passage of the Nineteenth Amendment in 1920 (U.S. CONST. amend. XIX).
2. However, the Supreme Court jurisprudence recognizes a right to vote. See *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) (recognizing “the political franchise of voting” as a “fundamental right, because preservative of all rights”). See also *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966) (including the right to vote among the “fundamental” rights protected under the Equal Protection clause); *Reynolds v. Sims*, 377 U.S. 533, 555 (1964) (referring to the right to vote as “the essence of democracy”).
3. See e.g., ERIKA WOOD, RESTORING THE RIGHT TO VOTE (Brennan Center for Justice 2nd ed. 2009); CHRISTOPHER UGGEN, RYAN LARSON & SARAH SHANNON, 6 MILLION LOST VOTERS: STATE-LEVEL ESTIMATES OF FELONY DISENFRANCHISEMENT (The Sentencing Project 2016), available at <https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/#11.%20Disenfranchisement%20in%202016>.
4. People of color is defined as the combination of the Black population and the Hispanic population in available datasets.
5. Florida contains approximately 1,435 zip codes.
6. We analyzed the following U.S. Census data: (1) total population; (2) Black or African-American (non-Hispanic) population; (3) Hispanic or Latino origin population; (4) unemployment rates; (5) child poverty rates; (6) median household income; and (7) higher educational attainment. Four other variables were created using this dataset—(1) people of color population; (2) Black population percentage; (3) Latinx population percentage; and (4) people of color population percentage.
7. ZCTAs are geographical representations of zip codes. Only 893 ZCTAs were available in the U.S. Census database: (1) zip codes with small populations are not included; and (2) privately owned zip codes are not included. A combination of the ZCTAs with releasee data resulted in the identification of 845 zip codes for our study. ZCTAs showing no Returning Citizens are omitted.
8. The following characteristics were pulled from FDOC OBIS: (1) stated returning zip code of releasee; (2) race of releasee; (3) release date of releasee; (4) reason for release of releasee; and (5) date of birth of releasee. The term “releasee” refers to released individuals and is used in the original data set.
9. We performed Kendall correlations on the merged datasets, employing Kendall’s tau, due to the non-normal nature of the data distribution of each of our variables. We assessed the correlation between the numbers of Returning Citizens and the following socio-economic variables: Black population percentage, median household income, child poverty rates, unemployment rates and higher educational attainment. We performed these same correlations by race within the Returning Citizen population (i.e. Black Returning Citizens and White Returning Citizens).
10. The population of individuals under community supervision in Florida was 218,600. DANIELLE KAEBLE, BULLETIN: PROBATION AND PAROLE IN THE UNITED STATES, 2016, at 11 (U.S. Department of Justice, Bureau of Justice Statistics 2018), available at <https://www.bjs.gov/content/pub/pdf/ppus16.pdf>.
11. Under the current Rules of Clemency, individuals with felony convictions are not eligible to apply for restoration of rights until they have completed their sentences, including any required period of supervision. FLA. DEP’T OF CORRECTIONS, *Restoration of Civil Rights*, available at <http://www.dc.state.fl.us/restoration.html>; Voting Restoration Amendment; <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=64388&seqnum=1>.
12. <https://www.vote-nola.org/>; <https://www.vote-nola.org/blog>.
13. The data provides supervision termination dates, but tracking compliance requires individualized review of records to determine if these termination dates reflect actual completion of the required supervision.
14. The majority (51%) of those disenfranchised nationwide due to a felony conviction have completed their sentences, while 26% are under supervision, either parole or probation, and 22% are in prison. UGGEN, LARSON & SHANNON, *supra* note 3.
15. Note that our dataset also does not include individuals convicted of felonies who may never have been incarcerated; e.g., individuals who were sentenced only to probation or other community supervision. If those on parole or probation were included, numbers of disenfranchised likely could be estimated at higher levels than the numbers reflected here. All individuals with felony convictions are included as a part of FRRC’s constituencies.
16. For an analysis of recidivism and Returning Citizens, see e.g., MATTHEW R. DUROSE, ALEXIA D. COOPER & HOWARD N. SNYDER, *RECIDIVISM OF PRISONERS RELEASED IN 30 STATES IN 2005: PATTERNS FROM 2005 TO 2010* (U.S. Department of Justice, Bureau of Justice Statistics, 2014).

17. Our dataset from the Florida Department of Corrections reflects released inmates and does not include those with felony convictions who may never have been incarcerated, or those under supervision.
18. For the purposes of this study and to maintain a cautious approach, we derived an estimate of disenfranchised Returning Citizens from a cumulative total of persons released with felony convictions by the Florida Department of Corrections from the period 2012-2016. This 5-year total is likely a severe underestimate of actual disenfranchised voters, as it does not include the many people who have completed their sentences in the years, or decades, prior to this period. The number of disenfranchised Returning Citizens is likely much higher than our estimates.
19. The National Prisoner Statistics program, which estimates number of prisoners in custody of state departments of corrections, reports that in the male prisoner population, 39.0% are White, 41.3% Black, 16.6% Hispanic, 1.4% American Indian or Alaska Native, 0.6% Asian, the remaining percentage are Native Hawaiian or Other Pacific Islander, Two or more races, Other or Unknown. E. ANN CARSON, BULLETIN: PRISONERS IN 2016 (U.S. Department of Justice Bureau of Justice Statistics 2018), available at <https://www.bjs.gov/content/pub/pdf/p16.pdf>.
20. Twenty-four percent of Florida residents are Latinx. Latinx people make up Florida's fastest growing population. Mike Schneider, *Hispanics Drive Population Growth In Florida, Census Shows*, SUN SENTINEL, June 25, 2015, <http://www.sun-sentinel.com/news/nationworld/fl-ap-census-florida-20150625-story.html>. Florida's Asian population grew by 73% between 2000 and 2012. Press Release, Asian Americans Advancing Justice, Asian American Population Boom to Impact Future Elections and Economy of the South (Sept. 26, 2014), available at <https://advancingjustice-la.org/sites/default/files/20140926%20-%20MR%20-%20South%20Report.pdf>. See also PAUL JUNG, GREGORY CENDANA & WILLIAM CHIANG, ET. AL., ASIAN AMERICANS & PACIFIC ISLANDERS BEHIND BARS (Asian Americans Advancing Justice – LA, Asian Pacific American Labor Alliance, Asian Prisoner Support Committee, National Education Association, Southeast Asian Resource Action Center eds., National Education Association 2015).
21. "Hispanics are incarcerated in state and federal prisons at higher rates than non-Hispanics." AMERICAN CIVIL LIBERTIES UNION, ACLU OF FLORIDA & HIP HOP CAUCUS, ET. AL., DEMOCRACY IMPRISONED: A REVIEW OF THE PREVALENCE AND IMPACT OF FELONY DISENFRANCHISEMENT LAWS IN THE UNITED STATES 2 (The Sentencing Project 2013), available at <https://www.sentencingproject.org/wp-content/uploads/2015/12/Felony-Disenfranchisement-Shadow-Report-ICCPR.pdf>.
22. See Angel E. Sanchez, Honors in the Major Theses: "What Impact is Felony Disenfranchisement Having on Hispanics in Florida?" (2017), available at <http://stars.library.ucf.edu/honortheses/216> (exploring the need and challenge of accurate collection of data for Hispanics in the criminal justice system).
23. The Florida Department of Corrections dataset includes "Hispanic" as an identifier, but provides no information as to racial identity, whereas U.S. Census data differentiates between Hispanic and non-Hispanic racial identity.
24. An estimated 6,984 Non-U.S. citizen prisoners were under the jurisdiction of federal correctional authorities or the custody of state correctional authorities in Florida. CARSON, *supra* note 19, at 16.
25. Kimberlé Crenshaw's theorizing on intersectionality may be useful in considering the multiple dimensional experiences of members of the diverse community of Returning Citizens. See Kimberlé Williams Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color*, 43 STAN. L. REV. 1241 (1991), available at <https://www.racialequitytools.org/resourcefiles/mapping-margins.pdf> (noting the "need to account for multiple grounds of identity when considering how the social world is constructed," and that identity politics can "conflate or ignore intra group differences").
26. Since the publication of Advancement Project's first report about felony disenfranchisement, "Re-Enfranchisement! A Guide for Individual Restoration of Voting Rights in States that permanently disenfranchise former felons," the number of individuals who are unable to vote due to a felony conviction has grown to over 6.1 million from 3.9 million in 2001. In Florida, the number has grown from 600,000 to 1.6 million. NKECHI TAIFA, ADVANCEMENT PROJECT, RE-ENFRANCHISEMENT! 16, 17 (Advancement Project, 2002).
27. ERIKA L. WOOD, FLORIDA: AN OUTLIER IN DENYING VOTING RIGHTS 13 (Brennan Center for Justice 2016), available at [https://www.brennan-center.org/sites/default/files/publications/Florida\\_Voting\\_Rights\\_Outlier.pdf](https://www.brennan-center.org/sites/default/files/publications/Florida_Voting_Rights_Outlier.pdf).
28. All data is provided in the report appendix available at [www.advancementproject.org](http://www.advancementproject.org).
29. AMERICAN CIVIL LIBERTIES UNION, ACLU OF FLORIDA & HIP HOP CAUCUS, ET. AL., *supra* note 21, at 2.
30. *Id.* See also, George Brooks, *Felon Disenfranchisement: Law, History, Policy, and Politics*, 32 FORDHAM URB. L. J. 851, 853-854 (2005).
31. *Id.*
32. Carl N. Frazier, Note, *Removing the Vestiges of Discrimination: Criminal Disenfranchisement Laws and Strategies for Challenging Them*, 95, KY. L.J. 481, 483-484 (2006/2007). See also Alysia Robben, Note, *A Strike at the Heart of Democracy: Why Legal Challenges to Felon Disenfranchisement Laws Should Succeed*, 10 UDC-DCSL L. REV. 15, 19 (2007), and Daniel S. Goldman, Note, *The Modern-Day Literacy Test?: Felon Disenfranchisement and Race Discrimination*, 57 STAN. L. REV. 611, 625-627 (2004) (providing historical context and origins of felony disenfranchisement).
33. U.S. CONST. amend. XIII, § 1. Note that the language of the Thirteenth Amendment contains an explicit exception for "punishment of a crime."

34. U.S. CONST. amend. XIV, § 1. Note that section 2 of the Fourteenth Amendment also has provided validation for contemporary felony disenfranchisement laws, as its text sanctions a limitation of the right to vote of those who have "participat[ed] in rebellion, or other crime." U.S. CONST. amend. XIV, § 2. See generally, Ruth Bader Ginsburg, *Sexual Equality Under the Fourteenth and Equal Rights Amendments*, 1979 WASH. U. L.Q. 161, 162-163 (1979) (explaining that the Fourteenth Amendment conferred citizenship upon African American males but did not upend a social structure in which women, including Black women and other women of color, held a lesser citizenship status that did not carry with it the right to vote).
35. U.S. CONST. amend. XV, § 1. Note that the right to vote was not automatically guaranteed to all individuals in the country. For instance, women's suffrage was deferred until 1920 with the passage of the Nineteenth Amendment; citizenship for Native Americans and Asians in the U.S. was highly contested throughout the late 1800s and early 1900s, and these groups were not granted the right to vote as citizens until 1947 and 1952, respectively. *Who Got the Right to Vote When?* AL JAZEERA, <https://interactive.aljazeera.com/aje/2016/us-elections-2016-who-can-vote/index.html> (last visited May 25, 2018).
36. AMERICAN CIVIL LIBERTIES UNION, ACLU OF FLORIDA AND HIP HOP CAUCUS, ET. AL., *supra* note 21, at 2.
37. *Cotton v. Fordice*, 157 F.3d 388, 391 (5th Cir. 1998).
38. Risa L. Goluboff & Dahlia Lithwick, *A Fraudulent Case: The Ugly Parallels between Jim Crow and Modern Vote-Suppression Laws*, SLATE, Oct. 20, 2011, [http://www.slate.com/articles/news\\_and\\_politics/jurisprudence/2011/10/voter\\_id\\_laws\\_their\\_proponents\\_should\\_have\\_to\\_answer\\_for\\_the ugl.html](http://www.slate.com/articles/news_and_politics/jurisprudence/2011/10/voter_id_laws_their_proponents_should_have_to_answer_for_the ugl.html); JAMIE FELLNER & MARC MAUER, *LOSING THE RIGHT TO VOTE: THE IMPACT OF FELONY DISENFRANCHISEMENT LAWS IN THE UNITED STATES* (Human Rights Watch & The Sentencing Project 1998).
39. FLA. CONST. art. XIV, § 2, 4 (1868); *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1218-1222 (11th Cir. 2005).
40. FLA. ADVISORY COMM. TO THE U.S. COMM'N ON CIVIL RIGHTS, *EX FELON VOTING RIGHTS IN FLORIDA: REVISED RULES OF EXECUTIVE CLEMENCY THAT AUTOMATICALLY RESTORE CIVIL RIGHTS TO LEVEL-1 OFFENDERS IS THE RIGHT POLICY 4* (2008), <https://www.law.umaryland.edu/marshall/usccr/documents/cr12v946.pdf>.
41. *Id.* at 4-5.
42. The Confederacy included the states of Texas, Arkansas, Louisiana, Tennessee, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina and Virginia. NATIONAL PARK SERVICE, *CIVIL WAR FACT SHEET* (2015), available at <https://www.nps.gov/civilwar/facts.htm>; JEAN CHUNG, *FELONY DISENFRANCHISEMENT: A PRIMER 4* (Sentencing Project 2017), available at <https://www.sentencingproject.org/wp-content/uploads/2015/08/Felony-Disenfranchisement-Primer.pdf>.
43. UGGEN, LARSON & SHANNON, *supra* note 3, at 3.
44. AMERICAN CIVIL LIBERTIES UNION, ACLU OF FLORIDA & HIP HOP CAUCUS, ET. AL., *supra* note 21, at 2.
45. *Id.*
46. UGGEN, LARSON & SHANNON, *supra* note 3, at 10.
47. For example, the Voting Rights Act of 1965 is one of the monumental achievements of the mid-century Civil Rights Movement. Voting Rights Act of 1965, 79 Stat. 437 (1965).
48. The other three states that maintain lifetime disenfranchisement in their constitutions are Iowa, Kentucky and Virginia. Iowa's Constitution, article II, section 5 provides that "a person convicted of any infamous crime shall not be entitled to the privilege of an elector." IOWA CONST. art. II, § 5 (ratified 2008); it further defines an infamous crime as any felony. 1994 Iowa Acts ch. 1180, § 1 (codified at Iowa Code § 39.3(8) (2013)). Between 2005 and 2011, an Executive Order of the Iowa Governor automatically restored voting rights for people who completed their sentences, but the order was rescinded in 2011, and Iowa returned to its policy of permanent disenfranchisement unless the governor restores those civil rights. See also *Griffin v. Pate*, 884 N.W.2d 182 (Iowa 2016). Kentucky's Constitution permanently disenfranchises any person convicted of a felony, unless their rights are restored by executive pardon. KY. CONST. § 135 (amended 1955) <http://www.lrc.state.ky.us/legresou/constitu/145.htm>. See also, Kira Lerner, *This Man Can't Vote Today Because Kentucky's GOP Governor Reversed a Major Voting Rights Victory*, THINKPROGRESS, May 17, 2016, <https://thinkprogress.org/this-man-cant-vote-today-because-kentucky-s-gop-governor-reversed-a-major-voting-rights-victory-c97ac9f0de2f/>. Virginia's Constitution, Article II, Section 1 states that: "No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority." VA. CONST. art. II, § 1. Virginia lawmakers have simplified and expanded rights restoration policies in recent years, successfully restoring the voting rights of over 173,000 people. Sarah Rankin, *McAuliffe Says Rights Restoration His Proudest Achievement*, ASSOCIATED PRESS, Jan. 10, 2018, <https://apnews.com/7e13e322d5184d0d91341708805d6cd0>. See also Howell v. McAuliffe, Howell v. McAuliffe, 292 Va. 320 (Va. 2016); <https://restore.virginia.gov/policy-updates-and-timeline/>; <http://commonwealth.virginia.gov/media/6733/restoration-of-rights-policy-memo-82216.pdf>.
49. Wood, *supra* note 27, at 9.
50. FLA. CONST. art. VI, § 4.
51. FLA. ADVISORY COMM. TO THE U.S. COMM'N ON CIVIL RIGHTS, *EX FELON VOTING RIGHTS IN FLORIDA: REVISED RULES OF EXECUTIVE CLEMENCY THAT AUTOMATICALLY RESTORE CIVIL RIGHTS TO LEVEL-1 OFFENDERS IS THE RIGHT POLICY 6* (2008), <https://www.law.umaryland.edu/marshall/usccr/documents/cr12v946.pdf>.
52. The Eleventh Circuit held that the 1968 revision "eliminated any taint from the allegedly discriminatory 1868 provision." *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1224 (11th Cir. 2005).

53. FLA. CONSTITUTION, Article IV, Section 8 (a).
54. Steve Bousquet, *This Man Was Granted a Pardon. Most Others Remain in Civil-Rights Limbo*, MIAMI HERALD, Mar. 8, 2018, <http://www.miami-herald.com/news/politics-government/state-politics/article204201564.html>; Sun Sentinel Editorial Board, Editorial, *Gov. Rick Scott Has No Credibility on Rights Restoration*, SUN SENTINEL, Feb. 13, 2018, <http://www.sun-sentinel.com/opinion/editorials/fl-op-editorial-ex-felons-rights-restoration-20180213-story.html>; Tampa Bay Times, Editorial: *Florida's chance to make it easier to restore civil rights*, TAMPA BAY TIMES, Jan. 13, 2018.
55. FLA. R. EXEC. CLEMENCY 7, 9, available at [https://www.fcor.state.fl.us/docs/clemency/clemency\\_rules.pdf](https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf).
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61. *Hand v. Scott*, No. 4:17cv128-MW/CAS 2018 U.S. Dist. LEXIS 50071 (N.D. Fla. March 27, 2018).
62. Order Directing Entry of Judgment 14-15, *Hand v. Scott*, No. 4:17cv128-MW/CAS 2018 U.S. Dist. LEXIS 50071 (N.D. Fla. March 27, 2018). The order is being appealed by the Governor and the State.
63. Renata Sago, *Florida Voters Will Soon Have the Chance to Abolish the State's Archaic, Unconstitutional Civil Rights Restoration Process*, ORLANDO WEEKLY, Feb. 7, 2018, <https://www.orlandoweekly.com/orlando/florida-voters-will-have-the-chance-in-november-to-abolish-the-states-archaic-racist-unconstitutional-civil-rights-restoration-process/>; ContentId=10578131; Ed Kilgore, *An Initiative to Give Ex-Felons Voting Rights Could Remake Florida's Politics in 2020*, NEW YORK, Jan. 23, 2018, <http://nymag.com/daily/intelligencer/2018/01/florida-ballot-initiative-could-give-ex-felons-voting-rights.html>.
64. UGGEN, LARSON & SHANNON, *supra* note 3, at 15.
65. Our data shows that Florida's Returning Citizen population is approximately 50% White, likely including White Hispanics. Of the Florida-wide dataset of Returning Citizens we examined, 43.8% were Black and 3.5% were Latinx. Data available in report Appendix, available at [www.advancementproject.org](http://www.advancementproject.org).
66. U.S. Census Bureau Quick Facts Florida, <https://www.census.gov/quickfacts/FL> (last visited May 22, 2018); U.S. Census Bureau Quick Facts Florida, <https://www.census.gov/quickfacts/fact/table/US/PST045216> (last visited May 22, 2018).
67. Wood, *supra* note 27, at 3.
68. Mary Ellen Klas, *Florida Leads the Nation in Disenfranchising Former Felons*, TAMPA BAY TIMES, Aug. 12, 2016, <http://www.tampabay.com/news/politics/stateroundup/florida-leads-nation-in-disenfranchising-former-felons/2289138>.
69. UGGEN, LARSON & SHANNON, *supra* note 3, at 3, 10; AMERICAN CIVIL LIBERTIES UNION, ACLU OF FLORIDA & HIP HOP CAUCUS, ET AL., *supra* note 21, at 2; FELNER & MAUER, *supra* note 33; Melanie Bowers & Robert R. Preuhs, *Collateral Consequences of a Collateral Penalty: The Negative Effect of Felon Disenfranchisement Laws on the Political Participation of Nonfelons*, 90 SOC. SCI. Q. September 2009 at 723.
70. UGGEN, LARSON & SHANNON, *supra* note 3, at 3; Wood, *supra* note 27, at 13.
71. Wood, *supra* note 27, at 13.
72. *Id.* at 1.
73. *Id.*; Bowers & Preuhs, *supra* note 69, at 723.
74. There is no definitive way to prove that election outcomes would have changed; we merely identify here the large numbers of voters who could not cast ballots to add to the ultimate vote count, where margins of victory may have been surmountable by additional actual votes.
75. The margin of victory in Florida's Presidential vote count between Donald Trump and Hillary Clinton in 2016 was 112,911, but may not have been insuperable given that at least 14 times that number of individuals are disenfranchised in the state due to felony disenfranchisement. FLA. DEPT. OF STATE: ELECTIONS DATA, available at <http://dos.myflorida.com/elections/data-statistics/elections-data/>.
76. Ari Berman, *How the 2000 Election in Florida Led to a New Wave of Voter Disenfranchisement*, THE NATION, Jul. 28, 2015, <https://www.thenation.com/article/how-the-2000-election-in-florida-led-to-a-new-wave-of-voter-disenfranchisement/>.

77. Abby Goodnough, *Disenfranchised Florida Felons Struggle to Regain Their Rights*, N.Y. TIMES Mar. 28, 2004, <https://www.nytimes.com/2004/03/28/us/disenfranchised-florida-felons-struggle-to-regain-their-rights.html>.
78. FLA. DEP'T OF STATE: ELECTIONS DATA; see also <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/4/2014&DATAMODE=>.
79. Our research identified numerous county level races in our period of review in which the total numbers of Returning Citizens in the relevant election districts exceed the resulting margins of victory, suggesting disenfranchisement could be a determinative factor in many elections.
80. The data analyzed in this section and provided in the report graphics is available in the Appendix, available at [www.advancementproject.org](http://www.advancementproject.org).
81. Though not constituting a majority, Black representation in the Returning Citizens population is still disproportionately high, as compared to the county demographics in the following counties: in Pinellas, 41.4% of Returning Citizens are Black, while just 9% of the general population is Black; in Osceola, 25.9% of the Returning Citizen population is Black compared to 12.8% of the general population.
82. The charts reflect data from the five zip codes in each county with the highest Black population percentages—a proxy for the counties' likely Black neighborhoods. See Appendix for statistics and analysis for each county.
83. These zip codes are in the Jacksonville area, 32209, 32208, 32206, 32202, 32254, with Black population percentages of, respectively, 96.4%, 79.0%, 80.9%, 60.2%, 60.7%.
84. Many factors may contribute to the challenges for Returning Citizens of obtaining stable and adequately remunerated jobs, and reforms are needed nationally and in Florida to eliminate barriers to employment. See *Research Supports Fair-Chance Policies*, NAT'L EMP'T LAW PROJECT, Aug. 2016, <http://www.nelp.org/content/uploads/Fair-Chance-Ban-the-Box-Research.pdf>; Rebecca Beitsch, *How States Are Working to Reduce Recidivism among Ex-Offenders*, PBS NEWSHOUR, Jul. 27, 2017, <https://www.pbs.org/newshour/nation/states-working-reduce-recidivism-among-ex-offenders>.
85. For example, local school boards are determining whether to participate in the state-supported programs, like the Coach Aaron Feis Guardian Program passed under SB 7026, which permits certain school personnel to carry firearms. Broward, Orange, and Osceola have all voted against local participation. Leslie Postal, *Central Florida Schools Show Little Interest in Armed 'Guardian' Program*, ORLANDO SENTINEL, Mar. 9, 2018, <http://www.orlandosentinel.com/features/education/school-zone/os-arming-school-teachers-lawmakers-20180308-story.html>.
86. The roles of school boards have become even more consequential this year as the debate over school security and arming teachers takes the spotlight in Florida following the Parkland massacre and Florida's new law allowing for arming school staff, Marjorie Stoneman Douglas High School Public Safety Act (SB 7026). See *id.*
87. After three decades of oversight, Pinellas County was relieved of federal civil rights monitoring in 2007. Cara Fitzpatrick & Michael LaForgia, *Fundamentally Unequal (Failure Factories Series)*, TAMPA BAY TIMES, Dec. 23 2015; <http://www.tampabay.com/projects/2015/investigations/pinellas-failure-factories-fundamental-schools/>.
88. *Id.*
89. *Id.*
90. Campbell Park and Lakewood are in zip code 33705 with a 56.2 Black population percentage; Fairmount Park is in 33711 with a 57.8 Black population percentage; and Maximo and Melrose are in 33712 with a 76.1 Black population percentage.
91. E. Eugene Webb, *The Pinellas County School Board gets an 'F'*, GULFPORT PATCH, Mar. 4, 2018, <https://patch.com/florida/gulfport/pinellas-county-school-board-gets-f>.
92. *Id.*
93. PINELLAS COUNTY SCHOOLS ELECTIONS (2016), available at [https://ballotpedia.org/Pinellas\\_County\\_Schools\\_elections\\_\(2016\)#School\\_board\\_reaction](https://ballotpedia.org/Pinellas_County_Schools_elections_(2016)#School_board_reaction).
94. See e.g., Conor Friedersdorf, *The City Where Blacks Suffer Under 'Stop and Frisk on Steroids'*, THE ATLANTIC, May 30, 2014, available at <https://www.theatlantic.com/national/archive/2014/05/where-blacks-suffer-under-stop-and-frisk-on-steroids/371869> (on excessive use of stop-and-frisk in Miami Gardens, Florida); Auditi Guha, *Black People in Florida Much More Likely to Be Shot by Police, Investigation Confirms*, REWIRE NEWS, Apr. 7, 2017, <https://rewire.news/article/2017/04/07/black-people-much-more-likely-shot-police-investigation-confirms/>; Margaret Huang, *Florida's Incarceration Rate Is Obscene*, MIAMI HERALD, Mar. 31, 2016, <http://www.miamiherald.com/opinion/op-ed/article69335302.html>.
95. See e.g., *Racial Bias in Florida's Electoral System*, BRENNAN CTR. FOR JUSTICE AT NYU SCHOOL OF LAW & FLA. RIGHTS RESTORATION COAL., 2006; [https://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_9477.pdf](https://www.brennancenter.org/sites/default/files/legacy/d/download_file_9477.pdf); Jessica Pishko, *Prosecutors Are Banding Together to Prevent Criminal Justice Reform*, THE NATION, Oct. 18, 2017, <https://www.thenation.com/article/prosecutors-are-banding-together-to-prevent-criminal-justice-reform/>.
96. Melissa Nelson was elected by an overwhelming majority, in part as an unequivocal community rejection of former State Attorney Angela Corey who presided over the failed prosecution of George Zimmerman after his murder of Trayvon Martin and the prosecution of Marissa Alexander. Jessica Pishko, *Voters Have Ousted Notorious Florida Prosecutor Angela Corey*, THE NATION, Aug. 31, 2016; <https://www.thenation.com/article/voters-have-ousted-notorious-florida-prosecutor-angela-corey/>.

97. Andrew Pantazi, *State Attorney Promised To Reform The Office. Six Months Later, Has She Delivered?*, FLA. TIMES-UNION, Jun. 29, 2017, <http://www.jacksonville.com/news/metro/public-safety/2017-06-29/state-attorney-promised-reform-office-six-months-later-has-she>.
98. *Id.*
99. Andrew Pantazi, *In a Florida First, Jacksonville's State Attorney Hired Someone to Exonerate Inmates*, FLA. TIMES-UNION, Jan. 29, 2018, <http://www.jacksonville.com/news/20180129/in-florida-first-jacksonvilles-state-attorney-hired-someone-to-exonerate-inmates>.
100. *Id.*
101. Our concern is not about how candidates for elected positions may be affected, but rather about the right of each community member to have an equal voice in our democracy and a fair opportunity to vote for their candidate of choice.
102. To be persuasive, any attempt to suggest alternative outcomes of these historical elections would require consideration of numerous factors, including anticipated registration and voter turn-out rates among Returning Citizens, public opinions about the available candidates held by Returning Citizens at the time of the elections, the impact of a perceived voting bloc of Returning Citizens on the election and other voters.
103. See *Florida Courts*, FLA. COURTS, <http://www.flcourts.org/florida-courts/> (last visited Sept. 7, 2018).
104. Josh Saliman, Emily Le Coz & Elizabeth Johnson, "Florida's Broken Sentencing System," HERALD TRIBUNE, <http://projects.heraldtribune.com/bias/sentencing/> (last visited April 3, 2018).
105. Aramis Ayala became the first Black state attorney in 2017 in Florida, only to be stripped of the full scope of her authority by Governor Scott. Leonard Pitts, Jr., *In removing state attorney from murder case, governor abuses his power*, MIAMI HERALD, Mar. 24, 2017, <http://www.miamiherald.com/opinion/opn-columns-blogs/leonard-pitts-jr/article140703988.html>.
106. Bowers & Preuhs, *supra* note 69, at 723.
107. *Id.*, at 723, 724.
108. *Id.*, at 722.
109. *Id.*, at 727; Eric Plutzer, *Becoming a Habitual Voter: Inertia, Resources, and Growth in Young Adulthood*, 96 AM. POL. SCI. REV. Mar. 2002 at 51.
110. Plutzer, *supra* note 109, at 41.
111. *Id.*
112. Chung, *supra* note 42, at 4.
113. E.g., strict voter identification and photo identification laws for both registration and voting; proof of citizenship laws for registration and voting; redistricting/gerrymandering; cuts to early voting; ending Sunday voting in some places; reducing polling places; unlawful aggressive list maintenance practices that result in mass voter purges from the rolls.
114. Kristen Bialik & Jens Manuel Krogstad, *115th Congress sets new high for racial, ethnic diversity*, FACT TANK, Jan. 24, 2017, <http://www.pewresearch.org/fact-tank/2017/01/24/115th-congress-sets-new-high-for-racial-ethnic-diversity/>; Tony Mauro, *Mostly White and Male: Diversity Still Lags among SCOTUS Law Clerks*, NATIONAL LAW JOURNAL, Dec. 11, 2017, <https://www.law.com/nationallawjournal/sites/nationallawjournal/2017/12/11/mostly-white-and-male-diversity-still-lags-among-scotus-law-clerks/>; Julia Glum, *Trump's White House Is Full of White Men, Not Diverse Like Sarah Huckabee Sanders Says*, NEWSWEEK, Dec. 14, 2017, <http://www.newsweek.com/fact-check-diversity-white-house-trump-huckabee-sanders-amaroso-749673>; Anna Brown and Sara Atske, *Blacks have made gains in U.S. political leadership, but gaps remain*, FACT TANK, Jun. 28, 2016, <http://www.pewresearch.org/fact-tank/2016/06/28/blacks-have-made-gains-in-u-s-political-leadership-but-gaps-remain/>.
115. See *Right to Vote Initiative*, ADVANCEMENT PROJECT, <http://www.nationalrighttovote.org> (last visited Sept. 7, 2018).