

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., et al.,

Plaintiffs,

v.

LAUREL M. LEE, in her official
capacity as Florida Secretary of State,
et al.,

Defendants,

and

REPUBLICAN NATIONAL
COMMITTEE, and NATIONAL
REPUBLICAN SENATORIAL
COMMITTEE,

Intervenor-Defendants.

Cases Consolidated for Trial:

Case Nos.: 4:21-cv-186-MW/MAF
4:21-cv-187-MW/MAF
4:21-cv-201-MW/MAF
4:21-cv-242-MW/MAF

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL EXHIBITS AS TO EXPERT
WITNESS SHARON AUSTIN, PH.D.**

Plaintiffs, pursuant to the Court's Order on the morning of February 1, 2022,
give notice of additional exhibits, and respectfully request that the Court grant
Plaintiffs leave to supplement the Parties' Consolidated Trial Exhibit List (ECF
No. 401-1). These are supplemental exhibits as to Sharon Austin, Ph.D.

No.	Exhibit Source/Bates
12A	Exhibit A to Opening Expert Report of Sharon Austin, Ph.D. (CV)
12B	Exhibit B to Opening Expert Report of Sharon Austin, Ph.D. (References)
12C	Austin Table 1, 9-1-2021 Expert Report p. 39
12D	Austin ACLU table, 9-1-2021 Expert Report p. 53
12E	Austin Table 2, 9-1-2021 Expert Report pp. 57-58
12F	Austin Table 3, 9-1-2021 Expert Report pp. 60-61
12G	U.S. Commission on Civil Rights, 2002b, Voting Rights in Florida. The Impact of the Commission's Report and the Florida Election Reform Act of 2001. (June 2002)

Respectfully submitted this 1st day of February, 2022.

/s/ Frederick S. Wermuth

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LOCAL RULES CERTIFICATION

Undersigned counsel attempted to confer with opposing counsel pursuant to Local Rule 7.1(B) and provided these exhibits to opposing counsel and confirms that Defendant and for Defendant-Intervenors have not yet responded to the request. Undersigned counsel certifies that this motion contains 158 words, excluding the case style, conferral certification, and certificate of service.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 1, 2022 I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel in the Service List below.

/s/ Frederick S. Wermuth

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EXHIBIT A

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Exhibit

12A

4:21-cv-186-MW/MAF

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Education:

The University of Tennessee at Knoxville

Earned doctorate in political science in August 1993

Major areas of emphasis: American Government (Public Law; Congress, the Presidency, and the Judiciary, and Minority Politics)

Minor areas of emphasis: Comparative Politics and Public Administration

Dissertation: *Aftermath of the Voting Rights Act of 1965: Racial Voting Patterns in Memphis Mayoral Elections, 1967-1991*

The University of Memphis

Earned master's degree in political science with a minor in education in December 1989

Christian Brothers University

Earned bachelor's degree in history with a minor in political science in May 1987

Teaching:

The University of Florida

Professor, August 2018-Present

Director of the African American Studies Program, July 2012-August 2019

Interim Director of the African American Studies Program, August 2011-July 2012

Associate Professor, August 2004-August 2018.

Undergraduate Coordinator, August 2008- August 2010

Visiting Associate Professor, August 2001-August 2004. Received tenure in June 2007

Courses offered:

African American Politics; American Government; Latino Politics and Policy; African American Studies Seminar; African Americans in Paris; Asian American Politics; Cultural Diversity; Community Analysis; Honors American Government; Key Issues in Black Atlantic Thought; Presidential Inauguration Seminar; Race, Gender, and Politics; Urban Politics; Women of Color and the Law

The Junior Statesman Program at Yale University

Associate Professor of American Government from July 1-26, 2002

The University of Michigan at Ann Arbor

Visiting Scholar of Political Science from August 2000-May 2001

Courses offered:

Political Participation and Pressure Groups; State and Local Government; Urban Analysis

The University of Missouri at Columbia

Associate Professor of Political Science and Black Studies from July 2000-August 2002

Assistant Professor of Political Science and Black Studies from August 1995-July 2000

Courses offered:

American Government; Black Political Thought; Black Women in Politics; Community Analysis; Introduction to Black Studies; Municipal Problems; State and Local Government; Urban Politics; Women and the Law

The University of Louisville

Assistant Professor of Pan African Studies from August 1992-May 1995

Courses offered:

Black Nationalist Politics in America; Civil Rights and the Law, Parts I and II; Constitutional Law-Civil Rights and Civil Liberties; Constitutional Law-Powers of Government; Contemporary African American Political Topics; Politics of the Black Community; Race, Class, and Gender in the U.S.; Southern Politics

Grants for the African American Studies Program:

Received a \$3,000 "Support for Workshops and Speaker Series in the Humanities" Grant from the Center for the Humanities and Public Sphere in February 2016. This grant funded "The Black Women in the Academy" workshop in February 2017 at the University of Florida.

Received a \$3,500 "Support for Workshops and Speaker Series in the Humanities" Grant from the Center for the Humanities and Public Sphere in March 2015. This grant funded "The Legacy and Influence of President Barack Hussein Obama" workshop in February 2016.

Received a \$1,500 "Civil Debate Wall" Grant from the Bob Graham Center for Public Service in July 2012. This grant funded an online discussion of African American views about same-sex marriage.

Received a \$3,500 "Support for Workshops and Speaker Series in the Humanities" Grant from the Center for the Humanities and Public Sphere in February 2012. This grant funded "The Education and Identity of African American Men" workshop in February 2013.

Grants for My Research and Teaching:

Primary Investigator, University of Florida Racial Justice Grant for \$60,000 to conduct research on Black faculty recruitment and retention, November 2020.

Primary Investigator, University of Florida Racial Justice Grant for \$60,000 to conduct research on the university's ties to slavery, November 2020.

University of Florida Department of Political Science Grant for \$1,000 to conduct research on "Racial Group Consciousness and the Haitian Immigrant Quest for Political Incorporation" with Doctoral Student Danielle King, April 2010.

University of Florida Graham Center Case Study Grant for \$4,000 to conduct research on "Taking Back the Land: The Battle of Liberty City's Resident against Gentrification." Coauthored by undergraduate student Leonard J. Laurenceau, April 2009.

University of Florida Graham Center for \$3,000 to develop a Latino Politics and Policy course, April 2008.

University of Florida Department of Political Science Grant for \$3,000 to conduct research on “Concentrated Poverty, Social Isolation, and Political Participation in the Southern Black Belt” during the summer of 2006, March 2006

University of Florida College of Liberal Arts and Sciences Humanities Enhancement Grant for \$4,000 to conduct research on “Concentrated Poverty, Social Isolation, and Political Participation in the Southern Black Belt,” December 2005

Summer Research Fellowship for \$7,000 from the University of Missouri in June 1996 to conduct research on “An Analysis of a New Generation of Black Mayors”

Research Council Grant for \$2,000 from the University of Missouri in June 1996 to conduct research on “An Analysis of a New Generation of Black Mayors”

Faculty Development Grant for \$3,300 from the University of Missouri in June 1997 to attend the Inter-Consortium for Political and Social Science Research at the University of Michigan

Research Grant for \$2,000 from the Office of the Provost at the University of Louisville in June 1994 to conduct research at the University of West Indies at Cave Hill, Barbados, West Indies

Research Grant for \$500 from the University of Louisville in May 1993 to conduct research on “Black Women in Kentucky Politics”

Received Dissertation Fellowship for \$2,000 from the University of Louisville in August 1992

Honors, Awards, and Recognitions:

Selected as a University Term Professor, 2021-2024, for excellence in scholarship, teaching, and service at the University of Florida.

Selected for induction into the Edward A. Bouchet Graduate Honor Society's UF Chapter on February 8, 2021 because of my "scholarship, leadership, character, service, and advocacy" on behalf of under-represented graduate students.

Selected as a University Term Professor, 2018-2021, for excellence in scholarship, teaching, and service at the University of Florida.

Selected as a 2010-2011 Colonel Allen R. and Margaret G. Crow Term Professor of Liberal Arts and Sciences for excellence in scholarship, teaching, and service at the University of Florida, April 2010.

Winner of the Erika Fairchild Award of the Women's Caucus of the Southern Political Science Association on January 8, 2009. The award is given to a female scholar with a strong record of scholarship who is committed to students, teaching, and mentoring other female scholars, is a thoughtful, caring good citizen of the discipline, and has a collegial spirit.

Best Paper on Blacks and Politics Award for "Black Group Consciousness in South Florida". Paper Presented at the Annual Meeting of the Western Political Science Association, San Diego, California, March 18-21, 2008.

2006 SAVANT UF Honorary Membership Award. SAVANT UF was established in 1967 to recognize those "who have attained a high standard of leadership in collegiate activities and outstanding service to the University of Florida and the surrounding community." Its approximately 140 members granted an honorary membership to me during the spring 2006 semester.

2004-2005 University of Florida University-wide Advisor of the Year

2004-2005 College of Liberal Arts and Sciences Advisor of the Year at the University of Florida

2004-2005 Student Activities Center Student Organization Advisor of the Year at the University of Florida for my work with the Black Political Science Association

Fellow, "Analyzing Poverty and Welfare Trends Using Census 2000 Data" Workshop at the University of Michigan, Ann Arbor, June 23-27, 2003.

Outstanding Mentor of the Gatorlaunch Program during the 2002-2003 academic year.

Best Paper on Blacks and Politics Award for “The 2001 Los Angeles Mayoral Election: An Analysis of the Racial Threat Hypothesis and Black-Latino Electoral Coalitions” by Sharon D. Wright and Richard T. Middleton IV. Paper Presented at the Annual Meeting of the Western Political Science Association, Long Beach, CA, March 22, 2002.

My chapter “Clinton and Racial Politics” is published in *The Postmodern Presidency: Bill Clinton’s Legacy in U.S. Politics*, which was selected by *CHOICE* AS ONE OF THE “Outstanding Academic Books of the Year” for 2001.

Outstanding Mentor of the McNair Scholars Program during the 2001-2002, 2002-2003, and 2004-2005 academic years

Freedom Journal Award, “The Voice Magazine Recognizes Dr. Sharon D. Wright as an Exemplar of Outstanding Service to the Students of the University of Missouri-Columbia, April 25, 1999

Profile in the *Columbia Missourian* newspaper, “The Wright Stuff: MU Professor Spearheads Civil Rights Education,” October 19, 1997

Certificate of Recognition, “The Association of Black Graduate and Professional Students Recognizes Dr. Sharon D. Wright for Dedicating her Time and Expertise to the 1998 Graduate Professional Development Workshop,” April 3, 1999

Certificate of Appreciation, “The Association of Black Graduate and Professional Students Recognizes Dr. Sharon D. Wright for Participating in the 1997 Graduate Professional Development Workshop,” April 9, 1998

“A Case Study in Intra-Racial Divisions: The 1994 Shelby County Mayoral Election” received the Rodney Higgins Best Paper Award of the National Conference of Black Political Scientists, March 6-10, 1996

Fellow, Sixth Annual Africana Studies Summer Institute at the University of Ghana at Legon, West Africa. The four-week institute (July 9-August 6, 1995) was sponsored by the National Council for Black Studies and a grant from the Ford Foundation

Fellow, Summer Institute at the University of West Indies, Cave Hill in Barbados, West Indies. The four-week institute (July 19-August 22, 1994) was sponsored by the University of Louisville and the University of West Indies.

Publications:

Manuscripts-Published:

Sharon D. Wright Austin. *The Caribbeanization of Black Politics: Group Consciousness and Political Participation in America*, (State University of Albany Press, 2018), 256 pages.

Sharon D. Wright Austin. *The Transformation of Plantation Politics in the Mississippi Delta: Black Politics, Concentrated Poverty, and Social Capital in the Mississippi Delta* (Albany, NY: State University of New York Press, 2006), 280 pages.

Sharon D. Wright. *Race, Power, and Political Emergence in Memphis* (New York: Routledge Press, 2000), 218 pages.

Manuscript Under Contract:

Sharon D. Wright Austin, editor. *Political Black Girl Magic: The Elections and Governance of Black Female Mayors*. Under contract. Temple University Press.

Refereed Journal Articles-Published:

Sharon D. Wright Austin. 2021. Contemporary Black Populism and the Development of Multiracial Coalitions: The 2018 Stacey Abrams and Andrew Gillum Gubernatorial Campaigns. *Political Science Quarterly*. June 15. <https://onlinelibrary.wiley.com/doi/epdf/10.1002/polq.13203>.

Sharon D. Wright Austin, Editor of a special issue of *The National Political Science Review: The Journal of the National Conference of Black Political Scientists* entitled *The Caribbeanization of Black Politics*. Volume 19.1: 2018.

Sharon D. Wright Austin, "The Group Consciousness and Political Participation of African Americans and Black Ethnics." *The Caribbeanization of Black Politics* special issue of *The National Political Science Review: The Journal of the National Conference of Black Political Scientists*. Volume 19.1: 2018.

Sharon D. Wright Austin, Sekou M. Franklin, and Angela K. Lewis. "The Effects of Concentrated Poverty on Black and White Political Participation in the Southern Black Belt." *National Political Science Review* 15 (2013): 57-69.

Sharon D. Wright Austin, Richard T. Middleton IV, and Rachel Yon. The Effect of Racial Group Consciousness on the Political Participation of African Americans and Black Pan-Ethnics in Miami-Dade County, Florida. *Political Research Quarterly* 65, 3 (September 2012): 629-641.

Baodong Liu, Sharon D. Wright Austin, and Byron D'Andra Orey. Church Attendance, Social Capital, and Black Voting Participation. *Social Science Quarterly* 90, 3 (September 2009): 576-592.

Sharon D. Wright Austin and Richard T. Middleton IV. The Limitations of the Deracialization Concept in the 2001 Los Angeles Mayoral Election. *Political Research Quarterly* 57, 2 (June 2004): 283-293.

Sharon D. Wright and Richard T. Middleton IV. The 2001 Los Angeles Mayoral Election: Implications for Deracialization and Biracial Coalition Theories. *Politics and Policy* (formerly known as the *Southeastern Political Review*) 29, 1 (2002): 692-707.

Sharon D. Wright. The Tennessee Caucus of Black State Legislators. *The Journal of Black Studies* 31, 1 (September 2000): 3-19.

Sharon D. Wright. Political Organization or Machine: The Impact of Harold E. Ford's Endorsements in Memphis Mayoral Elections. *National Political Science Review: The Journal of the National Conference of Black Political Scientists* 7(Fall 1999): 210-220.

Sharon D. Wright. Electoral and Biracial Coalition: Possible Election Strategy for African American Candidates in Louisville, Kentucky. *The Journal of Black Studies* 25, 6 (July 1995): 749-758.

Refereed Book Chapters-Published:

Sharon D. Wright Austin. African American, Black Ethnic, and Dominican Political Relations in Contemporary New York City. In *Black Politics in Transition: Immigration, Suburbanization, and Gentrification*, eds. Candis Watts Smith and Christina M. Greer. (New York: Routledge, 2018).

Sharon D. Wright Austin and Danielle King. President Barack Obama and Racial Politics. In *Barack Obama's Historic Legacy: A Two Year Assessment*, ed. John Davis. (New York: Palgrave Macmillan, 2011).

Sharon D. Wright Austin and Richard T. Middleton IV. Racial Politics of Gaming in the Delta. In *Resorting to Casinos: The Mississippi Gaming Industry*, ed. Denise von Hermann (Oxford, MS: University Press of Mississippi, 2006).

Sharon D. Wright Austin and Richard T. Middleton IV. The 2001 Los Angeles Mayoral Election: Implications for Deracialization and Biracial Coalition Theories. In *Black and Latino/a Politics: Issues in Political Development in the United States*, eds. Jessica Lavariega Monforti and William E. Nelson Jr. (Miami, FL: Barnhardt and Ash, 2006) [reprint of "The 2001 Los Angeles Mayoral Election: Implications for Deracialization and Biracial Coalition Theories." *Politics and Policy* (formerly known as the *Southeastern Political Review*) 29, 1 (2002): 692-707.]

Sharon D. Wright Austin and Richard T. Middleton IV. Sustainability in the Twin Cities of Biloxi-Gulfport, Mississippi. In *Governing Middle-Sized Cities: Studies in Mayoral Leadership*, eds. Wilbur C. Rich and James Bowers (Boulder, CO: Lynne Rienner Publishers, 2000).

Sharon D. Wright and Minion K.C. Morrison. The African American Political Experience. In *The Historical and Bibliographical Guide to the African American Experience*, eds. Arvarh Strickland and Robert E. Weems Jr. (Westport, CT: Greenwood Press, 2000).

Sharon D. Wright. Clinton and Racial Politics. In *The Postmodern Presidency: Bill Clinton's Legacy in U.S. Politics*, ed. Steven Schier (Pittsburgh, PA: University of Pittsburgh Press, 1999).

Sharon D. Wright. The Activism of Black Women in Congress, 1967-1997. In *African American Women's Activism Since the Civil Rights Movement*, ed. Kimberly Springer. (New York: New York University Press, 1999).

Sharon D. Wright. The Deracialization Strategy and African American Candidates in Memphis Mayoral Elections. In *Race, Politics and Governance in the United States*, ed. Huey L. Perry (Gainesville, FL: University of Florida Press, 1997).

Forthcoming Publications:

Tatiana Benjamin and Sharon D. Wright Austin. The Black Social Economy: Black American Women Using Susu and Cooperatives as Resistance. In *Black People and Social Finance: Money Pools Counteract Racial Capitalism in the West*, edited by Caroline Shenaz Hossein. Chapter is complete. Book is under contract with Routledge Press.

Sharon D. Wright Austin. Andrew Gillum's Quest to Become Florida's First Black Governor. In *Historic Firsts in U.S. Elections: Gubernatorial, Congressional, and Mayoral Campaigns, 2018-2019*, edited by Evelyn M. Simien. Chapter is complete. Book is under contract with Routledge Press.

Research in Progress:

Sharon D. Wright Austin, Caroline Shenaz Hossein, Tatiana Benjamin, Silvana Silva, Sherice J. Nelson. *African Diaspora Economics: How Black Feminist Political Women Advance Communities Through Cooperative Economics*. Book is under contract with Cambridge University Press.

Angela Lewis-Maddox, Sherice J. Nelson, LaRaven Temoney, and Sharon D. Wright Austin. "Black Lives Matter: How Black Women Lead the Movement for Global Transformational Change." Paper under review for inclusion in a special issue of the *Social Science Quarterly* (Freedom Dreaming: A Symposium on Racial Justice, Unrest, and Abolition). Guest Edited by: Drs. Jenn M. Jackson (Syracuse), Traci Burch (Northwestern), and Periloux Peay (Georgia State University). Submitted in October 2020.

Research Report:

Sharon D. Wright. Casino Gaming in the Delta: Race, Politics, and Gaming in Tunica County, Mississippi. In *The Trotter Review of the University of Massachusetts, Boston* 38 (Summer 2000).

Encyclopedia Entries:

Sharon D. Wright Austin. Constance Baker-Motley. In *An Encyclopedia of American Civil Rights and Liberties*, eds. Otis H. Stephens Jr., John M. Scheb II, and Kara E. Stooksbury (Westport, CT: Greenwood Press, 2006).

Sharon D. Wright Austin. Rosa Parks. In *An Encyclopedia of American Civil Rights and Liberties*, eds. Otis H. Stephens Jr., John M. Scheb II, and Kara E. Stooksbury (Westport, CT: Greenwood Press, 2006).

Book Reviews:

Sharon D. Wright Austin. *The Black Banker Ladies: Mutual Aid and Rotating Savings and Credit Associations of Racialized Women*. Caroline Shenaz Hossein (Manuscript reviewed for University of Toronto Press in November 2019).

Sharon D. Wright Austin. *Latino Politics in America: Community, Culture and Interests*. John A. Garcia (Manuscript reviewed for Rowman and Littlefield in November 2019).

Sharon D. Wright Austin. *Redefining the Political: Poor Black Women in Chicago and New Understandings of Political Identity and Action*. Alexandra Moffett-Bateau (Manuscript reviewed for Temple University Press in October 2019).

Sharon D. Wright Austin. *Much Sound and Fury, or the New Jim Crow? The Twenty-First Century's Restrictive New Voting Laws and their Impact in the States*. Edited by Michael A. Smith (Manuscript reviewed for State University of New York at Albany Press in September 2019).

Sharon D. Wright Austin. *Losing Power: African Americans and Racial Polarization in Tennessee Politics, 2000-2012*. Sekou M. Franklin and Ray Block Jr. (Manuscript reviewer for the University of Georgia Press in August 2017).

Sharon D. Wright Austin. *American Politics and the African American Quest for Universal Freedom. Eighth Edition.* Hanes Walton Jr., Robert Smith, and Sherri Wallace (Manuscript reviewed for Routledge Press in June 2015).

Sharon D. Wright Austin. *African American Politics.* Andra Gillespie and Shayla Nunnally. (Manuscript reviewed for Routledge Press in December 2012).

Sharon D. Wright Austin. *Contemporary Southern Politics.* Seth McKee. (Manuscript reviewed for Routledge Press in August 2012).

Sharon D. Wright Austin. *Ciencia Politica: The Scientific Analysis of Latino Politics in the United States.* Edited by Tony Affigne, Evelyn Hu-DeHart, and Marion Orr. (Manuscript reviewed for Routledge Press in March 2011).

Sharon D. Wright Austin. *To the Right and Misunderstood: Conservatism in the Black Community.* Angela K. Lewis. (Manuscript reviewer for SUNY Albany Press in 2009).

Sharon D. Wright Austin. *Whose Black Politics? Case Studies in Post-Racial Black Leadership.* Edited by Professor Andra Gillespie. (Manuscript reviewed for Routledge Press in January 2009).

Sharon D. Wright Austin. *African American Politics in the 21st Century.* Andra Gillespie, Editor. (Manuscript reviewed for the Congressional Quarterly Press and Routledge Press in 2007).

Sharon D. Wright Austin. *Where Have You Gone, Horatio Alger? A Convergence of Race and Poverty in the Memphis City Schools.* Marcus Pohlmann (Manuscript reviewed for the University of Tennessee Press in 2007).

Sharon D. Wright Austin. *Freedom Is a Constant Struggle: The Mississippi Civil Rights Movement and Its Legacy* by Kenneth T Andrews (Chicago: University of Chicago Press, 2004) for the *Journal of Southern History*.

Sharon D. Wright Austin. *Black Feminist Voices in Politics* by Evelyn Simien for the State University of New York Press, 2004.

Sharon D. Wright Austin. *The Politics of the New South: Representation of African Americans in Southern State Legislatures* by Charles E. Menifield and Stephen D. Shaffer (eds.) for the State University of New York Press, July 2003.

Sharon D. Wright. *The Encyclopedia of Memphis* by Timothy Huebner and Michael Nelson (eds.) for the University of Tennessee, Knoxville Press, October 2002.

Sharon D. Wright. *Red Lines, Black Spaces: The Politics of Race and Space in a Black Middle-Class Suburb* by Bruce D. Haynes (New Haven, CT: Yale University Press, 2001) for the *Journal of Politics*.

Sharon D. Wright. Comparison Review of *Enforcing Civil Rights: Race Discrimination and the Department of Justice* by Brian K. Landsberg (Lawrence, KS: University Press of Kansas, 1997); *Reaching Beyond Race* by Paul M. Sniderman and Edward G. Carmines (Cambridge, MA: Harvard University Press, 1997), and *Racism in the post-Civil Rights Era: Now You See It, Now You Don't* (Albany, NY: State University of New York Press, 1995) for the *Policy Studies Journal*.

Sharon D. Wright. *Racial Politics at the Crossroads: Memphis Elects Dr. W.W. Herenton* by Marcus Pohlmann and Michael Kirby (Knoxville, TN: University of Tennessee Press, 1996) for the *National Political Science Review: The Journal of the National Conference of Black Political Scientists*.

Sharon D. Wright. *Government in America, Brief Version, Third Edition* by Edwards, Wattenberg, and Lineberry (New York: Longman , 1995) for Longman Publishing.

Sharon D. Wright. *African Americans at the Crossroads: The Restructuring of Black Leadership and the 1992 Elections* by Clarence Lusane (Boston, MA: South End Press, 1995) for the *Social Science Quarterly*.

Sharon D. Wright. *Abortion and American Politics* by Barbara H. Craig and David M. O'Brien (Chatham, NJ: Chatham House, 1994) for the *National Political Science Review: The Journal of the National Conference of Black Political Scientists*.

Sharon D. Wright. *Studying Politics* by Roderick Church, Terrence Carroll, and Nicolai Baxter-Moore (New York: Longman, 1994) for Longman Press.

Sharon D. Wright. Comparison Review of *the Year of the Woman: Myths and Realities* by Thomas Cook (Greenwood, CT: Westview Press, 1994); *Women, Elections and Representation. Second Edition* by Darcy, Welch, and Clark for the *Southeastern Political Review*.

Sharon D. Wright. *Empirical Political Analysis: Research Methods in Political Science. Third Edition* by Jarol B. Mannheim and Richard C. Rich (New York: Longman, 1993).

Conference Presentations:

Presenter

The Legacy of Plessy v. Ferguson at Predominantly White Institutions: The Politics of Defining “Black” Students for Admissions Purposes

Russell Sage Journal Conference: The Legacy of Separate But Equal: Policy Implications for the 21st Century, New York, New York, September 27, 2019.

Chair and Presenter

The Campaigns, Elections, and Governance of Black Female Mayors

American Political Science Association, Washington, D.C., August 28-September 1, 2019.

Presenter

Afro-Cuban Group Consciousness and Political Participation in Miami-Dade County

National Conference of Black Political Scientists, Baton Rouge, Louisiana, March 14-17, 2019.

Discussant

Black Women as Elected Officials Panel

National Conference of Black Political Scientists, Baton Rouge, Louisiana, March 14-17, 2019.

Panelist on Roundtable Panel

The Politics of Faculty Diversity and Tenure Panel

National Conference of Black Political Scientists, Chicago, Illinois, March 14-17, 2018.

Chair and Discussant

Pan African Thought and Method Panel

National Conference of Black Political Scientists, Chicago, Illinois, March 14-17, 2018.

Panelist on Roundtable Panel

National Political Science Review: A Standard-Driven Academic Refereed Journal of Black Politics

National Conference of Black Political Scientists, Jackson, Mississippi, March 14-17, 2016

Chair and Discussant

Descriptive Representation Without Substance: Black Inclusion in the Era of Racial Animus

National Conference of Black Political Scientists, Jackson, Mississippi, March 14-17, 2016

Chair and Discussant

Schools, Cities, and Cradle-to-Prison Pipeline

National Conference of Black Political Scientists, Jackson, Mississippi, March 14-17, 2016

Chair and Discussant

African American Archival Research

Associate for the Study of Afro American Life and History, Jacksonville, Florida, October 2-4, 2013.

Chair and Discussant

African American Political and Policy Issues

Associate for the Study of Afro American Life and History, Jacksonville, Florida, October 2-4, 2013.

Discussant

Urban Political Empowerment

Southern Political Science Association, Orlando, Florida, January 3-5, 2013.

Chair and Discussant

African and African American Policy Issues

National Council for Black Studies, Atlanta, Georgia, March 8, 2012.

Chair and Discussant

African and African American Political Leadership
National Council for Black Studies, Atlanta, Georgia, March 9, 2012.

Chair and Discussant

The Politics of African American Educational and Identity Issues
National Council for Black Studies, Atlanta, Georgia, March 9, 2012.

Presenter:

Church Attendance, Social Capital, and Black Voting Participation
Midwest Political Science Association, Chicago, Illinois, April 1-3, 2008.

Presenter:

Black Group Consciousness in South Florida
Western Political Science Association, San Diego, California, March 18-21, 2008.

Chair and Discussant:

Latino Politics Panel
Southern Political Science Association, New Orleans, Louisiana, January 4-6, 2007

Discussant:

The New Politics of Multiracial Cities Panel
American Political Science Association, Philadelphia, Pennsylvania, August, 31-September 3, 2006

Discussant:

Emerging Issues in African American Opinion Panel
American Political Science Association, August 28-September 1, 2005, Washington, D.C.

Chair and Discussant:

The Political Research of Dr. Ronald McNair Scholars
Panel participants included four University of Florida students: Gloria Bowens, James Holloway III, Natassia Kelly, and Funmi Olorunnipa.
National Conference of Black Political Scientists, Oakland, California, March 8-12, 2003

Chair:

Getting Through the Tenure and Promotion Process

National Conference of Black Political Scientists, Oakland, California, March 8-12, 2003

Presenter:

“Coping with the Graduate School Experience”

Western Political Science Association, Long Beach, California, March 23, 2002

Presenter:

“The 2000 Los Angeles Mayoral Election: An Analysis of the Racial Threat Hypothesis and Black-Latino Electoral Coalitions”

Western Political Science Association, Long Beach, California, March 23, 2002

Chair and Discussant:

The Role of Race in Southern Elections and Public Policies

National Conference of Black Political Scientists, Atlanta, Georgia, March, 8, 2002

Section Chair:

State and Local Politics Section

National Conference of Black Political Scientists, Atlanta, Georgia, March, 6-1-, 2002; March 8-12, 2003

Presenter:

“Coping with the Graduate School Experience”

Western Political Science Association, Las Vegas, Nevada, March 22, 2001

Chair:

Racial Contexts and Representations in the Political Space

Students of Color of Rackham Conference, University of Michigan, Ann Arbor, February 17, 2001

Presenter:

“Women of Color in Academia”

Students of Color of Rackham Conference, University of Michigan, Ann Arbor, February 16, 2001

Chair:

Political Empowerment and Racial Minorities: Where We Are at Century’s End

American Political Science Association, Washington, D.C., August 31-September 3, 2000

Discussant:

Representation, Redistricting, and Race in Electoral Politics

American Political Science Association, Boston, Massachusetts, September 3-6, 1998

Chair:

Issues Related to Teaching

American Association of Behavioral and Social Sciences, Las Vegas, Nevada, January 13-15, 1998

Presenter:

“Developing Black Studies Programs in Order to Enhance Diversity”

American Association of Behavioral and Social Sciences, Las Vegas, Nevada, January 13-15, 1998

Presenter:

“America’s Ethiopia: The Politics of Casino Gambling in Tunica County, Mississippi”

Urban Affairs Association, Toronto, Canada, April 19, 1997

Presenter:

“The Elections of the Nineties: An Analysis of a New Generation of Black Mayors”

American Political Science Association, San Francisco, California, August 30-September 2, 1996

Chair and Discussant:

Black State Legislative Politics

National Conference of Black Political Scientists, Savannah, Georgia, March 6-10, 1996

Presenter and Chair:

Challenges to Governance: The Freeman Bosley Administration of St. Louis

Southern Political Science Association, Tampa, Florida, November 1995

Presenter:

“A Case Study in Black Activism: The Freeman Bosley Mayoral Election in St. Louis”

Missouri Political Science Association, Columbia, Missouri, October 1995

Presenter:

“A Case Study in Intra-racial Divisions: The 1994 Shelby County Mayoral Election”

National Conference of Black Political Scientists, Baltimore, Maryland, March 1995

Presenter:

“The Political Economy of Racism Revisited: The Relationship between the Black Political Establishment and the White economic Community in Memphis, Tennessee”

American Political Science Association, New York, New York, September 1994

Discussant:

Blacks as the Old Minorities or Role Model?

Annual Conference on Minority Relations, Wellesley College, April 1994

Presenter:

“The Effect of Majority Vote Requirements on Black Candidate Success in At-Large Memphis Elections”

National Conference of Black Political Scientists, Hampton, Virginia, March 9, 1994

Presenter:

“Organization or Machine: The Power of Ford Endorsements in Memphis Mayoral Elections”

Southern Political Science Association, Savannah, Georgia, November 1993

Presenter:

“Independent Black Political Leadership: The Presidential Campaigns of Dr. Lenora B. Fulani”

Southern Political Science Association, Savannah, Georgia, November 1993

Presenter:

“Racial Gerrymandering in Louisville: The Effect of Legislative Reapportionment on African American Legislative Representation”

Women’s Studies Conference, Bowling Green, Kentucky, September 1993.

Presenter:

“Deracialization and Biracial Coalition: Possible Election Strategy for African American Candidates in Louisville, Kentucky”

American Political Science Association, Washington, D.C., September 1993

Presenter:

“We Can’t Hackett Anymore: The Failure of the Deracialization Strategy in Memphis Mayoral Campaigns”

Southwestern Political Science Association, New Orleans, Louisiana, March 1993

Presenter:

“Racial Voting Patterns in Memphis Mayoral Elections: An Analysis of the 1991 Election of Dr. Willie W. Herenton”

Southern Political Science Association, Atlanta, Georgia, November 1992

Presenter:

“The Application of the Voting Rights Act of 1965 to State Judicial Elections: Implications for Judicial Selection Systems”

Southwestern Political Science Association, Austin, Texas, March 1992

Service for the Political Science Department, University of Florida:

Member of the Political Science Lecturer Committee, 2019

Chairman of the Latino Politics Search Committee, 2015

Member of the Strategic Planning Committee, 2010-2011

Chairman of Curriculum Committee, 2009-2011

Chairman of the Department’s Speakers Series, 2007-2008

Chairman of the James W. Button/Barbara Roth Memorial Award Committee, 2006-Present

Chairman of the Best Undergraduate Paper Committee, 2009-2010

Master's and Doctoral Committee Member for Several Graduate Students Since 2003 and Chair of Committee for Several Students

Member of Chair Advisory Committee, 2004-2005, 2005-2006

Supervised Independent Research Projects for Several Students Since 2003.

Supervised the selection of the recipients of the Multicultural Scholar Award from the department of political science each year since March 2006.

Undergraduate Coordinator during the 2008-2009 and 2009-2010 academic years.

Service for the Profession:

Author: "The Mayoral Elections of the Nineties: An Analysis of a New Generation of Black Mayors." *Urban News Newsletter of the Urban Politics Section of the American Political Science Association*. 11,3 (Autumn 1997): 1-2, 4.

Member: American Political Science Association, 1992-Present
Member of the 2020-24 Editorial Team, June 2020-May 2024
Council Member of the Urban Politics Section, 2005-2008
Member of the Race and Ethnicity Section, 2000-Present
Chair of the Byran Jackson Dissertation Support Committee, 2005-2006
Chair of the Best Book in Urban Politics Committee, 2006-2007

CLAS Teacher of the Year Award Selection Committee, 2017-18 Academic Year

Editorial Board of the *Ralph Bunche Journal of Public Affairs*, 2013-Present

National Conference of Black Political Scientists, 1992-Present
Member of the Anna Julia Cooper Teaching Award Committee, 2005-2009

UF Provost's Student Retention and Success Task Force, May 2017-2018

Southern Political Science Association, 2000-Present
Member of the Executive Council, 2005-2008

Reviewer: *National Review of Black Politics*, 2020-Present
Journal of Black Studies, 1996-Present
Journal of Women, Politics, and Policy, 2006-Present
National Political Science Review, 2005-2006
Political Research Quarterly, 2005-Present
State and Local Government Review, 2005-Present
Social Science Quarterly, 2005-Present
Transforming Anthropology, 2011
Western Journal of Black Studies, 1996-2000

Service for the African American Studies Program:

Speaker:

The Integration of the University of Florida
February 22, 2017, Naval Air Station, Jacksonville, Florida Multicultural Awareness Day.

Member:

Reitz Union Storytelling Committee, Spring 2017.

Organizer:

Black Women in the Academy Symposium which included lectures by Dr. Pearl Ford Dowe of the University of Arkansas, Fayetteville and Dr. Beverly Guy Sheftall of Spelman College, February 2017.

Chair and Member:

College of Liberal Arts and Sciences Diversity Steering Committee March 2016-Present.

Organizer:

Symposium on the Presidency of Barack Hussein Obama which included lectures by Dr. Michael Jeffries of Wellesley College and Dr. Fredrick Harris of Columbia University, February 2016.

Organizer and Moderator:

Dr. Ronald Foreman Lecture by Dr. Fredrick Harris of Columbia University, February 2016.

Organizer and Moderator:

Dr. Ronald Foreman Lecture by Dr. Paula McClain of Duke University, February 2015.

Organizer and Moderator:

Dr. Ronald Foreman Lecture by Dr. Abdul Alkalimat of the University of Illinois, University of Florida, February 2014.

Campus Event Panelist:

Panelist on *Trouble the Water* documentary panel, January 15, 2014.

Organizer and Moderator:

Lecture by Dr. David J. Garrow of the University of Pittsburgh, January 2014.

Campus Event Moderator:

Passing the Torch Career and Information Session, University of Florida, October 2013.

Campus Event Speaker:

"Graduate and Law School Opportunities"

James E. Scott Leadership Conference, University of Florida, February 2013.

Organizer and Moderator:

Dr. Ronald Foreman Lecture by Dr. Marc Lamont Hill of Columbia University, University of Florida, February 2013.

Campus Event Speaker and Moderator:

"Integration Efforts at the University of Florida from 1958-One Florida"

The Integration of the University of Florida and the Challenges that Remain Panel, University of Florida, January 2013.

Campus Event Speaker:

“Abraham Lincoln and Obama”

Grand Opening Event for Lincoln and the Constitution Exhibit, University of Florida, February 2012

Campus Event Speaker:

"The Activism of Mrs. Fannie Lou Hamer of the Mississippi Freedom Democratic Party"

Women in the Civil Rights Movement Panel, University of Florida, January 2012

Campus Event Speaker:

“How to Gain Acceptance to and Succeed in Graduate School”

Campus Visitation Program, Office of Graduate Minority Programs, November 2011

Campus Event Speaker:

“Are Asian Americans a Model Minority?”

Lunch Series for the Asian American Student Union, University of Florida, November 2010.

Campus Event Speaker:

“Graduate and Law School Forum”

Panel Discussion Sponsored by the Black Political Science Association. University of Florida, October 2009.

Campus Event Moderator:

“A Mock Debate Between Presidential Candidates Barack Obama and John McCain”

Event Sponsored by the Black Political Science Association. University of Florida, October 2008.

Campus Event Speaker:

“Latino and Latin American Politics”

Panel Discussion Sponsored by the Latin American Studies Collection in Smathers Library, November 2008.

Campus Event Speaker and Moderator:

“Should Asian Americans Support Affirmative Action?”

Southeastern Conference on Asian American Leadership, University of Florida
October 2005

Campus Event Speaker and Moderator:

“Contemporary Issues in Asian American Politics”

Southeastern Conference on Asian American Leadership, University of Florida
October 2004

Campus Event Speaker and Moderator:

“African and African American Race Relations at the University of Florida”

Black Political Science Association and Association of African Studies Forum, April
2003

Committee Member:

Atlantic Coast Social, Behavioral, and Economic Sciences (ACSBE) Alliance
Committee to recruit minority graduate students and provide them with additional
travel and research funding, 2005-2019

CLAS Humanities Scholarship Enhancement Grant Selection Committee, Fall 2006

Faculty Affiliate for the African American Studies Program, 2008-2011.

Faculty Affiliate for the Women’s Studies Program, 2007-2017.

Member of the 2010 and 2011 Dr. Martin Luther King Jr. Program Committee

Member of the Search Committee for the Assistant Director of Multicultural Affairs,
March 2011.

Member of the Search Committee for the Director of the U.S. Senator Bob Graham
Center, 2006-2007.

The Graham Center Advisory Committee (Develops curriculum for the Center with
other committee members).

University-wide Teacher and Adviser of the Year Selection Committee, 2006.

Faculty Mentor for approximately 50 students since 2001:

(Supervised their research projects and served as their mentor in Gatorlaunch, Minority Mentoring, and McNair Scholars Programs).

Organizational Advisor for:

The Black Political Science Association, 2001-200Present

Nu Alpha Lambda Christian Service Organization, 2005-Present

Recruiter:

Ralph Bunche Summer Institute, Duke University, June 2004, June 2006

Service for the University of Missouri:

Author:

“Barbara Jordan: A Champion of Civil and Human Rights”

The African Americanist Newsletter

Winter 1996, volume six, number five

Author:

“Black Students and Professors: The Need for Communication and Understanding”

The Legion of Black Collegians Newsletter

February 26, 1997, volume 1

Author:

“Gender and Race in 1996 Presidential Campaign Strategies”

The MU School of Journalism Web Page, October 1996

Author:

“The 25th Annual Congressional Black Caucus Legislative Conference”

The Voice of Black Studies Newsletter

Spring 1996, volume 20, number one

Author:

“The 6th Annual Africana Studies Summer Institute”

The Voice of Black Studies Newsletter

Spring 1996, volume 20, number one

Author:

“The Mayoral Elections of the Nineties: An Analysis of a New Generation of Black Mayors”

Urban News: The Newsletter of the Urban Politics Section of the American Political Science Association

Volume II, Number 3

Fall 1997

Commentator:

KOMU-TV 8 News-Columbia, Missouri

“Saturday Caucus: The Issue of Gender in the 1996 Presidential Election”

April 21, 1996

Commentator:

“Sexual Harassment in the Workforce”

KOMU-TV 8 News

Columbia, Missouri

February 16, 1999

Commentator:

“Black Women in the Civil Rights Movement: 1950-1980”

KOMU-TV 8 News

Columbia, Missouri

October 24, 1997

MU Committees: Black History Month Committee, 1996-1997

Honors and Awards Committee-Department of Political Science

McNair Scholars Program Committee, 1996-1997

Women’s Studies Executive Committee, 1996-1997

Editorial Advisory

Board Member for: The *Western Journal of Black Studies* (winner of the 1996 National Council for Black Studies CLR James Award for Outstanding Publication)

A Turbulent Voyage: Readings in African American Studies. San Diego: Collegiate Press

Moderator:

City of Columbia Race Relations Task Force Symposium

Panelists included Attorney Gary Oxenhandler, Attorney Al Plummer, Mayor Darwin Hindman, Professor Robert Bailey of the MU School of Law, Professor Angela Bartee of Stephens College, and Ms. Monica Naylor of the Columbia Public Schools.

November 7, 1996

RETRIEVED FROM DEMOCRACYDOCKET.COM

Reader:

Government and Politics Advanced Placement Exams

Sponsored by the Educational testing Service

University of Nebraska, Lincoln, June 10-17, 2000; June 11-18, 2001, June 12-19, 2002

Colorado State University, June 13-20, 2003

Regional Member of the Board of Directors:

National Council for Black Studies

One of the representatives of NCBS at the Congressional Black Caucus Legislative Conference, Washington, D.C., September 1995

Speaker:

“African American Politics Today: The 1996 Presidential Election”

1996 Black History Month Brown Bag Lunch Series

The University of Missouri, Columbia

February 26, 1996

Speaker:

“How to Handle Joint Appointment Responsibilities”

Association of Black Graduate and Professional Students

Graduate Professional Development Workshop

The University of Missouri, Columbia

October 18, 1997

Speaker:

“The Activism of Black Women in Congress Since the Civil Rights Movement”

1997 Black women in the Civil Rights Movement Conference

The University of Missouri, Columbia

October 24, 1997

Moderator:

“The Black Experience at MU”

Sponsored by the Black Faculty and Staff Organization

The University of Missouri, Columbia

February 11, 1998

Speaker:

“How to Handle Joint Appointment Responsibilities”

Association of Black Graduate and Professional Students
Graduate Professional Development Workshop
The University of Missouri, Columbia
October 24, 1998

Speaker:

“Black Issues in Higher Education”
Sponsored by the Black Culture Center
The University of Missouri, Columbia
January 25, 1999

Service for the University of Louisville:

Author:

“Voting Patterns of the 1991 Mayoral Election: Herenton’s Victory Maximized Racial Voting Factors that Had Eluded Previous Candidates”
Article published in the *Memphis Commercial Appeal* newspaper
November 15, 1992

Commentator:

“The O.J. Simpson Trial: Will Race Be a Factor?”
WAVE 3 News
Louisville, Kentucky
January 28, 1994

Discussion Leader:

Film: A Place of Rage: Black Women and the Civil Rights Movement
Women’s History Month
The University of Louisville
March 3, 1994

Guest Speaker:

Symposium: The Evolving Roles of Men and Women
Topic of Speech: “Men, Women, and the Dilemmas of the Youth”
The University of Louisville
October 11, 1994

Guest Speaker:

Symposium: Racism: America's Most Challenging Issue

Topic of Speech: "The Dual Oppression: Racism, Sexism, and the Black Woman"

The University of Louisville

October 27, 1993

Keynote Speaker:

Awards and Recognition Banquet: Keep Growing in Girl Scouts

Topic of Speech: "Yes I can"

Kentuckiana Girl Scouts

May 13, 1994

Lecturer:

Multicultural "Coffee" Symposium

"A Comprehensive History of African American Politics in Louisville, Kentucky"

The University of Louisville

November 11, 1993

Panel Organizer and Participant:

Symposium: The Political Activities of Louisville Women

Women's History Month

The University of Louisville

March 7, 1994

Panel Organizer and Moderator:

Multicultural "Coffee" Symposium: An African American Congressional Debate

The University of Louisville

April 5, 1994

EXHIBIT B

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Exhibit

12B

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No. 4:21-cv-187-MW-MAF

Plaintiffs' First Set Of Interrogatories To Defendant (Florida State Conference of
Branches and Youth Units of the NAACP et al. v. Lee, Case No. 4:21-cv-187-
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Plaintiffs' First Set Of Requests For Production To Supervisors Of Elections
Defendants (Florida State Conference of Branches and Youth Units of the
NAACP et al. v. Lee, Case No. 4:21-cv-187-MW-MAF

Plaintiffs' First Set Of Interrogatories To Supervisor Of Elections Defendants
(League of Women Voters of Florida, Inc. v. Lee, Case No. 4:21-cv-186-MW-
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Plaintiffs' First Set Of Interrogatories To Secretary of State (League of Women
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Voters of Florida, Inc. v. Lee, Case No. 4:21-cv-186-MW-MAF

Plaintiffs' First Set Requests For Production To Secretary of State (League of
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Plaintiffs' First Set Of Requests For Production To Supervisor Of Elections
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Table 1 Florida Early Voting in the November 2008 Election

Race of Voter	NYU Law	Loyola Law	Smith and Herron (2012)
Black	33.2	31.5	40
White	N/A	37.2	34
Latino	23.6	22.4	21

(Source: Herron, Michael C. and Daniel A. Smith. 2012. "Souls to the Polls: Early Voting in Florida in the Shadow of House Bill 1355." *Election Law Journal* 11, no. 3: 331-347; Sherman, Amy. 2012. "'Souls to the Polls' Sunday Drew High Numbers of African-Americans and Hispanics, Corinne Brown Says." *Politifact: The Poynter Institute*. June 22. <https://www.politifact.com/factchecks/2012/jun/22/corrine-brown/souls-polls-sunday-drew-more-african-american-and/>. Accessed on July 22, 2021).

Source: Ex. 12 (Austin Opening Expert Report), ¶ 64

Exhibit

12C

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Vote by Mail Ballot Rejection Rates						
	County	Black Voters	Hispanic Voters	White Voters	Overall Rate	Rejected Votes
Large	Volusia	4.4%	5.0%	2.0%	2.4%	1,960
	Lee	2.1%	1.7%	0.7%	0.8%	1,262
	Collier	3.9%	1.4%	0.6%	0.7%	428
	Manatee	1.4%	1.4%	0.5%	0.9%	386
	Pasco	1.0%	1.3%	0.4%	0.5%	365
	Alachua	3.0%	4.3%	1.8%	2.3%	736
Mid-Size	Bay	4.6%	4.9%	2.8%	3.0%	373
	Flagler	2.7%	3.5%	1.4%	1.7%	246
	Hernando	0.9%	1.0%	0.3%	0.4%	140
	Highlands	2.3%	1.2%	0.5%	0.7%	79
Small	Madison	4.6%	0	1.9%	2.7%	33

Source: (ACLU Florida: Let Florida Vote: Coronavirus is only the newest barrier to voting in Florida), P. 20;
Ex. 12 (Austin Opening Expert Report), ¶ 85

Exhibit

12D

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Table 2
Mail and Early Voting in Florida Counties with the Largest Black Populations,
November 2020

Florida County	Black Population	Area of the State	Mail Voting	Early Voting
Gadsden	55.8	Northwest	38.8	52.2
Madison	37.8	North-central	24.7	69.3
Jefferson	34.3	North-central	39.4	53.0
Hamilton	32.8	Northeast	40.5	52.3
Leon	31.7	Northeast	44.0	42.5
Duval	30.6	Northeast	30.7	59.0
Broward	30.1	Southeast	49.3	37.9
Escambia	23.2	Northwest	41.8	47.5
Orange	22.7	Central	4.63	43.5
Union	22.7	Northeast	26.8	68.6
Jackson	26.9	Northwest	33.0	58.8
St. Lucie	21.0	Southeast	47.8	41.9
Alachua	20.6	Northeast	48.0	42.6
Bradford	20.1	Northeast	37.8	52.5
Liberty	19.6	Northwest	26.2	66.9

Taylor	19.6	North-central	37.8	52.5
Palm Beach	18.7	Southeast	53.6	33.4
Columbia	18.5	Northeast	34.4	58.6
Hillsborough	17.8	Southwest	48.4	39.0
Miami-Dade	16.9	Southeast	43.3	43.5

Sources: Index Mundi: 2021. Florida Black Population by County. <https://www.indexmundi.com/facts/united-states/quick-facts/florida/black-population-percentage#map>. Accessed on July 24, 2021; Florida Department of State. "2020 General Election." <https://fdoswebumbracoprod.blob.core.windows.net/media/703948/gen-2020.pdf>. Accessed on July 31, 2021.

Source: Ex. 12 (Austin Opening Expert Report), ¶ 90

Exhibit

12E

4:21-cv-186-MW/MAF

Table 3
Mail and Early Voting in Florida Counties with Largest Hispanic Populations,
November 2020

Florida County	Hispanic Population	Area of the State	Mail Voting	Early Voting
Miami-Dade	65.0	Southeast	43.3	43.5
Osceola	55.3	Central	45.0	42.0
Hendry	54.3	South-central	29.4	61.2
Hardee	44.0	Southwest	26.6	61.1
Orange	32.3	Central	4.63	43.5
DeSoto	31.9	Southwest	34.2	58.7
Broward	30.4	Southeast	49.3	37.9
Hillsborough	29.2	Southwest	48.4	39.0
Collier	28.2	Southwest	51.5	38.8
Okeechobee	25.5	Central	37.0	55.1
Monroe	24.9	Southwest	52.9	36.3
Polk	23.6	Central	47.1	42.1
Palm Beach	22.9	Southeast	53.6	33.4
Seminole	22.0	Central	41.8	46.7
Lee	21.9	Southwest	60.9	30.7

Glades	21.1	South-central	50.9	36.5
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Index Mundi: 2021. Florida Hispanic or Latino Origin Population Percentage by County. <https://www.indexmundi.com/facts/united-states/quick-facts/florida/hispanic-or-latino-population-percentage#map>. Accessed on July 29, 2021. Florida Department of State. "2020 General Election." <https://fldoswebumbracoprod.blob.core.windows.net/media/703948/gen-2020.pdf>. Accessed on July 31, 2021.

Source: Ex. 12 (Austin Opening Expert Report), ¶ 92

Exhibit

12F

4:21-cv-186-MW/MAF

Voting Rights in Florida 2002: The Impact of the Commission's Report and the Florida Election Reform Act of 2001

June 2002

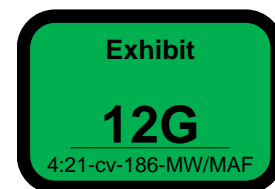
INTRODUCTION

In the aftermath of the irregularities exposed during the 2000 presidential election in Florida, voters and government officials called for greater efficiency and equity in the electoral system. In May 2001, Florida Governor Jeb Bush signed into law the Florida Election Reform Act of 2001 and in 2002 federal election reform bills were passed in the U.S. House and Senate.^[1] Shortly after the Senate passed federal election reform, several members of Congress acknowledged that the U.S. Commission on Civil Rights hearings and report on voter disenfranchisement in Florida during the 2000 presidential election were significant factors in bringing about the reforms debated on the floors of national and state legislatures.^[2]

U.S. Commission on Civil Rights Findings

The Commission collected over 30 hours of testimony from more than 100 witnesses and reviewed over 118,000 pages of subpoenaed documents during its Florida investigation.^[3] A preliminary report issued in April 2001 titled *Status Report on Probe of Election Practices in Florida During the 2000 Presidential Election* found that:

- Officials did not ensure that all precincts received adequate resources.
- At least one unauthorized law enforcement checkpoint was created on Election Day that deterred some voters.
- Non-felons were purged from voter registration rolls based on unreliable information and poor purge policies.
- Voter registration applications were not processed in a timely and proper manner under the National Voter Registration Act, commonly referred to as the motor-voter law.
- Many Jewish and elderly voters received defective and complicated ballots that resulted in overvotes and undervotes.
- Old and defective election equipment was found in poor precincts.
- Language assistance when required and requested was not provided.
- Persons with disabilities faced accessibility problems at polling sites.
- Poll worker training was inadequate.
- Insufficient funds were appropriated for voter education.



In June 2001, the Commission approved its *Voting Irregularities in Florida During the 2000 Presidential Election* report. This report, adopting and expanding the findings in the Commission's preliminary report, found strong and credible evidence of violations of Section 2 of the Voting Rights Act and the disenfranchisement of people of color, individuals with disabilities, and persons with limited English proficiency.^[4] Much of the disenfranchisement resulted from absent state and local leadership, ineffective former felon purging and voter registration processes, insufficient resources and funding, poor poll worker training, and inadequate voter education. While the Commission's report did not specifically address the issue of voter fraud, the Commission

recognizes that the prevention of voter fraud is an important issue and that any meaningful reform should include appropriate measures aimed at deterring and preventing voter fraud.

Media Consortium Findings Consistent with the Commission's Findings

In February 2001, the National Opinion Research Center (NORC) began a review of the thousands of uncounted ballots cast in Florida's election. The review was commissioned by a media consortium that included *The New York Times*, *The Wall Street Journal*, *The Washington Post*, CNN, The Associated Press, *The St. Petersburg Times*, *The Palm Beach Post*, and Tribune publishing. The NORC review was not designed to dispute the results of the election, but to provide a valuable historical record by thoroughly assessing untallied ballots.^[5] The NORC review found that the Florida election system was so flawed that it prevented many from voting as they intended.^[6] In short, the NORC data corroborated the Commission's report on Florida voting irregularities. Based on NORC data the media consortium, like the Commission, found widespread voter disenfranchisement, specifically:

- More than 175,000 ballots cast in Florida were not counted.
- Blacks, Hispanics, and older voters were significantly more likely to have their votes rejected than whites.
- Black precincts had more than three times as many rejected ballots as white precincts, a disparity that remains after accounting for the effects of income, education, ballot design, or voting technology.
- Counties with the most black voters had the highest rates of ballot rejection.
- Hispanics and older voters were twice as likely as whites to have their ballots rejected, and the disparity could not be explained by technology and education differences.

Like the U.S. Commission on Civil Rights, the consortium found that high rates of error associated with certain voting equipment contributed to preventing many people from voting as they intended and having their vote counted. The media consortium found that at least 150,000 ballots were spoiled because voter intent was unclear, even under the most inclusive standards. Additionally, NORC data suggested that the punch card system proved particularly prone to error because of equipment malfunction and voter mistakes.^[7]

Finally, the consortium and the Commission both concluded that ballot format was confusing and resulted in spoiled ballots. The consortium found that:

- Black voters were disproportionately affected by confusing ballots 18.2 percent of ballots in mostly black precincts where butterfly ballots were used were rejected, a rate three times higher than in mostly white precincts.
- Punch card ballots played a large role in disenfranchising older voters precincts with concentrations of older voters had substantially larger numbers of dimpled ballots.
- 104,000 voters chose both one of the frontrunner presidential candidates and a minor presidential candidate, making voter intent impossible to determine.

Recommendations: Governor Bush's Select Task Force and the Commission

In March of 2001, Governor Bush's Select Task Force on Election Procedures, Standards and Technology issued reform recommendations. That same year, based on its own investigation and fact finding, the Commission made specific recommendations that addressed a broader range of problems than the Governor's Select Task Force. The Commission recommended eliminating punch card voting; standardizing voting technology and its criteria; formalizing the use of provisional balloting; eliminating requirements that voter lists be maintained by private contractors; removing the burden from the voter to prove registration status; creating automatic

restoration of voting rights for former felons; enhancing voting access for individuals with disabilities and individuals with limited English proficiency; improving poll worker training; instituting uniform procedures for all polling places; providing less restrictive standards for absentee ballot use; and establishing uniform poll closing times. The Commission's report included two important recommendations that the Governor's Task Force did not address. The first recommendation is placing the burden of proving voter registration status on election officials; the second is enhancing voting services for people with disabilities. In addition, while the Commission recommended the automatic restoration of voting rights for former felons and the elimination of the practice of using private contractors to maintain voter lists, the Governor's Task Force merely called for additional study of these issues.

Commission Returns to Florida to Gauge Progress of Reforms

At its March 9, 2001, meeting, the Commission approved and released a statement on the status of the Florida voting irregularities investigation. At this meeting, the Commission also agreed to hold a future hearing in Florida to hear testimony from state and local officials to assess what legislative changes had been proposed or enacted at the state and local levels and to report to the public on what progress had been made.

The election reform law ultimately passed in Florida addresses, in some degree, seven Commission recommendations and asks for additional study on the creation of uniform poll closing times. The law fails to address Commission recommendations for removing the burden for proving registration status from the voter, former felon voting restoration, and disability and language access.^[8] Clearly the report issued by the Commission had a positive impact on Florida election processes; however, the reforms approved in Florida raise new questions. First, how and when will the reforms be implemented? Second, is the scope of the reforms adopted in Florida sufficient to address the problems identified in 2000? As agreed at the Commission's March 9, 2001, meeting, it is crucial for the Commission to revisit Florida to raise questions regarding the implementation and likely impact of Florida's reforms.

While many community-based groups, as well as state and national organizations, applaud much of Florida's reform efforts, many worry that the reforms may not go far enough or will not be properly implemented. The Commission will hear from state and national organizations on the extent to which the reforms adopt the recommendations of the Commission, and others. These groups will provide information on the implementation of the reforms and an assessment of the effectiveness of the reforms adopted in Florida. The Commission will also hear from local officials on the successes and various challenges to implementing election reform. Some of the many challenges include time constraints and limited financial resources available for fulfilling the legislative mandates changing Florida's voting system and processes.

Finally, policy analysts and voting rights organizations will address the civil rights implications of Florida election reform and compliance with the Voting Rights Act. The June 2002 Florida briefing is a continuation of the Commission's initial probe into the Florida voting irregularities and allows the Commission to determine whether its findings of disenfranchisement, and similar findings by others, have been properly remedied by Florida's election reform legislation. It will further allow the Commission to hear from various panelists and draw upon their expertise to make recommendations on how best to address any remaining problems with the Florida election process.

Unfortunately, as of the writing of this memorandum, the Commission will not hear from state officials during its June 2002 briefing. Though Governor Bush, Secretary of State Katherine Harris, the director of the Division of Elections, L. Clayton Roberts, and Florida Attorney General Robert A. Butterworth were all invited to participate in the briefing, all declined the Commission's request. We are especially disappointed that Governor Bush has declined in light of the fact that the governor made comments prior to and during the Commission's January 2001 hearing that led the Commission to understand that it need not issue a subpoena for the governor's presence and that he would voluntarily cooperate with the Commission's continuing inquiry into voting irregularities in the Florida 2000 election and the implementation of reforms.^[9]

PROVISIONS OF THE FLORIDA ELECTION REFORM ACT

The Florida Election Reform Act of 2001, which is a compilation of various bills considered by the Florida House and Senate, mandates major changes in how elections are conducted in the state of Florida. The act, however, is silent on the burden of proving voter eligibility, restoration of the voting rights of former felons, and issues of accessibility to the voting booth by individuals with disabilities. The reforms also leave unanswered the questions of uniform polling hours and funding sources for the implementation of election reform measures. The implementation of this legislation is being closely monitored by community-based organizations because the Florida primary election is scheduled for September 10, 2002, and the general election will be held on November 5, 2002.

Voting Technology

In February 2001, the Caltech/MIT Voting Technology Project submitted a preliminary report to Governor Bush's Task Force studying the election in Florida and issued a final report in July 2001.^[10] This nationwide study of voting machines offered further evidence in support of calls to replace punch card voting in Florida. In fact, Florida election reforms decertify punch card ballots, certify touch screen voting systems, and require every Florida county to use either optical scan or direct record electronic voting systems (commonly known as touch screen) that have second-chance technology. Second-chance technology affords a voter the opportunity to cure ballot problems before leaving the polling place.^[11] This technology meets the requirements of the so-called Glitch Bill, which requires all voting systems to contain a triggering mechanism to immediately reject overvotes.^[12] Thus, any ballot exceeding the maximum number of choices for an election will be returned to the voter for correction. As a result, more voters should have their votes counted in an election. The Glitch Bill also requires that all new voting machines accept undervotes. The benefit of this requirement is that the ballot of a voter choosing not to vote in all races on a ballot will not be at risk of being rejected. As a result, more voters exercising their personal choice to abstain from voting in a specific race will have their ballots counted.

The process of replacing the punch card machines has met with some difficulty. First, local election officials have a limited choice of voting machines that the Division of Elections will certify. As noted by one official, there are only three or four manufacturers of approved voting machines. At least one local election official prefers not to purchase touch screen voting machinery because he believes they may contribute to undervoting.^[13] This concern may be based on the Caltech-MIT report urging counties to buy optical scan voting systems that require voters to mark a paper ballot by filling in an oval or an arrow, much like a standardized test.^[14] Another touch screen voting issue is the possibility that a malfunction or error will not be corrected because there is no paper ballot to provide vote verification. An example of a potential problem with touch screen machines is found in a recent election in Medley, Florida. In the election, the voting machines counting electronic votes experienced a computer problem that resulted in the system mistakenly listing the election loser as the winner.^[15] While the installation of new voting machines is not a guarantee of counting accuracy, most agree that the punch card system must be replaced with newer technology, either touch screen or optical scan devices.

All former punch card counties must purchase new voting equipment by September 2, 2002.^[16] Broward, Leon, Palm Beach, Miami-Dade, and other counties with larger populations and budgets have already purchased approved new voting machinery. A survey of supervisors of elections disclosed that most spent available county funds on the purchase of new election equipment in order to comply with the September deadline. Most counties anticipate that the Florida legislature will supplement county funding for the purchase of the new voting systems.^[17]

Provisional Ballots

Community-based organizations are concerned that election reform allows a provisional ballot to be counted only if the vote is cast at the voter's assigned precinct.^[18] As revealed in the Commission's report in 2001, voters often arrive at incorrect precincts as a result of polling places being moved without proper notification procedures. Accordingly, the Commission recommended that the state of Florida provide an absolute right to a provisional ballot at any polling place as long as the voter executes an appropriate affidavit attesting that he or she is eligible to vote. This Commission recommendation was not adopted in Florida and this failure may affect thousands of Florida voters.

It is estimated that population growth in Florida will result in the creation of approximately 1,000 new precincts; and congressional redistricting is expected to result in 500 additional precincts being changed. This means that thousands, if not tens of thousands, of voters will have their polling sites changed for the general election. Looking at these changes, many voting rights advocates argue that the legislation should eliminate the precinct restriction for provisional ballots and count provisional ballots regardless of where they are cast. On September 7, 2001, Florida Representative Chris Smith introduced a bill that would have removed the requirement that provisional ballots be cast in the voter's legally assigned precinct. The bill would have required that the provisional ballot be cast in the same county in which the voter is registered.^[19] For reasons not articulated in the legislative history, the bill was withdrawn and the Florida legislature never had an opportunity to consider the terms of the bill and its impact on voters.^[20]

In addition to concerns about the location requirements, there are concerns that a voter will not be notified that a provisional ballot is being rejected. The provisional balloting reforms do not contain a notification requirement or a requirement that poll workers inform a voter that the provisional ballot was cast in the wrong precinct. Because of these omissions, countless voters will cast provisional ballots that are doomed to be rejected without notice and will lose the opportunity to vote at the correct precinct on Election Day. The Commission recommended that Florida implement a provisional ballot that allows a voter to receive notification of its rejection in a timely manner so that the voter can appeal the rejection before certification of the election. This Commission recommendation was not followed.

When the U.S. Department of Justice precleared Florida's provisional ballot reforms, Justice called for the state of Florida to make exhaustive efforts to ensure that all eligible voters would have the right to vote and based its preclearance on Florida's representations that poll workers will continue to first attempt to verify a person's eligibility and correct precinct assignment, and that if the poll worker can determine that a person is in the wrong precinct, the poll worker will direct the person to the correct precinct.^[21] It is significant to note that the representations relied upon by Justice are not in the Florida Election Reform Act of 2001.^[22]

Community-based organizations will monitor the implementation of the provisional balloting provisions of the Florida Election Reform Act of 2001, as precleared under Section 5 of the Voting Rights Act by the U.S. Department of Justice. These advocates will observe whether poll workers accurately verify a voter's eligibility and correct precinct assignment, and direct the voter to the correct polling place, as represented by the Florida attorney general.

Maintaining Voter Rolls and Proving Eligibility

Florida's election reform attempts to correct problems with purging the voter list by providing that no voter be removed from the voter rolls unless that voter's ineligibility is verified. As part of the verification process, supervisors of elections must provide written notice to voters before they are removed from the voter rolls. During its investigation following the 2000 presidential election, the Commission identified a lack of state leadership and guidance as primary contributors to problems with purging voter rolls and providing adequate notice to voters of their removal from the voter list.

As revealed during the 2000 presidential election, a letter is no safeguard against registered voters being wrongfully removed from voter lists. As discussed in the Commission's Florida report, many supervisors of elections do not attempt to notify potentially ineligible voters. Even when supervisors of elections send notices, the notices often lack uniformity and do not clearly explain why the voter is in jeopardy of being removed from the voter rolls. The notices often fail to provide information on how the voter can establish voter eligibility.

One community-based organization is fearful that the letter notification process will disproportionately, and adversely, affect people of color because their housing and living situations are often more tenuous as a result of economic and social factors. Even voters who comply with the election laws risk being purged from the central voter file. For example, a voter who moves and properly notifies the former supervisor of elections of the change of residence and registers at the new location may appear on two county registration lists. When the voter's name appears twice in the central voter file with the Division of Elections, the voter may be erroneously removed from the list in the new county or, possibly, both counties.^[23] The Commission recommended that the Division of

Elections provide step-by-step instructions on how supervisors of elections should verify the accuracy of any information that may purge a voter from the central voter file. [24] As yet, the Commission's recommendation has not been followed.

In addition to concerns about the execution of the written notification provisions are concerns that the reforms continue to place the burden of proving eligibility on the voter. The Florida Election Reform Act of 2001 requires a voter who receives a notification letter from a supervisor of elections to collect and produce evidence demonstrating his or her eligibility to vote. The Department of Justice, however, precleared the new central voter file purge process on March 28, 2002, because the Florida Attorney General's Office made the following representations about the legislation:

- A presumption is created that favors the voter and not the accuracy of a database.
- The appearance of a voter's name on a list of ineligible voters does not, by itself, confirm the voter's ineligibility.
- The verification of eligibility by county election officials will not consist solely of confirming that names on the list of ineligible voters are also on the list of registered voters.
- The burden of proving ineligibility shifts from the voter to the supervisor of elections by the highest degree of proof consistent with the fact that the fundamental right to vote is at stake.
- The final decision to purge a voter from the central voter file, if a voter fails to contest alleged ineligibility to vote, will be based on a fair evaluation of all available information relevant to the voter's continued eligibility and not a presumption created by a record-keeping system.

[25]

Another significant change in the Florida electoral process is the elimination of the requirement that the Division of Elections contract with a private entity in the central voter file purge process. The requirement that private contracts be used for purging voter files came as a result of voter fraud in the 1997 Miami mayoral election. This provision explains how the Division of Elections contracted with DBT Online to purge its central voter database of deceased persons, duplicate registrants, and convicted felons without civil rights restoration for the November 2000 election. Unfortunately, the automated name-matching process used by DBT that matched names of potentially ineligible voters against its own databases and information provided by the Division of Elections, its nickname matches, and generally ill-defined purge verification criteria caused many eligible voters to be purged from voter rolls and denied their right to vote. [26]

The Division of Elections currently has a consulting contract with Accenture, a management and technology services organization. As the Commission found in its 2000 report, the use of a private entity without clear and effective guidance from the highest state levels, coupled with the absence of uniform and reliable verification procedures, resulted in the disenfranchisement of countless eligible voters. [27]

Disappointingly, Florida's legislation does not provide safeguards to prevent the use of a private entity, even in a consultation role, from repeating the same sweeping efforts to identify former felons that wrongfully purged eligible voters from the central voter file. The scope of Accenture's contract with the Division of Elections is unknown, and community-based organizations and others are increasingly concerned that the use of another private entity will yield the same result of the disenfranchisement of eligible voters.

Another reform is the provision that encourages the Division of Elections to contract with the Florida Association of Court Clerks to participate in its list maintenance activities. The Florida clerks of court warehouse the information required to identify individuals who are deceased, adjudicated mentally incompetent to vote, and convicted as a felon in the state. Therefore, directly involving the court clerks in the central voter file purge process may reflect an intent to eliminate the irregularities that surfaced during the 2000 presidential election. However, the provision of the Florida Election Reform Act of 2001 encouraging the Division of Elections to contract with the clerks of court was later revised by the Glitch Bill to mandate that all state and

local agencies cooperate and share information with the Division of Elections in its central voter file purge process. The costs of this cooperation and information sharing are borne by state and local governments, many of which are already in difficult financial positions.[\[28\]](#)

Poll Worker Training

The Florida Election Reform Act of 2001 requires supervisors of elections to conduct training for poll workers before each primary, general, and special election.[\[29\]](#) No poll worker may work the polls during an election unless he or she completes a training course and/or demonstrates a working knowledge of the laws and procedures regarding voter registration, the correct operation of the voting machinery, balloting procedures, polling place procedures, as well as problem solving and conflict resolution skills. [\[30\]](#) Six hours of training per year was originally required; however, the Glitch Bill changed this to three hours of training before any election in which that poll worker serves. If properly implemented, each poll worker will also receive continuing education in election processes.

The Division of Elections is expected to publish a manual on polling place procedures that will be incorporated into poll worker training and should address many of the concerns raised during the November 2000 election, such as poll workers verifying a voter's registration status and precinct assignment. The legislation requires that the manual contain explicit examples of problems likely to be encountered and the specific procedures for resolving those problems.[\[31\]](#)

The Commission made several recommendations related to poll worker training in its report. These recommendations include, but are not limited to:

- Training poll workers to use available measures permitted by Florida election law that allow properly registered individuals to vote, such as voting by affidavit, provisional balloting, and language and special needs assistance.
- Training poll workers about proper closing procedures to ensure that all voters who arrive at the polls before closing time are permitted to vote.
- State and county officials establishing certification requirements for poll workers to assure the public that poll workers have recently been instructed in the basics of election law and procedures.
- State and county officials allocating funding and resources to train precinct managers and poll workers on providing required assistance to individuals with disabilities and limited-English-proficient voters. This training would not only focus on the mechanics of providing assistance, but also would include sensitivity training to provide services to better assist and accommodate people with special needs.

Instead of adopting specific reforms or creating clear and uniform training guidelines, the Florida reforms merely require each county supervisor of elections to ensure that poll workers receive training and education before an election, and appropriates several million dollars for this purpose.[\[32\]](#) In Monroe County, Florida, the supervisor of elections office will use its one-time state appropriation of \$32,000 for educating its poll workers on conflict resolution as well as sensitivity training for assisting disabled voters.[\[33\]](#) Monroe County's supervisor of elections office will also upgrade its Web site and provide a new voter pamphlet.[\[34\]](#) Other counties will take other approaches.

Polling Place Procedures

Responsibilities of the Voter

The Florida election reforms mandate a 10-point list of voter rights and a comparable list of voter responsibilities. These rights and responsibilities are to be published and posted inside every voting precinct.

The list of voter responsibilities encourages the voter to, among other things:

- Be familiar with the candidates and issues.
- Be familiar with the operation of voting equipment.
- Know the location and hours of his or her polling place.
- Check the completed ballot for accuracy.
- Keep his or her current address updated with the Office of the Supervisor of Elections.^[35]

The law explicitly states that a voter's failure to perform any of the responsibilities does not prohibit the voter from voting.^[36] Some advocates observe that the legislation does not provide a right of action to voters to have their voter rights and responsibilities enforced against inefficient supervisors of elections in court. One supervisor of elections believes these criticisms were much ado about nothing. ^[37]

A previous version of the Voter Responsibilities section of the Florida Election Reform Act of 2001 drew criticism that the responsibilities provision was an example of the long-banned literacy test because of its mandatory nature. The introductory section reads that voters shall perform or know certain voting-related functions before voting. Advocates and others feared that first-time voters and voters with limited English proficiency would interpret the responsibilities as prerequisites to voting. For other voters, the wording of the voter responsibilities might be a psychological deterrent.

Computer and Telephone Access

As discussed in the Commission's report, some voters in low-income and minority areas stood in line for hours waiting for confirmation of their registration status. Generally, long waits did not exist in high-income areas where poll workers had laptop computers and cell phones to quickly access voter information.

Palm Beach County Supervisor of Elections Theresa LePore plans to make laptop computers and cell phones available in every Palm Beach precinct on the day of the election. In Palm Beach County, one of the wealthier counties in the state, poll workers will be able to check a voter's registration status online and, if the voter mistakenly arrives at the wrong polling place, the worker can direct the elector to the correct precinct.

Miami-Dade County Supervisor of Elections David Leahy has borrowed 600 laptop computers from the police department for use on Election Day. While Leahy has the technology, even though borrowed, he is having difficulty finding people in every precinct who know how to operate the computers. Leahy reports that the vast majority of poll workers are volunteer senior citizens who are not familiar with computers.

It is unlikely that most Florida counties can afford to supply computers and cell phones to each precinct. Clearly, inequities in funding may still leave some voters disenfranchised despite reforms aimed at standardizing polling place procedures.

Armed Forces Absentee Ballots

In April of 2001, the Military and Overseas Voter Protection Act was proposed to address the problems of uncounted overseas absentee ballots that were declared void because of their late arrival, improper certification by election officials, incompleteness, illegibility, or lack of required postmarks.^[38] The Florida Election Reform Act of 2001 presumes that the envelope containing the absentee ballot of overseas military personnel or an accompanying family member was mailed on the date stated and displayed on the outside of the return envelope. However, the act places greater weight on the voter's representation of the mailing date even if the envelope contains a postmark with a different date or a date later than the date of the election.^[39]

Thus, the additional time allowed for members of the Armed Forces and their families to vote, as well as the preference of the witnessed date offered over a postmark, potentially gives their ballots a greater opportunity of

being counted in an election.

Restoration of Former Felon Voting Rights

The Commission recommended that the:

- State of Florida institute automatic restoration of the civil rights of former felons, including voting rights, upon satisfaction of their sentences, including probation.
- State of Florida provide sufficient funding and promulgate administrative rules in support of this mandate.
- Governor of Florida issue an executive order to expedite the clemency process to facilitate the swift restoration of civil rights to those who are so entitled.
- U.S. Department of Justice file suit against state election officials whose actions or omissions violated federal laws and/or state laws by permanently disenfranchising voters on the basis of felony conviction.^[40]

Neither the governor of Florida nor the Florida legislature has followed the Commission's recommendations concerning restoration of felon voting rights. The restoration of the civil rights of former felons surfaced as an issue in the 2000 presidential election because of the procedure used by DBT Online to identify ineligible voters with felony convictions outside the state of Florida. The Division of Elections required DBT Online to verify the status of a convicted felon's voting rights with either the clemency board of the other state or, in the event the convicting state had no clemency board, the Florida Executive Clemency Board. Florida election laws and procedures require felons who have had their civil rights restored in another jurisdiction to apply for clemency in the state of Florida.

These laws and procedures are inconsistent with two Florida courts of appeals decisions holding that an individual entering the state with his or her civil rights, through the full faith and credit clause of the U.S. Constitution, need not apply for clemency in Florida.^[41] On February 23, 2001, seven days after the Commission's Miami hearing, the Florida Office of Clemency issued a letter revising the state's policy to hold that individuals convicted of felonies need not apply for restoration of their civil rights in Florida when their rights were automatically restored in another state.

Several bills were introduced in the legislature aimed at restoring Florida felons right to vote. Senate Bill 152 entitled Former Felons Right to Vote called for the automatic restoration of convicted felons voting rights one year after the completion of the sentence, unless objected to by a majority of the Board of Executive Clemency.^[42] Senate Bill 404^[43] and House Bill 51^[44] would have created the Citizens Empowerment Act, which called for the automatic restoration of former felons civil rights following completion of their sentence of incarceration and community supervision. The Citizens Empowerment Act would have also required the Department of Corrections to complete any necessary civil rights restoration paperwork and file it with the Board of Executive Clemency. The bills provided that a convicted felon who is incarcerated or is on probation, parole, or community control may not vote. The proposed legislation also mandated automatic restoration of the right to vote one year after completion of the sentence, unless automatic restoration is objected to by a majority of the Board of Executive Clemency.^[45] Florida Senate Joint Resolution 406 and House Joint Resolution 49 would have amended Section 4 of Article VI of the state constitution to permit convicted felons to vote after having their rights restored.^[46] The Florida House of Representatives had only one bill directly relating to the rights of ex-offenders to vote.^[47] None of these bills were passed.

Although community-based organizations will continue to advocate for the restoration of voting rights for former felons, there are no ongoing efforts by the Florida legislature to further study the issue. The state of Florida is involved in litigation that addresses the constitutionality of Florida laws prohibiting former felons from participating in the election process.^[48]

Finally, while the Department of Justice announced in May 2002 that it plans to file lawsuits in three Florida counties, the proposed litigation does not address the permanent disfranchisement of voters on the basis of a prior felony conviction.

Voting Accessibility

Individuals with Physical Disabilities

The Commission recommended that the Florida legislature enact legislation and promulgate appropriate administrative rules to ensure that the state of Florida complies with the requirements of the Voter Accessibility for the Elderly and Handicapped Act and other applicable federal laws.^[49] The Commission also recommended that all inaccessible precincts be made accessible through the use of ramps or relocated to accessible buildings.

After the Commission's hearings, Secretary of State Katherine Harris created the Select Task Force on Voting Accessibility in Florida. As a result of the work of this task force, a new Accessibility Act was passed in Florida that mandates that every polling place be accessible to voters with disabilities and allows them to vote without assistance.^[50] In fact, many of the new voting machines purchased by Florida counties have audio components that make them more easily accessible to blind and visually impaired persons. Enforcement of the Accessibility Act begins with the 2004 election. Therefore, Florida counties are not required to make their precincts accessible for the 2002 election.

Most disability advocates agree that the language of the Accessibility Act is well written, but they disagree over whether the legislation provides appropriate enforcement measures against noncompliance because the Accessibility Act provides that it will only be enforced if proper funding is appropriated. Obviously, there is great concern that the state legislature may not appropriate sufficient funding to implement the measures and, thereby, thwart the implementation of the Accessibility Act. Some disability advocates are hopeful that federal election reform will result in federal funding for state voting processes; however, there is little belief that the level of federal funding will be sufficient to make all polling places accessible.

The goal of the Accessibility Act is to make all Florida polling places accessible to voters with disabilities. At this time, it is unclear whether the state of Florida will make the necessary level of financial commitment to ensure full accessibility.

Individuals with Limited English Proficiency

The Commission found language accessibility to be a large problem in central and southern Florida and recommended that individuals with special language needs receive proper language assistance, that voting machinery be able to accommodate the language needs of the multilingual population of Florida, and that election supervisors actively recruit bilingual poll workers to assist limited-English-proficient voters. Unfortunately, it seems that the state of Florida has not taken steps to ensure these voters receive proper language assistance at the polling places as demonstrated by the failure of the Florida Election Reform Act of 2001 to address language accessibility issues.

Fortunately, where the state has demonstrated a lack of leadership, the counties have taken the initiative. Local election officials in counties with sufficient budgets are implementing their own measures to accommodate individuals with limited English proficiency. Several counties, including Palm Beach County, are now using new touch screen voting technology that is programmed for use in multiple languages. Both English speakers and Spanish speakers were able to use the machines this past election cycle, and Creole will be added for the fall 2002 election cycle. Rural and less affluent counties are not likely to be able to implement similar measures without financial assistance from the state.

There is still a need for poll workers who speak Spanish and Creole, especially with many supervisors of elections throughout the state reporting severe shortages of poll workers with these language abilities. State Senator Kendrick Meek believes that the shortages can only be addressed through a serious effort to recruit more Spanish-speaking and Creole-speaking translators as poll workers and by providing incentive money.^[51]

Funding

As indicated in the Commission's report, several county supervisors of elections anticipated a lack of state financial support for local voting needs, such as outreach and voter education.^[52] During Commission hearings in Florida, several witnesses agreed that the state gives low priority to the needs of election supervisors. Witnesses pointed to smaller funding allocations for supervisor of elections offices, lower salaries, and the denial of the supervisors requests for more modern voting equipment by the Governor's Select Task Force on Election Procedures, Standards and Technology as evidence of the lower priority given to these offices.^[53]

As a result, supervisors of elections have little recourse but to supplement their budgets, particularly if they cannot receive adequate funding from the state and their respective boards of county commissioners.^[54] Moreover, during the Commission's February 2001 hearing, one former supervisor of elections testified that the supervisor of elections position is the only constitutional office that has no appeals process to challenge the level of funding approved by county boards of commissioners.^[55]

It does not seem that voting reform has completely addressed the financial concerns of supervisors of elections. The reforms in Florida provide that the Division of Elections, upon receipt of the 2001 2002 General Appropriations Act for Voting Systems Assistance funds, will distribute \$7,500 per precinct for counties that have populations of 75,000 or fewer and \$3,750 per precinct for counties with larger populations in two equal installments.^[56] The first installment was paid on July 1, 2001, and the second installment is due on July 1, 2002.

Some local election officials complain that they have insufficient funding to comply with the mandate to replace voting machines. Last year the state committed funds to assist the counties in replacing punch card machines but, so far, the money has not been appropriated. While the largest of Florida's 67 counties appear able to afford to buy equipment without assistance from the state, some of the smaller counties are certain to have more difficulty. In Miami-Dade County, the supervisor of elections purchased new voting machines. With approximately 940 precincts, Miami-Dade County spent approximately \$26,596 per precinct. The total cost for voting machines throughout the county was approximately \$25 million. Under the legislature's formula of \$3,750 per precinct for counties with populations larger than 75,000, Miami-Dade County should receive in excess of \$3 million from the Division of Elections. The county administrator has promised that taxpayers will cover any shortfall.

Broward County spent approximately \$17 million on touch screen voting machinery, before receiving any state appropriation for new equipment. Although Roger Desjarlais, Broward County administrator, does not recall the exact amount of the state appropriation for Broward County's new voting equipment, he maintains that the state's appropriation is woefully insignificant.^[57]

In addition to insufficient funding for voting equipment, funding for poll worker training is inadequate. The Broward County administrator stated that the county should receive \$600,000 in state funds for educating and training its poll workers. At the same time, the Broward County's supervisor of elections has been asked to reduce the office's budget by 5 percent for fiscal year 2002 as a result of anticipated fiscal shortfalls in the county. Monroe County's supervisor of elections office used county financial resources to train poll workers and will replace the deficit in its budget with the allocation of state funding when it arrives.

In addition to the lack of state funding, there is a lack of uniformity in distributing funds once received by the counties. Of the six counties interviewed, each has a different account of how resources are allocated for election expenses. Generally, the supervisors of elections submit budgets for the approval of the county commissioners. The county commissioners then determine the amount the supervisors of elections will receive. After surveying supervisors of elections, it appears that funding for election expenses is intermittent, at best, and insufficient at worst.

Voter Education

The Florida Election Reform Act's Voter Education Rules require that Florida's Department of State, Division of Elections, adopt final rules for minimum standards for nonpartisan voter education by March 1, 2002. [58] The standards must address voter registration, absentee balloting, polling place procedures, voter rights and responsibilities, distribution of sample ballots, and public service announcements. [59] The Division of Elections missed the March deadline and will suffer no negative consequences because the legislation failed to create an enforcement mechanism. [60]

It is unknown when a final rule will be issued, even though two proposed versions have been published. Based on these earlier versions, the proposed standards will likely call for the:

- Supervisor of elections to provide voter registration programs at high schools and college campuses in each county.
- Supervisor of elections to make voter registration packets for new residents accessible in public locations.
- Supervisor of elections to provide a Web site link for voter registration information, and/or distribute a voter registration guide that includes information on county voter registration agencies and offices. [61]

Community-based organizations are concerned that there will be insufficient time to implement the approved voter education rules before the 2002 election cycle. Civil rights advocates would like county election officials to conduct technology demonstrations in public forums in cooperation with community and civic groups. These demonstrations would give county election officials the opportunity to identify and cure common errors before Election Day. Civil rights advocates support additional funding for voter education. Some advocacy groups opine that voter education should include educating the voters on using the new machines.

Under the Glitch Bill, supervisors of elections are required to provide instruction on the proper method of casting a ballot for each precinct, specific to the voting system used in that jurisdiction. Therefore, there must be an opportunity for each voter to observe the proper procedure to cast a ballot using the same voting machinery the voter will encounter in the assigned polling place on Election Day. This voter education measure, facilitated by the Glitch Bill, should reduce the number of voters alleged to have their ballots discounted because of confusion with the election process. [62] Additionally, voter training advocates seek to include information on where and how to register to vote, voter registration deadlines, when voters need to update voter registration information, how to obtain a receipt revealing who accepted the voter's application and the date, how to conduct a voter registration drive, how to cast a provisional ballot and why it may be rejected, and how former felons may have their voting rights restored.

In addition, supervisors of election must implement minimum voter education standards and conduct nonpartisan education so that voters in their respective counties have a working knowledge of the voting process. [63]

SUMMARY

Department of Justice Response to Voter Disenfranchisement

In May 2002 the Department of Justice reported receiving approximately 11,000 complaint calls as a result of Florida's 2000 presidential election. In addition to these complaints, Justice reported obtaining and reviewing 26,000 voting rights complaints from the Florida Attorney General's Office.

Of these 37,000 complaints, Justice approved 14 investigations and only three of these were approved for possible litigation. These voting rights lawsuits would be brought in Osceola, Orange, and Miami-Dade counties for alleged failures to properly aid voters who needed Spanish or Creole language assistance at the polls. [64] A settlement agreement has been reached in Miami-Dade County, and settlements are pending in the remaining two counties. According to Assistant Attorney General Ralph Boyd, Jr., most of the 11,000 complaint calls and

other information received by DOJ either did not relay information indicating a possible violation of federal voting rights laws or were not claims of discrimination but were allegations of voting irregularities not covered by federal law.^[65]

In Palm Beach County, some observers were surprised that Justice did not initiate a lawsuit based on the use of butterfly ballots, as well as numerous complaints of discrimination by voters from the disabled, Hispanic and African American, and Haitian communities.^[66] Moreover, Anita Hodgkiss, director of the Voting Rights Project for the Lawyers Committee for Civil Rights, asserted that the DOJ litigation should go beyond language-assistance issues and address the statewide purging of voters.^[67]

The lack of intent to discriminate is relied upon often by DOJ as the reason litigation was not authorized, as well as the fact that Florida has passed election reforms. However, as noted in the Commission's June 2001 report, under Section 2 of the Voting Rights Act a violation is established if it is shown that the political processes were not equally open to participation by members of a protected class due to intentional discrimination *or* if facts establish that the totality of the circumstances resulted in a Section 2 violation.

Below is a list of the complaints Justice refused to litigate and the reasons provided as set out in the June 7, 2002, letter by Assistant Attorney General Boyd:

- Law enforcement checkpoints that deterred some voters in Tallahassee (no evidence of a Voting Rights Act violation).
- The use of butterfly ballots that resulted in voter confusion and higher rejection rates in mostly black precincts (lack of federal jurisdiction over implementation and use of ballots).
- Missing ballot boxes in Miami-Dade County (all ballots accounted for).
- Intimidation of election officials in Miami-Dade County during recount (no federal voting rights laws enforced by the Voting Rights Section were violated).
- Police intimidation of minority voters in Hillsborough County (no evidence of voter intimidation).
- Racial disparities in ballot spoilage rates based on voting machinery (no evidence of intent to disadvantage minority voters).
- Voting machines with second-chance capability were disabled (no evidence that disabling was done selectively or with intent to discriminate).
- Registered voters not listed on voter lists and were unable to receive verification of eligibility (Florida election reform substantially addresses the problems).
- College student registration problems at mostly black colleges and universities (no evidence of disparate treatment).
- Voters were improperly purged from voter lists (Florida election reform addresses the problems).

Justice appears to be in substantial agreement with, or does not contest, many of the Commission's findings or reported voter complaints. For example, Justice did not dispute that blacks and older voters had higher ballot spoilage rates than whites. Additionally, DOJ concurs that butterfly ballots created voter confusion and contributed to high ballot rejection rates, that punch card balloting should be replaced with better technology, that second-chance technology would reduce overvoting, that Florida had poor purging policies in 2000, and that there is a need for improved voter education and poll worker training. Finally, the pending DOJ settlements with three Florida counties support the Commission's findings that voters with disabilities and limited English language proficiency were not given assistance.

The voting irregularities during the 2000 presidential election also triggered the filing of several federal cases in Florida. The cases are class action suits that represent students with disabilities, former felons, and other voters who were denied the opportunity to vote due to inefficient voter registration procedures and voting machines. A summary of the significant cases and factual issues may be found in Attachments B1 through B3. Civil rights groups filed lawsuits against seven Florida counties and two counties, Broward and Leon, have settled. A federal judge has asked the civil rights groups to pursue mediation with the remaining counties: Duval, Hillsborough, Miami-Dade, Orange, and Volusia.

Claims being litigated by these various groups include instances of voters being erroneously listed as felons, purged from active voter registration rolls, subjected to improper voting registration procedures, and made to vote using improper voting machinery (punch card balloting), which resulted in a disproportionate number of votes being wrongly excluded from the presidential election. On these, and other grounds, they assert that they were not permitted to vote in Florida's 2000 presidential election or that their votes did not count.

Some Florida officials and civil rights organizations are not satisfied by the scope of the Department's investigation, due to the variety of difficulties that Florida voters faced on Election Day. Many point specifically to these problems that were not addressed or inadequately addressed by DOJ:

- Names missing or illegally removed from voter rolls.
- Unprocessed voter registration complaints.
- Lack of resources for voter education and outreach to all Florida voters.
- Voting barriers for disabled voters.
- Precincts closing before the scheduled 7 p.m. closing time.
- Inadequate mechanisms at the polls to verify voters eligibility.^[68]

Looking Forward: Assessment of Florida Election Reforms

The Florida Election Reform Act of 2001 addresses most of the recommendations in the Commission's June 2001 report. The act fails, however, to address four of the Commission's recommendations:

- Remove the burden from the voter to prove registration status.
- Allow automatic restoration of voting rights to former felons who satisfied their sentences.
- Enhance services to give complete access to the voting booth to individuals with disabilities.
- Establish uniform hours for polling places.

The reforms do not completely resolve the issues that surfaced during the last presidential election. As discussed above, the act's provisional balloting provision does not ensure that any voter who casts a provisional ballot in the county of residence will have that vote counted in the election. While the act eliminates the requirement that the Division of Elections contract with a private entity to purge its central voter file, it does not establish a method that reasonably ensures that the irregularities in its last voter file purging effort will not be repeated. The Accessibility Act addresses the services each county should provide to individuals with disabilities in the election process. This legislation, however, may never be enforced if no funding is appropriated to support the reform.

Attachments

Attachment A Overview of Election Reform Proposals and Recommendations

	Commission Recommendation	Task Force Recommendation	Proposed Legislation	Election Reform Act
Eliminate punch card ballots	Yes	Yes	Yes	Yes
Standardize voting technology and standards	Yes	Yes	Yes	Yes
Provide the ability to vote by provisional ballots	Yes	Yes	Yes	Yes
Eliminate state requirement for list maintenance by private contractor	Yes	No*	Yes	Yes
Eliminate burden placed on voter to prove registration status	Yes	No	No	No
Permit automatic restoration of voting rights for former felons	Yes	No*	Yes	No
Enhanced voting services for individuals with disabilities	Yes	No	Yes	No
Improved poll worker training	Yes	Yes	Yes	Yes
Uniform polling place procedures	Yes	Yes	Yes	Yes
Provide less restrictive standards for absentee ballot use and tabulation	Yes	Yes	Yes	Yes
Uniform poll closing time	Yes	Yes	Yes	No*
* Made no recommendation supporting or rejecting, but indicated issue should be studied. Additionally, a notation that a specific reform was adopted as a part of the Florida election reform law does not imply that the adopted reform adequately addressed or resolved the identified voting irregularity.				

Attachment B1 Litigation Summary***NAACP v. Harris***No. 01-CIV-120-GOLD/SIMONTON (D. Fl. filed January 10, 2001).[\[69\]](#)

Filed:

January 2001 in Miami federal district court.

Plaintiffs:

The plaintiffs are a class of 21 individuals who allege they were disproportionately affected by irregularities during the Florida 2000 presidential election. Attorneys from civil rights advocacy groups represent the plaintiffs and include the National Association for the Advancement of Colored People, Lawyers Committee for Civil Rights Under Law, American Civil Liberties Union, and People for the American Way Foundation. Private practitioners in the Miami area also represent the plaintiffs.

Respondents:

The respondents are Katherine Harris, secretary of state of Florida, Clay Roberts, director of Florida Division of Elections, a number of county election supervisors, and ChoicePoint, Inc.

Facts:

The plaintiffs allege numerous instances of being erroneously listed as felons, purged from active voter registration rolls, subjected to improper voting registration procedures, and made to vote using improper voting machinery (punch card balloting), which resulted in a disproportionate number of votes being erroneously excluded from the presidential election. On these grounds they assert that they were not permitted to vote in Florida's 2000 presidential election or their votes did not count.

Plaintiff WILLIE STEEN has been a properly registered voter living in Hillsborough County, Florida, since he was honorably discharged from the military in 1993. On November 7, 2000, Steen attempted to vote for the first time. When he arrived at his polling place, he was told that he could not vote because he had a felony conviction. Mr. Steen has never been arrested or convicted of any crime.

Plaintiff MICHELLE FLOYD submitted a completed voter registration application to the Leon County supervisor of elections around September 2000. On November 7, 2000, she went to vote at her local polling site at the Florida A&M University Grand Ballroom. Floyd was listed on the precinct register, but instead of being given a ballot, she was referred to a clerk who, after reviewing Floyd's identification, told her she could not vote. Shortly after the election, Ms. Floyd received her voter registration card in the mail. The card listed her registration date as September 5, 2000, and her polling site as the Grand Ballroom, where she went to vote in November and was denied.

Legal Issues/Theories:

The plaintiffs contend that the voting systems approved by the defendants, unlike other voting machines or systems in use in Florida, permit a voter to cast a simultaneous ballot for two different candidates for a single office. They assert that state defendants did not have uniform standards or procedures sufficient to ensure that voters are made aware, prior to the completion of the ballot casting process, that their ballots appeared to contain non-votes or duplicate votes.

In addition, the plaintiffs allege that defendants Katherine Harris, Clay Roberts, and DBT did not exercise due diligence in determining the matching criteria, sources of information, and other criteria for creating the lists of ineligible voters to be forwarded to county supervisors under Fla. Stat. Ann. 98.0975. As a result, the lists' reliability and accuracy could not be verified as mandated under Florida law.

The plaintiffs further allege that defendants Harris and Roberts failed to provide, require, or enforce uniform standards, adequate time, and sufficient resources for county supervisors to verify the lists of ineligible voters to ensure that eligible voters were not wrongly purged from the official lists of registered voters.

The plaintiffs assert that defendants Harris and Roberts failed to provide, require, or enforce uniform standards and procedures for the timely, accurate, and proper processing of voter registration applications and the registration of voters. Further, they assert that election supervisors in Hillsborough, Leon, Orange, Broward, and Duval counties failed or refused to process many new voter registration applications that were submitted to them before the deadline imposed by state law.

Relief Sought:

The plaintiffs seek the replacement of punch card systems with nondiscriminatory voting equipment; uniform standards and procedures for polling places and voting systems; uniform standards and procedures for central voter file purges; a prohibition against removing any voter from the voter rolls based upon unverified information; restoration of all wrongfully removed voters and that no voter be removed within 90 days of an election; a requirement that polling places receive equitable resources to verify voter eligibility and maintain a list of inactive voters; retroactive relief for inactive voters who were wrongfully purged; provisional balloting; and appointment of federal examiners under Section 3 of the Voting Rights Act.^[70]

Disposition:

On April 15, 2002, the plaintiffs entered into a settlement agreement with the Leon County Office of the Supervisor of Elections. The following is a non-exhaustive list of the requirements in the settlement agreement in exchange for the voluntary dismissal of the action against defendant Leon County Supervisor of Elections Ion Sancho:

- Ensure that a law enforcement officer will be stationed at the end of the line of voters at closing time at each polling place to ensure that all qualified voters in line at closing will be allowed to vote.
- Maintain a list of active and inactive voters and distribute it to each precinct through a nondiscriminatory method.
- Provide a written explanation for the rejection of a provisional ballot.
- Process incomplete applications received prior to the registration closing date so that the applicant will be qualified to vote in the following election.
- Work with plaintiffs and defendants to accurately identify and restore all persons wrongfully removed from the central voter file.

The plaintiffs negotiated a settlement agreement with the Broward County supervisor of elections. It is reported that the agreement would require the Broward County supervisor of elections to have laptop computers at each precinct on Election Day, hire diverse poll workers, ensure access to the voting booth for those with limited English proficiency, and provide the NAACP with detailed post-election reports. The agreement has been filed for approval by the judge.^[71]

A trial date has been set for the remainder of the claim for August 2002.

Attachment B2 Litigation Summary***National Coalition for Students with Disabilities v. Bush***

173 F. Supp. 2d 1272 (D. Fl. 2001).

Filed:

November 2000 in federal district court in Tallahassee.

Plaintiffs:

Plaintiffs are a class of students with disabilities who are represented by attorneys from the National Coalition for Students with Disabilities.

Respondents:

The respondents are Jeb Bush, governor of Florida, Katherine Harris, Florida secretary of state, and Clay Roberts, director of the Division of Elections.

Facts:

Plaintiffs allege that they were either not registered to vote or not allowed an opportunity to vote because of their disabilities.

Legal Issue/Theory:

The plaintiffs alleged that they did not register or vote in the 2000 presidential election as a result of the defendants failure to implement election procedures compliant with the National Voter Registration Act (NVRA), 42 U.S.C. 1973gg. The plaintiffs asserted that the defendants did not take affirmative steps to ensure that registration and polling place procedures were in compliance with the NVRA.

Relief Sought:

The plaintiffs sought to block certification of the November 7, 2000, election and hold a special election allowing individuals with disabilities who did not vote on November 7 immediate compliance with the National Voter Registration Act and \$2,500 in damages to each plaintiff from the defendants in their individual capacities.

Disposition:

In this action under the National Voter Registration Act, the parties entered a settlement agreement under which two of the defendants agreed to a meaningful but comparatively minor portion of the relief plaintiffs had sought, and the issue of attorney's fees was explicitly left open. Plaintiffs then moved for a determination that they are entitled to an award of fees under the NVRA's prevailing party attorney's fee provision. Because plaintiffs obtained a court order that altered their legal relationship with two defendants in a meaningful way, the motion was granted.

The parties also entered into a settlement agreement that required the Division of Elections to provide information and training to other Florida entities on the requirements of the National Voter Registration Act. The defendants made no admission of liability. The defendants, in their official capacities, will pay the plaintiffs attorney's fees.[\[72\]](#)

Attachment B3 Litigation Summary***Johnson v. Bush***

No. 00 CIV-3542 (D. FL.2000).[\[73\]](#)

Filed:

September 21, 2000, in federal district court in Miami.

Plaintiffs:

Plaintiffs constitute a class of over 600,000 former felons represented by attorneys for the Brennan Center for Justice at the New York University School of Law, the Lawyers Committee for Civil Rights Under Law, and a private firm.

Respondents:

Jeb Bush, governor of Florida, Katherine Harris, Florida secretary of state, members of the Florida Clemency Board in their official capacities, and the supervisors of elections of all 67 Florida counties in their official capacities.

Facts:

U.S. District Court Judge James L. King certified the former felons residing in Florida as a class. These plaintiffs are all convicted felons who have completed their sentences, including probation. The plaintiffs, pursuant to Florida laws, have been permanently disenfranchised.

Plaintiff THOMAS JOHNSON is a 51-year-old, married, African American male who lives in Gainesville, Alachua County, Florida. Since 1996, Mr. Johnson has been the executive director of a nonprofit Christian organization that runs a residential program for recently released offenders. In 1992, Johnson was convicted of a

felony in New York, served eight months in prison, and was released. The plaintiff has not had his rights restored and is ineligible to register and vote under Florida law.

Plaintiff ADAM HERNANDEZ is a 50-year-old Latino male, who became a naturalized United States citizen in 1971, and lives in Opa Locka, Miami-Dade County, Florida. Mr. Hernandez served in the United States Army and worked as an electrician after leaving the Armed Forces. In 1985, the plaintiff was convicted of two felonies in federal court in Missouri and successfully completed his sentence, including probation. Mr. Hernandez has not had his rights restored and is ineligible to vote under Florida law.

Plaintiff JOHN HANES is a 48-year-old white male who lives in Tampa, Hillsborough County, Florida. Since 1996, Mr. Hanes has worked as a sentencing guidelines consultant, investigating factual issues and guidelines questions for criminal defense lawyers. Mr. Hanes was convicted on two connected felonies under federal law, one in 1989 and the other in 1990, and served seven years in prison. He was released in May 1996 and successfully satisfied his term of supervised release in January 1997. The plaintiff has not had his rights restored and is ineligible to vote under Florida law. He applied for restoration of his civil rights in the spring of 1999 and was informed in July 1999 that the Clemency Board objected to his being granted restoration of his civil rights without a hearing, as authorized under Florida Executive Clemency Board rules.

Legal Issue/Theory:

The case attacks the constitutionality of the Florida law prohibiting former felons from participating in elections. The plaintiffs allege that the Florida laws, since the 1868 adoption of the state constitution, have prohibited the right of felons to vote in order to, also, limit the power of blacks to vote. As a result, 9 percent of Florida's African American voting-age population and 15 percent of Florida's African American male population are disenfranchised due to a felony conviction. The plaintiffs further allege due to the fact that Florida's Office of Executive Clemency only granted civil rights restoration to fewer than 2,500 former felons in the last decade, people of color are disproportionately affected by the state's prohibition against their eligibility to vote.

Acting under color of state law, the defendants are alleged to have deprived the plaintiffs of their rights, privileges, and immunities as secured to them under the U.S. Constitution and 42 U.S.C. 1983. As a result, the plaintiffs claim, they have not been allowed to participate in the democratic process free from unreasonable impediment.

Relief Sought:

The plaintiffs seek a declaratory judgment that the Florida laws prohibiting former felons from participating in the election process without obstruction are unconstitutional, both facially and as applied; injunctive relief preventing defendants from enforcing any state law that denies former felons the right to register and vote; attorney's fees and other related court costs.

Disposition:

At this time, the case is still pending and no trial date has been set. Both parties have filed summary judgment motions that have not been heard by the judge. A ruling on the motions is likely this summer.

The defendant supervisors of elections won its unopposed motion for abatement. As a result, the supervisors of elections are not involved in the litigation of the case and will only participate in the remedy portion of the claim.

Recently, the judge agreed to allow a University of Central Florida history professor to testify on the legislative intent of the 1868 Florida Constitution restriction against former felons exercising a voting franchise. [\[74\]](#)

^[1] S.B. 1118, 103rd Reg. Sess. (Fla. 2001). S. 565, 107th Cong. (2002). H.R. 3295, 107th Cong. (2002). Edward Walsh, Election Reform Passes in Senate: Bill Would Establish Federal Standards, *Washington Post*, Apr. 12, 2002, p. A1.

[2] The Commission's hearings were held in Tallahassee on January 11, 12, 2001, and in Miami on February 16, 2001.

[3] The Commission collected documents and heard testimony from Florida Governor Jeb Bush, Florida Secretary of State Katherine Harris, members of Governor Bush's Select Task Force on Election Procedures, Standards and Technology, Florida Attorney General Robert A. Butterworth, the general counsel for the Florida Elections Commission, the director of the Division of Elections, the director of Florida's Highway Patrol, and numerous other public and private witnesses.

[4] 42 U.S.C. 1973(a) (b) (2000).

[5] Robert Tanner and Sharon L. Crenson, Florida Ballot Review Shows Thin Margin, the Associated Press, Nov. 11, 2001.

[6] Ford Fessenden and John M. Border, Study of Disputed Florida Ballots Finds Justices Did Not Cast Deciding Vote, *New York Times*, Nov. 12, 2001, p. A1.

[7] Ibid.

[8] See Attachment A.

[9] By letters dated June 6, 2002, Governor Bush, Secretary Harris, Attorney General Butterworth, David Leahy, and Clay Roberts were again invited to participate in the June 20, 2002, briefing should their schedules and priorities later allow. They were initially invited by letters dated March 29, 2002.

[10] California Institute of Technology and the Massachusetts Institute of Technology Voting Technology Project, *Voting What Is, What Could Be*, July 2001.

[11] S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 15 (to be codified at FLA. STAT. ch. 101.5604, effective Sept. 2, 2002).

[12] The Florida legislature passed the Glitch Bill on March 22, 2002, and it was signed into law in April. This bill modified various provisions of the Florida Election Reform Act of 2001.

[13] The Florida Election Reform Act of 2001 states that an undervote occurs when the elector does not properly designate any choice for an office or ballot question, and the tabulator records no vote for the office or question. S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 40 (codified at FLA. STAT. ch. 97.021(32) (2001)).

[14] California Institute of Technology and the Massachusetts Institute of Technology Voting Technology Project, *Voting What Is, What Could Be*, July 2001.

[15] CNN Wolf Blitzer Reports, Transcript # 040300CN.V67, Apr. 3, 2002. The 2000 Florida vote-count controversy prompted officials to order new voting machines. But the new technology apparently hasn't solved all of the state's election problems. High-tech touch screen machines were used for a recent election in Medley, Florida, but a computer glitch gave the victory to the wrong candidate. Experts are reviewing the software.

[16] Twenty-four Florida counties used punch card voting machines in their precincts, and 25 counties used punch card election systems for absentee voting. See <www.election.dos.state.fl.us>.

[17] See section titled Funding for further discussion.

[18] S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 41 (codified at FLA. STAT. ch. 101.048 (2001) and effective upon passage of the bill).

[19] H.B. 103, 104th Reg. Sess. (Fla. 2001).

[20] House Bill 103 was withdrawn from the Rules, Ethics & Elections Committee on November 30, 2001.

[21] U.S. Department of Justice Voting Rights Section Chief Joseph D. Rich, letter to Florida Attorney General Robert A. Butterworth, Dec. 17, 2001. When a state or political subdivision has violated the Voting Rights Act (VRA), it becomes subject to preclearance obligations under Section 5 of the VRA. The jurisdiction subject to Section 5 must obtain preclearance procedures the state must follow whenever it enacts or seeks to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. 42 U.S.C. 1973c (1994). Preclearance requires proof that the proposed voting change does not deny or abridge the right to vote on account of race, color, or membership in a language minority group. Section 5 provides that preclearance may be obtained only from the United States District Court for the District of Columbia or from the United States attorney general. Currently, five Florida counties must be precleared: Collier, Hardee, Hendry, Hillsborough, and Monroe.

[22] S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 41 (codified at FLA. STAT. ch. 101.048 (2001) and effective upon passage of the bill).

[23] The Florida Election Reform Act of 2001 allows for the identification of duplicate registrations in the central voter file and eliminates the requirement for their removal. S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 91 (codified at FLA. STAT. ch. 98.0977 (2001)). It is important to note that ballots cast by duplicate registrants were a basis for the former requirement that a private entity participate in the central voter file purge process. L. Clayton Roberts, testimony before the U.S. Commission on Civil Rights, hearing, Tallahassee, FL, Jan. 12, 2001, verified transcript, pp. 254 55.

[24] U.S. Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election*, June 2001, p. 111 (hereafter cited as USCCR, *Voting Irregularities in Florida*).

[25] U.S. Department of Justice Voting Rights Section Chief Joseph D. Rich, letter to Florida Attorney General Robert A. Butterworth, Mar. 28, 2002.

[26] The supervisors of elections were left to verify the status of each potentially ineligible voter identified by DBT. The process by which each county verified its exclusion list was as varied and unique as the supervisors of elections themselves. While some supervisors of elections sent letters to the alleged ineligible voters and held hearings to allow them to produce evidence that they were on the exclusion list in error, others did not use the exclusion list at all. USCCR, *Voting Irregularities in Florida*, pp. 69 74.

[27] See generally, USCCR, *Voting Irregularities in Florida*, chap. 5.

[28] S.B. 618, 104th Reg. Sess. (Fla. 2002).

[29] The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 85 (codified at FLA. STAT. ch. 102.014 (2001) and effective upon passage of the bill).

[30] S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 85 (codified at FLA. STAT. ch. 102.014 (2001) and effective upon passage of the bill).

[31] S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 86 (codified at FLA. STAT. ch. 102.014 (2001) and effective upon passage of the bill). The manual will address numerous issues, including operation of the voting system, the handling of ballots, dealing with irate voters, processing and handling provisional ballots, ensuring strict adherence to the rights of voters at the polls, and addressing the issue of voters whose names are not on the voter roll.

[32] Although the Florida Election Reform Act of 2001 required a minimum of six hours of poll worker training during an election year, the Glitch Bill reduced the minimum to three hours prior to each election. S.B. 618, 104th Reg. Sess. (Fla. 2002), pp. 20 21.

[33] Harry Sawyer, supervisor of elections for Monroe County, Florida, telephone interview, Apr. 9, 2002.

[34] Ibid.

[35] S.B. 618, 104th Reg. Sess. (Fla. 2002), p. 7 (codified at FLA. STAT. ch. 101.031 (2002) and effective upon passage of the bill).

[36] S.B. 618, 104th Reg. Sess. (Fla. 2002), pp. 7 8.

[37] Theresa LePore, supervisor of elections for Palm Beach County, Florida, telephone interview, Apr. 8, 2002.

[38] USCCR, *Voting Irregularities in Florida*, p. 4; see Thomas B. Pfankuch, Bill Revises Overseas Balloting, *Florida Times-Union* (Jacksonville), Apr. 3, 2001, p. B-1. (In Duval County, Florida, approximately 2,400 military absentee ballots were declared void for these reasons during the 2000 presidential election.)

[39] S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 67.

[40] Ibid.

[41] USCCR, *Voting Irregularities in Florida*, pp. 64 67. See *Schlenther v. Florida Dept of State*, 743 So. 2d 536 (1998); *Doyle v. Florida Dept of State*, 748 So. 2d 353 (1999). U.S. CONST. art. IV, 1, provides: Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

[42] S.B. 152, 103rd Reg. Sess. (Fla. 2001). Sen. Mandy M. Dawson sponsored this bill.

[43] S.B. 404, 103rd Reg. Sess. (Fla. 2001). Senators Darryl L. Jones and Kendrick Meek sponsored this bill.

[44] H.B. 51, 103rd Reg. Sess. (Fla. 2001). Rep. Christopher Smith sponsored this bill. In 2002, the Citizens Empowerment Act was reintroduced as House Bill 105. The identical bill in the Florida Senate is S.B. 1880. Neither version of the bill passed either house of the Florida legislature. See also <<http://www.leg.state.fl.us>>.

[45] H.B. 51, 103rd Reg. Sess. (Fla. 2001).

[46] S.J.R. 406, 103rd Reg. Sess. (Fla. 2001), sponsored by Rep. Jerry Paul; H.J.R. 49, 103rd Reg. Sess. (Fla. 2001), sponsored by Reps. James Harper Jr. and Phillip Brutus; Gregory Palast, Florida's Disappeared Voters: Disfranchised by the GOP, *The Nation*, Feb. 5, 2001 (efforts by the state to restrict voting rights of convicted felons specifically aimed at depressing the voting of minorities, who are convicted of felonies in disproportionately to their representation in society).

[47] H.B. 51, 103rd Reg. Sess. (Fla. 2001) sponsored by Rep. Christopher L. Smith.

[48] Johnson v. Bush, No. 00-CIV-3542 (D. FL. 2000). *See* Attachment B-3 for further discussion.

[49] 42 U.S.C. 1973ee (2000).

[50] S.B. 1350, 104th Reg. Sess. (Fla. 2002).

[51] Interview Report of Kendrick B. Meek, Apr. 15, 2002.

[52] USCCR, *Voting Irregularities in Florida*, p. 49.

[53] *Ibid.*, pp. 50-55. Linda Howell (supervisor of elections for Madison County), Denny Hutchinson (former supervisor of elections for Gadsden County), and Ion Sancho (supervisor of elections for Leon County) agreed with this perspective.

[54] *Ibid.*

[55] *Ibid.*; Jane Carroll, testimony before the U.S. Commission on Civil Rights, hearing, Miami, FL, Feb. 16, 2001, verified transcript, pp. 279-80.

[56] S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 96 (codified at FLA. STAT. ch. 98.0979 (2001) and effective July 1, 2001).

[57] Roger Desjarlais, telephone interview, Apr. 8, 2002.

[58] S.B. 1118, 103rd Reg. Sess. (Fla. 2001), p. 80 (codified at FLA. STAT. ch. 98.255(1) (2001)).

[59] FLA. STAT. ch. 98.255(1)(a) (e) (2001).

[60] Florida Department of State, Division of Elections, Laws & Procedures, <<http://election.dos.state.fl.us/laws/proposedrules/1S2033.html>> (Apr. 23, 2002). Though no final rules have been issued, a public hearing was held by the Division of Elections on the proposed standards for nonpartisan voter education in Tallahassee on March 25, 2002.

[61] *Ibid.*

[62] S.B. 618, 104th Reg. Sess. (Fla. 2002).

[63] FLA. STAT. ch. 98.255(2) (2001).

[64] United Press International, Florida Elections Lawsuits to Proceed, General News, May 29, 2002; DOJ-Civil Rights Division Assistant Attorney General Ralph Boyd, Jr., letter to Senator Patrick Leahy, June 7, 2002, DOJ Civil Rights Division files; Peter Wallsten, Andrea Robinson, and Lesley Clark, Dade to Face Federal Lawsuit on Vote, *Miami Herald*, May 22, 2002, p. A-1.

[65] Thomas B. Edsall, Justice Department Urged to Widen Florida Probe, *Washington Post*, May 24, 2002; Andrea Robinson, Orange County Third to Face Suit, *Miami Herald*, May 24, 2002, p. B-1; see Linda Kleindienst and David Cazares, U.S. Suit Based on Poll Failures with Minorities, *Sun-Sentinel* (Fort Lauderdale Broward Metro Edition), May 23, 2002, p. 6-A. See also National Public Radio, Justice Department Plans to File Lawsuits in Three States Over Alleged Voting Rights, May 22, 2002, DOJ-Civil Rights Division Assistant Attorney General Ralph Boyd, Jr., interview by Nina Totenberg.

[66] David Damron, Justice Letter Chides Osceola, *Orlando Sentinel*, May 23, 2002, p. A-1.

[67] Interview Report of Anita Hodgkiss Apr. 4, 2002.

[68] See U.S. Commission on Civil Rights, U.S. Commission on Civil Rights Continues Review of Florida Election Reform, news release, June 10, 2002; No Vote-Plot Evidence Found, <<http://www.miami.com/mld/miamiherald/news/3354654.htm?template=contentmodules.html>> (May 29, 2002).

[69] The information included in this attachment can be found in the original complaint to the cited action.

[70] Section 3 of the Voting Rights Act permits a federal court to authorize the appointment of federal examiners by the director of the Office of Personnel Management. Federal examiners appointed under this provision are not permanent but serve for a period of time, as the federal court deems appropriate to enforce the voting safeguards and provisions in the 14th or 15th Amendments to the U.S. Constitution.

[71] Andrea Robinson, Broward, rights groups settle suit on voting, *Miami Herald* <www.miami.com/mld/miamiherald/news/> (May 4, 2002).

[72] National Coalition for Students with Disabilities v. Jeb Bush, 173 F. Supp. 2d 1272 (2001).

[73] The information included in this attachment can be found in the original complaint to the cited action.

[74] David Green, Convicts vote suit closer to trial, *Miami Herald* <www.miami.com/mld/miamiherald/news/local/> (Mar. 26, 2001).

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