

# Voting Rights and Voter Disenfranchisement in Florida



An Advisory Memorandum of the  
Florida Advisory Committee to the  
U.S. Commission on Civil Rights

October 2020

## **Advisory Committees to the U.S. Commission on Civil Rights**

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. They are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

## **Acknowledgments**

The Florida Advisory Committee (Committee) thanks each of the speakers who presented to the Committee during their public meetings on the critically important and timely topic of voting rights in the state. The Committee is also grateful to members of the public who spoke during the selected periods of public comment, and those who shared their testimony in writing.

## **Florida Advisory Committee to the U.S. Commission on Civil Rights**

The Florida Advisory Committee to the U.S. Commission on Civil Rights submits this advisory memorandum regarding voting rights in Florida as part of its responsibility to study and report on civil rights issues in the state. The contents of this memorandum are primarily based on testimony the Committee heard during public meetings held (1) via teleconference on March 19, 2019; (2) in Fort Lauderdale, Florida, July 23, 2019; (3) in the greater Orlando area on February 27, 2020; and (4) via web conference on March 24, 2020. The Committee also includes related testimony submitted in writing during the relevant period of public comment.

This memorandum begins with a brief background of the issues to be considered by the Committee. It then presents an overview of the testimony received. Finally, it identifies primary findings as they emerged from this testimony, as well as recommendations for addressing areas of related civil rights concerns. This report is intended to focus specifically on civil rights concerns regarding voting in the State of Florida. While other important topics may have surfaced throughout the Committee's inquiry, those matters that are outside the scope of this specific civil rights mandate are left for another discussion.

### **Florida Advisory Committee to the U.S. Commission on Civil Rights**

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Victor Romano, Biscayne Park

Jennifer Glass, Merritt Island

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## **Advisory Memorandum**

**To:** The U.S. Commission on Civil Rights

**From:** The Florida Advisory Committee to the U.S. Commission on Civil Rights

**Date:** October 1, 2020

**Subject:** Voting Rights in Florida

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On December 3, 2018, the Florida Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study of voting rights in the state. The focus of the Committee’s inquiry was voting access and the rejection of ballots with particular emphasis on disparate impact on protected classes under the Voting Rights Act.<sup>1</sup>

As part of this inquiry the Committee heard testimony via teleconference on March 19, 2019; at a public briefing in Fort Lauderdale, Florida, July 23, 2019; at a public briefing in the greater Orlando area on February 27, 2020; and via web conference on March 24, 2020.<sup>2</sup>

The following advisory memorandum results from a review of testimony provided at these meetings, combined with written testimony submitted during this timeframe. It begins with a brief background of the issues to be considered by the Committee. It then identifies primary findings as they emerged from this testimony. Finally, it makes recommendations for addressing related civil rights concerns. This memorandum focuses on the right of all eligible U.S. Citizens to participate in free and fair elections, to vote, and to have their vote counted. While other important topics may have surfaced throughout the Committee’s inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion. This memorandum and the recommendations included within it were adopted by a majority of the Committee on September 30, 2020.

### **Background**

The right to vote is one of the most fundamental components of democracy—so important, that the U.S. Constitution includes four amendments protecting it.<sup>3</sup> Established under the Civil Rights Act of 1957, as part of its core mandate, the U.S. Commission on Civil Rights is directed to

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<sup>1</sup> 52 U.S.C. § 10101.

<sup>2</sup> Meeting records and transcripts are available in Appendix.

Transcript I: Web-based Briefing of the Florida Advisory Committee to the U.S. Commission on Civil Rights, March 19, 2019; Transcript II: Public Briefing of the Florida Advisory Committee to the U.S. Commission on Civil Rights, Fort Lauderdale, Florida, July 23, 2019; Transcript III: Public Briefing of the Florida Advisory Committee to the U.S. Commission on Civil Rights, Kissimmee, Florida, February 27, 2020; Transcript IV: Web-based Briefing of the Florida Advisory Committee to the U.S. Commission on Civil Rights March 24, 2020. Hereinafter cited as Transcripts I-IV.

<sup>3</sup> U.S. Const. amend. XV, § 1, XIX, XXIV, § 1, XXVI, § 1. ( Amendment XV guarantees the right to vote shall not be abridged or denied on the basis of “race, color, or previous condition of servitude”; Amendment XIX guarantees that the right to vote will not be abridged or denied “on account of sex”; Amendment XXIV guarantees that the right to vote will not be abridged or denied “by any reason of failure to pay poll tax or other tax”; Amendment XXVI guarantees the right to vote will not be abridged or denied on account of age for all citizens 18 years or older.)

“[i]nvestigate allegations ... that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin.”<sup>4</sup> Throughout its history, the Commission and its Advisory Committees have released numerous reports on the state of voting rights in the U.S.,<sup>5</sup> including *An Assessment of Minority Voting Rights Access* conducted by the Commission as its 2018 Statutory Enforcement Report.<sup>6</sup>

Florida’s voting rights history, as in many other U.S. States, reflects the long, complex struggle for the political, social, and economic equality of African Americans. After the end of World War I, Florida saw a marked increase in black voter registration. The return of black veterans, combined with the passage of the 19<sup>th</sup> Amendment giving women the right to vote, the Black Women’s Club movement, and the newly established local NAACP branches supported by a national office, fueled much of this increase in black voter participation.

Despite this progress, election day in 1920 was characterized by threats and violence throughout the State of Florida, from Miami to Jacksonville. Intimidating opposition by violent white supremacist groups such as the Ku Klux Klan sought to deter black voters from the polls.<sup>7</sup> The worst violence occurred in the City of Ocoee near Orlando.<sup>8</sup> An armed mob of white men, deputized by then Orange County Sheriff Deputy Clyde Pounds, sought to arrest Mose Norman, a black U.S. citizen who had been illegally turned away from the polls earlier in the day while attempting to vote. While Mr. Norman was not located, a friend of his, Mr. July Perry, was captured by the mob and lynched. Nearly all black homes and churches in Ocoee were burned to the ground. Most of the black population of Ocoee fled and never returned.<sup>9</sup> An estimated 30-60 people were killed, and the massacre remains the largest incident of voting day violence in U.S. history.<sup>10</sup> Leaders such as Mary McCloud Bethune, who worked to organize statewide black voter registration efforts, stood in defiance of the Klan’s violence and continued intimidation. Undeterred by the Klan’s efforts, just two years later in the election of 1922, Bethune showed up to the Daytona polls along with more than 100 other black citizens who had come to vote.<sup>11</sup>

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<sup>4</sup> Civil Rights Act of 1957, Pub. L. No. 85-315, (1957).

<sup>5</sup> See *Historical Publications of the United States Commission on Civil Rights*, Univ. of Md. Francis King Carey School of Law: Thurgood Marshall Law Library, [http://www.law.umaryland.edu/marshall/usccr/subjlist\\_index.html](http://www.law.umaryland.edu/marshall/usccr/subjlist_index.html).

<sup>6</sup> U.S. Commission on Civil Rights, *An Assessment of Minority Voting Rights Access in the United States*, (2018), [https://www.usccr.gov/pubs/2018/Minority\\_Voting\\_Access\\_2018.pdf](https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf).

<sup>7</sup> Paul Ortiz 2006, *The Hidden History of Black Organizing and White Violence in Florida from to the bloody election of 1920*. Univ. of Ca. Press 430p Chap 9.

<sup>8</sup> Orange County Regional History Center, *Yesterday, This Was Home: The Ocoee Massacre of 1920*, <https://www.thehistorycenter.org/exhibition/the-ocoe-massacre/>, hereinafter: *Yesterday, this Was Home*.

<sup>9</sup> Office of Program Policy Analysis and Government Accountability, *Ocoee Election Day Violence – November 1920*, Report No. 19-15, November 2019, <https://oppaga.fl.gov/Documents/Reports/19-15.pdf>.

<sup>10</sup> *Yesterday, this Was Home*.

<sup>11</sup> Martha S. Jones, *Mary McLeod Bethune Was at the Vanguard of More Than 50 Years of Black Progress*, Smithsonian Magazine, July 2020, <https://www.smithsonianmag.com/history/mary-mcleod-bethune-vanguard-more-than-50-years-black-progress-180975202/>.

In 1944, the U.S. Supreme Court ruled in *Smith v. Allwright* that the Texas Democratic Party's exclusion of non-white people voting in the primary elections was unconstitutional.<sup>12</sup> A man by the name of Harry T. Moore, the lead organizer of the NAACP of Florida, responded by organizing the Progressive Voters' League, which over the next six years registered more than 116,000 black voters in the Florida Democratic Party.<sup>13</sup> Moore and his wife were assassinated Christmas night 1951 by a bomb placed under their house.<sup>14</sup> Their murder was never solved.<sup>15</sup>

As black communities in some areas gained political traction, integrated government appeared a possibility before the Klan again intervened. On March 15, 1948 the residents of the unincorporated area of Perrine Florida voted to incorporate. The black president of the Negro Counsel, Ben Shavis, was poised to be elected a Commissioner, and to become the first black Mayor of Perrine.<sup>16</sup> On the eve of the election, however, threats of violence from the Klan forced Shavis and supporters of an integrated city council to flee town.<sup>17</sup> Perrine business man Robert Barfield, who had served as Perrine's mayor since its initial incorporation, was reelected instead of Shavis.<sup>18</sup> The people of Perrine were divided and embittered. Just two months later, Barfield, along with three other commissioners, resigned.<sup>19</sup> By May of 1949, the then all-white city council and mayor appealed to the state legislature for a dissolution of the city charter, and the area again became unincorporated.<sup>20</sup>

In 1957, the U.S. Commission on Civil Rights was authorized by Congress and immediately began reviewing voting rights in the South. Their findings were summarized in a 1961 publication.<sup>21</sup> In Florida, the Commission reported that there were five counties in the northern part of the state with fewer than three percent of voting age African Americans registered.<sup>22</sup> The Commission report details ongoing violence, intimidation, and harassment preventing African

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<sup>12</sup> *Smith v. Allwright*, 321 U.S. 649, 664-65 (1944) (holding that private actions of a political party cannot abridge citizens' constitutionally protected right to vote). See also, Freedom Never Dies, PBS, WTTW, *The Legacy of Harry T. Moore*, Biographical Sketch of Harry Moore, <https://www.pbs.org/harrymoore/harry/mbio.html>, hereinafter: *The Legacy of Harry T. Moore*.

<sup>13</sup> *The Legacy of Harry T. Moore*.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Fink, Susan Oltman, "Politics and prayer in West Perrine, Florida : civic social capital and the black church" (2005). FIU Electronic Theses and Dissertations. 3324. <https://core.ac.uk/download/pdf/129144345.pdf>, p.78, hereinafter: Politics and prayer in West Perrine, Florida

<sup>17</sup> Ibid, pp. 78-80. Note: Some accounts of Perrine's incorporation say that Shavis was elected mayor before he was run out of town, see pp. 81-82.

<sup>18</sup> Ibid, p. 79.

<sup>19</sup> Ibid, p. 80.

<sup>20</sup> *Perrine Community*, Institute for Public History, Oral History Collections, University of Miami, <https://www.library.miami.edu/ohp-communities-perrine.html>, hereinafter: *Perrine Community*.

<sup>21</sup> U.S. Commission on Civil Rights, 1961 U.S. Commission on Civil Rights Report Book 1: Voting, 1961, (hereinafter: 1961 U.S. Commission on Civil Rights Report Book 1: Voting), <https://www2.law.umaryland.edu/marshall/usccr/documents/cr11961bk1.pdf>.

<sup>22</sup> Ibid, p. 28.

Americans from voting.<sup>23</sup> It cites U.S. Department of Justice documentation that, in Liberty County, Florida “[s]ome Negroes registered in 1956, but thereafter they were subjected to harassment. Crosses were burned and firebombs hurled upon their property, and abusive and threatening telephone calls were made late at night.”<sup>24</sup> All but one of the registered African American voters removed their names from the voter rolls, and the harassment stopped.<sup>25</sup> The one African American registrant who did not withdraw from the voter rolls was forced to leave the county.<sup>26</sup> The Commission reported, “the Governor called for an investigation, which was concluded with the sheriff’s report that the Negroes had voluntarily removed their names from the registration rolls.”<sup>27</sup>

The 1960s was a period of continued struggle to overturn American apartheid. The nonviolent demonstrations in the south brought vicious response turning public opinion in support of civil rights reforms. St Augustine, Florida received national attention through the work of Dr. Robert B. Hayling, a dentist who was the Advisor for the NAACP Youth Council.<sup>28</sup> Hayling used his dental office as a meeting space to teach local youth about nonviolent activism.<sup>29</sup> Hayling’s office was later used for planning sessions with civil rights leaders such as Dr. Martin Luther King, and as a headquarters for attorneys representing jailed demonstrators.<sup>30</sup> Hayling’s efforts drew attention from violent white supremacists in surrounding areas. Homes in town were burned, and Hayling received a bomb threat at his dental office. His house was shot at, barely missing his pregnant wife and killing his dog.<sup>31</sup> Hayling was later savagely beaten by a Klan mob, leaving him with “broken ribs, eleven less teeth, and a right hand permanently maimed to impair his dentistry.”<sup>32</sup> Local officials charged Hayling with assault for the attack. Hayling’s attackers were never prosecuted.<sup>33</sup> After the passage of the Civil Rights Act<sup>34</sup> of 1964, Hayling left St. Augustine, though his legacy remained. In 1965, Hayling’s landlord, Rosalie Gordon-

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<sup>23</sup> *Id.*, pp. 28-29.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> “Black History, Dr. Robert B. Hayling” visit Augustine, accessed Sept. 25, 2020, [https://www.visitstaugustine.com/history/black\\_history/dr\\_robert\\_hayling/activism.php](https://www.visitstaugustine.com/history/black_history/dr_robert_hayling/activism.php), hereinafter: Black History, Dr. Robert B. Hayling.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> “Dr. Robert B. Hayling, ‘Father of the Civil Rights Act of 1964,’” ACCORD Freedom Trail (2004), accessed Sept. 25, 2020), <https://accordfreedomtrail.org/hayling.html>, hereinafter: Dr. Robert B. Hayling, “Father of the Civil Rights Act of 1964.”

<sup>34</sup> Civil Rights Act, 42 USCS § 2000e (1964).

Mills, became the first black woman to run for a seat on the city commission.<sup>35</sup> Today Dr. Hayling’s office and house both stand as historical landmarks of the ACCORD Freedom Trail.<sup>36</sup>

The Commission did not again look at voting rights in Florida until after the election of 2000. In early 2001, the Commission held two public hearings “to examine whether eligible voters faced avoidable barriers that undermined their ability to cast ballots and have their ballots counted in this closely contested election.”<sup>37</sup> While the problems of the 2000 election did not reflect the same level of violence black voters had seen over the previous decades, the Commission was “deeply troubled” by evidence that differences in resource allocations and voting procedures may have significantly diminished the opportunity of protected groups to vote and to have their votes counted.<sup>38</sup> In its draft report<sup>39</sup> on the topic, the Commission reported that “the problems Florida had during the 2000 presidential election were serious and not isolated. In many cases, they were foreseeable and should have been prevented. The failure to do so resulted in an extraordinarily high and inexcusable level of disenfranchisement, with a significantly disproportionate impact on African American voters.”<sup>40</sup> The Commission’s final report was never published, though in a status report published in 2001,<sup>41</sup> the Commission identified key systemic problems with Florida voting procedures,<sup>42</sup> many of which closely resemble the problems identified by this Committee in 2019 and 2020.

In this context, and in anticipation of the quickly approaching U.S. general election in November of 2020, the Florida Advisory Committee submits this memorandum to the Commission regarding the present state of voting rights in Florida.

### **Overview of Testimony**

In considering this study the Committee sought balanced and diverse input from involved stakeholders representing all relevant perspectives. During the 2019 and the 2020 briefings, the Committee invited testimony from academic experts, county voting officials, state level elected officials, and community advocates.<sup>43</sup> All invited parties who were unable to attend personally were offered the opportunity to send a delegate, or to submit a written statement offering their

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<sup>35</sup> Black History, Dr. Robert B. Hayling; Dr. Robert B. Hayling, “Father of the Civil Rights Act of 1964.”

<sup>36</sup> Black History, Dr. Robert B. Hayling; Dr. Robert B. Hayling, “Father of the Civil Rights Act of 1964.”

<sup>37</sup> U.S. Commission on Civil Rights, Status Report on Probe of Election Practices in Florida During the 2000 Presidential Election 2001,

<https://www2.law.umaryland.edu/marshall/usccr/documents/ElectionReformstatusCR.pdf>, hereinafter: Status Report: 2001 Presidential Election.

<sup>38</sup> Ibid.

<sup>39</sup> U.S. Commission on Civil Rights, Voting Irregularities in Florida During the 2000 Presidential Election, June 2001, (*Draft Report, not an official publication of the Commission*),

<https://www.usccr.gov/pubs/vote2000/report/main.htm>.

<sup>40</sup> Ibid., Executive Summary

<sup>41</sup> Status Report: 2000 Presidential Election.

<sup>42</sup> Ibid.

<sup>43</sup> The complete agenda and minutes from this meeting can be found in Appendix B.

perspective on the civil rights concerns in question. Despite numerous outreach attempts, no representative from the office of the Florida Secretary of State, the office of Florida Governor Ron DeSantis, or the Broward County Supervisor of Elections, chose to participate. The Committee acknowledges these limitations in the perspectives that follow.

## **Findings**

In keeping with their duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,<sup>44</sup> the Florida Advisory Committee submits the following findings and recommendations to the Commission regarding voting rights in Florida. These findings and recommendations are intended to highlight the most salient civil rights themes as they emerged from the Committee's inquiry. In consideration of the timeliness of these concerns in the context of the upcoming 2020 general election, as well as the wide range of topics that surfaced throughout the Committee's inquiry, in lieu of providing a detailed discussion of each finding presented the Committee offers a general outline of themes, along with appropriate additional resources, as topics of reference for the Commission's consideration. The complete meeting transcripts are included in Appendix A for further reference. The Committee may conduct a more detailed discussion of some of these individual themes at a later time.

The following findings result directly from the testimony received and reflect the views of the cited panelists. While each assertion has not been independently verified by the Committee, panelists were chosen to testify due to their professional experience, academic credentials, subject expertise, and firsthand knowledge of the topics at hand.

### **PART A: Overview**

1. Voting Importance
  - a. Voting is a fundamental pillar of democratic society, to be revered as a right, and not a privilege. As such, the right to vote should be respected regardless of cost or difficulty.<sup>45</sup>
  - b. Access to public officials and free and fair elections is critical to addressing societal challenges and ensuring social, economic, and racial equality for all citizens.<sup>46</sup>

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<sup>44</sup> 45 C.F.R. § 703.2(b), § 703.2(c).

<sup>45</sup> Shearer Testimony, Transcript II, p. 7 lines 17-21; DePalma Testimony, Transcript II, p. 106 lines 1-6; Syed Testimony, Transcript II, p. 98 lines 21-22; Hill Testimony, Transcript III, p. 136 lines 14-15; Gonzalez Eilert Testimony, Transcript III, p. 30 lines 18-21.

<sup>46</sup> Andre Testimony, Transcript III, pg. 21 lines 11-13; Green Testimony, Transcript II, p. 178 line 15 – p. 180 line 11; Nelson Testimony, Transcript III, p. 32 lines 4-14, p. 33 lines 2-24; p. 36 lines 2-7; Wagner Testimony, Transcript III, p. 39 lines 15-23.

- c. Panelists underscored the importance of maintaining accountability and integrity in the electoral process; when the public lacks confidence in the electoral system they are unlikely to participate.<sup>47</sup>
2. Historical context
    - a. Florida, like many U.S. States, has a long history of racial segregation and disenfranchisement of Black people.<sup>48</sup> Such years of discrimination have led to vast economic disparities based on race.<sup>49</sup>
    - b. Voting rights have been tied to the struggle for racial equity, economic justice, and workers’ rights throughout U.S. history.<sup>50</sup>
    - c. The removal of preclearance protections of the Voting Rights Act through the 2013 U.S. Supreme Court decision *Shelby County v. Holder*<sup>51</sup> has resulted in an increase in restrictive voting laws in Florida and across the country,<sup>52</sup> though some argue that the trend toward voting restrictions in much of the country began before the *Holder* decision.<sup>53</sup>
    - d. New restrictive voting measures have cost advocates and community groups unprecedented time and resources on costly court battles following the *Shelby County v. Holder* decision.<sup>54</sup>
  3. Barriers to Voting
    - a. Panelists described elections offices in Florida as underfunded, understaffed, and lacking key accountability safeguards.<sup>55</sup>
    - b. Barriers to voting can take many forms and can intentionally or unintentionally marginalize voters.<sup>56</sup> Restrictive voting laws in Florida were described by several panelists as both “intentional” and among the most “onerous” in the nation.<sup>57</sup> Panelists who described these barriers as without mal-intent, nevertheless noted

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<sup>47</sup> Gonzalez Eilert Testimony, Transcript III, p. 30 line 18 – p. 31 line 6; Jones Testimony, Transcript II p. 165 line 18 – p. 166 line 3; Gonzalez Eilert Testimony, Transcript III, p. 23 lines 9-21; Brody Testimony, Transcript II, p. 72 lines 11-18; Shearer Testimony, Transcript II, p. 16 lines 11-18; Green Testimony, Transcript II, p. 178 line 15 – p. 179 line 3; Wagner Testimony, Transcript III, p. 42 line 16 – p. 43 line 4; Eskamani Testimony, Transcript IV, p. 2 line 35 – p. 3 line 3.

<sup>48</sup> Kubic Testimony, Transcript II, p. 77 line 14 – p. 78 line 16, Obi Nweze, Written Testimony, p. 2; Rodriguez, Written Testimony, p. 1; Shearer Testimony, Transcript II, p. 9 lines 5-14; Bloom Testimony, Transcript II, p. 110 line 25 – p. 111 line 2.

<sup>49</sup> Nelson Testimony, Transcript III p. 32 lines 4-14; Syed Testimony, Transcript II, p. 99 lines 5-12; Kubic Testimony, Transcript II, p. 75 lines 20-23.

<sup>50</sup> Nelson Testimony, Transcript III, p. 33 line 10 – p. 36 line 1; Smith Testimony, Transcript I, p. 2 lines 13-14.

<sup>51</sup> *Shelby County v. Holder*, 570 U.S. 529, 557 (2013).

<sup>52</sup> Bullard Testimony, Transcript II, p. 185 line 6 – p. 187 line 3; Gonzalez Eilert Testimony, Transcript III, pg. 24, lines 3-13; Brigham Testimony, Transcript III, p. 91 lines 6-14.

<sup>53</sup> Smith Testimony, Transcript I, p. 2 line 21 – p. 3 line 12.

<sup>54</sup> Brigham Testimony, Transcript III, p. 90 line 24 – p. 91 line 14.

<sup>55</sup> Andre Testimony, Transcript III, p. 17 line 25 – p. 18 line 6; Bullard Testimony, Transcript II, p. 181 line 5 – p. 183 line 23; Brigham Testimony, Transcript III, p. 89 lines 9-18; p. 114 line 24 – p. 115 line 23; Pynchon 2019 p. 154 line 2 – p. 156 line 7; p. 160 line 9 – p. 161 line 13.

<sup>56</sup> Gonzalez Eilert Testimony, Transcript III, p. 24 lines 9-11; *see also* Brigham Testimony, Transcript III, p. 87 line 12 – p.91 line 14.

<sup>57</sup> Brigham Testimony, Transcript III, p. 83 line 25 – p. 84 line 14; p. 87 lines 12-24; Andre Testimony, Transcript III, pg. 15, line 11 – p. 16 line 6; Eskamani Testimony, Transcript IV, p. 1 lines 14-16; Wagner Testimony, Transcript III, p. 62 line 25 – p. 63 line 16.

that they are systemic and built into law,<sup>58</sup> often with the purported purpose of preventing voter fraud.<sup>59</sup>

- c. Some examples of barriers to voting in Florida include intimidation, misinformation, overly restrictive ID laws, purging of voter registration rolls, limited early voting and vote by mail voting, gerrymandering, and long lines at polling locations, among others.<sup>60</sup>
- d. Taken together, the impact of these concerns has the potential to significantly impact voter participation and electoral outcomes,<sup>61</sup> and may disproportionately affect voters on the basis of race, color, sex, age, disability, and national origin.<sup>62</sup>

## **PART B: Registration and Early Voting**

### 1. Voter Registration

- a. Florida voter registration closes 29 days before elections,<sup>63</sup> which is the most restrictive timeframe allowed by federal law.<sup>64</sup>
- b. Florida law requires strict maintenance of voter registration lists.<sup>65</sup> The process of removing a voter from the registration rolls due to inactivity can take up to eight years.<sup>66</sup>
  - a. Voters who do not vote in two consecutive federal elections cycles are sent a registration confirmation by mail. If the voter does not respond, or the registration confirmation is returned to sender, the voter's registration status is changed to "inactive."<sup>67</sup>
  - b. An "inactive" voter who does not vote or update his/her registration record within in two federal general election cycles is removed and must re-register in order to be eligible to vote.<sup>68</sup>

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<sup>58</sup> Brody Testimony, Transcript II, p. 64 line 23 – p. 65 line 4; Bullard Testimony, Transcript II, p. 167 lines 19-24.

<sup>59</sup> Andre Testimony, Transcript III, p. 14 line 21 – p. 15 line 4.

<sup>60</sup> Batista Testimony, Transcript III, p. 78 lines 16-21; Thompson Testimony, Transcript II p. 26 line 18- p. 27 line 9; Shearer Testimony, Transcript II, p. 12 line 13 – p. 15 line 13; Brigham Testimony, Transcript III, p. 108 line 24 – p. 109 line 16; Andre Testimony, Transcript III p. 16 line 7 – p. 18 line 19; Hill Testimony, Transcript III, p.141 line 4 – p. 142, line 13; Babis Testimony, Transcript III, p. 73 line 23 – p. 74 line 23; Gonzalez Eilert Testimony, Transcript III, p. 22 line 24 - p. 23 line 5; Bloom Testimony, Transcript II, p. 112 line 24 – p. 113 line 13; Arrington Testimony, Transcript III, p. 131 line 1 – p. 132, line 9.

<sup>61</sup> Pynchon Testimony, Transcript II, p. 147 lines 2-5, p. 151 lines 2-5, p. 153 lines 9-18; Andre Testimony, Transcript III, p. 18 line 25 – p. 19 line 12; Shearer Testimony, Transcript II, p. 14 lines 16-24.

<sup>62</sup> Bloom Testimony, Transcript II, p. 113 lines 14-20; Bullard Testimony, Transcript II, p. 167 lines 19-24; Andre Testimony, Transcript III, pg. 14, lines 21-24; Gonzalez Eilert Testimony, Transcript III p. 22, lines 14-18.

<sup>63</sup> FLA. Stat. Title IX § 97.055 (1)(a).

<sup>64</sup> Andre Testimony, Transcript III, p. 15 lines 13-15; Brody Testimony, Transcript II, p. 66 lines 9-19; Wagner Testimony, Transcript III, p. 45 lines 1-7.

<sup>65</sup> List maintenance procedures are outlined in Florida Statutes 98.065 and 98.075.

<sup>66</sup> Cowles Testimony, Transcript III, p. 120 line 20 – p. 121 line 3.

<sup>67</sup> FLA. STAT. § 98.065 (4)(c).

<sup>68</sup> *Id.*

- a. Despite efforts to maintain voter registration rolls, panelists indicated that inaccurate registration lists, database errors, and poll worker confusion result in eligible voters being turned away from the polls.<sup>69</sup>
- b. Florida allows online voter registration, which is an easy way for voters to submit or update their registration information.<sup>70</sup> This opportunity is little known, however, and additional promotion is necessary in order for voters to utilize it.<sup>71</sup>
- c. Between the 2018 general election and June of 2019, almost 65,000 voters were removed from the registration rolls in Florida. Of those, 42,705 were removed because mail sent to them by the supervisor of elections was returned to sender.<sup>72</sup>
  - i. Postal mail may not be a reliable medium to determine a voter's eligibility and activity.<sup>73</sup>
  - ii. Registered voters placed in "inactive" status receive no additional communications or reminders about elections, further depressing the likelihood of future participation.<sup>74</sup>
  - iii. The state is not required to notify voters removed from registration of their removal.<sup>75</sup>
  - iv. Voters may not be aware that their registration has been canceled until they arrive at their polling location either for early voting or on election day. Florida closes registration 29 days before elections and does not allow same day voter registration.<sup>76</sup> Therefore, there is no remedy available for such voters to participate.<sup>77</sup>
  - v. Some have asserted that The Voting Rights Act protects the right to vote as well as the right not to vote;<sup>78</sup> that voters cannot be removed from the registration rolls due to inactivity alone. One panelist argued that basing registration maintenance on mailing has the same effect as removing voters due to inactivity.<sup>79</sup>
- d. Canceled voter registration disproportionately affects Black voters,<sup>80</sup> and disproportionately favors Republicans over Democrats.<sup>81</sup>

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<sup>69</sup> Thompson Testimony, Transcript II, p. 26 line 18 – p. 27 line 9; Smith Testimony, Transcript I, p. 4 lines 17-27; Smith Testimony, Transcript I, p. 5 lines 21-34.

<sup>70</sup> FLA. STAT. § 97.026.

<sup>71</sup> Eskamani Testimony, Transcript IV, p. 1 lines 34-43.

<sup>72</sup> Brody Testimony, Transcript II, p. 67 line 2 – p. 72 line 3.

<sup>73</sup> Brody Testimony, Transcript II, p. 70 line 25 – p. 71 line 9; Stollberg Testimony, Transcript II, p. 115 lines 9-17.

<sup>74</sup> Brody Testimony, Transcript II, p.68 lines 18-25; p. 71 line 17 – p. 72 line 3

<sup>75</sup> Andre Testimony, Transcript III, p. 16 lines 1-2; Wagner Testimony, Transcript III, p. 40 lines 11-15, p.44 lines 6-16.

<sup>76</sup> FLA. STAT. § 97.055 (1)(a).

<sup>77</sup> Andre Testimony, Transcript III, p. 16, lines 1-6.

<sup>78</sup> Brody Testimony, Transcript II, p. 70 lines 19-24. *See also*: Jeffrey A. Blomberg, Protecting the Right Not to Vote from Voter Purge Statutes , 64 Fordham L. Rev. 1015 (1995). Available at: <https://ir.lawnet.fordham.edu/flr/vol64/iss3/15>

<sup>79</sup> Brody Testimony, Transcript II, p. 70 line 25 – p. 71 line 9.

<sup>80</sup> Brody Testimony, Transcript II p. 67 line 20 - p. 68 line 6; p. 73 lines 4-15; Bloom Testimony, Transcript II, p. 111 lines 19-22.

<sup>81</sup> Brody Testimony, Transcript II p. 67 line 20 - p. 68 line 6

- i. Black voters are removed from voter rolls at a rate 25-30% higher than average.<sup>82</sup>
  - ii. Nationally, Black people are more frequently renters and move more frequently, compromising the ability to receive and return mail.<sup>83</sup>
- e. Same day voter registration may be particularly important for people who move frequently such as students living on college campuses, who may not realize there is a problem with their registration until they arrive at the polls.<sup>84</sup>
- f. It is important for voter registration procedures to be both easy and reliable.<sup>85</sup>
  - Voter registration in Florida could be improved through the following efforts:
    - i. Allowing for same day (election day) voter registration.<sup>86</sup> Same day voter registration has been shown to increase turnout among all demographic groups, and result in the smallest demographic gaps in voter turnout.<sup>87</sup>
    - ii. Requiring electronic communication with voters before canceling voter registration, in addition to postal mail.<sup>88</sup>
    - iii. Instituting automatic voter registration for people over the age of 18.<sup>89</sup>
    - iv. Automatic voter registration efforts should include protection to verify citizenship status. Automatically registering a non-citizen in error could jeopardize that person's ability to seek citizenship in the future.<sup>90</sup>
    - v. Increased education efforts to ensure people have up to date and accurate registration information.<sup>91</sup>

## 2. Early voting

- a. A reported 75% of voters vote before election day, either at early voting polling locations or through vote by mail.<sup>92</sup>
- b. Despite its importance, the early voting timeframe is severely limited in Florida,<sup>93</sup> and the process is “confusing and underfunded”<sup>94</sup>
- c. In order to increase early voting opportunities, one Supervisor of Elections recommended expanding early voting beyond two weeks with voting “super

<sup>82</sup> Shearer Testimony, Transcript II, p. 12 line 22 – p. 13 line 2.

<sup>83</sup> Brody Testimony, Transcript II, p. 73 lines 9-15.

<sup>84</sup> Eskamani Testimony, Transcript IV, p. 2 lines 23-34.

<sup>85</sup> Mills Testimony, Transcript III, p. 173 lines 6-9.

<sup>86</sup> Hill Testimony, Transcript III, p. 156 lines 8-13; Wagner Testimony, Transcript III, p. 45 lines 4-6; Brody Testimony, Transcript II, p. 73 lines 16-25; Kubic Testimony, Transcript II, p. 75 line 24 – p. 76 line 3, p. 84 lines 16-18; Babis Testimony, Transcript III, p. 82 lines 5-12.

<sup>87</sup> Kubic Testimony, p. 86 line 18 – p.87 line 8.

<sup>88</sup> Stollberg Testimony, Transcript II, p. 115 lines 1-8; Brody Testimony, Transcript II, p. 74 lines 1-4.

<sup>89</sup> Arrington Testimony, Transcript III, p. 133 line 23 – p. 134 line 9; Mills Testimony, Transcript III, p. 167 line 8 – p. 168 line 4; Kubic Testimony, Transcript II, p. 75 line 24 – p. 76 line 3.

<sup>90</sup> Arrington Testimony, Transcript III, p. 133 line 23 – p. 134 line 9.

<sup>91</sup> Cowles Testimony, Transcript III, p. 125 lines 13-25; Brody Testimony, Transcript II, p. 74 lines 6-14.

<sup>92</sup> Arrington Testimony, Transcript III, p. 129 lines 12-13; Cowles Testimony, Transcript III, (p. 126 lines 6-21; Smith Testimony, Transcript I, p. 11 lines 24-34.

<sup>93</sup> FLA. STAT. § 101.657(1)(d) “[t]he early voting period must start at least on the 10th day before the election and end on the 3rd day before the election. In addition, supervisors of elections have the option to offer more early voting on the 15th, 14th, 13th, 12th, 11th, or 2nd day before an election.”

<sup>94</sup> Arrington Testimony, Transcript III, p. 132 lines 17 – 19; Smith Testimony, Transcript I, p. 8 lines 1-3; Andre Testimony, Transcript III, p. 16 line 23 – p. 17 line 4.

centers” that would open at early voting and provide continual voting opportunities through election day.<sup>95</sup>

- d. The Florida legislature has repeatedly entertained legislation that would limit or eliminate early voting opportunities on college and university campuses.<sup>96</sup>
  - i. Senate Bill 7066 requires early voting sites to have sufficient “non-permitted” parking to accommodate all anticipated voters,<sup>97</sup> which eliminates most college and university campuses as early voting sites.<sup>98</sup>
  - ii. Because most students live on campus and don’t have cars, this requirement was described as “an unnecessary hurdle,” with the potential to affect a lifetime habit of young people voting.<sup>99</sup>
  - iii. Early voting on colleges campuses provides critical access to students. In the 2018 election, approximately 60,000 students took advantage of early voting across 12 campuses.<sup>100</sup>

### 3. Vote by mail

- a. Signature matching is the primary form of authentication for mail in ballots.
  - i. Election officer workers with decision making authority regarding signature matches are often untrained,<sup>101</sup> and many potentially legal votes are discarded.<sup>102</sup>
  - ii. Mail in ballot rejections due to signature mismatch may have a determinative effect on close elections.<sup>103</sup>
  - iii. Passage of SB7066 provided for standardized signature matching training by the Secretary of State to elections supervisors and canvassing board members.<sup>104</sup>
  - iv. People’s signatures change over time, and may not be a reliable form of identification.<sup>105</sup>
- b. Ballot tracking and arrival
  - i. Vote by mail ballots in Florida must be received at the Supervisor of Elections office by 7pm on election day to be counted, regardless of

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<sup>95</sup> Arrington Testimony, Transcript III, p. 132 line 17 – p. 133, line 9.

<sup>96</sup> Bloom Testimony, Transcript II, p. 111 lines 22-24; Brigham Testimony, Transcript III, p. 84 lines 11-14; p. 89 line 18 – p. 90 line 23; Wagner Testimony, Transcript III, p. 54 line 19 – p. 55 line 1; Rodriguez, Written Testimony, p. 1.

<sup>97</sup> 2019 Fla. Laws 11 (amending FLA. STAT. § 101.657 regarding early voting), <http://laws.flrules.org/2019/162>.

<sup>98</sup> Brigham Testimony, Transcript III, p. 90 lines 5-23.

<sup>99</sup> Brigham Testimony, Transcript III, p. 90 lines 5-23.

<sup>100</sup> Smith Testimony, Transcript I, p. lines 8-18.

<sup>101</sup> Andre Testimony, Transcript III, p. 17 lines 5-15; Bloom Testimony, Transcript II, p. 112 lines 3-9; Rodriguez, Written Testimony, p. 1.

<sup>102</sup> Andre Testimony, Transcript III, p. 17 lines 5-15; Bloom Testimony, Transcript II, p. 112 lines 3-9; Batista Testimony, Transcript III, p. 78 lines 22-25; Brody Testimony, Transcript II, p. 65 line 17 – p. 70 line 8.

<sup>103</sup> Shearer Testimony, Transcript II, p. 14 lines 16-24.

<sup>104</sup> 2019 Fla. Laws 3(amending FLA. STAT. § 97.012 regarding the Secretary of State), <http://laws.flrules.org/2019/162>; Gonzalez Eilert Testimony, Transcript III, p. 26 line 24 – p. 27 line 7.

<sup>105</sup> Smith Testimony, Transcript I, p. 13 line 30 – p. 14 line 14.

- postmark date.<sup>106</sup> Other states accept mail in ballots as long as they are postmarked on or before election day.<sup>107</sup>
- ii. In Florida vote by mail ballots have been directed inefficiently through the postal system, arriving at the Supervisor of Elections office in 6 days rather than 2-3, arriving late to the Supervisor of Elections Office.<sup>108</sup>
  - iii. Voters have reported difficulty checking the status of their vote by mail ballot to ensure its receipt.<sup>109</sup>
  - iv. If there is a problem with a mail in ballot, such as a missing or mismatched signature, voters may be alerted to the problem and have the opportunity to correct it. However, the deadline for corrections is by 5pm the Monday *before* the election. Therefore, vote-by-mail voters whose ballots arrive by the 7pm deadline on election day may still not have the opportunity to correct their ballot.<sup>110</sup>
- c. Rejections of mail in ballots in Florida may have a disparate impact on voters on the basis of race, age, and disability status.<sup>111</sup> A 2018 report<sup>112</sup> of the ACLU of Florida found that younger and racial and ethnic minority voters casting mail in ballots were at least twice as likely as older and white voters to have their ballot rejected in the presidential elections of 2012 and 2016.<sup>113</sup>
- d. Vote by mail is an important option for those who would otherwise have difficulty voting in person. Vote by mail is particularly important in the context of the 2020 Coronavirus pandemic.<sup>114</sup> Vote by mail efforts could be improved as follows:
- i. Instituting training and guidance for workers to improve consistency in determining signature matches. The State of Colorado has a manual that may be referenced as a model.<sup>115</sup>
  - ii. Osceola County, Florida provides mail-in voters with pre-paid postage for returning the ballot. If there is an error on the mail-in ballot, the Supervisor of Elections uses text, email, and phone calls to contact a voter

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<sup>106</sup> FLA. STAT. § 101.64(5); Andre Testimony, Transcript III p. 17 lines 17-18; Brody Testimony, Transcript II, p. 65 lines 17-23; Eskamani Testimony, Transcript IV, p. 1 lines 29-32.

<sup>107</sup> Jones Testimony, Transcript II, p. 125 lines 20-25; Smith Testimony, Transcript I, p. 11 lines 24-34. See also “Receipt and Postmark Deadlines for Absentee Ballots,” National Conference of State Legislatures, last modified September 10, 2020, accessed September 28, 2020, <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-11-receipt-and-postmark-deadlines-for-absentee-ballots.aspx>.

<sup>108</sup> Shearer Testimony, Transcript II, p. 15 lines 14-24; p. 43 line 9 – p. 44 line 5.

<sup>109</sup> Gonzalez Eilert Testimony, Transcript III p. 24 line 21.

<sup>110</sup> Smith Testimony, Transcript I, p. 11 lines 12-23.

<sup>111</sup> Kubic Testimony, Transcript II, p. 83 lines 4-25; Babis Testimony, Transcript III, p. 73 lines 9-22; Smith Testimony, p. 11 lines 12-23, lines 35-42.

<sup>112</sup> Daniel Smith, Vote-By-Mail Ballots Cast in Florida, ACLU Florida (2018) Revised, <https://www.aclufll.org/en/publications/vote-mail-ballots-cast-florida>

<sup>113</sup> Kubic Testimony, Transcript II, p. 83 lines 4-25; Andre Testimony, Transcript III, p. 19 line 25 – p. 20 line 8.

<sup>114</sup> Eskamani Testimony, Transcript IV, p. 2 lines 14-22.

<sup>115</sup> Gonzalez Eilert Testimony, Transcript III, p. 27, lines 1-7.

- regarding the issue. These methodologies have resulted in percentage point increases in voter turnout for the past several elections.<sup>116</sup>
- iii. Providing secondary verification options in the case of an alleged signature mismatch.<sup>117</sup>

## **PART C: Election Day Administration**

1. Florida has 67 counties with 67 Supervisors of Elections operating differently because there is no uniform set of policies and procedures that they must follow.<sup>118</sup>
2. The Committee heard several reports of concern regarding polling locations, including:
  - a. polling sites being combined or moved to a new location at the last minute without proper signage or notification;<sup>119</sup>
  - b. polling sites being moved into gated communities not accessible to the public;<sup>120</sup>
  - c. confusion regarding which sites are for early voting and which sites would be available on election day;<sup>121</sup>
  - d. voters being sent to the wrong polling location.<sup>122</sup>

These challenges may be particularly difficult for voters without a permanent home and those who move more frequently.<sup>123</sup>

3. Long lines at some polling locations may prevent eligible voters from casting their ballots.<sup>124</sup>
  - a. Research from other states has demonstrated that long lines suppress voters,<sup>125</sup> and that lines are typically longer in minority communities.<sup>126</sup>
  - b. In Florida, depending on county, average wait time to vote can range from 12-90 minutes or more.<sup>127</sup> At least one panelist suggested these disparities can be intentional.<sup>128</sup>
  - c. Electronic voting equipment such as voting machines and ballot scanners are expensive. Counties with fewer resource are often unable to purchase enough machines, contributing to longer wait times in these communities.<sup>129</sup> Utilizing

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<sup>116</sup> Arrington Testimony, Transcript III, p. 129 line 21 – p. 130 line 25.

<sup>117</sup> Bullard Testimony, Transcript II, p. 188 line 19 – p. 189 line 8.

<sup>118</sup> Thompson Testimony, Transcript II, p. 25 lines 6-10; Pynchon Testimony, Transcript II, p. 154 lines 1-7; Wagner Testimony, Transcript III, p. 43 lines 1-4.

<sup>119</sup> Shearer Testimony, Transcript II, p. 14 lines 2-15, p. 15 lines 7-13; p. 50 line 8 – p. 51 line 1; Gonzalez Eilert Testimony, Transcript III, p. 24 lines 17-24; Johnson Testimony, Transcript III, p. 187 line 17 – p. 188 line 4; Smith Testimony, Transcript I, p. 7 lines 24-34.

<sup>120</sup> Shearer Testimony, Transcript II, p. 14 lines 2-15; Gonzalez Eilert Testimony, Transcript III, p. 24 lines 14-25.

<sup>121</sup> Wagner Testimony, Transcript III, p. 42 lines 9-13, p. 44 lines 23-25.

<sup>122</sup> Gonzalez Eilert Testimony, Transcript III, p. 24 lines 14-25

<sup>123</sup> Arrington Testimony, Transcript III, p. 128 line 23 – p. 129 line 3, p. 132 lines 10-16.

<sup>124</sup> Thompson Testimony, Transcript II, p. 27 line 5 – p. 28 line 16.

<sup>125</sup> Buell Testimony, Transcript II, p. 139 line 18 – p. 139 line 6; p. 143 line 8 – p. 144 line 25.

<sup>126</sup> Buell Testimony, Transcript II, p. 139 lines 18-22, p. 140 lines 7-18, p. 144 lines 21-25; Gonzalez Eilert Testimony, Transcript III, p. 25 lines 10-14.

<sup>127</sup> Pynchon Testimony, Transcript II, p. 148 lines 15-23; Mills Testimony, Transcript III, p. 173 lines 12-20.

<sup>128</sup> Pynchon Testimony, Transcript II, p. 147 lines 15-17.

<sup>129</sup> Buell Testimony, Transcript II, p. 139 line 23 – p. 140 line 6; p. 145 line 10 – p. 146 line 11; Wagner Testimony, p. 45 lines 8-24.

paper ballots is both more cost effective and more time efficient than relying on voting machines.<sup>130</sup>

4. Disparities in access to technology disenfranchise people in poorer counties, since individual counties must purchase their own voting equipment. In addition to fewer voting machines and longer lines, poorer counties are more likely to have outdated or malfunctioning voting equipment.<sup>131</sup>
5. Public transportation has been a structural impediment to voting, particularly for marginalized communities.<sup>132</sup> In one county, the supervisor of elections office was moved off of the Metrorail system, requiring some residents to commute for up to 3.5 hours across several different forms of public transportation in order to reach the office without private transport.<sup>133</sup>
6. Improper or inconsistent training of poll workers may account for a majority of problems reported on elections day. The Committee heard direct reports of poll workers, unaware of rules and procedures, improperly turning voters away from the polls.<sup>134</sup>
7. Poor and inconsistent ballot design may result in confusion and under-voting. In 2018 one senate race was placed on the left side of the ballot under the instructions; 30,000 voters missed that race.<sup>135</sup> One panelist recommended conducting a series of focus groups to ensure ballots are designed for readability and understanding.<sup>136</sup>
8. Disaster preparedness, such as in the event of hurricane activity displacing voters, is important. Voting “super centers” may alleviate some of the related challenges. However, provisions across counties for such circumstances should be consistent.<sup>137</sup> Following Hurricane Michael in 2018 there were reports of some counties accepting ballots by fax, which is not permissible.<sup>138</sup>

## **Part D: Special Considerations**

1. Language Access
  - a. Multilingual ballots are long and cumbersome, causing some voters to overlook important races.<sup>139</sup> Separate ballots should be provided in the language of choice.
  - b. The number of immigrants who have become U.S. citizens and are thus eligible to vote in the United States has risen 93% from 12 million in 2000 to 23.2 million in

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<sup>130</sup> Pynchon Testimony, Transcript II, p. 148 line 8 – p. 149 line 12.

<sup>131</sup> Andre Testimony, Transcript III, p. 18 lines 14-19.

<sup>132</sup> Bullard Testimony, Transcript II, p. 168 line 11 – p. 170 line 15; Wagner Testimony, Transcript III, p. 43 lines 18-23; Hill Testimony, Transcript III, p. 140 lines 13-16.

<sup>133</sup> Bullard Testimony, Transcript II, p. 169 line 9 – p. 170 line 7.

<sup>134</sup> Gonzalez Eilert Testimony, Transcript III, p. 25, line 23 – pg. 26, line 6; p. 79 lines 5-25; p. 108 lines 5-22

<sup>135</sup> Pynchon Testimony, Transcript II, p. 152 line 22 – p. 153 line 18; Shearer Testimony, Transcript II, p. 49 line 17 – p. 50 line 7; Mills Testimony, Transcript III, p. 168 lines 14-21; Green Testimony, Transcript II, p. 189 lines 9-21.

<sup>136</sup> Green Testimony, Transcript II, p. 189 line 9 – p. 190 line 3.

<sup>137</sup> Smith Testimony, Transcript I, p. 14 line 25 – p. 15 line 20.

<sup>138</sup> Ibid.

<sup>139</sup> Bullard Testimony, Transcript II, p. 171 line 10 – p. 172 line 5; Smith Testimony, Transcript I, p. 8 lines 22-33.

2020. According to the Pew Research Center, approximately 2.5 million of these U.S. citizen immigrants eligible to vote live in Florida.<sup>140</sup>

- c. The Committee heard reports of voters being improperly denied language assistance during the 2018 elections in Florida, while also being told there were not voting materials available in the language requested.<sup>141</sup> In 2012, at a North Miami polling site, Desiline Victor, a 102-year-old Haitian-American woman, waited in line 6 hours over the course of 2 days to cast her vote. After waiting 3 hours the first day, she could not vote because there was no translator present.<sup>142</sup>
  - d. English ballots often include technical language that is inaccessible to voters who may speak English as a second language, even if they speak English well. One panelist suggested that rather than focusing on translating ballots into every language, elections officials should focus on making the technical language in English more accessible.<sup>143</sup>
2. Voters with Disabilities
- a. Despite record turnout in 2018, a turnout gap of 4-7 points persists between voters with disabilities and nondisabled voters.<sup>144</sup> An estimated 2-3 million additional votes would be cast if voters with disabilities voted at the same rate as their nondisabled peers.<sup>145</sup>
  - b. A Study in 2017 by the Government Accountability Office<sup>146</sup> found that more than 60% of polling sites sampled on early voting or election day had one or more impediment for people with disabilities. These include designated parking places, appropriate signage, and inaccessible pathways.<sup>147</sup>
  - c. The Help America Vote Act<sup>148</sup> requires at least one accessible voting machine at each polling site but poll workers are often unaware of how to operate them effectively to meet diverse needs.<sup>149</sup>
  - d. Some disability rights advocates are concerned about the weaponization of the Americans with Disabilities Act to inequitably target inaccessible poll sites within communities of color, despite nearly 3 decades of opportunity to instead remedy access violations between elections cycles.<sup>150</sup>

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<sup>140</sup> Batista Testimony, Transcript III, p. 78 lines 11-15; *See also*: <https://www.pewresearch.org/fact-tank/2020/03/03/most-of-the-23-million-immigrants-eligible-to-vote-in-2020-election-live-in-just-five-states/>.

<sup>141</sup> Batista Testimony, Transcript III, p. 78 line 22 – p. 79 line 4, p. 80 lines 2-22; Gonzalez Eilert Testimony, Transcript III, p. 24 lines 17-24.

<sup>142</sup> Thompson Testimony, Transcript II, p. 27 line 10 – p.28 line 16.

<sup>143</sup> Hamideh Testimony, Transcript II, p. 121 line 5 – p. 122 line 1.

<sup>144</sup> DePalma Testimony, Transcript II, p. 101 lines 15-24; Babis Testimony, Transcript III, p. 67 lines 9-21.

<sup>145</sup> DePalma Testimony, Transcript II, p. 101 lines 15-24; Babis Testimony, Transcript III, p. 67 lines 9-21.

<sup>146</sup> Voters with Disabilities, Observations on Polling Place Accessibility and Related Federal Guidance, Government Accountability Office Report to Congressional Requesters (October 2017), <https://www.gao.gov/assets/690/687556.pdf>.

<sup>147</sup> Babis Testimony, Transcript III, p. 67 line 22 – p. 68 line 22; DePalma Testimony, Transcript II, p. 102 lines 14-24.

<sup>148</sup> Help America Vote Act of 2002, Pub. L. 107-252, 116 Stat. 1666 (codified as 52 U.S.C. § 10101).

<sup>149</sup> DePalma Testimony, Transcript II, p. 102 line 25 – p. 103 line 13; Babis Testimony, Transcript III, p. 68 lines 18-22.

<sup>150</sup> DePalma Testimony, Transcript II, p. 103 line 14 – p. 104 line 3; Babis Testimony, Transcript III, p. 68 line 23 – p. 69 line 21.

- e. Despite federal protections and available resources, there has been “an underlying failure or unwillingness” on the part of public officials address voting challenges and structural barriers for people with disabilities.<sup>151</sup>
    - i. Before the 2018 midterm election, Florida reportedly received \$20 million in HAVA funds, and spent nearly 90% of it on election security, with less than \$2 million allocated for improving accessibility. The state had to return most of this appropriation due to its failure to timely spend funds it had set aside for accessibility improvements.<sup>152</sup>
    - ii. Signature verification efforts are very important especially where accessibility impediments incentivize people with disabilities to vote by mail. Voters with degenerative diseases or disabilities with periodic symptoms, vision loss, disabilities affecting fine motor skills, are all impacted by signature matching and risk disenfranchisement. The state has recently had several opportunities to review their provisions for signature verification and has done so without regard to disparate impact on voters with disabilities.<sup>153</sup>
  - f. In response to the COVID-19 pandemic, voters in the 2020 general election are expected to cast vote by mail ballots in record numbers. However, Florida’s vote-by-mail program does not include the option to complete and submit a ballot electronically for those voters with print disabilities who cannot independently fill out a paper ballot.<sup>154</sup>
  - g. Administrators of nursing homes and assisted living facilities have suspended supervised voting due to the COVID-19 pandemic, disenfranchising voters who require assistance in completing a vote-by-mail ballot but do not feel comfortable having facility staff assist them.<sup>155</sup>
3. Voters with Felony Convictions
- a. Florida has the 11<sup>th</sup> highest incarceration rate in the country, with 466 per 100,000 people incarcerated.<sup>156</sup> The incarcerated population is disproportionately Black.<sup>157</sup> Prior to Amendment 4<sup>158</sup> more than 20% of the Black adult population of FL was barred from voting due to prior felony conviction.<sup>159</sup>
  - b. Florida’s permanent disenfranchisement of people with felony convictions was historically tied to the so-called “Black Codes,” and specifically intended to disenfranchise black voters.<sup>160</sup> Amendment 4 was intended to undo this discrimination.<sup>161</sup>

<sup>151</sup> DePalma Testimony, Transcript II, p. 101 line 25 – p. 102 line 13.

<sup>152</sup> DePalma Testimony, Transcript II, p. 104 lines 4-22; Babis Testimony, Transcript III, p. 72 line 18 – p. 73 line 8.

<sup>153</sup> DePalma Testimony, Transcript II, p. 104 line 23 – p. 105 line 19.

<sup>154</sup> Babis Written testimony, pp. 1-2.

<sup>155</sup> Babis Written Testimony, p. 2.

<sup>156</sup> The Sentencing Project, State By State Data, <https://www.sentencingproject.org/the-facts/#rankings>; Source: U.S. Bureau of Justice Statistics Data for 2017

<sup>157</sup> Ibid.

<sup>158</sup> Florida Association of Counties, Amendment 4: Voting Rights Restoration for Felons Initiative, <https://www.fl-counties.com/amendment-4>

<sup>159</sup> Ibid. See also Kubic Testimony, Transcript II, p. 76 line 14 – p. 77 line 13, Obi Nweze, Written Testimony, pp. 3-4.

<sup>160</sup> Kubic Testimony, Transcript II, p. 77 line 14 – p. 78 line 11; Obi Nweze, Written Testimony, p. 4.

<sup>161</sup> Kubic Testimony, Transcript II, p. 78 lines 4-25; Obi Nweze, Written Testimony, pp. 4&6.

- c. In November of 2018, 65% of Florida voters passed a ballot initiative to restore voting rights to people with felony convictions, after they complete all terms of their sentence including parole or probation.<sup>162</sup> This act resulted in the “largest expansion of the electorate since Congress passed the Voting Rights Act in 1965.”<sup>163</sup>
- d. In its implementation of Amendment 4, the Florida Legislature added the requirement that people with felony convictions satisfy all outstanding legal financial obligations (LFOs) prior to the restoration of voting rights.<sup>164</sup>
  - i. Many Floridians saw this as directly undermining the clear will of the voters, and untrue to the intent and language of Amendment 4.<sup>165</sup>
  - ii. This requirement will result in unequal voting access based on wealth, whereby two people who commit identical crimes will not have the same treatment under the law. The person who is able to pay will be permitted to vote, and the person who cannot pay will be permanently disenfranchised.<sup>166</sup>
  - iii. This requirement is racially discriminatory and will have a disproportionate impact on black voters<sup>167</sup> and people with disabilities.<sup>168</sup>
  - iv. The chief sponsor of the house bill instituting this requirement was quoted as stating that the impact of this bill on protected classes was “irrelevant.” Similarly, the Senator sponsor expressed disregard for studying the bill’s impact.<sup>169</sup>
  - v. Many panelists likened this requirement to a poll tax, making voting “contingent on a person’s wealth,”<sup>170</sup> and resulting in permanent disenfranchisement.

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<sup>162</sup> Bloom Testimony, Transcript II, p. 111 lines 2-7; Andre Testimony, Transcript III, p. 14 lines 3-5; Jones Testimony, Transcript II, p. 124 lines 15-25; Syed Testimony, Transcript II, p. 97 line 20 – p. 98 line 4; Shearer Testimony, Transcript II, p. 8 lines 3-11; Kubic Testimony, Transcript II, p. 76 lines 4-13; Mills Testimony, Transcript III, p. 169 lines 8-13; Smith Testimony, Transcript I, p. 6 lines 20-34; Eskamani Testimony, Transcript IV, p. 1 lines 17-28.

<sup>163</sup> Obi Nweze, Written Testimony, p. 3.

<sup>164</sup> Thompson Testimony, Transcript II p. 25 line 19 – p. 26 line 4; Shearer Testimony, Transcript II, p. 10 lines 12-22; Smith Testimony, Transcript I, p. 10 lines 6-25; Eskamani Testimony, Transcript IV, p. 1 lines 17-28; Kubic Testimony, Transcript II, p. 79 lines 1-13; Obi Nweze, Written Testimony, p. 4.

<sup>165</sup> Batista Testimony, Transcript III, p. 81 lines 5-23; Gonzalez Eilert Testimony, Transcript III, p. 29, lines 5-17; Bullard Testimony, Transcript II, p. 186 line 9 – p. 187 line 3; Lonergan Testimony, Transcript II, p. 118 lines 15-21; Kubic Testimony, Transcript II, p. 78 lines 11-16, p. 82 line 17 – p. 83 line 3; Syed Testimony, Transcript II, p. 97 line 20 – p. 98 line 4, Nelson Testimony, Transcript III, p. 37 lines 5-17; Obi Nweze, Written Testimony, pp. 3&5-6.

<sup>166</sup> Mills Testimony, Transcript III, p. 169 line 18 – p. 170 line 10; Obe Nweze, Written Testimony, pp. 6-7.

<sup>167</sup> Syed Testimony, Transcript II, p. 99 lines 5-12; Kubic Testimony, Transcript II, p. 75 lines 14-19, p. 79 lines 9-13, p. 81 line 1 – p. 82 line 14; Brigham Testimony, Transcript III, p. 87 lines 5-11; Rodriguez, Written Testimony, p. 1.

<sup>168</sup> Babis Testimony, Transcript III, p. 75 lines 6-22.

<sup>169</sup> Kubic Testimony, p. 79 line 14 – p. 80 line 25.

<sup>170</sup> Brigham Testimony, Transcript III, p. 84 lines 3-4; Hill Testimony, Transcript III, p. 135, lines 10-23; Syed Testimony, Transcript II, p. 98 lines 21-25; Bloom Testimony, Transcript II, p. 111 lines 8-18; Jones Testimony, Transcript II, p. 125 lines 1-5; Green Testimony, Transcript II, p. 179 lines 8-11; Thompson Testimony, Transcript II, p. 25 line 19 – p. 26 line 4; Batista Testimony, Transcript III, p. 81 lines 16-17; Jifunza Testimony, Transcript III, p. 93 line 19 – p. 95 line 4; Obe Nweze, Written Testimony, pp. 7-8, Rodriguez, Written Testimony, p. 1.

- vi. There is no centralized authority or database for people to verify what LFOs they may still be responsible for.<sup>171</sup> This has made it difficult for Supervisors of Elections to know whether or not an individual is eligible to register,<sup>172</sup> for community groups to assist returning citizens in registering,<sup>173</sup> and for returning citizens to exercise their voting rights even when they may be eligible.<sup>174</sup>
- e. Disenfranchisement runs counter to goals of reintegration and rehabilitation, alienating returning citizens from society and leaving them without recourse to address of have their issues redressed by government.<sup>175</sup>
- f. Community groups and some local government agencies have been working together to expand the restoration of voting rights for people with felony convictions by discounting or forgiving outstanding fines and fees, expediting clemency reviews, fundraising to help pay people’s outstanding LFOs, or converting LFOs to community service.<sup>176</sup>

## Part E: Election Security

### 1. Electronic Voting Equipment

- a. All electronic voting equipment is vulnerable to either unintentional misprogramming or intentional manipulation of votes.<sup>177</sup> Even when not connected to the internet, these computerized systems often contain a cellular modem, and the software that runs the machines is in a laptop or other computer that could also have internet connectivity.<sup>178</sup> Paper ballots are an important backup for verification purposes.<sup>179</sup>
- b. Data currently exists to identify the demographics and political leanings of most voters. The Committee heard concern that this data could easily be used to target specific individual voters and change their voter registration information to prevent them from voting.<sup>180</sup>
  - i. During the 2016 election, election protection call center staff received numerous calls from voters in North Carolina who reported anomalies

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<sup>171</sup> Brigham Testimony, Transcript III, p. 85 line 21 – p. 86 line 3; Jifunza Testimony, Transcript III, p. 93 lines 14-18, p. 116 line 6 – p. 117 line 20.

<sup>172</sup> Cowles Testimony, Transcript III, p. 123 line 16 – p. 124 line 5; Arrington Transcript III, p. 133, lines 10-22, p. 152, line 9 – p. 153, line 5.

<sup>173</sup> Shearer Testimony, Transcript II, p. 10 lines 19-22; Brigham Testimony, Transcript III, p. 84 line 15 – p. 87 line 11.

<sup>174</sup> Jifunza Testimony, Transcript III, p. 116 line 6 – p. 117 line 20.

<sup>175</sup> Bullard Testimony, Transcript II, p. 167 line 25 – p. 168 line 10; Syed Testimony, Transcript II, p. 99 lines 13-22; Jifunza Testimony, Transcript III, p. 95 line 21 – p. 99 line 25, Obe Nweze, Written Testimony, pp 2-3.

<sup>176</sup> Mills Testimony, Transcript III, p. 170 line 11 – p. 173 line 3, p. 178 lines 15-25.

<sup>177</sup> Greenhalgh Testimony, Transcript II, p. 53 line 10 – p. 55 line 17; Bercaw Testimony, Transcript II, p. 106 line 23 – p. 108 line 13, p. 109 lines 4-11, p. 195 line 22 – p. 196 line 6; Buell Testimony, Transcript II, p. 158 line 5 – p. 159 line 15.

<sup>178</sup> Greenhalgh Testimony, Transcript II, p. 53 line 22 – p. 54 line 25; Canova Testimony, Transcript II, p. 136 lines 13-21.

<sup>179</sup> Greenhalgh Testimony, Transcript II, p. 53 lines 6-21, p. 55 lines 10-17.

<sup>180</sup> Greenhalgh Testimony, Transcript II, p. 62 line 8 – p. 63 line 23.

with their voter registration record; for example, people being told they had already voted by mail or during early voting when they had not, or people's address being changed even though they had not made these changes.<sup>181</sup>

- c. Ballot scanners, while vulnerable to hacking or mis-calibration, can at least be verified and audited against the paper ballot record as necessary.<sup>182</sup> Voting machines, however, often belong to private companies and cannot be checked publicly if there is concern about tampering.<sup>183</sup> There is often also no paper ballot to refer to for an audit.<sup>184</sup>
- d. Florida law requires that ballot scanners be calibrated to reject ballots with over-votes (those in which a person votes for more than one candidate in the same race). However, the Committee heard reports of scanners allowing voters to override this feature and submit their ballot anyway. This results in the voter's ballot not being counted.<sup>185</sup>
- e. Review of data from the 2016 and 2018 elections in Florida reveals several statistical anomalies that suggest data manipulation.<sup>186</sup>
  - i. In Broward County in 2016 in the 23rd Congressional District, there were only 19 precincts that had an equal number of voters and ballots. There were 153 precincts with more ballots than voters, resulting in an over-vote of 971. There were 36 precincts with 126 missing ballots.<sup>187</sup>
  - ii. In 2018 there was a Senate election under-vote with approximately 30,000 votes missing. There was a collection of precincts that had statistically significant outliers in terms of the under-vote percentage.<sup>188</sup>
  - iii. In the 2018 23rd Congressional District election, one candidate received the same 5% of the vote in every precinct, regardless of the precinct's demographics or determined under-voting or over-voting.<sup>189</sup>
  - iv. State and federal investigations of these anomalies have been limited, and occurred much too late after the election to show any meaningful results.<sup>190</sup>

## 2. Ballot integrity

- a. Ballots are marked as invalid for a variety of reasons, including signature mismatch, late postal service delivery, overvoting or under-voting errors, and machine miscalibration. Collectively these ballot rejections can have a

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<sup>181</sup> Greenhalgh Testimony, Transcript II, p. 58 lines 5-20.

<sup>182</sup> Buell Testimony, Transcript II, p. 158 line 17 – p. 159 line 6.

<sup>183</sup> Bercaw Testimony, Transcript II, p. 107 lines 4-18.

<sup>184</sup> Pynchon Testimony, Transcript II, p. 157 lines 14-23.

<sup>185</sup> Pynchon Testimony, Transcript II, p. 150 line 2 – p. 151 line 6.

<sup>186</sup> Canova Testimony, Transcript II, p. 129 line 21 – p. 130 line 3; Friesdat Testimony, Transcript II, p. 36 line 22 – p. 42 line 19.

<sup>187</sup> Friesdat Testimony, Transcript II, p. 33 lines 5-20.

<sup>188</sup> Friesdat Testimony, Transcript II, p. 34 line 19 – p. 38 line 2.

<sup>189</sup> Friesdat Testimony, Transcript II, p. 40, line 8 – p. 42 line 5.

<sup>190</sup> Greenhalgh Testimony, Transcript II, p. 59 line 2 – p. 62 line 7.

determinative effect on elections, particularly in close races.<sup>191</sup> Ballot rejections often have a disparate impact on the basis of age, race, and political affiliation.<sup>192</sup>

- b. The Committee heard testimony regarding improper storage, transport, and protection of ballots, as well as a lack of accountability measures to address these concerns.<sup>193</sup>
  - i. Following the 2016 election, Congressional candidate Tim Canova submitted three public records requests to the Broward County Supervisor of Elections to review the ballots. These requests were delayed or denied until in September of 2017 when Florida's 17<sup>th</sup> Circuit Judicial Court ordered the ballots released.<sup>194</sup> However, rather than releasing the ballots as ordered, then Supervisor of Elections Brenda Snipes signed an order to destroy the ballots, falsely certifying that they were not the subject of litigation.<sup>195</sup> Mr. Canova reported a concerning lack of accountability for these actions.<sup>196</sup>
  - ii. In 2018 Mr. Canova reported that one of his campaign volunteers witnessed, and video-recorded, the transportation of ballots from polling locations in a rental truck with no sheriffs deputies on site to provide receipts or document the chain of custody.<sup>197</sup> Currently in Florida each county is allowed to formulate its own chain of custody procedures with very little oversight.<sup>198</sup>

### 3. Limiting Risk

- a. Hand counting paper ballots is economically viable and the most secure solution to protecting election integrity.<sup>199</sup>
- b. One alternative to hand counting ballots is to automatically perform risk limiting audits of statistically relevant samples of all races. If anomalies are present, a full hand re-count could be performed, without the legal battles that generally accompany recounts.<sup>200</sup> Colorado, Rhode Island, and some counties in Ohio already perform regular risk limiting audits; some counties in California and Michigan are running pilots.<sup>201</sup> Florida currently has legislation that prevents a robust audit of the vote count.<sup>202</sup>

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<sup>191</sup> Pynchon Testimony, Transcript II, p. 147 lines 2-5, p. 151 lines 2-5, p. 153 lines 9-18; Andre Testimony, Transcript III, p. 18 line 25 – p. 19 line 12.

<sup>192</sup> Pynchon Testimony, Transcript II, p. 152 lines 13-24; Andre Testimony, Transcript III, pg. 19, line 13 – p. 20 line 8.

<sup>193</sup> Pynchon Testimony, Transcript II, p. 151 line 22 – p. 152 line 4; Wagner Testimony, Transcript III, p. 42 lines 6-8.

<sup>194</sup> Collins Testimony, Transcript II, p. 18 line 4 - p. 20 line 16, p. 46 lines 19-25; Canova Testimony, Transcript II, p. 130 lines 4-24.

<sup>195</sup> Collins Testimony, Transcript II, p. 21 lines 8-22, p. 46 lines 19-25; Canova 2019 p. 130 line 25 - p. 131 line 13.

<sup>196</sup> Canova Testimony, Transcript II, p. 132 line 24 – p. 135 line 5.

<sup>197</sup> Canova Testimony, Transcript II, p. 136 lines 4-15.

<sup>198</sup> Friesdat Testimony, Transcript II, p. 49 lines 11-16.

<sup>199</sup> Bercaw Testimony, Transcript II, p. 108 line 14 – p. 109 line 21, p. 197 line 13 – p. 198 line 21.

<sup>200</sup> Greenhalgh Testimony, Transcript II, p. 88 line 7 – p. 89 line 15; Buell Testimony, Transcript II, p. 60 lines 1-8; Friesdat Testimony, Transcript II, p. 45 lines 7-25.

<sup>201</sup> Greenhalgh Testimony, Transcript II, p. 89 line 21 – p. 90 line 13; Friesdat Testimony, Transcript II, p. 45 lines 7-25.

<sup>202</sup> Friesdat Testimony, Transcript II, p. 45, lines 14-25.

- c. Polling locations are required to post numbers of voters on their windows for auditing purposes, so that anyone can match the number of voters at each polling place with the numbers reported to the supervisor of elections.<sup>203</sup> The Committee heard reports that many sites in Broward County did not post their numbers.<sup>204</sup> In one precinct there were reportedly three polling locations without a single vote recorded.<sup>205</sup>
- d. Several panelists recommended improving nonpartisan election standardization, oversight, and accountability.<sup>206</sup> Some resources for improving election security include:
  - i. The Center for Internet Security, Global Cyber Alliance recently published a toolkit<sup>207</sup> for counties to implement cyber audits and best cyber screening practices.<sup>208</sup>
  - ii. The Presidential Commission on Election Administration issued a report<sup>209</sup> with standards and recommendations for elections administration in 2014.<sup>210</sup>

### **Recommendations**

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.<sup>211</sup> In keeping with these responsibilities, and in light of the testimony heard on this topic, the Florida Advisory Committee submits the following recommendations to the Commission.

### **Recommendations**

1. The U.S. Commission on Civil Rights should issue the following formal recommendations to the Florida Governor and Legislature:
  - a. Expand the voter registration deadline to election day and institute a “same day” or “election day” voter registration option.

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<sup>203</sup> Stollberg Testimony, Transcript II, p. 115 line 18 – p. 116 line 3.

<sup>204</sup> Stollberg Testimony, Transcript II, p. 115 line 18 – p. 116 line 22.

<sup>205</sup> Stollberg Testimony, Transcript II, p. 116 line 23 – p. 117 line 4.

<sup>206</sup> Thompson Testimony, Transcript II, p. 48 line 8 – p. 49 line 6, p. 51 line 19 – p. 52 line 3; Friesdat Testimony, Transcript II, p. 47 lines 12-20.

<sup>207</sup> GCA Cybersecurity Toolkit for Elections, Center for Internet Security, <https://gcatoolkit.org/elections/>

<sup>208</sup> Greenhalgh Testimony, Transcript II, p. 87 line 25 – p. 88 line 6.

<sup>209</sup> The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration, (Jan 2014), [https://www.eac.gov/sites/default/files/eac\\_assets/1/6/Amer-Voting-Exper-final-draft-01-09-14-508.pdf](https://www.eac.gov/sites/default/files/eac_assets/1/6/Amer-Voting-Exper-final-draft-01-09-14-508.pdf)

<sup>210</sup> Thompson Testimony, Transcript II, p. 51 line 11 – p. 52 line 3.

<sup>211</sup> 45 C.F.R. § 703.2 (2018).

- b. In addition to postal mail notification, require electronic communication with “inactive” voters, including email and text messaging where appropriate, prior to canceling voters’ registration, and again after registration cancelation has occurred.
  - c. Institute automatic voter registration for eligible citizens over the age of 18.
  - d. Expand opportunities for early voting and vote by mail, including on weekends and evenings; establish voting “super centers” on the basis of population served, to be open at the start of early voting and continuously through election day.
  - e. Provide an exemption to early voting site requirements that disqualify locations without sufficient parking in areas where most voters do not require parking, such as college and university campuses.
  - f. Remove current requirements and prohibit future requirements for payments of any form as a prerequisite for voter registration, including for otherwise eligible voters who have felony convictions.
  - g. Revisit state legislation prohibiting harassment and voter intimidation at the polls; ensure appropriate enforcement to protect voters and clarify definitions of prohibited behaviors.
  - h. Require all polling locations to offer voters the option to vote by paper ballot if desired; this is particularly important in the case of malfunctioning voting machines or excessively long voting lines. Require that all electronic voting machines print a paper backup to each voters’ ballot, verified by the voter.
  - i. Require all Supervisors of Election, in collaboration with the Secretary of State, to automatically conduct risk limiting audits prior to reporting election outcome numbers. Require a full hand-recount of ballots where anomalies are present.
2. The U.S. Commission on Civil Rights should issue the following formal recommendations to the Florida Office of the Secretary of State:
- a. Increase promotion efforts to advise the public of the option to register to vote or to update their voter registration information online.
  - b. Offer secondary identification options for voters who submitted a mail in ballot that is determined to have a “mismatched signature.” Provide standardized training for all election officials tasked with signature matching.
  - c. Accept and count all otherwise valid mail in ballots postmarked by election day, regardless of their arrival date.

- d. Require all Supervisors of Elections to provide vote by mail voters with prepaid postage and to utilize electronic communications such as text messaging, email, and phone to correct ballot errors.
  - e. Establish single voting sites that remain consistent for early voting and election day; prohibit voting sites in private gated communities that are not publicly accessible.
  - f. Conduct focus groups to ensure ballot readability and understanding; reduce technical language where possible.
  - g. Collaborate with Supervisors of Elections to automatically conduct risk limiting audits at all precincts prior to reporting election outcome numbers. Require a full hand-recount of ballots where anomalies are present.
  - h. In conjunction with local advocates and the disability rights community, conduct an assessment of the voting process in Florida to ensure: (1) all aspects are accessible; and (2) effective training is provided to all election officials and poll workers about the rights of people with disabilities and how to provide an accessible voting experience. Where possible, a disability liaison should be assigned to each polling location.
  - i. Encourage jurisdictions that have a substantial non-English speaking population to begin expanding multilingual voting materials and supports, even if they do not yet meet the federal threshold for required language accessibility.
  - j. Require each county to develop an election disaster preparedness plan, available to the public, to ensure voter access in the event of a natural disaster such as a hurricane. Ensure this plan includes attention to the racial or other demographics of each county and does not disproportionately favor or disfavor any voter group.
3. The U.S. Commission on Civil Rights should make all other recommendations and requests of the appropriate public officials to address and correct the findings in this memorandum to ensure voter enfranchisement.

## **Appendix**

- A. March 19, 2019 Web Briefing<sup>212</sup>
  - a. Transcript I – March 19, 2019 Web Briefing
  - b. Agenda
- B. July 23, 2019 Fort Lauderdale Briefing<sup>213</sup>
  - a. Transcript II – July 23, 2019 Fort Lauderdale Briefing
  - b. Agenda
- C. February 27, 2020 Orlando Briefing<sup>214</sup>
  - a. Transcript III – February 27, 2020 Orlando Briefing
  - b. Meeting Minutes
  - c. Agenda
- D. March 24, 2020 Web Briefing<sup>215</sup>
  - a. Transcript IV – March 24, 2020 Web Briefing
  - b. Meeting Minutes
  - c. Agenda
- E. Written Testimony<sup>216</sup>
  - a. Carolyn Thompson, The Advancement Project
  - b. Adora Obi Nweze, President, NAACP Florida State Conference
  - c. Laura Guren Rodriguez, National Council of Jewish Women
  - d. Olivia Babis, Disability Rights Florida**

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<sup>212</sup> March 19, 2019 Documents available at:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000001LsXJAA0>

<sup>213</sup> July 23, 2019 Documents available at:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000001LsYCAA0>

<sup>214</sup> February 27, 2020 Documents available at:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000001iyYkAAI>

<sup>215</sup> March 24, 2020 Documents available at:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000001iyZTAAy>

<sup>216</sup> Written Testimony available at:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000001iyYkAAI>

**Florida Advisory Committee to the  
United States Commission on Civil Rights**



**U. S. Commission on Civil Rights Contact**

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