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EXHIBIT 16
Expert Report for

State of Florida v. United States, No. 11-1428 (D.D.C.)

by

M.V. (Trey) Hood III,
Associate Professor, University of Georgia
I. INTRODUCTION AND BACKGROUND

My name is M.V. (Trey) Hood III, and I am a tenured, associate professor at the University of Georgia with an appointment in the Department of Political Science. I also serve as the Director of Graduate Studies for the Department. I have been a faculty member at the University of Georgia since August of 1999. I am an expert in American politics, specifically in the area of electoral politics, racial politics, legislative politics, and Southern politics. I teach courses on Southern politics and research methods and have taught a graduate seminar on the topic of election administration.

I have received research grants from the National Science Foundation and the Pew Charitable Trust. The Pew grant was used to specifically study the implementation of early voting in Georgia during the 2008 election. I have published peer-reviewed journal articles specifically in the area of election administration, including early voting, the detection of voter fraud, photo identification statutes, and redistricting. Much of my work in the area of Southern politics focuses on race and/or ethnicity. Most recently I have published an article on African-American turnout in the 2008 election and a book (forthcoming) that examines the role of race and political change in the South over the last half-century. My academic publications are detailed in a copy of my vita which is attached to this document.

I have not testified as an expert at trial or by deposition during the previous four years. In assisting the State of Florida in analyzing the potential impact of changes to the State’s election laws, I am receiving $300 an hour for this work and $300 an hour for any testimony associated with this work. In reaching my conclusions, I have drawn on my training, experience, and knowledge as a social scientist who has specifically conducted research on many of the topics under examination in this expert report.
II. ISSUES ANALYZED

The State of Florida has asked me to examine the four voting changes that have not received federal preclearance. In particular, I have been asked to examine the effect of the four voting changes in the five Florida counties covered under the Voting Rights Act ("Covered Counties"). These four voting changes govern (1) early voting (Fla. Stat. § 101.657); (2) state constitutional amendments proposed by initiative (Fla. Stat. § 100.371); (3) third-party voter registration organizations (Fla. Stat. § 97.0575); and (4) election-day address changes (Fla. Stat. § 101.045). These changes are codified as Chapter 2011-40, Laws of Florida (the "Act").

III. EARLY VOTING

A. Background

1. The Voting Changes

The Act alters the State’s existing statutes that guide early in-person voting. Under the prior law, the early voting period would begin on the fifteenth day before the date of an election and end on the second day before the date of an election. The Act changes the beginning and end days to ten days before the date of an election and three days before the date of an election respectively. The Act also allows for expanded hours for early voting during weekdays and on weekends, gives election officials flexibility to open the polls for different hours of operation, and requires between six and twelve hours of early voting to be scheduled on the Sunday encompassed by the early voting period. The Act allows for the same total number of early voting hours as under the previous law.

2. Available Data

The State of Florida provided me with voter registration and history files for each of the seven statewide elections held between 2006 and 2010. Specifically, those elections are the 2006 primary, the 2006 general, the 2008 presidential preference primary, the 2008 primary, the 2008
general, the 2010 primary, and the 2010 general election. For each of these elections the State of Florida provided “snapshots” of the voter registration and history files. These data snapshots are a record of the pool of registrants shortly following the election cycle in question, taken approximately six weeks following the date of the election.

The Florida voter registration and history databases are a useful resource to study the relationship between voting method and race/ethnicity. The voter history databases contain information on the dates that the registrant cast a ballot and the manner in which the registrant voted (absentee by mail, early in-person, or in-person at their precinct on election day). With these two data sources, I can determine the pool of registrants who voted in a given election and the voting method they utilized. In addition, I can determine various characteristics of these voters, such as their sex, age, political party, and race/ethnicity. I can also isolate this set of voters for the Covered Counties.

1 Taking a snapshot six weeks after the election allows the databases to reflect voter registrations that may have been valid at the time of the election, but not yet recorded at the state-level. Using this time frame also allows for voter turnout from the election as reflected in the voter history database to be fully updated.

2 Voter registration databases are constantly being updated to reflect the current pool of registrants, either adding new registrants or subtracting registrants (those who may have died, for example). As such, using the current voter registration database to draw inferences concerning an election that, for example, took place now more than five years ago (i.e. 2006 elections), would not accurately reflect the state of the electorate or turnout at that particular point in time.

3 These two databases can be linked together using the voter registration number assigned to each Floridian who is registered to vote. Linking these files in this manner allows one to create queries which can pull specific information across these data sources. Key pieces of information found in the voter registration databases for each registrant are county, date of birth, sex, race/ethnicity, and political party registration.

4 Unlike other states which do not record the race/ethnicity of their registrants or even the method by which they cast their ballot, these factors are known quantities in Florida. Therefore, none of the primary factors associated with the analyses presented herein (race/ethnicity, covered jurisdiction, or vote method) have to be estimated.
B. **Findings**

1. **Anglo voters constitute the greatest share of the total number of early votes cast.**

   To begin, I compiled the total number of early in-person votes cast in each election and analyzed these voters by race. These statistics are plotted in Figure 1.1.

   ![Figure 1.1 Race/Ethnicity as a Percentage of Total Early Voting Turnout-Florida Covered Counties, 2006-2010](image)

   These figures show that Anglos have comprised the bulk of those registrants voting early in-person. In every election I analyzed, Anglos comprised at least 70% of the total votes cast. And with the exception of the 2008 general election, Anglo turnout has amounted to more than 80% of the total turnout during every early in-person voting period, even reaching as high as 90% during the 2008 presidential preference primary.
2. Early in-person voting, as a percentage of the total votes cast, does not generally vary by race or ethnicity.

I also analyzed the percentage of Anglos, African-Americans, and Hispanics who turned out to vote early in-person across the seven elections from 2006 through 2010 in the five covered counties.\(^5\) The results of this analysis are presented in Figure 1.2.

![Figure 1.2 Early Voting Turnout by Race for Florida's Covered Counties, 2006-2010](image)

As these numbers show, across almost all elections the percentage of Anglos, African-Americans, and Hispanics who turned out to vote in-person in the early voting period are roughly comparable, with the 2008 general election being the notable exception. For six of the seven elections, Anglo early in-person voting turnout exceeded the percentage of Hispanics exercising

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\(^5\) The small number of American Indian, Asian, other minorities, and those registrants who could not be classified (unknown) were excluded from this analysis.
this same option. For the 2008 general election the difference between Anglo and Hispanic turnover in the early in-person voting period is only one-tenth of a percentage point (27.7% vs. 27.8%). Anglo turnover levels exceeded those for African-Americans in three of the seven elections analyzed. With the exception of the 2008 general election, the early in-person voting turnover differential between Anglos and African-Americans was never greater than five percentage points (0.3% for the 2008 primary; 4.7% in the 2010 primary; and 4.0% in the 2010 general).

The obvious outlier is the 2008 general election. African-American early in-person voting turnout in the 2008 general election exceeded that for both Anglos and Hispanics by about 25 percentage points. This level of turnout does not comport with turnout levels for African-Americans across the six other elections analyzed. This outlier is likely explained by the historic candidacy of Barack Obama, the first African-American presidential candidate representing one of the two major political parties in the United States. Political science studies have repeatedly shown that strong partisans and early deciders are more likely to vote early if that option is available. And it is probable that this intensity of interest in President Obama’s candidacy caused this spike in early in-person voting turnout among African-Americans.

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6 See Gronke 2008; Stein 1998; Stein and Vonnahme, 2010, 186-187 ("The literature shows that early voters are significantly more partisan, ideological, interested in politics, and more likely to have voted in past elections. Most importantly, early voters are more likely than election-day voters to make their vote choice before election day. We suspect this is the reason why convenience voting before election day (i.e., in-person early voting, mail-in ballots, and mail-in absentee voting) does not entice infrequent voters to ballot before election day"). Research has also shown that early voters are more politically sophisticated and aware than those who wait until election day (Stein and Garcia-Monet 1997; Stein 1998; Neeley and Richardson 2001). Early voters also often live in areas characterized by high levels of education (Gimpel et al. 2006).

7 The age distribution of Anglo, African-American, and Hispanic voters in the covered counties may also help to explain the anomaly uncovered. Absentee balloting is positively related to age, and voters likely to exercise this option because of physical infirmity, for example, are not likely to vote in person, either early or on election day. The date of birth for registrants in Florida is recorded and, accordingly, I can calculate the specific age of voters in a particular election. Using the same data sets
Following the 2008 general election, levels of African-American early voting, while slightly higher than those recorded for preceding elections, returned back to the prevailing pattern evidenced prior to the 2008 general election. Indeed, when the 2008 general election is removed from the analysis, the numbers more accurately reflect the historic trends. Chart 1.3 shows the distribution of votes by race/ethnicity in all elections except for the 2008 general election.

Table 1.3 Combined Early Voting Turnout by Race for Florida's Covered Counties, 2006-2010
[Does not include the 2008 General]

<table>
<thead>
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<th>Race/Ethnicity</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Anglo</td>
<td>21.8%</td>
</tr>
<tr>
<td>African-American</td>
<td>21.2%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>16.3%</td>
</tr>
</tbody>
</table>

I also examined the data by comparing Anglos and non-Anglos across all elections. These data are presented in Figure 1.4. Looking across the seven elections plotted, Anglo early

that identified race and ethnicity, I can also calculate the median age of Anglo, African-American, and Hispanic voters in the Covered Counties during the 2008 general election. The median age for Anglo voters in this election was 52, compared to 48 for African-American voters and 46 for Hispanic voters. Not surprisingly, a higher percentage of Anglo voters cast absentee ballots by mail at 26.7%. Comparable numbers for African-American voters are 15.4% and 16.8% for Hispanic voters. Because a higher proportion of Anglos cast absentee ballots, a smaller percentage of this group could, by definition, vote in-person, including early. As a consequence, a smaller percentage of the Anglo voting population was available to vote early when compared to the population of African-American or Hispanic voters.
in-person voting turnout exceeds early in-person voting turnout for non-Anglos in five of seven elections. In the 2010 primary, non-Anglo early in-person voting turnout, at 20.0%, did exceed the figure for Anglos, at 18.5%, but the difference is only 1.5 percentage points. As with the turnout percentages presented in Figure 1.2, the only election which saw significantly higher levels of early in-person voting turnout for non-Anglos was the 2008 general election. In that election non-Anglo turnout rates were 39.5%, compared with 27.7% for Anglos.

Figure 1.4 Early Voting Turnout by Race for Florida's Covered Counties

In order to more fully understand the role of race/ethnicity and early in-person voting turnout in the Covered Counties, I also specified a multivariate statistical model using logistic regression. This model examines the effects of race/ethnicity on the probability of a voter in

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8 The unit of analysis is, again, the individual Florida registrant who has cast a ballot in a statewide primary or general election from 2006 through 2010. The dependent variable is coded one for those registrants who cast their ballot in-person during the early voting period and zero for those registrants who voted either absentee by mail or in-person at their precinct on election day. Data from the 2006
one of the Covered Counties to vote early in-person while simultaneously controlling for age, party of registration, sex, and county of registration.9

primary, the 2006 general, the 2008 presidential preference primary, the 2008 primary, the 2008 general, the 2010 primary, and the 2010 general election are pooled to create a single dataset. The model examines the effects of race/ethnicity on the probability of a voter in one of the covered counties voting early while simultaneously controlling for age, party of registration, sex, and county of registration. More specifically, the model includes a measure of voter Age (measured in years), Sex (1=female; 0=male), Republican (1=registered Republican; 0=other party of registration), and Democrat (1=registered Democrat; 0=other party of registration). Those registrants indicating no party affiliation or some third-party affiliation are used as the excluded control category against which Republican and Democratic registrants are analyzed. The two key independent variables of interest are African-American (1=African-American registrant; 0=other registrants) and Hispanic (1=Hispanic registrant, 0=other registrants). With the use of these two dummy variables the excluded comparison in the model is all Anglo voters. (The small number of American Indian, Asian, other minorities, and those registrants who could not be classified (unknown) were excluded from this analysis.) I also include a set of n-1 dummy variables to control for any county-specific effects. In this case, Monroe County is used as the excluded comparison category. A dummy variable for each of the seven elections under analysis was then created with the exception of the 2008 general. In order to separate our chief effect of interest relating to race/ethnicity across the seven election cycles I also created a set of interactive terms where African-American and Hispanic are multiplied by each of the six election-cycle dummy variables respectively. Models of early in-person voting turnout were estimated using Stata 11.0.

9 Through this estimation I converted the model coefficients into a set of probabilities in order to predict the likelihood of voting early by race/ethnicity across the seven elections included in the analysis. In order to calculate predicted probabilities, attributes for voters were set to their mean or modal values while the coefficients relating to race/ethnicity and election were manipulated. Simulated probabilities were produced using Clarify 2.0. The “average” early voter was a woman, 53 years of age, registered as a Republican living in Monroe County.
The results of the early in-person voting turnout model are very similar to those using the percentages generated in Figure 1.5. In six of the seven elections, the predicted likelihood of Anglo turnout in the early in-person voting period is greater than that for Hispanic voters. For three of the seven elections, the probability of Anglo early voting turnout is higher than that for African-American voters. For three other elections, the difference between Anglo and African-American early in-person voting probabilities are very slight at .007 (2008 Primary), .038 (2010 Primary), and .041 (2010 General). Again, the one aberration appears to be the likelihood of early in-person voting for African-American voters in the 2008 general election.

In conclusion, even after controlling for other factors such as age, sex, county of residence, and party registration, the same patterns that were evidenced earlier between race/ethnicity and early voting remain essentially unchanged. With the exception of a single
election, Anglos, African-Americans, and Hispanics in Florida’s Covered Counties utilize early
in-person voting at roughly equal levels.

3. Turnout during the early in-person voting period increases as the date of
the election approaches.

I was also able to determine the actual date on which early in-person voters cast their
ballots. I again matched these data to the respective voter registration database to determine
race/ethnicity and other factors associated with these particular voters. For each election under
analysis I then produced a plot for Florida’s Covered Counties that shows early voting turnout by
day for the three groups. Each bar represents the percentage of Anglos, African-Americans, and
Hispanics respectively that voted on a particular day out of the total early voting turnout for these
groups. These day-by-day plots are detailed in Figures 1.6 through 1.12.¹⁰

¹⁰ It should be noted that there is no early in-person voting turnout recorded for Sundays on these
plots. This is reflective of the fact that none of the Covered Counties had Sunday early in-person voting
from 2006-2010.
Figure 1.6 Day-by-Day Early Voting Turnout for Covered Counties-2006 Primary Election

Figure 1.7 Day-by-Day Early Voting Turnout for Covered Counties-2006 General
Figure 1.10 Day-by-Day Early Voting Turnout for Covered Counties-2008 General

Figure 1.11 Day-by-Day Early Voting Turnout for Covered Counties-2010 Primary
These plots demonstrate that turnout across all three groups is positively associated with the length of the early in-person voting period, with heavier turnout days clustered at the end. For the three general elections especially, early in-person voting turnout is monotonically increasing as the early voting period progresses. During the first week little variation exists in the level of early voting. During the last week, turnout increases monotonically day-by-day.

For the general elections, African-American and Hispanic turnout during the last two days of the early in-person voting period exceeds that for Anglos (with the exception of the last Friday of the early voting period for the 2008 general election, where Anglo early voting turnout, at 11.5%, is just slightly higher than that for African-American turnout at 10.7%). Looking at the final two days for the primary elections a similar pattern emerges. The percentage of
African-Americans and Hispanics voting early and in person is typically higher than that for Anglos. Specifically, across the four primary elections, African-American turnout in the last two days of the early voting period exceeds Anglo turnout six out of eight times. Comparing Anglos to Hispanics, I see that Hispanic turnout is higher four out of eight times.  

These conclusions are reinforced through an examination of the total early in-person turnout across all elections (see Figure 1.13)

![Figure 1.13 Day-by-Day Early Voting Turnout for Covered Counties- 2006-2010 Election Combined](image)

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11 The day-by-day turnout data associated with the 2008 Primary election should be read with a note of caution. The early in-person voting sites in every Covered County were closed on the last Tuesday before the election because of Tropical Storm Faye. Thus, only one voter is recorded as having voted on that day. This may be a result of a person changing his or her address from a county unaffected by the storm.
Similarly, I analyzed the early in-person turnout for the first five days of the election, which are the days that will no longer be available under the Act, and the last nine days of the election (see Figure 1.14). The bulk of early voting turnout for all three groups falls in the latter half of the early voting period (last 9 days). In fact, this time period accounted for 68% of African-American turnout in the early voting period and 72% for Hispanics, but only 66% for Anglos.

Figure 1.14 Day-by-Day Early Voting Turnout for Covered Counties, 2006-2010 Elections Combined

I also include a series of figures that analyze early in-person voting by week. Figures 1.15 through 1.21 plot early in-person voting by week for the three groups under analysis.
Figure 1.2: Week-by-Week Early Voting Turnout for Covered Counties-2006 General Election

- Hispanic: Week 1 - 35.6%, Week 2 - 64.4%
- African-American: Week 1 - 34.0%, Week 2 - 62.2%
- Anglo: Week 1 - 37.8%, Week 2 - 62.2%

Figure 1.3: Week-by-Week Early Voting Turnout for Covered Counties-2006 Primary Election

- Hispanic: Week 1 - 42.5%, Week 2 - 57.5%
- African-American: Week 1 - 40.2%, Week 2 - 57.6%
- Anglo: Week 1 - 42.4%, Week 2 - 57.6%
Figure 1.17 Week-by-Week Early Voting Turnout for Covered Counties-2008 Presidential Primary

Week 1    Week 2
Anglo     39.9%     60.1%
African-American     41.1%     58.9%
Hispanic     40.4%     59.6%

Figure 1.18 Week-by-Week Early Voting Turnout for Covered Counties-2008 Primary

Week 1    Week 2
Anglo     51.3%     48.7%
African-American     48.1%     51.9%
Hispanic     55.7%     44.3%
With the sole exception of the 2008 primary election (which included an incomplete early voting period), early in-person voting turnout is higher for all groups in the second week of early voting. Typically, at least three-fifths (approximately 60%) of early in-person voting turnout for each group takes place during the second week. In the 2008 general election, 71% of the overall early in-person voting turnout for African-Americans occurred during the second week of early voting.

C. Conclusions

After reviewing the early in-person voting data for the past seven elections, I am able to reach a number of conclusions about the likely impact of the Act on early in-person voting in the
1. The Act is likely to have little or no impact on overall voter turnout.

When early in-person voting was first launched in states like Texas and Tennessee, many practitioners and academics believed that this election innovation would increase overall voter turnout numbers. But after implementation in many different states and a great deal of academic attention and study, most scholars have rejected this prior thinking. There is now wide agreement that early in-person voting has no effect on voter turnout.13

Instead, research shows that early voting acts as a convenience for those who are already likely to cast a vote.14 In other words, early in-person voting is merely one item on a menu of options from which voters may choose. For example, in addition to voting early, Floridians also

12 Because the Covered Counties are the focus of this litigation, I concentrated my analysis on the effect of the Act on the Covered Counties. That said, I also examined the statewide data as a whole, and I have found that my conclusions generally apply statewide as well.

13 See, e.g., Gronke 2004 at p.9 (“Enough research has accumulated on the first question to state a scholarly consensus: early voting does not increase turnout by bringing new voters into the system.”); Gronke 2004 at p.26 (“The research thus far has already disproved one commonly made assertion, that early voting increases turnout. It does not.”); Gronke 2007 at p.644 (“In conclusion, we remain skeptical of those who advocate in favor of early voting reforms primarily on the basis of increased turnout. Both these results, and prior work in political science, simply do not support these claims. There may be good reasons to adopt early voting—more accurate ballot counting, reduced administrative costs and headaches, and increased voter satisfaction—but boosting turnout is not one of them.”); Stein and Vonnahme 2010 at p.187 (“The cumulative evidence to date suggests that early voting has made voting more convenient for engaged and frequent voters while doing little to enhance the likelihood that infrequent voters will ballot before election day.”); Neeley and Richardson 2001 at p.381 (“[E]arly voting merely conveniences those who would have voted anyway”); Gronke 2007 at p.639 (“[O]nly one early voting reform — voting by mail – has a positive impact on turnout. Most other reforms have a negligible, and at time negative, impact on turnout”); Gronke 2007 at p.643 (“We find little evidence that early voting reforms increase turnout, except for VBM [vote by mail] in Oregon, and then only in presidential elections”). See also Stein 1998; Stein and Garcia-Monet 1997; Gronke 2004; Neeley and Richardson, 2010; Stein and Vonnahme 2010.

14 Indeed, one recent academic study found the opposite—that early in-person voting can actually decrease overall turnout rates (Burden et al. 2011).
can cast a ballot at their respective precinct on election day or use the State’s liberal no-excuse absentee balloting by mail option.

This conclusion is bolstered when examining day-by-day and week-by-week turnout. These figures show that most early in-person voting takes place in the time periods directly before the date of the election. As the end of the early voting period approaches and, as a consequence, the opportunity to vote using this method diminishes, voters who may have put off going to an early in-person voting site become galvanized to make it to the polls. In other words, whatever the length of the early voting period, voters who wish to exercise this option will adjust accordingly. This readjustment is true regardless of race or ethnicity.

2. Because the Act offers night and weekend hours for early in-person voting that were previously unavailable, the Act is likely to increase early in-person voting, without necessarily increasing overall turnout.

As discussed above, academic studies have shown that if states and other jurisdictions make early in-person voting more convenient, they can increase early voting turnout, even if this convenience does not affect overall turnout. In particular, studies have shown that expanded hours during the week outside of the normal business day and the availability of early in-person voting on weekend days can increase turnout during the early voting period.15 Because of the night and weekend hours offered by the Act, I would argue that the Act will actually facilitate, rather than dampen, early in-person voting turnout.

In addition, as opposed to the prior statute, the Act provides flexibility in terms of hours of operation for early in-person voting sites within the county. The Act eliminated the prior law’s requirement that all early voting sites operate on the same days and times and that early voting occur only between the hours of 7 a.m. and 7 p.m. These changes provide greater

15 See, e.g., Dubin and Kaslow 1996; Gimpel and Schuknecht 2003; Gimpel et al. 2006; Hood and Bullock 2011; and Neeley and Richardson 2001.
flexibility in terms of hours and days that can be utilized during the early voting period, which likely means higher turnout through early in-person voting. If jurisdictions combine flexibility in scheduling with careful thought about the geographic placement of early voting sites they can maximize convenience for those wishing to utilize this voting option.\footnote{I note also that Florida’s new early in-person voting period is similar to early in-person voting periods in other States—both in terms of when its early voting period begins (ten days before the election) and when it ends (the Saturday before the election). See Stein and Vonnahme 2010 at p.183 (“The time period for early voting varies from state to state, but most often it is available during a period of ten to fourteen days before the election, generally ending on the Friday or Saturday immediately preceding the election.”).}

The Act has an additional impact on the Covered Counties in particular. The Act requires counties to offer early in-person voting on the first Sunday before the election. Because the Covered Counties previously did not provide early in-person voting on Sundays, this new requirement should provide additional convenience for certain voters in the Covered Counties. This convenience, in turn, could increase early in-person voting turnout.

In sum, I conclude that to the extent the Act has any impact on overall early in-person voting turnout, it is likely to increase, not decrease, early voting.\footnote{I know from past experience that other states, such as Georgia, do not allow early in-person voting three days prior to the date of the election (which includes the Saturday and Sunday prior to the election). This scheduling is necessary because election administrators need time to prepare for precinct voting. During the transition from early to precinct voting, equipment has to be transported and repositioned in order to prepare for typically a far greater number of precinct voting locations compared to the number of early voting sites that may have been open. In addition to repositioning equipment, there are many tasks officials must perform to maintain the integrity and security of ballots and voting equipments. Based on my past experience, I would conclude that the extra day the Act provides would be welcomed by most local election administrators in Florida. By ending the early voting period on the Saturday prior to the election, local election administrators would have an extra day to make the transition from early to precinct voting. For example, in Hillsborough County, there were 15 early voting locations, but 383 precinct locations on election day during the 2012 presidential preference primary.}
3. **Even if the Act did decrease early voting turnout and, as a consequence, overall turnout, there is no reason to believe it would affect minorities more than Anglos.**

As demonstrated above, Anglos constitute a significant proportion of the early votes cast. Based on these figures, I conclude that if the Act decreases the number of early votes cast—though I do not believe it will—any decrease would be disproportionately borne by Anglo voters, as they comprise the greatest share of total number of early votes cast.

Moreover, with the rare exception of the 2008 general election, Anglo and minority early in-person voting turnout rates are very similar. From the data analyzed I can conclude that the percentage of early in-person votes cast generally does not vary by race or ethnicity and, as a consequence, changes to Florida’s early voting laws will not produce any harmful effects related to race or ethnicity.

IV. CITIZEN-INITIATED CONSTITUTIONAL AMENDMENTS

A. Background

1. The Voting Change

The Act provides that petition signatures on citizen-initiated constitutional amendments will be valid for a two-year period, as opposed to the four-year period allowed under the previous law.

2. Data Available

The State of Florida has provided me with data on the number of ballot initiatives undertaken from 2000-2012, the number of initiatives that obtained ballot access, and the number of initiatives that achieved the required signatures in two years or less.\(^\text{18}\) I also relied on

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\(^{18}\) Data Sources: Florida response to Interrogatory #17 found in Exhibit E.
publicly accessible information found on the Florida Secretary of State’s website pertaining to state constitutional amendments.¹⁹

### B. Findings

Table 2.1 presents data on citizen-initiated constitutional amendments by both election cycle and in summary format.

Table 2.1 Citizen-Initiated Constitutional Amendments in Florida, 2000-2012

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<th>Election Cycle</th>
<th>Citizen-Initiated Amendments</th>
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<th>Achieved Requisite Signatures in Less than Two Yearsᵇ</th>
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<td>2002</td>
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<tr>
<td>2004</td>
<td>25</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>2006</td>
<td>37</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2008</td>
<td>22</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>2010</td>
<td>21</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>2012</td>
<td>36</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>156</strong></td>
<td><strong>16</strong></td>
<td><strong>14</strong></td>
</tr>
</tbody>
</table>

ᵃFigures in brackets for this column indicate the percentage of citizen-initiated amendments that achieved ballot access out of the total number of initiatives introduced.

ᵇFigures in brackets for this column indicate the percentage of citizen-initiated amendments that achieved the requisite number of signatures within a two-year time period out of the total number of initiatives that achieved ballot access.

¹⁹ URL: http://election.dos.state.fl.us/initiatives/initiativelist.asp.
As Table 2.1 shows, from 2000 to the present there have been a total of 156 citizen-initiated constitutional amendments undertaken. Of these, only 16 have collected the required signatures, undergone signature validation, and subsequently been placed on the Florida ballot. Citizen-initiated amendments achieving ballot access represent only 10.3% of the total number undertaken. In addition, of the 16 initiatives placed on the ballot, 14 (87.5%) achieved the required number of signatures in less than two years.20

The two initiatives that did not obtain ballot access in two years or less were the Florida Marriage Protection Amendment21 and the Referenda Required for the Adoption and Amendment of Local Government Comprehensive Land Use Plans.22 I have found no basis for concluding that either of these initiatives relates to questions of race or ethnicity.

Of the 36 initiatives active for the 2012 election cycle above, only 7 (19.4%) have any valid signatures collected as of February 1, 2012. Of these 7 initiatives, 6 have collected 5% or less of the required number of signatures to be placed on the ballot.23 The deadline to be placed on the 2012 general election ballot was February 1, 2012. Hence, none of the 36 amendments proposed by citizen initiative that are currently active will make ballot access in 2012.

20 The two-year period is measured from the date of the first recorded signature through the date the initiative made the ballot.
21 According to the Florida Secretary of State’s website, the Florida Marriage Protection Amendment (05-10) “protects marriage as the legal union of only one man and one woman as husband and wife and provides that no other legal union that is treated as marriage or the substantial equivalent thereof shall be valid or recognized.”
22 According to the Florida Secretary of State’s website, the Referenda Required for the Adoption and Amendment of Local Government Comprehensive Land Use Plans (05-18) “[e]stablishes that before a local government may adopt a new comprehensive land use plan, or amend a comprehensive land use plan, the proposed plan or amendment shall be subject to vote of the electors of the local government by referendum, following preparation by the local planning agency, consideration by the governing body and notice.”
23 Initiative #07-07 is the only exception, having collected 47.7% of required signatures.
C. Conclusions

After examining the data on citizen-initiated constitutional amendments from 2000 through 2012, I have reached two conclusions.

First, the State’s voting change in this area will have almost no impact on the ability of citizens to successfully place constitutional amendments on the ballot. Very few citizen-initiated constitutional amendments ever make ballot access. On average, only one out of ten will ultimately make it on the ballot. And of those citizen-initiated constitutional amendments that do make ballot access, almost all achieve the required number of signatures within a two-year time period.

Second, there is no basis for concluding that the State’s voting change will have a disparate effect on any race or ethnic group. Indeed, of the two citizen-initiated constitutional amendments undertaken since 2000 that would not have achieved ballot access under the new law, neither appears to have any relationship with race or ethnicity.

V. THIRD PARTY VOTER REGISTRATION ANALYSIS

A. Background

1. The Voting Change

The Act requires third-party registration groups to return completed applications to the Division of Elections (the Florida Secretary of State) or a county supervisor of elections within a 48-hour time frame. The Act also requires third-party registration groups to register with the Division of Elections before engaging in registration activities. Finally, it instructs the Division of Elections to collect certain data on third-party registrations.

2. Data Available

The State of Florida has limited data available to analyze how people have registered to vote. The State has basic data on how many people have registered to vote, and it has some data
on where these registrations occurred (for example, the State records the registrations that occur at the DMV or in public assistance offices). The State does not have data, however, on the number of registrations that occurred via third-party registration groups prior to the Act. Although Florida law has required third party registration groups to register with the State, I have been informed that few groups did, in fact, register with the State under prior law. Additionally, even if a third party registration group registered under the prior law, the only information regarding its voter registration activities that was reported to the State was the location of voter registration drives the group held in the previous quarter. Third party voter registration groups did not report which, or how many, voter registration applications they submitted to elections officials.

As a result, the data I have do not allow empirical analysis of whether this voting change will negatively impact minority voters. As an initial matter, the available data do not allow me to statistically evaluate whether these voting changes will interfere with the ability of third-party registration groups to conduct registration activities in the Covered Counties. But even if such analysis were possible, and even if it were shown that the voting changes would lead to a decrease in third-party registration activities in the Covered Counties, I still could not determine based on the available data whether any hypothetical decrease would affect any racial or ethnic group differently. Because the State lacks the data on the number and characteristics of individuals who have registered through third parties, I have not been able to analyze any hypothetical effects of the Act on third party voter registration.24

24 But even as uncertainty surrounds the potential consequences of the changes, nothing in the new statute prevents third-party registration organizations from conducting registration drives. The changes do no more than require an expeditious submission of information on new registrants so that official registration lists can be updated in a timely fashion. Registration drives often take place in the shadow of the closing date for an election. Without specifying a shorter time for submitting the names of new
3. **Census Bureau Data**

I am aware that others have relied on the Census Bureau’s Current Population Surveys of voting and registration (“CPS”) to analyze third-party registration activities. But as explained below, I do not believe any credible conclusions can be drawn from this data.

The CPS data are based on self-reported estimates of registration and turnout. Unlike the registration and voting data maintained by the State of Florida, none of the CPS data are validated. Because the CPS data are self-reported, they produce highly inflated reports of registration and turnout. Indeed, a litany of political science research has shown that people who are surveyed will falsely report that they have registered to vote or have voted.\(^{25}\) These studies also have shown that over-reporting is often higher among African-American respondents as compared to Anglo respondents.\(^{26}\)

To demonstrate how inflated the CPS data are, I have created Table 3.1, which compares turnout by race and ethnicity in Florida using validated data from the State of Florida and CPS data across the 2006, 2008, and 2010 general elections.\(^{27}\)

---


\(^{27}\) I performed the calculations for validated registration and turnout using archived copies of the Florida registration and voter history databases following the 2006, 2008, and 2010 general election periods. The Florida registration database contains a code to denote the race/ethnicity of each registrant, to the extent that information was self-reported on the voter’s registration application. Linking the registration database to the voter history database, I constructed a database query to extract summary figures on turnout by race/ethnicity for the three elections under study.
Table 3.1 Self-Reported and Validated Turnout for Florida Citizens, 2006-2010

<table>
<thead>
<tr>
<th></th>
<th>2006</th>
<th>2008</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>African-American Turnout</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CPS</td>
<td>66.7</td>
<td>92.1</td>
<td>67.6</td>
</tr>
<tr>
<td>Florida SOS</td>
<td>35.2</td>
<td>75.6</td>
<td>42.9</td>
</tr>
<tr>
<td>Difference</td>
<td>31.5</td>
<td>16.5</td>
<td>24.7</td>
</tr>
<tr>
<td><strong>Hispanic Turnout</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CPS</td>
<td>55.8</td>
<td>88.9</td>
<td>69.7</td>
</tr>
<tr>
<td>Florida SOS</td>
<td>31.1</td>
<td>69.6</td>
<td>33.5</td>
</tr>
<tr>
<td>Difference</td>
<td>24.7</td>
<td>19.3</td>
<td>36.2</td>
</tr>
<tr>
<td><strong>Anglo Turnout</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CPS</td>
<td>70.4</td>
<td>90.7</td>
<td>70.6</td>
</tr>
<tr>
<td>Florida SOS</td>
<td>46.0</td>
<td>76.5</td>
<td>53.6</td>
</tr>
<tr>
<td>Difference</td>
<td>24.4</td>
<td>14.2</td>
<td>17.0</td>
</tr>
</tbody>
</table>


As these figures show, self-reported voter turnout from the CPS greatly exceeds the validated turnout statistics for African-Americans, Hispanics, and Anglos. For example, according to the CPS, 92.1% of registered African-American Floridians voted in the 2008 election. The validated turnout rate for African-Americans, however, is actually 75.6%. The difference in self-reported and validated turnout is just under 17%. Gaps between self-reported and validated turnout reach as high as 36.2% for Hispanics for the 2010 general election.

Given these facts, any inferences drawn from CPS data concerning the manner of registration would not be reliable. If survey respondents do not accurately report turnout, then self-reports of how they were registered are obviously unreliable as well. The CPS itself is
simply not an accurate gauge of whether minorities are more likely than Anglos to be registered by third-party registration groups.

Finally, it should be noted that while the CPS produces state-level estimates of voting and registration, it does not produce estimates at the county-level. Thus, even if the CPS data were valid, it would still be impossible to estimate the method of registration for voters in the Covered Counties in Florida as there are no county-level estimates produced.

B. Conclusions

The data provided by the State does not allow me to statistically evaluate whether this voting change will decrease third-party voter registration in the Covered Counties and, even assuming that it will, whether that hypothetical decrease will have any effect on the basis of race or ethnicity. As shown above, the relevant CPS data are not reliable and therefore cannot be used to evaluate this issue.

VI. CHANGE OF ADDRESS VOTING CHANGES

A. Background

1. The Voting Change

The Act stipulates that any registrant who has moved from another county and not previously informed the supervisor of elections of his or her new address will no longer be allowed to sign a change of address affidavit at the polls and cast a regular ballot. Instead, after signing an affirmation of the change to his or her legal residence, these individuals will be permitted to cast a provisional ballot. The standards applied to provisional ballots are unchanged by this law. The provisional ballot will be counted unless the county canvassing board makes a determination that the elector in question should not have been allowed to vote.
2. Data Available

Under the prior law, any person who had moved from one county to another, but had not notified the supervisor of elections of the change, could sign a “change of address affidavit” at the polls and then cast a regular ballot. By reviewing these affidavits, I can analyze the number and characteristics of the people who have moved from one county to another, failed to notify the supervisor of elections, and sought to cast a ballot. Because the Act will affect this group of people, these affidavits provide a good source of data to analyze the future effects of the Act.⁵⁸

As of the date of this Report, I was unable to obtain complete data for all five counties. It is my understanding that the State of Florida requested data on change of address affirmations from the five covered counties, but only received data from Collier, Hardee, and Hendry Counties. Thus, my analysis, as of now, is focused on these three counties.

B. Findings

1. Very few Floridians are moving to another county, failing to notify the supervisor of elections, and then seeking to cast a ballot.

In Table 4.1, I list the number of people who submitted out-of-county change of address affirmations by county and election (Note: Dashes in the tables to follow indicate that data are unavailable).

⁵⁸ I received change of address affirmations for people who moved intra-county and people who moved inter-county. Because the law does not affect those who move intra-county, I analyze only the inter-county change of address affirmations.
Table 4.1 Number of Out-of-County Change-of-Address Affirmations

<table>
<thead>
<tr>
<th>Election Cycle</th>
<th>Collier</th>
<th>Hardee</th>
<th>Hendry</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006 Primary</td>
<td>4</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>2006 General</td>
<td>44</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>2007 Special Election</td>
<td>10</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>2008 Presidential Primary</td>
<td>40</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>2008 Primary</td>
<td>7</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>2008 General</td>
<td>161</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2010 Primary</td>
<td>—</td>
<td>0</td>
<td>—</td>
</tr>
<tr>
<td>2010 General</td>
<td>94</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

As these numbers show, few people are moving to another county, failing to notify the supervisor of elections, and seeking to cast a ballot. For example, Hardee and Hendry Counties reported no change of address affirmations across four elections. And in Collier County, the number of affirmations ranges from a low of 4 in the 2006 primary to a high of 161 during the 2008 general election.

To put these raw numbers into perspective, I created Table 4.2, which shows the total in-person vote cast as a percentage of total in-person turnout.\(^{29}\)

---

\(^{29}\)The in-person vote includes voting early or at precincts on election day. Absentee balloting is not affected by this change to the law.
Table 4.2 Out-of-County Change-of-Address Affirmations as a Percentage of Total In-Person Turnout

<table>
<thead>
<tr>
<th>Election Cycle</th>
<th>Collier</th>
<th>Hardee</th>
<th>Hendry</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006 Primary</td>
<td>.018%</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td>2006 General</td>
<td>.063%</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td>2007 Special Election</td>
<td>----</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td>2008 Presidential Primary</td>
<td>.059%</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td>2008 Primary</td>
<td>.030%</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td>2008 General</td>
<td>.152%</td>
<td>----</td>
<td>0%</td>
</tr>
<tr>
<td>2010 Primary</td>
<td>----</td>
<td>0%</td>
<td>----</td>
</tr>
<tr>
<td>2010 General</td>
<td>.124%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

As these numbers show, the number of people who are moving to another county, failing to notify the supervisor of elections, and seeking to cast a ballot, represents only a tiny sliver of the total in-person turnout. In Hardee and Hendry Counties, where no change of address affirmations were cast, the number obviously accounts for 0% of the total in-person vote cast across the four election cycles for which data were available. And in Collier County, those who submitted change of address affirmations ranged from a low of .018% of the total in-person turnout in the 2006 primary to a high of .152% of the total in-person turnout in the 2008 general. Across ten elections, those submitting these change of address affidavits always accounted for less than two tenths of a percentage point of total in-person turnout.

2. There is no association between race or ethnicity and Floridians who move to another county, fail to notify the supervisor of elections, and then seek to cast a ballot.

In Table 4.3, I show the racial composite of those Floridians who move to another county, fail to notify the supervisor of elections, and then seek to cast a ballot in Collier County,
which is the only county of the three which received any of the relevant change of address affirmations.\textsuperscript{30}

Table 4.3 Number of Out-of-County Change-of-Address Affirmations by Race/Ethnicity for Collier County

<table>
<thead>
<tr>
<th>Election Cycle</th>
<th>Anglo</th>
<th>African-American</th>
<th>Hispanic</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006 Primary</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2006 General</td>
<td>34</td>
<td>3</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>2007 Special Election</td>
<td>8</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2008 Presidential Primary</td>
<td>31</td>
<td>5</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>2008 Primary</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2008 General</td>
<td>114</td>
<td>15</td>
<td>26</td>
<td>6</td>
</tr>
<tr>
<td>2010 General</td>
<td>71</td>
<td>7</td>
<td>11</td>
<td>5</td>
</tr>
</tbody>
</table>

As these numbers show, across all elections the greatest total number of relevant change of address affirmations come from Anglo voters. For three elections there were no affirmations filed by African-American voters, and in the 2006 primary there were no affirmations filed by any Hispanic voters.

To put these numbers in perspective, I calculated the total change of address affirmations by race/ethnicity as a percentage of the total in-person votes cast by that race/ethnicity. These figures are presented in Table 4.4.

\textsuperscript{30}The other category contains American Indians, Asians, those classified as other and those who are unclassified (unknown).
Table 4.4 Out-of-County Change-of-Address Affirmations by Race/Ethnicity as a Percentage of Total In-Person Turnout by Racial/Ethnic Group

<table>
<thead>
<tr>
<th>Election Cycle</th>
<th>Anglo</th>
<th>African-American</th>
<th>Hispanic</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hardee County</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010 Primary</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>2010 General</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Hendry County</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008 General</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>20010 General</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Collier County</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2006 Primary</td>
<td>.019%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>2006 General</td>
<td>.052%</td>
<td>.260%</td>
<td>.161%</td>
<td>.204%</td>
</tr>
<tr>
<td>2007 Special Election</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>2008 Presidential Primary</td>
<td>.049%</td>
<td>.600%</td>
<td>.088%</td>
<td>.155%</td>
</tr>
<tr>
<td>2008 Primary</td>
<td>.023%</td>
<td>0%</td>
<td>.100%</td>
<td>.238%</td>
</tr>
<tr>
<td>2008 General</td>
<td>.125%</td>
<td>.394%</td>
<td>.326%</td>
<td>.192%</td>
</tr>
<tr>
<td>2010 General</td>
<td>.103%</td>
<td>.374%</td>
<td>.290%</td>
<td>.288%</td>
</tr>
</tbody>
</table>

The figures in Table 4.4 allow me to come to a number of conclusions. First, as no Floridians moved to another county, failed to notify the supervisor of elections, and then sought to cast a ballot in Hardee and Hendry County, I can say with certainty that in these jurisdictions there was no association between change of address affirmations and race/ethnicity.

For Collier County the number of Anglo affirmations as a percentage of the total in-person vote ranged from a low of .019% in the 2006 primary to a high of .125% in the 2008 general election. The range for African-Americans was 0% to .600%, while for Hispanics comparable figures were 0% to .326%.
Again, it should be pointed out that these are percentage measures and, as such, these figures represent an extremely small share of the overall in-person turnout across racial or ethnic groups. Exactly half of the entries in Table 4.4, in fact, indicate that zero change of address affirmations were cast by a given racial/ethnic group for a specific election. For another 19 entries the percentage of change of address affirmations amounts to less than half of a percentage point (only one entry out of forty exceeds half of a percentage point, at .600%).

C. Conclusions

From the data collected and analyzed from previous elections I can draw two conclusions.

First, very few Floridians are moving to another county, failing to notify the supervisor of elections, and then seeking to cast a ballot. Based on this past experience, I can predict that the Act will affect only a tiny sliver of the population.

Second, there is no consistent pattern of association between race or ethnicity and Floridians who move to another county, fail to notify the supervisor of elections, and then seek to cast a ballot. All the percentages presented in Table 4.4 across all racial/ethnic categories represent only a fraction of the total in-person votes cast in a given election and, thus, the measurable impact on the electorate will also be extremely small. I can thus predict that the Act will not affect any racial or ethnic group differently.

Finally, it bears repeating that even if a registrant shows up to the polls having moved from another county, he or she is still entitled to cast a provisional ballot, and this provisional ballot will be counted as long as the elector is deemed qualified. Because of this law, I know of no reason why a qualified voter—whether Anglo or minority—will in any way be denied from participating in an election because of the Act.
VII. REFERENCES


VIII. DECLARATION

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed on February 17, 2012.

M.V. (Trey) Hood III
Department of Political Science
School of Public and International Affairs
The University of Georgia
104 Baldwin Hall
Athens, GA 30602
Phone: (706) 583-0554
FAX: (706) 542-4421
E-mail: th@uga.edu
Curriculum Vitae
(1/2012)

M.V. (Trey) Hood III

Contact Information:
Department of Political Science
School of Public and International Affairs
104 Baldwin Hall
The University of Georgia
Athens, GA 30602

Office Phone: (706) 583-0554
Dept. Phone: (706) 542-2057
FAX: (706) 542-4421
E-mail: th@uga.edu
Homepage: www.polls.uga.edu

Education
Ph.D. Political Science Texas Tech University 1997
M.A. Political Science Baylor University 1993
B.S. Political Science Texas A&M University 1991

Peer-Reviewed Books

Peer-Reviewed Publications

"They Just Don’t Vote Like They Used To: A Methodology to Empirically Assess Election Fraud." (Forthcoming 2012). Social Science Quarterly. (William Gillespie, co-author).


Invited Publications


Book Chapters


**Other Publications**


**Grant-funded Research (UGA)**


**Curriculum Grants (UGA)**


**Dissertation**

"Capturing Bubba's Heart and Mind: Group Consciousness and the Political Identification of Southern White Males, 1972-1994."

Chair: Professor Sue Tolleson-Rinehart
Papers and Activities at Professional Meetings


“What Made Carolina Blue? In-migration and the 2008 North Carolina Presidential Vote.” (with


Midwest Political Science Association. Chicago.


General Information

Court United States District Court for the Middle District of North Carolina; United States District Court for the Middle District of North Carolina

Federal Nature of Suit Civil Rights - Voting[441]

Docket Number 1:13-cv-00660